

1 doors which is the last --

2 Q Okay. So, you're saying that the church and the vehicle are up in the  
3 top --

4 A Yes, sir.

5 Q -- left hand corner of the photo?

6 A Right about here.

7 Q Okay. And -- but you can still see tire marks?

8 A Right there. You can see 'em very clearly.

9 Q Okay. Is there any -- from what you saw when you're out there, did you  
10 see any kind of weaving of the tires, either something that like looks it's either  
11 deviating off that path of did it seem to be the same path?

12 A It was the same path. It was heading -- let me get the direction right  
13 here -- heading north.

14 MR. HAMNER: Let the record reflect I'm just showing 17 to the jury.

15 THE COURT: It will

16 THE WITNESS: Heading north and then abruptly a turn where again it's  
17 acceleration -- it's not braking -- turned to the left and that's where you see the arc  
18 and the scrape on the pavement. Where the discoloration is in that picture that you  
19 have now which indicates, again, not braking, it indicates acceleration, and it just  
20 goes straight in the doors.

21 BY MR. HAMNER:

22 Q I'll show you State's 18. Do you see any markings here that were  
23 significant for your investigation? I know it's kind of faint again.

24 A You can still it. It's very hard to see with this printer, but you'll see  
25 where the -- this is where the vehicle is going straight like this. I don't know if you

1 can -- it's very faint -- where it's -- now you start to get the arc.

2 Q Okay. And similar in State's 19, are you seeing kind of half marks at  
3 least there?

4 A And this is a little more clear though. The lighter color here where it's --  
5 you see the asphalt and it looks like there's like a salt -- for lack of better description  
6 -- like a salt on the ground that's where it scrapes the top layer of the asphalt on.

7 MR. HAMNER: All right. I'm publishing State's 18 and 19 for the jury.

8 BY MR. HAMNER:

9 Q So, forgot the pictures for a second. When you were out there, could  
10 you see a fairly clear pathway?

11 A Yes.

12 Q I mean, from what you remember seeing on that day?

13 A Yes, sir.

14 Q And you didn't see any kind of deviation?

15 A No, sir.

16 Q About how far of a pathway are we talking about there? Maybe I can  
17 show you as far as -- let me show you 5 again. I mean, how far out are these tire  
18 pathway are you seeing? I mean, I don't know if you can estimate feet, Officer, or  
19 car lengths but --

20 A From what I remember the vehicle was -- started to come towards the  
21 north and I saw the marks. It was probably about 70 to 80 feet of where you could  
22 notice the vehicle accelerating and starting to --

23 Q Okay. So, that's kind of like a couple car lengths down --

24 A Yes, sir.

25 Q -- from the entrance of the church?

1           A     Yes, sir; uh-hm.

2           MR. HAMNER: All right. I'm just going to show opposing counsel what's  
3 been previously marked as State's proposed Exhibit 20; permission to approach the  
4 witness?

5           THE COURT: Granted.

6 BY MR. HAMNER:

7           Q     Let the record reflect I'm showing the witness State's proposed 20; sir,  
8 do you recognize what's depicted in that exhibit?

9           A     Yes, sir. That's the vehicle that went in the church.

10          Q     Okay. And that's a fair and accurate depiction as it looked on that day?

11          A     Except it was in the building.

12          Q     Okay.

13          MR. HAMNER: At this time, we'd ask that State's proposed Exhibit 20 be  
14 admitted.

15          MR. POSIN: No objection, Your Honor.

16          THE COURT: It'll be admitted.

17                   **[STATE'S EXHIBIT #20 ADMITTED]**

18          MR. HAMNER: Permission to publish to the jury?

19          THE COURT: Granted.

20 BY MR. HAMNER:

21          Q     So, this is that vehicle after it got kind of taken out of the church; it's  
22 being towed out? Sir, Is that a fair and accurate depiction --

23          A     Yes, sir.

24          Q     -- kind of what it looks like? All right. So, let's kind of get back. So, the  
25 tire marks was something that jumped out to you that you felt that --

1           A     Yes, sir.

2           Q     -- what other things did you see that you went, you know what, this  
3 might not be accidental?

4           A     In one of the pictures you'll see the rear of the vehicle. It's the one  
5 where it's in the -- through the doors and you've got the black tire mark. And then  
6 when you look at the tire mark there's certain things that show you that it's either  
7 braking or acceleration. And what indicates the acceleration is the shade going from  
8 light to dark or dark to light.

9           Q     Let me show you State's 13. Is this kind of helpful --

10          A     Right here.

11          Q     -- in terms of --

12          A     This is acceleration not braking. This means when the vehicle hits it's  
13 not slowing. We're still on the gas. That's what that means, showing how the  
14 residue from a tire -- and that's just not a tire mark. That's also residue from a tire  
15 spinning and causing a build up of -- I'm sure you've seen like a tire dust. That's  
16 what that is.

17          Q     Now anything else you notice? Were there any other things? How  
18 about the position of the car with respect to where it is in the church; was that of any  
19 significance for your investigation?

20          A     Yes; because if you look -- if this was to be blown up -- where you see  
21 -- that's my leg right there, on the right right there. That's the first parking spot to the  
22 right. Over here is the handicap rail.

23          Q     I'm going to show you State's 6.

24          A     There we go. Much better.

25          Q     This is State's 6.

1           A       Much better.

2           Q       Is that helpful for you, Officer?

3           A       Yes. This right here is going to be the parking spot closest to the right.

4 This is one of our vehicles over here that's come to take the pictures and things.

5 There is not a parking spot, again, for another 20 or 25 feet to the left. There's no

6 way you can accidentally say you were parking a vehicle and this happened

7 because there's no parking spots there.

8           Q       Now when you say accidentally parking, what are we talking about? I  
9 mean, based on your experience, what sort of situations where you've had or you've  
10 seen a car accidentally go into the wall or the building?

11          a       Usually it's either with an inexperienced younger driver or an elderly  
12 driver that accidentally puts his foot on the gas or the brake, and usually that is  
13 indicated -- indicators, again, are not on the gas all the way through the building. It's  
14 just, I put my foot on the gas instead of the brake and I've now run into the building.  
15 Okay. I'm off the gas and now I'm on the brake. Well the example that we can look  
16 at is that there's an Allstate commercial or something where the guy's backing out of  
17 his driveway and there's a woman with her baby coming behind --

18          MR. POSIN: Your Honor, I think this is getting a little far afield.

19          THE COURT: Do you wish to withdraw the question. It's non responsive to  
20 the question; is that your objection?

21          MR. POSIN: Yes, Your Honor.

22          MR. HAMNER: We'll move on.

23 BY MR. HAMNER:

24          Q       So, what you're saying is you said something to the effect of sometimes  
25 when someone does it accidentally they step on the gas, maybe it's the wrong gear,

1 and then they quickly hit on the brake?

2 A Exactly.

3 Q From your observations, was this consistent with those prior situations?

4 A No.

5 Q How about the depth in which the car's actually inside the church; was  
6 that also part of the factor for you?

7 A Yes, it was.

8 Q Why?

9 A Because it's -- the vehicle is totally half way in through the doors and  
10 not just -- and that's another aspect. We didn't go into the building; we went straight  
11 in the center of the doors to where -- to me, it is an indicator of this was, you know,  
12 we're aiming this thing at the doors.

13 Q How about that guardrail on the left of the car; did that have any scape  
14 marks or dents on it?

15 A Nope; no contact whatsoever.

16 Q Now did you ultimately see the driver of that vehicle?

17 A Yes, sir. When I got there, he was in the -- I believe the ushers or the  
18 security folks had removed him from the front seat. I believe he was in the back  
19 seat of the vehicle when I got there. They had him detained.

20 Q Do you see that person here in the courtroom today?

21 A From the driver, sir?

22 Q The driver. Do you see the person that was in the back seat?

23 A Yes, sir, the gentleman right there.

24 Q Okay. Why don't you point out where they're sitting in the courtroom,  
25 maybe an article of clothing that they're wearing?

1           A     Right here in front of me to the left of the counselor, white shirt and  
2 glasses.

3           Q     Coat on or off?

4           A     What's that, sir?

5           Q     Coat on or off?

6           A     Off, sir.

7           MR. HAMNER: Let the record reflect the witness has identified the  
8 Defendant.

9           THE COURT: It will.

10          BY MR. HAMNER:

11          Q     What was the Defendant's demeanor at the time that you saw him?

12          A     He was uncooperative with me when I was asking him -- trying to ask  
13 him questions about what had happened.

14          Q     Okay. Was he -- he was uncooperative. Was it a situation where you  
15 weren't able to -- he didn't understand the questions that you were asking or he just  
16 didn't want to --

17          A     He just didn't want to answer the questions.

18          Q     Okay. Did you notice anything else? Did you notice any odors or  
19 anything like that?

20          A     Yes, sir. There was an odor of alcohol about the gentleman, yes.

21          Q     Okay. Did he have any difficulty walking or speaking at any point in  
22 time when you interacted with him?

23          A     No, sir. When I got there, like I said, he was in the back of the vehicle.  
24 They had detained him and then while I was trying to ask him questions and he was  
25 being uncooperative that's when he was put on to the gurney and taken in the

1 ambulance.

2 MR. HAMNER: Court's indulgence. All right. Thank you. I have no further  
3 questions at this time.

4 THE COURT: Cross.

5 MR. POSIN: Thank you, Your Honor.

6 **CROSS-EXAMINATION**

7 BY MR. POSIN:

8 Q Good morning, Officer Corbin.

9 A Good morning.

10 Q You in your duties as a police officer have dealt with other people who  
11 have been driving well under the influence of alcohol; correct?

12 A Yes, sir.

13 THE COURT: Counsel, let's retrieve those photos.

14 MR. HAMNER: Yeah; I apologize, Your Honor.

15 THE COURT: They might be distracting during your examination.

16 All right. Thank you.

17 BY MR. POSIN:

18 Q And in fact in this case you issued a citation for driving under the  
19 influence; correct?

20 A Yes, sir.

21 Q And in connection with that citation, you mentioned the fact that he not  
22 only had an odor of alcohol but a very --

23 A Correction, sir. I did not issue the citation. Another officer issued the  
24 citation, I believe. The blood draw at the hospital, was that mine or someone else.

25 MR. POSIN: Your Honor, can I approach the witness? Would it refresh your



1 recollection to look at the citation itself?

2 THE WITNESS: It would, yes; yes sir.

3 THE COURT: Yes, you may approach.

4 BY MR. POSIN:

5 Q Is this the citation that was issued?

6 A It looks that way, sir.

7 Q And does that have your name at the bottom?

8 A Yes, it does. I had another officer do the blood draw because I was at  
9 the scene. That's what that was.

10 Q And, Officer Corbin, there's some other associated documents here.

11 Are these documents yours or was that done by some other officer?

12 MR. HAMNER: Your Honor, if I could just see what he's referring to.

13 MR. POSIN: That's fair enough, Your Honor. I will show counsel.

14 THE COURT: Why don't you approach?

15 MR. HAMNER: Thank you.

16 THE WITNESS: That's what's called an impaired driver report.

17 BY MR. POSIN:

18 Q And was that something that you did or some other officer did?

19 A If my name's on it I did it.

20 Q And is that your handwriting there?

21 A Yes, it is.

22 Q Okay. And so at that time did you say that there was a very strong odor  
23 of alcohol?

24 A Yes, it was.

25 Q Now normally if you suspect that somebody has been driving while

1 under the influence, you normally perform certain tests with them?

2 A When they're not injured or being transported, yes.

3 Q Okay. And those are called field sobriety tests?

4 A Yes, sir, they are.

5 Q What are those tests that you usually do?

6 A They're standard tests recognized by the National Highway Safety  
7 Administration; HGN which is Horizontal Gaze Nystagmus which has to do fully and  
8 voluntary twitching of your eyes that you have no control over. There's three  
9 separate parts of the test. And then there's the walk and turn, one leg stand, and  
10 then there's a PBT.

11 Q And why do you even give those tests?

12 A Sir, because he was being transported hospital.

13 Q No; I'm saying why ordinarily when you've got somebody that you  
14 suspect has been operating a vehicle under the influence of alcohol, why do you  
15 normally give those field sobriety tests?

16 A To confirm your suspicions.

17 Q Okay. Did you give those tests here?

18 A No, sir, I did not.

19 Q And that was because?

20 A He was being transported.

21 Q And do you normally ask people when their -- no, strike that. Did you  
22 in fact write on the portion of your document that would normally review those tests  
23 unable?

24 A Yes, sir.

25 MR. POSIN: I think that's all I have, Your Honor.

1 THE COURT: Thank you. Redirect.

2 MR. HAMNER: Thank you.

3 **REDIRECT EXAMINATION**

4 BY MR. HAMNER:

5 Q So, you prepared that impaired driving report?

6 A Yes, sir.

7 Q Now, Officer, you had some questions about this impaired driving  
8 report. What was the reason why a field sobriety test was not offered in this case?

9 A The subject was in the back of the vehicle had complained he needed  
10 to be transported. He complained of injuries. And if there's any suspected injury to  
11 the head, HGN is not going to work; you can't do it. He's being transported. He's  
12 laying down in the back of an ambulance; I can't do anything. He's not walking. I  
13 can't have him do a one leg stand, walk and turn. So, based on the odor of alcohol  
14 and trying to talk to him, these are the observations we use and that gave me what I  
15 needed to have the officer go to the hospital and get a blood draw.

16 Q Okay. Now, Officer, when you prepared -- prepare a driving report,  
17 there is physical observations that you make of the driver?

18 A Yes, sir.

19 Q When you had an opportunity to describe his attitude, you did not put  
20 unresponsive did you?

21 A No, I didn't.

22 Q What did you put?

23 A Argumentative, I believe.

24 Q When you put down his speech, did you put down confused?

25 A No.

1 Q When you spoke to him, did he indicate to you whether he was drinking  
2 or not?

3 A I do not remember. I'd have to look at my report, sir.

4 Q Would it help to refresh your recollection?

5 A Yes, sir.

6 MR. HAMNER: Permission to approach the witness?

7 THE COURT: Granted.

8 MR. HAMNER: Thank you.

9 BY MR. HAMNER:

10 Q Officer, I want you to take a look here. Let me know when your  
11 memory's refreshed and then I'll re-ask you the question and you can answer it.

12 A Okay.

13 Q What was the Defendant's response as to have you been drinking?

14 A First he said no, then he said yes, and I asked him how much and he  
15 said one.

16 Q I'm going to have to show it to you one more time.

17 A Okay. I'm sorry.

18 Q That's okay. Just take a look one more time in the order of those  
19 yesses.

20 A Okay.

21 Q Okay. So, was it no then yes?

22 A It was yes then no.

23 Q Okay. Did he indicate to you how much he had been drinking?

24 A Yes, sir. He said one Bud.

25 Q Okay.

1 MR. HAMNER: Thank you. No further questions.

2 THE COURT: Recross.

3 **RECROSS EXAMINATION**

4 BY MR. POSIN:

5 Q In addition to performing those tests, do you normally ask somebody  
6 that you suspect to have been driving under the influence to sign the citation?

7 A Not if they're in the hospital.

8 Q And in this case did you in fact write unable to sign?

9 A We don't write anything on there because it's electronic signature and  
10 anytime we touch that window it comes up as them signing. So, you do not write  
11 anything in there.

12 Q Would it refresh your recollection if I again presented you with the  
13 citation?

14 A Yeah; sure. And if I did it I made a mistake. I shouldn't have done it  
15 because we have new systems.

16 Q Does that in fact say unable to sign?

17 A Yes, it does.

18 Q Unable to sign. Admitted to UMC?

19 A Yes.

20 MR. POSIN: Thank you. No further questions, Your Honor.

21 THE COURT: Thank you. All right. May this witness be excused?

22 MR. HAMNER: Yes, Your Honor.

23 THE COURT: Thank you very much, Officer. If you would please not discuss  
24 your testimony with any other witnesses until the trial's over.

25 THE WITNESS: Sure.

1 THE COURT: Thank you. How's my jury doing? Anybody need a break?  
2 No. Court staff?

3 **DARREN GREEN**

4 [having been called as a witness and being first duly sworn, testified as follows:]

5 THE COURT CLERK: Please be seated. Please state and spell your first  
6 and last name for the record.

7 THE WITNESS: My name is Darren Green spelled D-A-R-R-E-N last name  
8 G-R-E-E-N.

9 THE COURT: You may proceed.

10 MR. SCOW: Thank you, Your Honor.

11 **DIRECT EXAMINATION**

12 BY MR. SCOW:

13 Q Are you an officer with the Las Vegas Metropolitan Police Department?

14 A Yes, sir.

15 Q How long have you been a police officer?

16 A Thirteen years, sir.

17 Q December 18<sup>th</sup>, 2011, were you working as a patrol officer at that time?

18 A Yes, sir.

19 Q Meaning you patrol the streets?

20 A Yes.

21 Q Do you conduct traffic stops as part of your role as a patrol officer?

22 A Yes.

23 Q How many traffic stops or accidents have you been involved with in your  
24 13 years?

25 A I wouldn't know off the top of my head. It's quite a few.

1 Q A lot?

2 A Yes.

3 Q Okay. So, directing your attention back to December 18<sup>th</sup> 2011, as a  
4 patrol officer did you respond to the New Antioch Fellowship Church?

5 A Yes, sir, I did.

6 Q What was the purpose for you responding to that scene?

7 A I received a call that a vehicle had ran into the front of the church and  
8 that there was potentially multiple victims -- injuries.

9 Q Okay. So, had in fact a motorcycle patrol officer already responded?

10 A Yes; I believe a motorcycle unit got there, you know, originally thinking  
11 if it was just an accident or not. I don't exactly what he saw that he must have felt  
12 there was something more than just a straight accident so he requested a patrol  
13 presence.

14 Q So, that's why you responded?

15 A Yes, sir.

16 Q And what were your observations when you arrived at the scene?

17 A When I first pulled in, I came in off the Las Vegas Boulevard. I saw the  
18 ambulance there with the back doors open. I saw somebody laying on the gurney.  
19 So, I went into the ambulance and saw the guy on the gurney. They said -- I was  
20 told this guy had driven and was the driver of the vehicle. I also prior to getting in  
21 the ambulance I saw the car was wedged partially into the church, into the structure.  
22 So, they said that he was the driver and that he had run his car into the church. So,  
23 went around and started asking people, you know, talked to the witnesses to see  
24 exactly what happened and figure out, you know, what was going on there.

25 Q So, showing you State's Exhibit 6; is this the car as you described

1 wedged into the church?

2 A Yes, sir.

3 Q And did you take these photographs?

4 A Yes, I did, sir.

5 Q Is that the date that shows up on there?

6 A Yes.

7 Q Did you take multiple photographs of the -- that area of the street and  
8 the street area in the parking lot --

9 A Yes.

10 Q -- that's just to the north of it?

11 A Yeah, the entire scene.

12 Q Why did you take those photographs?

13 A When I -- during my investigation when I saw the car there, I  
14 immediately saw the tracks from the tires that led away from the vehicle and they  
15 kind of turned and went down the parking lot and they went directly to the tires of the  
16 vehicle. So I, you know, reasoned that -- those tracks belonged to the vehicle  
17 reference today's event. So, I went ahead and took pictures of the tire tracks in the  
18 parking lot, the general scene overall, and then of the vehicle from outside and also  
19 from inside the church where it had come in.

20 Q So, showing you State's Exhibit 13. It doesn't show extremely well, but  
21 in this picture you can see, is that the tire marks you're referring to?

22 A Yes, sir.

23 Q So, you kind of connected point A to point B where the lines ended with  
24 the wheels of the car?

25 A Right; it went directly to the tires.



1           Q     So, based on your observations you made the conclusion that those  
2 marks were from that car?

3           A     Yes, sir.

4           Q     And did you have any observations of the tire marks or anything that  
5 you could deduce from them?

6           A     The first thing I noticed was, you know, you try to determine whether it's  
7 a skid mark or whether it's from acceleration. Based on the length of 'em and the  
8 type of marks, it was my opinion that they were acceleration marks where the tire  
9 was spinning going forward as opposed to braking in a stopping motion.

10          Q     Showing you State's Exhibit 16; is this a view from the car to the  
11 parking lot?

12          A     Yes.

13          Q     And can you in fact see the tire marks from that vehicle that go out into  
14 the parking lot?

15          A     Yes. They're kind of faint on this picture but you can kind of see how  
16 they go out and they curve around to the right from this point.

17          Q     Maybe I'll show it to you first and then see if you can draw on the  
18 screen to assist the jury.

19          A     Yeah. In this one you can see a lot better. They go right over here you  
20 can see this one going right over that way.

21          Q     I'll have you draw it on the screen.

22          A     So, you can see the one off this tire. It goes and then it curves and  
23 comes around this way and then this one over here.

24          Q     You can actually touch the screen. Go ahead and touch it.

25          A     Okay. Oh, this one's a little bit off.

1 Q Is the marking a little to the left of where you want the line to be?

2 A Yes. It goes over this way. But, yeah, you can see that would go there  
3 and this one you see it goes right like this and then curves over this way.

4 Q As you observe those lines, was there any deviations or were they  
5 straight lines that curved directly into the church?

6 A They were straight lines that curved into the church. There was no  
7 sliding or deviation to 'em.

8 Q When you look at State's Exhibit 5 -- if you hit the bottom left that'll clear  
9 those lines -- and as best you can, the lines will appear slightly to the left from where  
10 you want it to be, but can you draw in there approximately where the tires started  
11 out from the in parking lot to curbing into those doors?

12 A It's kind of hard off of this picture, at least on the screen here.

13 Q Or if you can give the approximate area where they started out in that  
14 roadway area.

15 A Over there and over in this area over here. My finger's way off there.  
16 Sorry.

17 Q That's all right. If you just tap and hold I think it'll make an arrow.

18 A Yeah, but it's still way to the left of where I'm tapping. It's tapping over  
19 by the cars.

20 Q Okay.

21 A But it came from the parking lot to the front of those parked vehicles on  
22 the left, right over in there, sir.

23 Q And this is about the area that you're trying to indicate?

24 A Yes, sir.

25 Q Then they came around and curve right into that door?

1           A     Well the door past the picture here. Okay. Yeah. That's it. I don't see  
2 the -- I see the sign but I don't see the --

3           Q     This is not from that day, by the way.

4           A     Okay. I was looking for the crash door.

5           Q     Yeah. The car's not in this picture. Is that the sign though for the front  
6 of the church right there?

7           A     Yes; yeah, that is the sign.

8           Q     So, the car started out in here somewhere?

9           A     Yes; down there to the left of where I'm looking at and then it came in  
10 and then they made a sharp turn into the structure.

11          Q     And right into that door right there?

12          A     Yes.

13          Q     Did you have any observations of the Defendant at that scene when  
14 was in the back of the ambulance?

15          A     Yeah. It was the first I saw of him was he was already on the gurney in  
16 the ambulance.

17          Q     Did you speak with him there at all?

18          A     He didn't -- he was nonresponsive to questions. He didn't answer  
19 anything. He didn't really say much. And then I knew immediately that, you know,  
20 he was in the ambulance. They said it was non-life threatening so I knew that was  
21 okay. The first thing I wanted to do was find out exactly what was going on. So, I  
22 left him since he wasn't talking and went around and started talking to everybody  
23 else.

24          Q     Now we get those voluntary statements where a witness will write  
25 things out. Was that you who had passed those out to the people to fill out?

1 A Yes, sir.

2 Q For your investigation?

3 A Yes.

4 Q And when you said that you were talking or attempting to speak with the  
5 Defendant in the ambulance, when you said non responsive, did that mean he was  
6 unconscious and unable to speak or just didn't want to talk to you?

7 A He was conscious.

8 MR. POSIN: Objection; calls for speculation.

9 THE COURT: Sustained.

10 BY MR. SCOW:

11 Q Was he unconscious?

12 A He was not unconscious; he was conscious.

13 Q Did you actually have any words with him at all?

14 A There was no exchange. I asked -- I don't even remember exactly what  
15 I asked, maybe if he had an I'd or what his name was. That was about it.

16 Q Did he give you those?

17 A They have his I'd, I believe, the -- somebody else had his I'd and gave it  
18 to me, I believe.

19 Q Okay. And the other officer that was here testified about an officer  
20 going to the hospital with the Defendant -- the person that was in the ambulance;  
21 was that you?

22 A Yes, sir. I followed the ambulance to UMC Trauma.

23 Q So, the person that was in the ambulance that you followed to the  
24 hospital do you see in the courtroom today?

25 A Yes, sir.

1 Q Can you point to that individual and describe something they're wearing  
2 in Court?

3 A That be the gentleman sitting there in the white shirt with the glasses.

4 Q Okay. And hair or no hair?

5 A No hair, sir, bald.

6 MR. SCOW: Your Honor, can the record reflect identification of the  
7 Defendant?

8 THE COURT: It will.

9 MR. SCOW: Court's brief indulgence. I'll pass the witness, Your Honor.

10 THE COURT: Cross.

11 MR. POSIN: I have no questions for Officer Green, Your Honor.

12 THE COURT: Thank you. May he be excused?

13 MR. SCOW: Yes, Your Honor.

14 THE COURT: Thank you very much for your testimony.

15 THE WITNESS: Thank you, ma'am.

16 THE COURT: Don't discuss your testimony with any of the witnesses until the  
17 trial's over.

18 THE WITNESS: Thank you.

19 THE COURT: Thank you.

20 MR. SCOW: May we approach?

21 THE COURT: Counsel approach.

22 [Bench conference -- not recorded]

23 THE COURT: All right.

24 Ladies and gentlemen, the trial is progressing very much a pace and  
25 there is just one State witness left for tomorrow. That person's flying in from out of

1 state so isn't here this morning. So, we are concluded with trial today, and we'll start  
2 tomorrow at ten. So, you're released for the overnight recess.

3           During this recess, it is your duty not to converse among yourselves or  
4 with anyone else on any subject connected with the trial or read, watch or listen to  
5 any report of or commentary on the trial by any person connected with the trial or by  
6 any medium of information, including without limitation, newspaper, television, radio  
7 or internet and you are not to form or express an opinion on any subject related with  
8 this case until it is finally submitted to you. I'll see you tomorrow at ten.

9           You're just going to need to assemble the jury commissioner's area  
10 because we have to find a courtroom for tomorrow. I can't use this courtroom  
11 tomorrow. So, we don't know and so we'll tell you as soon as we know so if you'd  
12 just go over to the jury room and we'll let you know. Thank you.

13                               [Outside the presence of the jury]

14           THE COURT: All right. The record will reflect the jury has left the room. Are  
15 there any matters outside the presence?

16           MR. POSIN: No, Your Honor.

17           MR. HAMNER: No, Your Honor.

18           THE COURT: So, we're going to meet 2 o'clock in my chambers for  
19 instruction settling.

20           MR. HAMNER: Yes, Your Honor.

21           THE COURT: All right. Good. See you then.

22 ...

23 ...

24 ...

25 ...

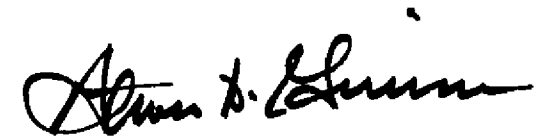
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MR. HAMNER: Thank you.

[Jury Trial, Day 3, concludes at 11:06 a.m.]

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

  
PATRICIA SLATTERY  
Court Transcriber



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

WILBURT HICKMAN aka  
WILLIAM HICKS,

Defendant.

CASE NO. C12-278699-1

DEPT. VII

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE  
FRIDAY, SEPTEMBER 6, 2013

**RECORDER'S PARTIAL ROUGH DRAFT TRANSCRIPT  
JURY TRIAL - DAY 4  
CLOSING ARGUMENTS**

APPEARANCES:

For the State:

RICHARD H. SCOW, ESQ.  
Chief Deputy District Attorney  
CHRISTOPHER S. HAMNER, ESQ.  
Deputy District Attorney

For the Defendant:

MITCHELL L. POSIN, ESQ.

RECORDED BY: LARA CORCORAN, COURT RECORDER



1 Friday, September 6, 2013 -- 11:15:15 a.m.

2  
3 **STATE'S CLOSING ARGUMENT**

4 MR. SCOW: While this boots up, it would've been fine if I could've  
5 plugged it into this side, but because we came to a different courtroom, we know  
6 that the plugs over here don't work, of course. So I plugged it in over there, no  
7 power to the plug, and so now it's shut down, and it's going to start up.

8 That's -- when we started this case, State of Nevada versus Wilburt  
9 Hickman, Mr. Hendron told you this is a pretty straightforward case. There won't  
10 be much dispute about what actually happened that day. The only discussion that  
11 we're really going to have is what the Defendant's mindset was, what his state of  
12 mind -- and the Defendant's --

13 In the opening we heard -- their arguments are that the Defendant  
14 could not formulate any intent to kill; that he wasn't capable or so drunk that he  
15 wasn't able to do that.

16 MR. POSIN: Your Honor, I'm going to object. That's not exactly what  
17 we're saying, and so --

18 MR. SCOW: I'm paraphrasing. I'm not quoting him.

19 THE COURT: All right. Well, let's confine your closing to the evidence  
20 and let him just --

21 MR. SCOW: That is the evidence. It's going to be, what was this  
22 Defendant's state of mind? I'm coming up, it looks like.

23 MR. HAMNER: Is it the user?

24 MR. SCOW: Yes.

25 MR. HAMNER: You just gave them our password.

1 MR. SCOW: That was on the record, too, by the way.

2 BY MR. SCOW

3 So the charges that we have in this case that were read to you in  
4 the beginning, you have those in your instructions. There are 17. The first eight  
5 are attempt murder. The next ones are battery with use of a deadly weapon and  
6 then battery with a deadly weapon resulting in substantial bodily harm. I'll go  
7 through these instructions. We'll talk about them fairly briefly because there's not  
8 really a dispute about the actions that occurred; it's the Defendant's state of mind.

9 And the assault, the attempt murder and burglary, those are crimes  
10 of intent or state of mind. Battery is not. Battery is, if I'm walking along and I bump  
11 you like this or I don't mean to be mean, but you take that wrong, that's a battery  
12 because it's unwanted physical touching, if I give you a little nudge like that. The  
13 instructions tell you no matter how slight.

14 It looks like we're up and running.

15 So this is the case. This is the end position of the Defendant's  
16 vehicle. And we're going to talk about -- a lot about what happened before, what  
17 happened during and what happened after because as the instructions tell you,  
18 we're going to talk about intent. It's Instruction Number 20, if you want to make a  
19 note to refer to that later. The intent with which an act is done is shown by the  
20 facts and circumstances surrounding the case. We don't look at just an action  
21 isolated in one single moment, and I'm going to talk about that again in just a  
22 minute.

23 (State Counsel confer)

24 BY MR. SCOW:

25 There we go. There's the charges that we just went through. And

1 as burglary comes up, you might be sitting there scratching your heads thinking,  
2 isn't burglary like when somebody goes into somebody's house to steal their  
3 computer or their money or whatever thing, property might be in there? That is  
4 true, that is a form of burglary, but in the State of Nevada, there are multiple ways  
5 that you can commit a burglary, even in a commercial building, a church, any  
6 building, and I'll get to that in just a minute. But I wanted to point that out because  
7 you might be thinking this isn't somebody's home that was broken into.

8               So we'll start first with battery. It's the intentional and unwanted  
9 exertion of force upon another, however slight. So even a nudge with my elbow, if  
10 that's unwanted, you don't know me, that's a battery. Battery with use of a deadly  
11 weapon is that same force, but applied with a deadly weapon. So like if I have a  
12 gun and I shoot at you instead of nudge you and the bullet grazes you, that's still a  
13 battery with a deadly weapon, no matter how slight that -- that exertion or force on  
14 another person might be. But now it's just with a deadly weapon, a gun. In this  
15 case it's a car.

16               We look at Count 9, the battery with use of a deadly weapon, the  
17 victim is Anneesah Franklin, the mother of Anyla. The Defendant drove his car at  
18 the church into a group of people in front of the church, and as she told you as she  
19 was standing at the doors talking to her friend, Marquette, as the car came up, she  
20 tried to get out of the way, and the car actually hit her, and it threw her in the air  
21 some, and she landed face first on the ground, ended up with some problems in  
22 her neck. But the car that hit Anneesah knocked her over. A vehicle is a deadly  
23 weapon, and I'll talk about the deadly weapon now.

24               It's any weapon whose construction is designed to inflict death or  
25 bodily harm like a gun. That's a weapon that's designed to do that. That's the first

1 way that you can have a deadly weapon, but there's another. And in the  
2 instruction there's an A and a B, and Subpart B is what we have here, "It's an  
3 instrument or material or a substance which under the circumstances in which it is  
4 used."

5               So if I have some powder and I try to smother somebody with it, that  
6 can be a deadly weapon. It's the way in which it's used, and a car is something  
7 that kills people every day sadly, in accidents or hits pedestrians. So a vehicle, in  
8 the manner which it's used here, driving at a group of people, is readily capable of  
9 causing death or seriously bodily injury. That's why a car in this case is a deadly  
10 weapon, and that will apply --

11           MR. POSIN: Your Honor, I don't want to interrupt, but (indiscernible). For  
12 the record, there are statements or sentences on here that are not exactly what  
13 has been argued in court. I don't know how we make that part of the record. I ask  
14 that --

15           MR. SCOW: I'll have a printout of this.

16           THE COURT: We're going to mark this as a Court's exhibit.

17           MR. POSIN: I feel that, you know, this last -- the second part, a car is  
18 clearly capable of causing death, it happens almost every day and incorrect  
19 statement of the law there. It's not exactly what Counsel's arguing, but there on  
20 the --

21           MR. SCOW: That's exactly what I'm arguing, and I'm not quoting the law  
22 right there. These are my arguments. The portion above is the instruction, and the  
23 instructions stand for themselves. I can argue that a car is a deadly weapon  
24 because that's -- that's our argument.

25           THE COURT: The objection's overruled.

1 MR. SCOW: Thank you, Your Honor.

2 BY MR. SCOW

3 Clearly, a car is a deadly weapon. The instructions don't tell you a  
4 car is a deadly weapon, but what you read there, that something's that used in a  
5 manner that can cause death or seriously bodily injury, like driving into a group of  
6 people, that's a deadly weapon. And it applies for all the crimes we're looking at  
7 here, assault, battery, attempt murder, they're all charged with a deadly weapon.  
8 So it's the manner in which it's used, and, again, there's where it's end up.

9 But before it ended up there, there was a group of people standing  
10 there in the front, and Allen Burse a little bit further out that the Defendant was  
11 driving at. That's the manner in which this vehicle was used in this case.

12 So we turn next to the substantial bodily harm portion of the  
13 instructions. "Bodily injury which creates substantial risk of death or which causes  
14 serious, permanent disfigurement or protracted loss or impairment of the function  
15 of a bodily organ or a member." So for in this case, that first part of the instruction,  
16 Anyla, she had a broken toe, and for several days she was on crutches, so she  
17 had a protracted loss of the function of any bodily member, her foot, because she  
18 couldn't walk right. Or you look at the second, it could be either one, prolonged  
19 physical pain. And she may not have remembered the time as well as her mother  
20 did, who said she complained of pain for about a week, even a little bit more, and  
21 had to use pain medication to help her, especially at night when she was going to  
22 bed.

23 So Anyla had prolonged physical pain. She also had protracted or  
24 impaired use of a bodily member, her foot. So we have substantial bodily harm  
25 here. And this is Count 10 for Anyla. The car actually ran over her foot. She said

1 she was run over by the car, knocked her over, and she had the broken toe. And  
2 the Defense doesn't dispute that the Defendant driving that vehicle when it  
3 happened. So we have Anyla and her injured foot.

4 The instructions tell you that voluntary intoxication, which is part of  
5 the focus on the Defendant's mental state in this case, that intoxication is not a  
6 defense to general intent crimes. In this case, battery and any of the forms with  
7 use of a weapon and substantial bodily harm, it's a general intent crime, and so the  
8 intoxication is no defense to hitting somebody with the car.

9 So for Counts 9 and 10, the intoxication instruction, you just throw  
10 those out for those two and you look at whether the State has proven with the  
11 evidence presented that Anyla and Anneesah were hit by a car and whether the  
12 Defendant did it and whether Anyla had a substantial bodily injury that resulted. So  
13 for those two, the evidence presented has proven that the Defendant is guilty of  
14 Counts 9 and 10, the battery with use of a weapon, battery with a weapon and  
15 substantial bodily harm.

16 So now we'll turn to the next three set of charges. I know it's 15 total,  
17 but that makes three. So this is when we get into the intoxication, "that no act  
18 committed by a person in the state of voluntary intoxication shall be deemed less  
19 criminal by reason of that condition." Okay. The law still says this is criminal  
20 activity, but on these three charges here -- and this is important -- when intent is an  
21 element of those crimes, then you can consider the intoxication to see whether the  
22 Defendant could formulate the intent for that particular crime.

23 So that's why as each witness got up, we would ask them, could  
24 you smell anything? What were your observations? How was the Defendant  
25 acting? Because that's the evidence in this case of his intoxication.

1                   So we turn to burglary. Burglary is “the entering of any building or  
2 structure with the intent to commit an assault, a battery or any felony therein.”  
3 When a person does that, they’re guilty of burglary. If you go into a store, you’re  
4 going in to steal food or money from a register, that’s burglary. If you go into  
5 somebody’s house intending to punish them or commit a battery, that’s also  
6 burglary.

7                   What we have here, the Defendant driving into a church intending to  
8 commit an assault or a battery or an intent to kill, attempt murder. That’s the way  
9 that they’re pled, each of the charges, they say, assault and/or battery or intent to  
10 kill. That’s what establishes the intent for the burglary, and it could be either -- if  
11 you find any one of those intents, he’s guilty of burglary.

12                  Intent may be inferred from the Defendant’s conduct and all the other  
13 circumstances of the case, like what I had just read to you on intent.  
14 And this will be the same with the intent murder and the fault, what was his intent  
15 when he did this. What was the Defendant’s intent when he drove his vehicle at  
16 that group of people and straight through into those doors of that church?

17                  You can see the car gets wedged in there really well, breaks part of  
18 the wall on the left side of the door, tosses things around inside. They had moved  
19 the table where Tiffany Trass had been standing or sitting. She had scooted to the  
20 left as soon as she heard the chaos and get out of the way. She was lucky she  
21 wasn’t hit. The same with Sharon Powell was behind the door and then the group  
22 in front of them. And then the ending state of the Defendant’s vehicle.

23                  As I talk about assault now and then the attempt murder next, I’ve  
24 already spoke about burglary, the main focus is going to be the Defendant’s intent.

25                  So the victims of assault with a deadly weapon are Allen Burse,

1 Washington Thompson, Marquette Jenkins, Rahmeka Adams, Sharon Powell, and  
2 I have her in stars next to her because her being inside the building and not  
3 hearing the car, she didn't know beforehand that something was coming. So hers  
4 is charged a little bit differently, and I'll explain that in the next slide. And Tiffany  
5 Trass.

6 And you'll notice that Anneesah and Anyla aren't on that list of assault  
7 with a deadly weapon because they got hit. Once you get hit, the assault is gone  
8 because then it's a completed battery, so it's no more an assault on that person, it  
9 becomes then a battery. So for the other people that were aware of things and  
10 almost got hit or dodging the car, it's an assault. It's also attempt murder, which I'll  
11 get to that.

12 But assault is an unlawful attempt and a use of force against  
13 another person, so like an attempt battery, and that's how Sharon Powell comes  
14 into play. She's sitting behind the door, doesn't know what's coming, but the  
15 Defendant, by driving into a group of people and at the doors, there's instructions  
16 on transferred intent. If you attack the group intending to hit somebody in the  
17 group, no matter where the person is in the group, you have that intent, the intent  
18 of one is the intent of all. So that's why she's included in this assault charge; that it  
19 was an attempt battery on her, even though she was sitting behind the door.

20 The other way to complete an assault is, "Intentionally placing  
21 another person in reasonable apprehension of immediate bodily harm, place them  
22 in fear." In this case a very good example of that, before the Defendant even starts  
23 driving towards everybody, is Allen Burse, as he's watching and getting into his  
24 car, his intuition is telling him or his reasonable apprehension, something is about  
25 to happen, doing his little football backpedal.



1                   So that's -- we have both of these charged for all of the victims  
2 except for Ms. Powell. Hers is just the first one. So make sure you make that  
3 distinction as you're looking through these charges. And the transferred intent,  
4 which I have already mentioned, the attack on the group is the attack on all, as  
5 long as you have the intent to hit at least once, whether it's Allen in front,  
6 Washington in the back or whoever else or Kevin inside.

7                   Attempt murder, our Counts 1 through 8, and most of the discussion  
8 now for the Defendant's mental state will relate to attempt murder because the  
9 voluntary intoxication instruction specifically mention attempt murder. These are  
10 Allen Burse, Anneesah Franklin, Anyla Hoyer, because even though they're hit,  
11 they can still be charged -- he can still be charged with their attempt murder, even  
12 though there are also charges to battery. Same with the others, assault and  
13 attempt murder, he can be charged with both. You can find him guilty of both.

14                  Washington Thompson, who was standing at the door greeting  
15 people, Marquetta Jenkins, who was speaking with Anneesah, Rahmeka Adams,  
16 who just testified, Ms. Powell and Ms. Trass. You saw the victims listed for attempt  
17 murder. There we go.

18                  So an attempt murder, what is it? "Performing an act or acts which  
19 tend but fail to kill a human being, when such acts are done with express malice,  
20 which is defined as the deliberate intention to kill," which makes sense. Attempt  
21 murder, you've got to be trying to kill somebody if you can be convicted of attempt  
22 murder. So express malice is the intentional attempt to kill another human being  
23 without legal cause, without there being a defense of "I was trying to defend  
24 myself." Then it's not attempt murder or with what the law considers adequate  
25 provocation.

1                   So when you consider the intent here, the Instruction Number 20 on  
2 intent also talks about motive. It says, "Don't confuse motive with intent." The  
3 intent here is the specific intent to kill another human being. The motive is  
4 something that, obviously, motivates somebody to do something. When you  
5 consider motive here, that may arise from anger, hatred, revenge, ill will, spite,  
6 grudge toward the person who was attempted to be killed. And in that case -- I  
7 highlight those in yellow for my benefit so I remember what to say when I see  
8 them. But we have those in this case.

9                   When you're looking at the car driving at these people into the  
10 church, was this act which tended but failed to kill? Yes. If somebody had a hurt  
11 leg and they couldn't get out of the way fast enough, they would've been run over.  
12 They, in all likelihood, unless they were lucky, would have been killed.

13                  Now we have to look at what was the Defendant's intent. It's a  
14 straightforward case. It's not a whodunit. It's not even a question really of what  
15 was done. People were almost killed. That's attempt murder as long as he has  
16 that intent. People were in reasonable apprehension of immediately bodily harm,  
17 assault, and the car and the Defendant entered the building, burglary. As long as  
18 he had that intent.

19                  Oh, there was -- a lot of the questions we asked people was a  
20 moment incoherent drunk, (indiscernible) people, getting into the Defendant's  
21 state, or lack thereof, of intoxication. So when you consider the voluntary  
22 intoxication instructions, the real question whether this Defendant formulated the  
23 intent to kill; for assault, whether he wanted to place these people in fear of being  
24 harmed, and for the burglary, either one.

25                  So the first thing to consider was, was he even intoxicated? And

1 what's the only evidence that alcohol was involved? He smelled of alcohol. We  
2 asked every witness, and I think almost everyone said, he smelled of alcohol. But  
3 when we asked them to describe whether there was something else about his  
4 actions or their observations that tipped them off that alcohol could've been  
5 involved, they said, if it weren't for the smell -- I think about three of the witnesses  
6 said, if it weren't for the smell, I would've never have known because I didn't see it.

7           On intoxication, if the Defendant had the capacity to form the intent  
8 to kill and conceived it and acts upon it, it is not a defense of the crime of attempt  
9 murder that he was intoxicated, that people could smell alcohol.

10           Now we're going to look at whether he could formulate this intent.  
11 Kevin Madden, Allen Burse, Washington Thompson -- I'm falling  
12 behind -- Marquetta Jenkins, Anneesah Franklin, Craig Hutton, Tiffany Trass, they  
13 all testified the Defendant could express himself. When he spoke, they could  
14 understand his words, and they made sense together. The time that Tiffany said  
15 he seemed a bit -- or said -- and the testimony was read into the record. She didn't  
16 say he was incoherent. She said some of things he said were incoherent. I  
17 couldn't hear very well what he was saying.

18           That was the testimony that was read in from the prior hearing. And  
19 when she testified, she said, no, he wasn't incoherent walking by mumbling to  
20 himself about the Easter bunny. He could walk under his own power. He had no  
21 difficulty driving. They could smell alcohol, but the Defendant was coherent. He  
22 was just upset.

23           Allen felt that at first, when he came upon the scene, the Defendant  
24 didn't seem to understand what we were saying because we're asking him to  
25 leave, and he's not leaving. He's talking about wanting to see his daughter,

1 wanting his daughter pray for him. So for him, that was like, this guy's just not  
2 getting it, because he didn't know any of the back story, that that man's daughter --  
3 this man's daughter -- had gone up to Assistant Pastor Kevin and said, you gotta  
4 get him outta here. I'm terrified. Get him to leave. So that's why they start to, you  
5 know, make efforts to say, okay, sir, you need to leave.

6 Allen said in the prior testimony that he was mumbling, wasn't  
7 asked to explain that. He was asked to explain it here. Said he was talking softly  
8 to himself as I was walking him to his car in the Arm Bar, but I could hear him  
9 because I was close to him. And then Tiffany, which I already explained, it was  
10 incoherent to her because she couldn't hear what he was saying.

11 So what is this not? When we're talking about intoxication, this is  
12 not somebody driving Las Vegas Boulevard, sloppy drunk, passing out or just not  
13 having control of their faculties. The wheel turns, they veer off the road, almost hit  
14 a group of people waiting at a bus stop and then smashing into a building behind it.  
15 That one wouldn't be charged with assault with a deadly weapon because that  
16 person hadn't -- didn't have any voluntary action of driving off the road and saying,  
17 oh, I hate this group of people. Let me try to get them.

18 That's not what we have here, the option to the point where they have  
19 no idea of how they even got there. That person wouldn't be charged with assault  
20 with a deadly weapon, who not and did not form the intent to leave the roadway, to  
21 hit a person who's standing on the side of the road.

22 So if we were to look at this case in a little vacuum, think of it is like  
23 the center of a bull's-eye because that car actually, you know, hit a bull's-eye.  
24 Look just at that middle circle and you think, gosh, this car hit this building like Ms.  
25 Powell who hit her knees right after and praying for the guy in that car, how could

1 somebody run into our church? Please help him. Your first thought is, that guy  
2 was trying to hit people. It was just at that moment right there knowing nothing  
3 else.

4               Let's take some steps back and see what we know about what was  
5 going on in that moment right there. First of all -- let us blow that up -- the tire  
6 marks; that the officer said on that curve, it's accelerating, and even Rahmeka on  
7 the stand here, she explained it the same way, even though she hasn't gone to any  
8 traffic investigations. As it's making the turn, she could hear the tires like going  
9 (audible noise) because it's accelerating on the curve. And even after he hits the  
10 building, the tires are still spinning, leaving the dust on the ground, trying to get in  
11 that building. He really wanted to get in, and he's not sitting there unconscious for  
12 -- just down on the pedal because she said she saw him looking and turning,  
13 Rahmeka Adams. Allen Burse saw him looking at them. And I'll get back to this in  
14 a minute.

15              But when they go to get him off the wheel, he's still fighting to put it  
16 in gear. Tire marks, right in, just a straight path. My lines aren't perfectly straight  
17 in, but there's no like weaving or smashing other cars in the way in like he's not in  
18 control of the car.

19              Let's take another step back, learn more of the story of what's going  
20 on here. The Defendant is first asked to leave after his daughter had frantically  
21 gone to Pastor -- Assistant Pastor Kevin, just get him to leave, please. She's  
22 afraid. He was asked to leave once, which takes some coaxing, but he goes to get  
23 in his car. He drives around the other side and parks, goes back in the church.

24              This time Kevin's like, no, we're not going to have it this time. We  
25 asked you to leave once. So he puts his hands on him and walks him out, where

1 Allen takes over and he's physically escorted to his car a second time. And with  
2 each encounter with the Defendant, the witnesses describe him as getting more  
3 and more agitated, getting a little bit louder, demanding to see his daughter.

4 When you look at where he hit, he could've hit anywhere on that  
5 building, but it happens to hit those double doors, and the location where he had  
6 just been brought out, knowing that there's 10 to 15 people standing even inside  
7 and the whole group of people standing outside, he just walked through those  
8 people. It's not like he didn't know what was in there.

9 Allen Burse, he gets in his car, and my intent -- and my intuition told  
10 me not to take my eyes off that car. I just felt like something was going to happen.  
11 And when I had asked him -- he testified something similar to that at the prior  
12 hearing, right? He said yes. Did the Defendant blurt something out right after you  
13 said this? It wasn't just a blurt. He yelled it out from what Allen testified to. He  
14 yelled out in the courtroom. He almost broke my damn arm. That's why -- that's  
15 why something was about to just happen. He shouted it out at the prior hearing.  
16 He was still angry about what happened a month ago. When he's sitting in the  
17 courtroom hearing about it happening again, he was still angry. So do you think he  
18 didn't remember what was going on? Do you think he wasn't thinking about being  
19 upset with these people, where a month later he's still -- because he almost broke  
20 my arm, that's why. That's why I wanted to hit you, Allen.

21 And the key player here, as we take another step back, is the  
22 Defendant's daughter, Samira Grove, the Defendant -- Defendant demanding over  
23 and over, I need to see my daughter. He's terrified, trying to get out of there.  
24 They're trying to escort him out, which is why he's even there in the first place.  
25 He's getting increasingly agitated as he's denied. How does she react to his being

1 there? Hysterical, very afraid and the reason he's told to leave in the first place.

2                   And she left the property after even being told, hey, I -- by Craig,  
3 hey, I just told your dad to leave. He went around the building, so I think he's  
4 gone. You can go back in and enjoy things. She's like, No way, Jose, I'm out. Got  
5 in her car and drove away.

6           MR. POSIN: Your Honor, I don't think the evidence showed that.

7           MR. SCOW: He didn't say "I'm out." I was paraphrasing.

8           MR. POSIN: I don't think that it showed that she drove away  
9 (indiscernible) she drove away.

10          THE COURT: Well --

11          MR. SCOW: Craig testified --

12          THE COURT: The jury will rely on their own recollection.

13 BY MR. SCOW:

14                   If you'll recall, what we say is in evidence. There's an instruction  
15 that says that. We kind of just recite the evidence to bring it back to your memory  
16 as we go through these laws and instructions. You'll remember that Craig Hutton  
17 testified as he was on that back side of the church after the Defendant just drove  
18 around the corner, she came running out, still pretty upset. He's like, hey, he's  
19 gone. He just drove -- I told him to leave. And she said, I'm still leaving. Got in  
20 her car, and he said she exited on Las Vegas Boulevard, and the path that he took  
21 was basically the same one that she went. She went to the street, walked over  
22 after she had left, and he ended up back at the other side of the building and saw  
23 the car, plowed into the church.

24                   So maybe the most revealing evidence is we take a final step back  
25 and get the whole bull's-eye here, the whole story. What was the Defendant

1 saying immediately after driving at all the people and smashing his car into the  
2 church? And it gives us some insight into the state of the mind of the Defendant,  
3 whether he could formulate an intent to kill, if he could formulate an intent to scare  
4 people, place them in reasonable apprehensive of harm.

5 As Washington Thompson is standing there next to the door, trying  
6 to keep it shut so the Defendant wouldn't get out, as Allen is wrestling with him  
7 inside, the Defendant looks at him and says, You're next, and Washington's like,  
8 what's that all about? I didn't even -- I haven't done anything to you today. Well,  
9 you're next. And what else could he mean by that after just ramming his car into  
10 the church?

11 Kevin, the Defendant was yelling, I'm going to kill all you  
12 motherf'ers. And Craig, the Defendant was threatening to kill everyone or anyone  
13 who was making threats to kill. And that's in the few seconds after he'd just drove  
14 through a group of people and plowed his car into the church. Still talking about,  
15 I'm going to kill you guys.

16 What do you think was going through his mind just before? Was it a  
17 blank zombie mind from alcohol because people could smell it? Because  
18 somebody said at one time he mumbled or sounded incoherent to me? Because  
19 he didn't seem to understand that we just wanted him to leave.

20 It's a burglary. It's an intent to commit a battery or an assault or to  
21 kill someone. Assault, intentionally placing another in reasonable apprehension of  
22 immediate bodily harm. Attempt murder, intent to kill another person.

23 Statements immediately after, his reaction to Allen Burse testifying  
24 at that prior hearing all show that the Defendant had this intent. He was angry.  
25 Maybe the alcohol just gave him a little extra courage to do something that



1 somebody otherwise wouldn't normally do; broke down his barriers of, you know,  
2 society, societal norms. Breaks those down and makes them more likely to lash  
3 out in his angry, which is what happened.

4 In this case the evidence establishes that the Defendant is guilty  
5 also of burglary, a thief intent crime, burglary, assault with a deadly weapon,  
6 attempt murder with a deadly weapon. And based on the Defendant's action that  
7 he formulated in his own mind and acted upon, I'm going to ask that you find him  
8 guilty of all the charges because he needs to be held accountable for what he did,  
9 the terror that he put these people through.

10 He didn't -- he didn't break anybody's neck. Thank goodness. Or  
11 anybody's back. Everybody can walk and move about after this, but that doesn't  
12 make it any less that he was trying to kill those people, assault them and inflict as  
13 much damage as he could because they wouldn't let him in that church. Do justice  
14 here, find him guilty. Thank you.

15 THE COURT: Thank you.

16 MR. POSIN: It goes against the grain as a defense attorney to agree with  
17 anything the prosecution would've said. I think Mr. Scow was actually -- summed  
18 up pretty well what the issues are, and I think we actually do agree on the point  
19 that we're dealing with here, that is, we're not disputing who was there. Mr.  
20 Hickman was there. He was driving that car that day. There's no dispute about  
21 that. The issue is, what was his intent -- intent.

22 His intent -- again, we -- as Mr. Scow has said, intent is a different  
23 thing for different crimes that are charged here. We have a different intent that  
24 we're looking at for the battery, the burglary, the attempt murder, and the Judge's  
25 read you these instructions. It talks about general intent crimes, specific intent

1 crimes, and I thought I was going to have to explain that a little more than I  
2 probably will because I think he's actually told you a little bit about the different  
3 between what those things are.

4 And when you first heard the Judge talking about that, I'm sure a lot  
5 of that was just sounding like -- you know, just what does all of this stuff mean?  
6 Because we as lawyers, we hear all that legal jargon all the time, and we're used to  
7 it, and you guys aren't.

8 Remember when we first started and I was giving my opening  
9 statement or even before that when we were talking to you guys as potential jurors  
10 still, I was asking, you know, can you really listen and listen to the Judge's  
11 instructions about what the law is and follow those instructions. There was a  
12 potential juror who is no longer an actual juror, who -- you know, his attitude-- he  
13 was an ex-police officer. His attitude was, well, once -- once the case is presented  
14 to the D.A., well, you know, the work is done. I just -- cops brought it to the D.A.;  
15 then the work is done.

16 I think the prosecutors and I probably agree, no, that's just the  
17 beginning of the interesting part. This is the interesting part. The part that you're  
18 involved in is really the interesting part, seeing how those facts apply to the law  
19 that the Judge is giving you and coming to a reasonable analysis as to each and  
20 every one -- not just of the crimes charged, but each of the elements of the crimes  
21 that are charged, each and every element of each of the crimes charged.

22 And we've got a complicated morass of -- of crimes where several  
23 of the crimes, as you'll see -- you're going to see a verdict where there are  
24 alternate versions you can give. You can find the Defendant guilty of one part, two  
25 parts, part one and part two, part one and part three, part one -- only -- none of

1 them, all of them. You're going to have to go through that, and it is important that  
2 you go through each and every one of those counts and analyze what was Mr.  
3 Hickman's intent.

4 Now, there are options other than the ones that have been  
5 presented to you by the State as to what that intent was. They're trying to say that  
6 his intent was either, I have the specific intent to actually cause the death of these  
7 individuals. Now that's -- that is what you have to find for the attempt murder. Or  
8 he was so drunk, he -- that's why I objected. He was so drunk that he couldn't  
9 even formulate such an intent.

10 Now, I'm not going to argue that he was so drunk that he couldn't  
11 formulate that intent. I'm arguing that he didn't, and his intoxication is one element  
12 for you to look at in deciding what his intent -- what his true intent was. And I think  
13 his true intent can be seen by the course of events that led up to this.

14 He went in. He asked for his daughter. They weren't going to let  
15 him see his daughter. He was insistent. He asked over and over and over for his  
16 daughter. He wanted to see his daughter. He started out jolly; he was asking for  
17 his daughter. Then he became angrier and angrier. He wanted to see his  
18 daughter. He was escorted out of the place once. He wanted to see his daughter.  
19 He came back in. Gets escorted out again, this time with a little more force. It's  
20 clear to him that he's not going to go in voluntarily again just on foot. So what was  
21 his intent when he drove that car into -- into the building? And counsel used an  
22 interesting word, bull's-eye.

23 Now, in their eye, the fact that there was a direct line from that car  
24 into the church, that's somehow shows his intent to kill. I think far from it. I think  
25 what that shows, his intent at that point looks to me like whatever way it was going

1 to take, he was going to go back into that church to see his daughter. Now, was  
2 that a smart thing -- smart way to do it? A safe way to do it? No. Was that a  
3 reckless way to do it? Yeah, that was pretty reckless. And if we were sitting here  
4 dealing with a crime of reckless driving, there would be other issues. Maybe you'd  
5 have different considerations, a different analysis of what intent you are looking at  
6 or lack of intent.

7               If we were sitting here dealing with what was initially charged by the  
8 officer, driving under the influence, then we would have -- would've had different  
9 intent issues. But you're dealing with his intent as charged in these instructions,  
10 and specifically, let's talk about the attempt murder, his intent to kill.

11              Was it his intent to kill or was it his intent to just get into that  
12 building? We knew that there were three big, strong men at least that we're going  
13 to escort him out, keep him out if he went in on foot, and he was just going to go in  
14 in his car. Reckless? Maybe. That's not the crime that you're dealing with. DUI?  
15 Again, maybe. That's not the crime you're dealing with. Was it the kind of reckless  
16 act that would give rise to some civil liability if somebody was suing him? Maybe.  
17 But that's not the issue here. The issue here is was he planning; did he formulate  
18 the intent to kill people? Saying, I'm going to do this in order to kill people. I want  
19 to kill people. If that's what you find, then find him guilty, but that's not what the  
20 evidence shows. The evidence shows that the intent he had was to get to his  
21 daughter.

22              So where does the intoxication come in? Does it come in that he  
23 was so drunk, he didn't know where he was driving? No, that's not what I'm  
24 arguing. Does it come in that he was so drunk, that he couldn't even begin to  
25 formulate that intent? That he was unable to decide, I want to kill somebody?

1 That's not what I'm arguing either. Did it come in on the basis that he wasn't  
2 making sound decisions; that when he did come up with an intent, and that intent  
3 was, I'm going after my daughter, and I'm driving my car in that building if that's  
4 what it's going to take? But he didn't think, oh, there are people in the way, I'm  
5 going to hurt them. Well, you know, if that's what he was thinking, that was pretty  
6 reckless, but that wasn't an intent to kill. That was not the intent to kill.

7           The facts that have been shown here -- you know, as counsel has  
8 said, there's not really too much dispute about what the facts were. What you have  
9 to do is look into this man's mind. And how do you do that? You have to take the  
10 facts that have been presented by the prosecution, and then you have to look at  
11 the instructions, and you have to look specifically at what every defense attorney in  
12 every case talks about, which is the reasonable doubt instruction. You have to  
13 think, well, why -- maybe, you know -- I don't know. Maybe he had this intent.  
14 Maybe he had that intent.

15           If you think that maybe he had the intent to kill people -- I'm arguing  
16 that you couldn't even begin to think that he even maybe had the intent to kill  
17 people. I'm arguing that the intent that was shown here was to go get his  
18 daughter. Then let's say you disagree with that. You think, yeah, I can see -- I can  
19 see the State's argument. I can see where, maybe he was, maybe he was so  
20 mad, so irritated with these people, that he actually decided, I want to kill them.  
21 I've forgotten about my daughter now. Who cares about her? I just -- my new plan  
22 is I'm going to kill some people, and this is how I'm going to do it. Let's say that's --  
23 you think that the evidence gives that as one possibility. And let's say you look at  
24 what I'm saying, arguing here, that I want to go get my daughter, and you say, well,  
25 that's another possibility, and you say, I don't know, those both seem like

1 possibilities. Then what do you do? This is not a situation where you just kind of  
2 look, well, I don't know, I'll just pick the one way, it could go the other way, we'll go  
3 here.

4           Again, you go back to the Judge's instructions and some of the  
5 basic principles of law that we have. It's not just any old instruction. I mean, none  
6 of these are just any old instructions. These are all very important, and we  
7 discussed them and agreed on them, and the Judge gave them careful  
8 consideration, and they are the law.

9           But the proof beyond a reasonable doubt and the fact that -- who  
10 has the burden of proof, the State? What that means is that if you're looking at two  
11 possibilities and you're weighing them, with any kind of trial you find a defendant  
12 not guilty -- now, not guilty, you're not saying, I'm deciding guilty or innocent. You  
13 notice the word is not innocent, it's not guilty. Not guilty means not proved beyond  
14 a reasonable doubt by the State.

15           They've presented their case. They see it one way. They're  
16 arguing it one way. I'm arguing it another way. If you, when you go back and  
17 deliberate, think that my argument even is a matter that you think could be  
18 possible, then you think, is -- okay, if it could be possible, is that -- do I then have a  
19 doubt based on that analysis as to whether their argument is right? You may even  
20 think, well, more likely than not their argument is right. I kind of like their argument  
21 better than Mr. Posin's argument, I don't know, it just seems more likely he really  
22 did forget about his daughter and was trying to kill them, you still have to find this  
23 man not guilty if you have a reasonable doubt, a reasonable doubt as to whether  
24 what I might feel is the case.

25           Many of these witnesses had testified once before, as you heard,

1 and they were going over what some of their testimony was. And I kind of focused  
2 on the word that one of them used, which was backpedaling. Now that they  
3 understand a little better where the Defense is going, it's -- they're kind of  
4 downplaying the drunk think.

5 But every one of them admitted that they said it. Washington  
6 Thompson said -- used the word drunk, and counsel then went back and actually  
7 did something that -- to my mind helped us, our side, more than his, which is, his  
8 actual testimony went from starting to say -- his initial statement in the prior  
9 testimony was a little tipsy. Then he further clarified that to say, well, he was wet  
10 and then finally said drunk.

11 Tiffany Trass used the word incoherent, and, you know, again, kind  
12 of maybe backpedaled a little bit on that. Allen Burse said, he was mumbling and  
13 wasn't understanding what we were saying. Again, I'm not going to argue it that he  
14 wasn't capable of understanding the English language and didn't understand in  
15 that sense. The party wasn't under exam. He wasn't taking no for an answer  
16 about, no, you're not going to see your daughter.

17 Marquette Jenkins -- Jenkins said, you could smell the alcohol as he  
18 walked past, and then she threw another phrase even in this trial that -- that some  
19 of you may have caught, which was, he wasn't all there. Kevin Madden said, I  
20 smelled liquor. Craig Hutton said that the usher had told him she smelled alcohol.  
21 He smelled alcohol. And Darren Green, who was the officer -- second officer to  
22 testify said, he was non-responsive.

23 Now, again, this is not to say that he was so drunk, he couldn't even  
24 (indiscernible), so drunk that he couldn't walk under his power. There was a lot of  
25 testimony about that. Could he -- did he seem to be stumbling? Did he have to

1 use assistance to walk?

2 But (indiscernible) can do, you heard the instruction about your  
3 common sense comes in and can cause you to disregard the dangers of actions  
4 that we take. People can assess that they didn't plan out when they're drunk.  
5 They can drive when they really shouldn't because they made a bad decision,  
6 because they were drunk. They can do all kinds of things because the risks -- the  
7 risks that most of us when we're sober of doing a particular course of action that  
8 seems so obvious when we're sober somehow recede in the background when  
9 people have too much alcohol.

10 Here, there was not only a risk, but an actuality of people getting  
11 scared and injured because of what Mr. Hickman did. But was -- was that his  
12 intent? Was that his intent? Again, there's the battery --

13 Again, I'm going to read what is stated here. The battery has a  
14 different form of intent. It would be a lot of easier, actually, for you to find him guilty  
15 of the battery, but was it his intent to hurt or kill people or was that just one of those  
16 things that -- one of those risks that because of his intoxication, he didn't look at  
17 the way he would have that any normal or sober person normally would look and  
18 say, I can't drive my car into the church because somebody's going to get hurt.  
19 Well, was that something was just kind of not a central focus of his mind.

20 If that's the case, then you've got to look at these intent instructions.  
21 And, again, I'll agree with the State that may not be enough to get us past the  
22 battery because that's a general intent, but it sure is enough for you to find a not  
23 guilty verdict on all of the other counts.

24 Then there's the burglary, of course. Let me talk about the burglary  
25 again. Burglary, he has to have the intent -- it comes down to the intent again, but



1 he has to have the intent when entering the building, structure, whatever it is, to  
2 commit one of the crimes involved. So, again, you have to find at the time he was  
3 entering -- I'm not even sure he had quite actually ever entered, but if you give the  
4 State the benefit of the doubt that his body had actually entered the building at the  
5 time, did he have that intent at the time? So we're still back to that issue of the  
6 intent.

7           There are enhancements that you're going to have to look at as  
8 well. If you agree with what I'm saying now -- of course, you never get to those  
9 enhancements. If there was no assault, then it couldn't have been with a deadly  
10 weapon and it couldn't have been with substantially bodily harm. I don't think you  
11 ever need to get there I'm going to talk about it a little bit anyway because even if  
12 the State could say that they had proved it to the extent their argument is that he  
13 committed the physical acts he did, they have not proven the enhancements.

14           First of all, the use of a deadly weapon, again, I credit the State with  
15 having gone through at length with you on the PowerPoint, the elements of the  
16 crime, the instructions that the Judge has read to you and that you're going to  
17 have, and I'm going to want you to go back and look at those instructions.

18           But it's not just -- you heard me object. It's not just the object you're  
19 using could be used as a deadly weapon. You can't just take that it could because  
20 anything ultimately could be used. Somebody's fist, a chair, boots, anything could  
21 be deadly. It has to be used in a way that it potentially will.

22           And as much as the State has tried to inflate what has happened  
23 here -- I'm not trying to minimize it. Certainly, driving a car into a building and pass  
24 into people is not a good idea. Nonetheless, you've got to remember, this was  
25 across a parking lot. And as much, again, as the State has tried to say, oh, well, it

1 was a really wide parking lot, you've seen the pictures; it was a parking lot. It was  
2 a parking lot with spaces on one side and spaces on another side, and we could  
3 see pretty clearly from those tires tracks and many of the witnesses, just how far  
4 that car had come.

5 It wasn't going that fast. It wasn't going that fast. It wasn't going fast  
6 enough to kill. It was going fast enough to scare people. That's not enough. It  
7 was going fast enough to injure people, to hit people. That's not enough. It was  
8 not going fast enough to kill.

9 And, you know, the proof of the pudding there -- and this actually  
10 goes to the other element, the bodily injury element. There was not substantial  
11 bodily injury. Again, that was -- you know, we heard about the hurt foot, the broken  
12 foot. When the kid came, the kid who was injured, was a nice little girl. Again, I'm  
13 not trying to minimize what she went through. She didn't have any basis to try to  
14 sell you on anything, to spin it anyway. She told it like it was. And you know what  
15 she said, she said, yeah, it was my little baby pinky toe, and it hurt that day and the  
16 next day. I'm sorry, that is just not substantial bodily harm. So we don't have  
17 substantial bodily harm, we don't have use of a deadly weapon, and we don't have  
18 battery, the assault, the attempt murder. I'm sorry, the -- we don't -- potentially, I'm  
19 going to grant you, you may get to a battery. You don't have the assault, you don't  
20 have the attempt murder. You don't have the burglary.

21 So when you go back -- again, and I -- before I heard counsel, I was  
22 going to go through some of these instructions one by one, but I think you see how  
23 important it is, and he's gone through with you and focused on what we do agree is  
24 the issue, is what was his intent. His intent was not to kill.

25 This is not a reckless driving case, this is not a DUI case, and you

1 another room?

2 A No.

3 Q Is there a separate room for the kids while the adults go to worship  
4 service?

5 A Yes.

6 Q Okay. And so were you in that different room with other kids while your  
7 mom went to the worship service?

8 A Yes.

9 Q Okay. When your mom's worship services ended, did she come get  
10 you out of that room?

11 A Yes.

12 Q Were did you go after your mom came to get you out of that room?

13 A We went out in front of the church.

14 Q Was anybody else with you as you went to the front of the church?

15 A Yes.

16 Q Who else was with you?

17 A Marquetta and her daughter, Jayla.

18 Q What was the daughter's name again?

19 A Jayla.

20 Q Were you friends with Jayla?

21 A Yes.

22 Q Were you and Jayla talking while your mothers were talking?

23 A No.

24 Q No? You didn't talk to Jayla?

25 A No.

1 Q Okay. Did anything happen then while you were at the front of that  
2 church with you mom, Kayla [sic] and Kayla's mother Marquette?

3 THE COURT: Jayla.

4 THE WITNESS: Yes.

5 Q Jayla. What happened?

6 A There was some bodyguards with the church. They came and they  
7 were escorting a man outside. And he was walking to his car. He was parked right  
8 next to our old Hundai car and then he backed up and he ran us over -- ran me over.

9 Q He ran you over?

10 A [Witness nods her head in the affirmative].

11 Q And you said he was parked right next to where you had actually -- your  
12 mom had parked her car?

13 A Yes.

14 Q And so you saw when he backed up and came at you guys?

15 A Yes; but didn't see when he came right toward us. It was so fast I  
16 couldn't see.

17 Q It happened fast?

18 A Yes.

19 Q Is that why you got ran over?

20 A Yes.

21 Q What happened to you when that car came in and ran you over?

22 A I fell on the top of the car and then I fell and the car tire ran over my leg  
23 and my foot.

24 Q So, after you got hit by the car did you say you had gone up on top of  
25 the car, the hood?

1           A     Yeah, like I fell on top and then I fell back down on the ground and he  
2 ran over my foot.

3           Q     That's when the tire went over your foot?

4           A     Yes.

5           Q     What happened when the tire went over your foot?

6           A     My mom, she went to go help me up and I couldn't really walk, like I felt  
7 a broken bone in my foot and I was crying.

8           Q     So you were crying your foot hurt?

9           A     Yes.

10          Q     So, when the car first went over your foot did it hurt then too?

11          A     Yes; I felt it.

12          Q     Okay. I'm going to show you some pictures. This is Exhibit 21; was  
13 that you a couple years ago?

14          A     Yes.

15          Q     And then Exhibit 22; was that your foot, the one that was hurting?

16          A     Yes.

17          Q     And where was it hurting on your foot; do you remember?

18          A     It was on my little pinky toe.

19          Q     On your pinky toe. Did that make it hard to walk?

20          A     Yes.

21          Q     And was this -- was your foot wrapped up like this when you still at the  
22 church?

23          A     Yes.

24          Q     So, this picture was when you were still at the church?

25          A     Yes.

1 Q Did you go to see a doctor as well because your foot was hurting?  
2 A When it first happened?  
3 Q Sure. Right at first, did you go see a doctor?  
4 A No -- well, yeah. We went to the hospital after that.  
5 Q Okay. Did police show up to the church first before you actually went to  
6 a hospital?  
7 A Well no the Metro came.  
8 Q Metro came?  
9 A Yeah.  
10 Q Okay. And after Metro came you then went to see a doctor for your  
11 foot?  
12 A Well no first they wrapped up my foot and then we waited a couple  
13 minutes and they left and then a man he had to carry me to the car and then we  
14 went to the hospital.  
15 Q And when you went to the doctor at the hospital, did they take x-rays  
16 and pictures of your foot --  
17 A Yes.  
18 Q -- to see what was wrong?  
19 A Yes.  
20 Q And did they put your foot in something after they had done the x-rays  
21 and they learned what was wrong?  
22 A No.  
23 Q No. Did they put it in like a cast or a boot or anything like that?  
24 A Yes.  
25 Q What was it?

1           A       It was like -- it was something like a cast, like you could take it off and  
2 put it back on.

3           Q       Okay. Did they give you something else to help you walk also?

4           A       Yes.

5           Q       What was that?

6           A       Crutches.

7           Q       How long did you have those crutches?

8           A       About two days.

9           Q       A couple days. How long was your foot hurting you?

10          A       It was hurting the same day I got hit and on Monday.

11          Q       So, the day it got hit was a Sunday?

12          A       Yes.

13          Q       And the Monday it hurt too?

14          A       Yes.

15          Q       Did you get some medicine to help the pain stop?

16          A       After -- yes.

17          Q       Okay.

18          MR. SCOW: I'm going to pass the witness, Judge.

19          THE COURT: Thank you.

20          MR. POSIN: No questions, Your Honor.

21          THE COURT: Thank you. You may be excused. Before you go, let me just  
22 tell you don't talk about your testimony with any of the other people that are  
23 testifying in the case until it's all over and the trial's over. All right. Thank you.

24          MR. SCOW: Judge, can we approach for a minute?

25          THE COURT: Yes.

1 [Bench conference -- not recorded]

2 [Jury Trial, Day 1, concluded at 4:48 p.m.]

3 THE COURT: All right. Ladies and gentlemen, the attorneys finished a little  
4 sooner than they had anticipated so there's no additional witnesses scheduled for  
5 today and the trial is progressing a pace. So, we may be able to finish up this week.

6 So, tomorrow morning we'll be able to start at 9 o'clock because I don't  
7 have a calendar and we should be able to go -- so 9 o'clock we'll be commencing  
8 again. I have a matter at 8:30 but we'll be done with that before you get here for 9  
9 and I will see you tomorrow. And I'm going to read you the admonition.

10 Ladies and gentlemen, we're taking an overnight recess. It is your  
11 duty not to converse among yourselves or with anyone else on any subject  
12 connected with the trial or read, watch or listen to any report of or commentary on  
13 the trial by any person connected with the trial or by any medium of information,  
14 including without limitation, newspaper, television, radio or internet and you are not  
15 to form or express an opinion on any subject connected with the case until it is  
16 finally submitted to you. We'll be in recess until tomorrow at nine.

17 [Outside the presence of the jury]

18 THE COURT: All right. The record will reflect that the jury has departed the  
19 courtroom. Are there any matters outside the presence?

20 MR. POSIN: No, Your Honor.

21 MR. HAMNER: No, Your Honor.

22 ...

23 ...

24 ...

25 THE COURT: Thank you. We'll be in recess till tomorrow at 9 o'clock.

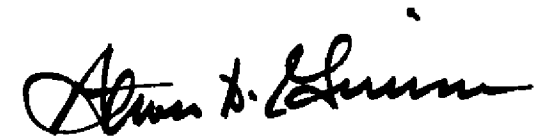


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[Jury Trial, Day 2, concludes at 4:29 p.m.]

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

  
PATRICIA SLATTERY  
Court Transcriber



CLERK OF THE COURT

1 **RTRAN**

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4  
5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**

7  
8 **THE STATE OF NEVADA,**

9 **Plaintiff,**

10 **vs.**

11 **WILBURT HICKS**  
12 **Aka WILLIAM HICKS,**

13 **Defendant.**

CASE#: C278699

DEPT. V

14  
15 **BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE**

16 **THURSDAY, SEPTEMBER 5, 2013**

17 ***RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS***  
18 **JURY TRIAL, DAY 3**

19 **APPEARANCES:**

20 **For the State:**

**RICHARD H. SCOW, ESQ.**

**Chief Deputy District Attorney**

**CHRISTOPHER S. HAMNER, ESQ.**

**Deputy District Attorney**

21  
22 **For the Defendant:**

**MITCHELL L. POSIN, ESQ.**

23  
24  
25 **RECORDED BY: LARA CORCORAN, COURT RECORDER**

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1 THURSDAY, SEPTEMBER 5, 2013 AT 9:33 A.M.

2  
3 [Inside the presence of the jury]

4 THE COURT: Please be seated. All right.

5 This is the continuance of State of Nevada versus Wilburt Hickman,  
6 case number C278699, and the record will reflect the presence of all 12 members of  
7 the jury and the two alternates. Defendant is present with his counsel and Deputy  
8 District Attorney prosecuting the case are present as are all officers of the Court.  
9 Will counsel so stipulate?

10 MR. SCOW: Yes, Your Honor.

11 MR. POSIN: Yes, Your Honor.

12 THE COURT: Good morning. How's my jury? Good. All right.  
13 We'll we're going to get started. State, call our next witness.

14 MR. SCOW: Before we call the next witness, we have State's proposed  
15 Exhibit 24, the medical records for treatment of Anyla Hoyer; it's the hospital. By  
16 stipulation of the parties, we're going to move to admit 24.

17 THE COURT: All right.

18 MR. POSIN: That's correct, Your Honor.

19 THE COURT: All right. And, ladies and gentlemen, that means -- a  
20 stipulation means the lawyers have agreed to the admission of these, that they're  
21 authentic records and they're admissible as evidence. I will admit them on the  
22 stipulation of counsel and that means you can accept them as evidence.

23 MR. SCOW: Thank you, Your Honor.

24 THE COURT: Proceed.

25 MR. SCOW: Our next witness is Craig Hutton.

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**CRAIG HUTTON**

[having been called as a witness and being first duly sworn, testified as follows:]

THE COURT CLERK: Please be seated. If you would please state and spell your first and last name for the record.

THE WITNESS: Craig Hutton, first name's C-R-A-I-G, last name Hutton H-U-T-T-O-N.

THE COURT: Please proceed.

MR. SCOW: Thank you, Your Honor.

**DIRECT EXAMINATION**

BY MR. SCOW:

Q Are you familiar with the New Antioch Christian Fellowship Church?

A Yes, sir.

Q Is that located at 3950 North Las Vegas Boulevard?

A Yes, sir.

Q And that's in Las Vegas, Clark County, Nevada?

A How is it that you're familiar with that church?

A I was a member at that church for seven years.

Q Okay. So, going back to December 18<sup>th</sup> 2011, at that time were you member of the New Antioch Church?

A Yes, I was.

Q So, on that day, I'm going to show you State's Exhibit 1. If you look on your screen there, does this depict the church there on Las Vegas Boulevard?

A Yes, sir.

Q Okay. We're going to talk about some events from December 18<sup>th</sup> 2011; do you remember that day?

1           A     Yes.

2           Q     Were you participating in the 8 o'clock services that morning?

3           A     Yes, I was.

4           Q     And this was a Sunday?

5           A     It was Sunday.

6           Q     Do you have other roles or duties at the church or at that time did you  
7 have other roles?

8           A     At that time I was director of safety/security of the New Antioch  
9 Christian Fellowship.

10          Q     And was Allen Burse and Washington Thompson, were they members  
11 of that security as well?

12          A     Yes, sir.

13          Q     Also members of the church but helped out with security?

14          A     Yes.

15          Q     During that 8 o'clock session that morning, did you notice anything  
16 unusual or that stood that out to you?

17          A     Nothing unusual that stood out until about 9:15, and we had a  
18 gentleman come into church. He was approached by one of our sanctuary  
19 attendants or ushers and he kind of just shrugged her off and, you know, proceeded  
20 to sit on the front row of the church. And at that time, you know, I didn't know who  
21 he was or what was going on. I was approached by my senior pastor to just keep  
22 my eye on something that just didn't seem right; it was unsettling. And she asked  
23 me to try and escort him out and I said, well, we have ten minutes of service left. I'd  
24 rather just let it sit and I'll just keep my eye on him, and so that was the only thing  
25 that happened at that time.

1 Q Okay. Did the usher also approach you to --

2 A She approached me. She said that she smelled alcohol and she tried  
3 to seat the gentleman. He was very abrasive and, you know, I'm just going to sit up  
4 here and he just kind of took off.

5 Q Okay. So, after the pastor and the usher approach you, what do you do  
6 at that point in time?

7 A I just kind of stood back and just kept my eye on the individual.

8 Q So, from then on you were --

9 A Focused.

10 Q -- to keep an eye on him?

11 A Yes.

12 Q So, then you start keeping an eye on him. There's about -- you said  
13 about ten or 15 minutes left in the service?

14 A Yes.

15 Q Okay. Anything else happen during the services?

16 A Towards the end of the service, normally they call for anybody who  
17 would like to be a new member. The individual raised his hand. He yelled out I do.  
18 And so they proceeded to escort him to the back to fill out membership  
19 documentation so I kind of followed along. At that time, he said his name was  
20 Wilburt Hicks and, you know, he just wanted to be a member of the church, that his  
21 daughter went there.

22 Q Okay. Did you -- at that time, did you know who the daughter was?

23 A I didn't know at that specific moment, no.

24 Q And the gentleman who you were keeping an eye on that identified  
25 himself as Wilburt Hicks, do you see in the courtroom today?



1           A     Yes, sir.

2           Q     Can you point to the individual and describe the clothing that he's  
3 wearing --

4           A     Right there; glasses, white shirt.

5           Q     Okay. And is he wearing a coat or no coat?

6           A     No coat. Older black gentleman.

7           MR. SCOW: Your Honor, can the record reflect identification of the  
8 Defendant?

9           THE COURT: It will.

10          BY MR. SCOW:

11          Q     So, up to this point in time now he went to fill out paperwork and  
12 identified himself; what happens then?

13          A     After that, he proceeded to go back into the sanctuary. Service was  
14 just about over and so -- we were on the north side of the building where they do the  
15 documentation. So, he was parking on the south side, and the only reason I knew  
16 that is because I kind of followed him as he went out to his vehicle. I got kind of  
17 delayed because the crowd is moving. When I got outside, the gentleman was at  
18 this vehicle with his trunk open. He had backed in, and there's a wall there so I  
19 couldn't see what he was doing and so I just kind of kept my eye on him sitting  
20 about midway in the parking lot. At that time, Allen Burse was pulling up and I  
21 asked him to kind of just hang out and make sure everything was okay.

22          Q     And up to this point in time was -- what was your intention with regard  
23 to the Defendant at this time?

24          A     I just wanted to see to it that he left the premises.

25          Q     And was that at the directive of the pastor?

1           A     The directive of senior pastor.

2           Q     Looking at this map here, State's Exhibit 1, can you see here the south  
3 area, the parking lot that you were describing?

4           A     Yes.

5           Q     And if you rub on the screen it'll make marks. It's not the best markings  
6 but as best you can, circle that south area.

7           A     All right. This is south parking lot.

8           Q     Okay. And do you see on there approximately where the Defendant's  
9 vehicle was parked?

10          A     Yeah. He was approximately in between these two cars right there.

11          Q     Okay. So when you went outside, you said that he was already at his  
12 car?

13          A     He was at his vehicle with his trunk open.

14          Q     Okay. And what happens at that point in time?

15          A     I kind of stood where I initially circle there and just kind of kept my eye  
16 on him. At that time, Allen Burse pulls in the parking lot and I stop him and ask him  
17 to go ahead and park and kind of just hang out, you know, 'cause I'm not sure  
18 what's about happen because with the gentleman and the truck, I don't know what's  
19 going on. He closes his trunk and he proceeds to walk toward the church. And at  
20 that time, I stop him and I ask him, you know, go ahead and leave and he said that  
21 he wanted to see his daughter. He told me his daughter's name. And I said well  
22 your daughter's busy because at that time she was one of the sanctuary attendants.

23          Q     So, when he said the name you knew that was?

24          A     I know exactly who it was.

25          Q     What's her name?

1           A     Samira Grove.

2           Q     So, did he walk from the car where you had marked up there down to  
3 the circle area you were at?

4           A     Yes.

5           Q     And that's when you said it's time for you leave?

6           A     Right. I asked him, you know, I said, hey, I've been instructed to ask  
7 you to leave. He said that he was there to his daughter. And I said, well, you can't  
8 see her right now. She's busy because we are actually in between services and  
9 we're trying to escort people out and get people in. It's a lot going on. He said well  
10 what, my daughter can't pray for me. I need my daughter to pray for me now. And  
11 he got kind of agitated. I said well, sir, why you getting upset with me. I said all I'm  
12 doing is what I was asked to do was to ask, you know, you get to in your vehicle and  
13 just go ahead and leave. Right now is not a good time to see your daughter. And he  
14 kind of stood there for a moment and he looked at me and he says okay and he got  
15 in his car.

16          Q     So, he walked from the circle up to this car?

17          A     Yes; he went from the circle back to his vehicle. He got in his vehicle  
18 and he pulled out. He made a right and went around the back side of the building,  
19 and that's the last I seen of his vehicle at that time.

20          Q     Can you mark the path that he took?

21          A     He came around the back side. There's a fire lane back there. And  
22 once he hit that corner on the back side of the building that was the last I saw of his  
23 vehicle at that time.

24          Q     Okay. So, the marking was little bit dark, but the line indicating he  
25 drove back behind that way?

1           A     Yes.

2           Q     Out of your sight?

3           A     Out of my sight.

4           Q     At the time that you interacted with him, could you smell alcohol?

5           A     I did smell alcohol, yes.

6           Q     Were there any other observations that you made of him that you

7 thought he might have been under the influence?

8           A     No; just, you know, the smell of alcohol is the only thing I seen. Other

9 than that, everything seemed normal.

10          Q     Was he walking normally?

11          A     Walked normal, he talked normal, you know.

12          Q     Drove his car normal?

13          A     When he came out and went around, yes.

14          Q     You didn't see much of it but what you saw?

15          A     What I saw.

16          Q     So, at the point now where he drove around the back of the church, are

17 you still in that circle area there?

18          A     I'm kind of in the circle are and I'm beginning to walk. There's a door

19 kind of right here. You can see that little mark right there. So, I'm headed back

20 there and at that time Samira comes out, his daughter, comes out and she's kind of

21 a little flustered and, you know, I said, hey, it's okay. You don't have to leave. I said

22 your dad to go ahead and go, you know, and she was like, no, I got to go, I got to

23 go. And then she kind of came out and got in her vehicle and she went out of the

24 parking here onto Las Vegas Boulevard.

25          Q     From this side of the parking lot?

1           A     She kind of went this way and then on to Las Vegas Boulevard.

2           Q     So, describe her demeanor?

3           A     Like I said, she just seemed very upset and kind of, you know, nervous  
4 almost to a degree, you know, she was just like, no, I got to go, I got to go now. I  
5 got to get out of here. I didn't know what it was about.

6           Q     Was that even after you had told her that --

7           A     I said, yeah, I got to him to leave. You don't have to go. She said, no, I  
8 got to get out of here now, I got to go, and she took off.

9           Q     What did you do after she drove out of the area?

10          A     Okay. After she drove out, I kind of stood there for a moment and, you  
11 know, something said go to the other side of the building, north of the side of the  
12 building. So, I kind -- from the circle and almost in the path that Samira drove, I  
13 came across but I cut through this -- like these bushes here. So, I kind of cut through  
14 along the wall and I came out right under this awning.

15          Q     That's were you're pointing right in there?

16          A     Right; under that awning. And so I turned like right there.

17          Q     So, you came across here and turned this corner?

18          A     Yes.

19          Q     What do you observe when you do that?

20          A     What I see is I see almost like a green/pearl colored Cadillac inside the  
21 doorway, right about there.

22          Q     So, you're pointing right in here?

23          A     Right.

24          Q     Okay. I'm going to show you State's Exhibit 6 and ask you if you  
25 recognize this?

1           A     Yes, sir. That's the scene that I seen.

2           Q     Now if you hit the bottom left of your screen it'll clear those markings.

3     So, when you come around the corner from the west side of the building --

4           A     Yes.

5           Q     -- this is the scene that you observe as you're coming down?

6           A     Yes, sir.

7           Q     What other observations do you make as you're coming up there?

8           A     Once I see this, I kind of take off into a sprint to get down there and see

9     what's going on. As I walk up on the vehicle, there's a couple ministers and pastors

10    they're looking all under the car screaming, where's the baby at, where's the baby.

11    And so not knowing what's going on, I look in the vehicle and, again, I see the

12    gentleman there. He's trying to put the car back in gear, and on the driver's side

13    Allen Burse is trying to lay on the gentleman to keep him from moving the car and

14    trying to basically detain him. And then I don't recall who but somebody reached

15    their arm in and just turned the car off because it's clear that he was trying to move

16    the vehicle.

17           Q     Did you hear the engine?

18           A     The engine was running when I walked up.

19           Q     Was it revving or was it in idle?

20           A     No, it was revving.

21           Q     And you saw the Defendant messing the gears?

22           A     Trying to reach for the gearshift. But like I said, Allen Burse was trying

23    to lay on top of him and, you know, just trying to keep him from doing that. And like I

24    said, somebody came in from the passenger side and just turned the car off.

25           Q     Do you hear the Defendant say anything while this was going on?

1           A     He's just -- at that time, no. He was just kind of yelling. Everybody's  
2 yelling, you know. There's a lot being said so -- to determine who was saying what  
3 at that time though.

4           Q     And the scene outside of the car; what was that like?

5           A     The scene outside the car was people running around looking for this  
6 child, you know. As I looked under the car I did see a child's shoe. So, again, kind  
7 of concerned. Everybody was trying to find the child, and then they found the child  
8 inside one of the pastor's office. They got her inside there.

9           Q     So, when you passed the Defendant to leave from the other side of the  
10 parking lot, describe his demeanor; how was he acting at that time that you're  
11 asking him to leave?

12          A     Okay. When I initially asked him to leave he was very agitated. He  
13 demanded to see his daughter now. He wanted his daughter to pray for him right  
14 now, and like I explained to him, she was tied up; she was doing something else and  
15 that they wanted him to leave.

16          Q     So, a couple minutes after that confrontation --

17          A     I'd say it lasted a good minute, minute and a half that we kind of went  
18 back and forth. I finally asked him, why are you getting upset with me. I'm just  
19 doing what I'm asked to do.

20          Q     And then within a few minutes after that, you go around the other side  
21 and see him in his car --

22          A     Probably within three to four minutes.

23          Q     -- and ran into those doors there?

24          A     Well the car was in the door. I didn't see the car go in, but the car was  
25 in the door.

1 Q That's where it ended up?

2 A Right.

3 Q About how long does the process take of Allen holding the Defendant in  
4 the car and turning the car off?

5 A By the time the car got turned off, I'd say it was about a minute or so  
6 after I got there. At that time, Allen was holding him down and he asked somebody  
7 to go his car and get some handcuffs and then he put handcuffs on him.

8 Q Did the Defendant make any statements at that time?

9 A After he was handcuffed, he was just kind of yelling and screaming and  
10 he said, I'll kill everybody in here or something to that effect because it kind of set  
11 me back. And I thought, man, you did all of this and you still just, you know, you're  
12 handcuffed and everything and now you're still trying to go and on; you know, it was  
13 my fault. It's just like wow.

14 Q Were you still there when the police arrived on the scene?

15 A Yes, sir.

16 Q Was the Defendant still in the car being held down by security  
17 members?

18 A No; by the time the police came the fire department or paramedics had  
19 came and they had got the gentleman out of the vehicle.

20 Q And where did they put him?

21 A They set him on a stretcher and I believe they put him in the back of the  
22 ambulance, and then at that time, the police were doing their investigation and  
23 talking and going back and forth.

24 Q When the ambulance got there and the Defendant's being pulled out of  
25 the car, describe him at that time?



1           A       Actually when the ambulance came -- I don't know how it happened --  
2 but he -- somehow the door ended up opening up and he jumped out of the car right  
3 as the ambulance -- the paramedic was walking up. I believe it was actually the fire  
4 department because I remember seeing his shirt saying the fire department. And he  
5 kind of walked up and they started looking at him.

6           Q       So, the Defendant jumped up out of the car?

7           A       Yeah. He jumped out of the car on the passenger side.

8           Q       Was he still agitated at that point?

9           A       He was still agitated, yes.

10          Q       So based on your observations from beginning to end, could you tell  
11 that alcohol was involved?

12          A       Other than the odor, no.

13          Q       His actions didn't clue anything out to you?

14          A       No.

15          Q       The way he spoke or the way he --

16          A       No, not at all.

17          Q       It was just the smell?

18          A       Just the smell.

19          Q       So, if not for the smell --

20          MR. POSIN: Objection; leading.

21          MR. SCOW: I was going to ask what was your observations have been.

22          THE COURT: All right. Overruled.

23          THE WITNESS: I just thought it was just an agitated gentleman, you know.

24 Without the smell of alcohol, I wouldn't have thought anything other than he was just  
25 there.

1 MR. SCOW: Court's brief indulgence. I'll pass the witness.  
2 THE COURT: Cross.  
3 MR. POSIN: I have no questions for this witness, Your Honor.  
4 THE COURT: Thank you. May this witness be excused?  
5 MR. SCOW: Yes, Your Honor. Thank you.  
6 THE COURT: Thank you very much for your testimony.  
7 THE WITNESS: Thank you, ma'am.  
8 THE COURT: And if you would please not discuss your testimony with any  
9 other witnesses in the trial till it's over?  
10 THE WITNESS: Yes, ma'am.  
11 THE COURT: Thank you.  
12 MR. HAMNER: The State's going to call Tiffany Trass next, Your Honor.  
13 **TIFFANY TRASS**  
14 [having been called as a witness and being first duly sworn, testified as follows:]  
15 THE COURT CLERK: Please be seated. If you would state and spell your  
16 first and last name for the record, please.  
17 THE WITNESS: Tiffany, T-I-F-F-A-N-Y, Trass, T-R-A-S-S.  
18 THE COURT: Thank you. Proceed, please.  
19 **DIRECT EXAMINATION**  
20 BY MR. HAMNER:  
21 Q Thank you, Your Honor. Ms. Trass, are you familiar with the New  
22 Antioch Christian Fellowship Church?  
23 A Yes.  
24 Q How do you know about that?  
25 A I've been a member there for about six years.

1 Q Okay. Were you at that church on December 18, 2011?

2 A Yes.

3 Q I want to turn your attention to about the 8 a.m. service; do you

4 remember being at that service?

5 A Yes, I was.

6 Q Do you remember observing anything in particular at least at the

7 beginning of the session?

8 A At the beginning of the service?

9 Q Yeah.

10 A No; just normal.

11 Q Do you see any individual here in the courtroom right now that was at

12 New Antioch Christian Church that time in the morning -- around that time in the

13 morning?

14 A Yes.

15 Q Sorry about that. I apologize. Do you see anybody here in the

16 courtroom today that was with your or at least was there at the church around that

17 time in the morning?

18 A Yes; at the end of services.

19 Q Okay. Why don't you point out, Ms. Trass, who that individual is, what

20 they're wearing, any article of clothing; where they are in the courtroom?

21 A They're sitting over there with the white long sleeved shirt on.

22 Q And you're saying they.

23 A He's sitting there.

24 Q Okay. Is he wearing a coat or not a coat?

25 A No, not wearing a jacket.

1 MR. HAMNER: Okay. Let the record reflect the witness identified the  
2 Defendant, Wilburt Hickman.

3 THE COURT: It will.

4 BY MR. HAMNER:

5 Q Thank you, Your Honor. Now when you saw him you said you noticed  
6 him at -- near the end of service?

7 A Yes.

8 Q Was there anything really remarkable about how he was moving around  
9 at church when you first saw him

10 A It was just -- when he came in he was trying to walk in the front while  
11 the pastor was speaking.

12 Q So, what jumped out of you was that he kind of wanted to walk all the  
13 way up front?

14 MR. POSIN: Objection; leading.

15 THE COURT: Sustained.

16 BY MR. HAMNER:

17 Q That's what stood out in your mind?

18 A Yes.

19 Q Now when you -- what did you do after the service was over; what were  
20 you doing at that point?

21 A At the end of service?

22 Q Yeah.

23 A I went to sell -- we were having our ten year gala the following January  
24 and I was standing out in the foyer to sell tickets so people can purchase them for  
25 the gala.

1 Q Okay. So, explain to the jury a little bit. You were standing in the foyer.  
2 What's at one end of the foyer and what's at the other end of the foyer?

3 A If you're standing in the foyer, one side is the entrance to the sanctuary  
4 and then the other side is the exit -- entrance and exit to the church.

5 Q Okay. So, one is the main entrance and the other one is where you  
6 have your prayer services?

7 A Yes.

8 Q Okay. Where are you in the foyer?

9 A I was standing against the wall in between the door -- the front door and  
10 the sanctuary behind a long table facing -- if you look where I facing towards the  
11 pastor's office and where we sell our [indiscernible].

12 Q About how many people are kind of in the foyer around that time?

13 A A lot of people. It was like -- we were going in between 8 and 10  
14 o'clock service so people were leaving as well as people coming into service.

15 Q Probably a good time to sell tickets?

16 A Yes.

17 Q Okay. Do you notice the Defendant around the time that you're sitting  
18 out in that foyer?

19 A No, I didn't see him in the foyer.

20 Q Okay. When is the next time you saw the Defendant?

21 A When the car was coming into the front door of the sanctuary -- I mean  
22 of the foyer.

23 Q Do you ever recall seeing the Defendant being escorted out at any point  
24 in time?

25 A No, I do not.

1 Q Do you remember giving a statement at a prior proceeding?

2 A Yes.

3 Q Would it help, maybe refresh your recollection as to that fact. You had  
4 a chance to look at maybe your statements from the prior proceeding?

5 MR. POSIN: Your Honor, there's no question. She said she doesn't recollect.

6 BY MR. HAMNER:

7 Q Okay. At the prior proceeding, do you recall stating that you actually  
8 saw the Defendant being escorted out?

9 A I might have. I don't -- at this time. It was a couple years ago. I can't  
10 remember.

11 Q And fair to say this incident happened almost two years ago; right?

12 A Uh-hm.

13 Q And you testified at this proceeding I think maybe a couple of months  
14 after that; right?

15 A Yes.

16 Q Would you agree that maybe your memory is probably a little fresher at  
17 the time that you testified at the prior proceeding than it almost two years later?

18 A Yes.

19 Q Would you be surprised to learn that you had maybe stated that you  
20 actually saw him being walked out as you sat in the foyer; would that surprise you at  
21 that previously proceeding?

22 A No, no. I don't recall if he did. There was so much going on 'cause I  
23 was talking to people and so at the time. I could have saw him but I don't  
24 remember.

25 Q Okay. So, do you remember whether or not he was saying -- so you

1 don't recall whether or not he was saying anything at that time?

2 A Going in or out the --

3 Q As he walking out.

4 A -- service? No.

5 Q Okay. Would it help to refresh your recollection if you saw your  
6 previous statement to see whether or not you even heard him make mention of  
7 anything?

8 A I had saw him earlier before I went in the foyer.

9 Q Okay. So, you saw him earlier. Did you hear him speak?

10 A No; I don't remember hearing him speak. I remember seeing him  
11 earlier but if you're saying while we were in the foyer, I don't remember. I remember  
12 seeing him in the sanctuary.

13 Q Do you recall at a previous proceeding you stating something to the  
14 effect of I saw him saying some incoherent things?

15 A That was during -- when he was tried to join the service, the church.

16 Q Okay. How close were you to him though when he was saying -- when  
17 he was speaking?

18 A We were right in the same room.

19 Q You were in the same room?

20 A Hm-hm.

21 Q Now what do you mean when you used the word incoherent? Were  
22 you having a hard time hearing him or was he just saying something that didn't even  
23 sound like English?

24 A Well he was just saying things that I didn't know what he was talking  
25 about because I had just taken him back. He joined the church and I had taken him

1 back to the office. And so he was saying things that I didn't understand what he was  
2 talking about. He was just saying things -- we I had never met him before so the  
3 things he was saying I didn't know him so I don't know what he was talking about so  
4 I was just like, okay, can you fill this out.

5 Q So, it wasn't in relation to what you were talking to him about?

6 MR. POSIN: Objection; leading.

7 MR. HAMNER: Okay. It doesn't suggest --

8 THE COURT: Overruled.

9 BY MR. HAMNER:

10 Q Let me ask the question again. So, it wasn't in relation to having him  
11 register and having him sign up to become a member of the church?

12 A No, no.

13 Q When he spoke was he mumbling?

14 A No; he wasn't mumbling. He was talking normal. He was saying things  
15 -- talking about what was in the pastor's office, saying, you know, what are those in  
16 the office. There was some people sitting there [indiscernible] and he was  
17 commenting on them and then he was saying, do you know, you know, where this  
18 person is or do you know how do I get to the other side. Things like that. It was just  
19 -- he had already made me nervous so I really wasn't paying attention to what he  
20 was saying.

21 Q Okay. So, was this a situation where you didn't actually understand the  
22 sentence or you just didn't understand maybe who he was asking about or what he  
23 was asking you questions about --

24 A Right.

25 Q -- like the substance of?



1           A       Yeah. I just was telling him to fill out the paperwork and then I left him  
2 there with one of our safety team members and they went back in the sanctuary.

3           Q       Okay. So this isn't necessarily a situation where he's saying a bunch of  
4 words --

5           MR. POSIN: Objection; leading.

6           MR. HAMNER: Okay. It doesn't --

7           THE COURT: Sustained.

8 BY MR. HAMNER:

9           Q       Okay. So, just to be clear. Did you or did you not understand the  
10 actual sentences he was saying; you just didn't know why he was asking them?

11          A       I understood every word he said. I just didn't know what the reasons he  
12 was asking or saying them. I just was ready to go.

13          Q       All right. And, Ms. Trass, you mentioned you're sitting in the foyer and  
14 then I think you mentioned you saw a car kind of come through?

15          A       Yes.

16          Q       Do you remember anything else happening just prior to the car coming  
17 in to the church?

18          A       I was sitting there talking with one of our mothers and another young  
19 gentleman was coming by and I was telling him, oh, I have your ticket. One of the  
20 doors to our -- coming in front outside was open and I heard a man outside say  
21 move out of the way really loud. And I thought to myself what's going on out there.  
22 And after that, that's when I saw the car coming into the building.

23          Q       Now did you make any attempt to move out of the way?

24          A       I did. Initially I was frozen in place, like, oh my God, in my head I'm like  
25 is this really happening, and then I moved to the left as far as I could because where

1 I was standing the table was long and the only way to get in and out was the way  
2 that the car was coming in. So, I moved over as far as I could to the left.

3 Q Ms. Trass, you said you moved over to this area to the left. What do  
4 you believe could have happened to you if you had stood in that exact spot as this  
5 car was coming through?

6 A I probably would have gotten hit because the vase that was on the table  
7 at the end got hit and crashed onto the ground.

8 Q Were you afraid of being hit as this was all happening?

9 A Yes.

10 Q How afraid were you?

11 A I was terrified. I just -- I didn't know what to do. I just was frozen in  
12 place, but then I moved as far as I could and I just closed my eyes because I didn't  
13 know what was going to happen because I couldn't go any further because of the  
14 way the table and wall was made. I couldn't get out any further. So, I just had to  
15 wait and see.

16 Q Okay. I'm going to show you State's 10; do you recognize that?

17 A Yes.

18 Q Okay. And what is that?

19 A That's the front entrance to the church where the came in there.

20 Q Okay. Is that the car that we're talking about?

21 A Yes.

22 Q That's a fair and accurate depiction of what it looked like on that day?

23 A Yes.

24 Q Now where you were kind of in relation to this car?

25 A I was if you look at the --

1 Q If you put your hand and make a mark you can -- it actually marks on  
2 the screen?

3 A Okay.

4 Q It will show up there.

5 A Okay. This is -- that end right here, the end here. I was over on this  
6 side.

7 Q So, if you're looking at the car would you say that you were to the right  
8 of the car?

9 A Yes.

10 Q And the table that you were nearby was to the right of that car?

11 A Yes.

12 Q I'm showing you State's 11; is that kind of a fair and accurate depiction  
13 of what it kind of looked like to the right?

14 A Yes.

15 Q I'm showing you State's 12; is that the table that we're talking about  
16 over here or was there another table that's not in that?

17 A There was another table that's in the picture. That's our computer  
18 table. I had a set up table just for that day.

19 Q Okay. Was that table actually closer than that?

20 A Yeah. It was more out because we have stuff back there. We have a  
21 computer table and other things so I was a little more out.

22 Q So, taking a look at this photo at least when it was taken, are you telling  
23 us that the table you were sitting at is not in the position that it was at the time right  
24 before that car came through? I'm trying to get a sense -- is the table you were  
25 sitting at is it in this picture at all?

1           A     No.

2           Q     Okay. Based on what we can see here would that have been the  
3 general area as to where your table would have been? I just don't know when this  
4 picture was taken. I know it was taken probably on that day, but I'm just trying to get  
5 a sense of was the table probably in that field of view?

6           A     Yeah. It might have been more down this way right here.

7           Q     But prior to that car coming in, that's really -- if you had taken a picture  
8 from that vantage point at least a portion of the table you were sitting at would have  
9 been in that photo?

10          A     Yes.

11          Q     Okay. Was the scene like after this car came through, Ms. Trass?

12          A     Chaotic; people screaming. I saw people running -- people were  
13 running in as he was coming in. Then people were screaming they thought a little  
14 girl was under the car so they were screaming look under the car. And some of the  
15 men dropped to the ground to try to see if anybody was under the car. One young  
16 lady was really hysterical because she thought there was a child under there and so  
17 she was just screaming and everybody was just ---

18          Q     Do you remember whether or not -- you remember seeing the  
19 Defendant at all after this car came through?

20          A     I just happened to look and look in the driver's side and saw and then  
21 after that I was -- my sister was looking for me so I went to her 'cause she was like  
22 Tiffany, you know, screaming my name trying to see where I was at because she  
23 knew I was out in the foyer and they were in the sanctuary still.

24          Q     Okay. Did you see anything the Defendant was doing at that point?

25          A     No; I didn't pay attention after that to what he was doing.

1 MR. HAMNER: Court's indulgence.

2 BY MR. HAMNER:

3 Q Ms. Trass, if you could explain to the jury about how far were you from  
4 this car at the time it comes through your church?

5 A In feet or --

6 Q Sure. In feet.

7 A Before he comes through or as it was coming through.

8 Q Just -- well before it comes through, how close are you in that -- how  
9 close are you sitting to those double doors?

10 A I'm not good at measurement. I mean, not even a few feet away.

11 Q Just a couple of feet?

12 A Yeah; just maybe three, five. I don't know. I'm not good at measuring  
13 feet so --

14 Q Okay. And what county did all this happen in?

15 A Clark County.

16 MR. HAMNER: All right. Thank you. No further questions at this time.

17 THE COURT: Cross.

18 **CROSS-EXAMINATION**

19 BY MR. POSIN:

20 Q Good morning, Ms. Trass.

21 A Good morning.

22 Q On direct examination you stated that your memory was clear back a  
23 month after the events when you testified that time than it is now; right?

24 A Hm-hm.

25 Q And at that time when you were asked what he was saying, what this

1 gentleman was saying, you said he was saying things that were incoherent; right?

2 A I don't remember what I wrote.

3 Q Would it refresh your recollection if I showed you a transcript of that  
4 hearing?

5 A Sure.

6 Q Okay. Without reading anything aloud, look at this -- lines, 6,7, 8,9, 10,  
7 11. Does that refresh your recollection with you said a month after the events?

8 A Yes, sir.

9 Q And did you say he was incoherent?

10 A I probably meant I couldn't hear -- what incoherent is?

11 Q Is that what you said?

12 A Yeah, that's what I said.

13 MR. POSIN: Thank you. I have nothing further, Your Honor.

14 THE COURT: Redirect.

15 **REDIRECT EXAMINATION**

16 BY MR. HAMNER:

17 Q I'd like to follow-up on that. You were just asked about whether or not  
18 you used the word at the prior hearing that he was incoherent?

19 A Hm-hm.

20 MR. HAMNER: Your Honor, if I could approach. I'd actually like the witness  
21 to read her actual answer within context to give context to the statement.

22 THE COURT: Go ahead.

23 MR. HAMNER: Thank you.

24 MR. POSIN: No objection, Your Honor.

25 MR. HAMNER: Let the record reflect I'm showing the witness her voluntary

1 statement.

2 BY MR. HAMNER:

3 Q Now you were asked a question: What was the Defendant's demeanor  
4 like as he's being escorted out of the church? If you could please just read your  
5 complete answer to give context to the jury, please, ma'am.

6 A Kind of, you know, if someone's holding you where you're going out just  
7 kind of. He was saying different things like he wanted to talk to someone and some  
8 incoherent things. I really couldn't hear everything he was saying but he was talking  
9 and they told him that he had to get off the premises.

10 Q Thank you. So, Ms. Trass, you couldn't really hear everything --

11 MR. POSIN: Objection; leading.

12 THE COURT: Sustained.

13 BY MR. HAMNER:

14 Q So, was the -- why did you use the word incoherent in that answer,  
15 ma'am?

16 A Because I couldn't hear what he was saying so to me it was not  
17 understandable.

18 MR. HAMNER: Thank you. No further questions.

19 MR. POSIN: Nothing further, Your Honor.

20 THE COURT: I have just one question. Do you know what the definition  
21 of the word incoherent is?

22 THE WITNESS: I do. I just at the time probably.

23 THE COURT: Tell me what it is.

24 THE WITNESS: Incoherent is talking where it's not understandable, to me.

25 THE COURT: Okay. All right. That's your understanding of what the word

1 means?

2 THE WITNESS: Hm- hm.

3 THE COURT: All right. Thank you. Any questions as a result of my  
4 question?

5 MR. HAMNER: No, Your Honor.

6 THE COURT: Thank you very much for your testimony. And if you'll please  
7 not discuss your testimony with any other witness until the trial's over.

8 THE WITNESS: Thank you.

9 THE COURT: You can call your next witness.

10 MR. SCOW: Sharon Powell.

11 **SHARON POWELL**

12 [having been called as a witness and being first duly sworn, testified as follows:]

13 THE COURT CLERK: Please be seated. If you'll state and spell your first  
14 and last name for the record.

15 THE WITNESS: Sharon Powell, S-H-A-R-O-N Powell, P-O-W-E-L-L.

16 THE COURT: Please proceed.

17 MR. SCOW: Thank you, your Honor.

18 **DIRECT EXAMINATION**

19 BY MR. SCOW:

20 Q Good morning, Ms. Powell.

21 A Good morning.

22 Q Are you familiar with the New Antoich Christiansen Fellowship Church?

23 A Yes, sir.

24 Q Is that located at 3950 North Las Vegas Boulevard?

25 A Yes, sir.



1 Q And that's here in Clark County, Nevada?

2 A Yes, sir.

3 Q On December 18<sup>th</sup> 2011 were you attending worship services on that  
4 day?

5 A Yes, sir.

6 Q And that was a Sunday?

7 A Yes.

8 Q What service had you attended that day?

9 A I was getting ready to attend the 10 a.m. service.

10 Q Okay. So, you hadn't gone to the 8 o'clock service?

11 A No, I haven't.

12 Q Was there anything that you were doing in preparation for before the 10  
13 a.m. service?

14 A Yes; it was a few days before Christmas and I knew that I wouldn't see  
15 the members so I was handing out Christmas cards in the vestibule of the church at  
16 around five minutes to ten.

17 Q Shortly before that 10 a.m. service?

18 A Yes.

19 Q And in the vestibule, what part of the church building is that located at?

20 A That's the front of the church.

21 Q Okay.

22 A And it's a room where we mingle and do things prior to service, after  
23 service. It's just a little area just before you enter the sanctuary.

24 Q I'm going to show you an overhead view of the church. So, the front of  
25 the church, do you recognize --

1 THE COURT: Which exhibit is this just for the record?

2 MR. SCOW: This one is Exhibit 2 that I had put on here.

3 THE COURT: All right. Thank you.

4 BY MR. SCOW:

5 Q Do you recognize what we're seeing in this?

6 A Yes.

7 Q What do we see here?

8 A Okay. This is the main entrance of the church here.

9 Q Okay. And if you touch the screen it'll actually make a mark. It's not a  
10 great mark but if you kind of put a circle around there you're looking at.

11 Is that arrow kind of pointing to the general area?

12 A Well I don't know if I'm doing this wrong but --

13 Q Is it making a mark a little to the left of where you actually want to put  
14 the mark?

15 A Yeah. Actually it's over to the left. I want to go towards the right.

16 Q Okay. So, the arrow you put is right here?

17 A Right. We were right in here, yes.

18 Q That's the entrance?

19 A Yes.

20 Q So, just behind this is that the vestibule?

21 A Yes.

22 Q Where's the sanctuary from there?

23 A Okay. If you walk through the vestibule and go through two double  
24 doors, the sanctuary is there behind -- right directly behind.

25 Q So, like straight through?

1           A     Yes.

2           Q     So, if you're going to walk in and just go straight through those doors,  
3 the next double doors you would end in the sanctuary?

4           A     Yes, sir.

5           Q     And so you were just inside that area passing out cards?

6           A     Yes.

7           Q     Tell us what happened in those few minutes before ten. What  
8 happened when you were in the vestibule?

9           A     Like I said, I was handing out the Christmas cards and, you know, going  
10 back and forth. I was catching people leaving 8 o'clock and people coming in to the  
11 10 o'clock service. And I handed out the last one that I had for that group of people.  
12 So, I went back to the table and, you know, got the rest of my cards and picked up  
13 my purse and I was straightened the cards out and the Lord said move and I  
14 stepped to my right and as soon as I stepped to my right from in front of that door I  
15 heard this tremendous sound; I thought it was an earthquake. And I just fell on my  
16 knees and I didn't know what had happened, but it was a horrible sound. It was a  
17 loud crashing sound. And once I was on my knees, all chaos broke out. People  
18 were screaming, crying. They were saying there was a little kid, and I looked and I  
19 saw a car, and I thought, my God. So, there was a car that had come through those  
20 doors just right at where I was standing.

21          Q     Okay. Let me kind of break this up a little bit. You gave us a lot of  
22 information there.

23          A     Okay.

24          Q     I'm going to show you State's Exhibit 12. Is this the double doors  
25 where you were standing in the vestibule?

1 A Yes.

2 Q So, what we see in this picture is the vestibule area?

3 A Yes.

4 Q This looks like a door. Is that a door laying on top of the car?

5 A Yes.

6 Q Is that door a door that is normally shut during the church services?

7 A Yes; the -- that door is closed and the other one is open for people to  
8 come in and out.

9 Q Okay. And so in relation to this door that is now up, where was that  
10 table set out that you said the Christmas cards were on?

11 A It was right over in this area here -- yeah, right in there.

12 Q I can't see that mark. Can you maybe do a big -- okay. So, that mark is  
13 right here. Was the table set out to come out this way or was it against this wall?

14 A I believe it was a little forward more because when things started  
15 happening, things got moved around. It was a little more forward because where I  
16 was standing I could touch this area right here. Right in here.

17 Q Does that mark -- you want it to be a little more to the right?

18 A This is closer. To the right. I'm sorry.

19 Q That's okay. It's a little off where you actually want to put the mark. So,  
20 the line you drew is right here but you want it to be right here?

21 A Right. The table was more forward. So, I was standing right here.

22 Q So where my pen this is where you were standing?

23 A Yes.

24 Q And at the point in time you said you had hearing something that told  
25 you move; what was it that you heard?

1           A     The Lord -- God.

2           Q     Okay. You heard the voice of the Lord tell you to move?

3           A     Yes; just that one word. Move.

4           Q     And you moved?

5           A     Yes, I did.

6           Q     What happened when you moved?

7           A     When I moved, the car came through the door and at that time when I  
8 moved, I didn't look in the direction, I just moved. I mean, I just -- I was obedient and  
9 I moved.

10          Q     And you heard a loud crashing noise?

11          A     Yes, I did.

12          Q     What would have happened if you didn't move?

13          A     If I had stood where I was standing to hand out the Christmas cards, I  
14 would have been hit by this car.

15          Q     And so after you heard that crashing noise you said you had fallen to  
16 our knees?

17          A     Yes, sir.

18          Q     And then you described some kind of chaos going on in that scene?

19          A     Yes.

20          Q     People looking for a girl?

21          A     Yes; there was a child that when I was on my knees and I did turn  
22 around to look I saw a young child's shoe, and they were screaming, people were  
23 crying. The safety team, they were trying to move out. The mother was asking, you  
24 know, my child, my child is under the car. So, I leaned over to try to see if I could  
25 see a child. All I saw was the shoe and I thought, oh, my God, but I didn't see a

1 child.

2 Q Did you ever look inside the car? What happened after you looked for  
3 the child?

4 A No, I didn't look inside the car. The door was blocking the view. I  
5 looked at that right there, but I could not see inside of the car.

6 Q Okay. At this point in time with the chaos going on, what do you do  
7 after this?

8 A I just stayed on my knees and I just -- I was just praying because I didn't  
9 know what had happened. I didn't know why it happened. I thought someone might  
10 have gotten ill in the car. I was praying for that person and I was praying for the  
11 child that hopefully she wasn't in the back where I couldn't see her, but I saw the  
12 shoe. I just stayed on my knees.

13 Q After you finished your prayer, did you stay in this area or did you do  
14 somewhere else?

15 A One of the young ladies -- I can't remember who it was -- she came  
16 over and put me towards the corner -- sorry-- of the -- by the sanctuary and I didn't  
17 stay in this area. I was more over to the right by the entrance to the sanctuary.

18 MR. SCOW: I'm going to pass this witness, Your Honor.

19 THE COURT: Thank you.

20 MR. POSIN: No questions for Ms. Powell, Your Honor.

21 THE COURT: Thank you. May she be excused?

22 MR. SCOW: Yes.

23 MR. POSIN: Yes.

24 THE COURT: Thank you very much for your testimony. And if you would  
25 please not discuss your testimony with any other witnesses until the trial is over.

1 THE WITNESS: Okay. Thank you.

2 THE COURT: Call your next witness.

3 MR. HAMNER: The State calls Officer David Corbin to the stand, Your  
4 Honor.

5 **DAVE CORBIN**

6 [having been called as a witness and being first duly sworn, testified as follows:]

7 THE COURT CLERK: Please be seated. If you would state and spell your  
8 first and last name for the record, please.

9 THE WITNESS: Dave Corbin, D-A-V-E C-O-R-B-I-N.

10 THE COURT: Please proceed.

11 MR. HAMNER: Thank you.

12 **DIRECT EXAMINATION**

13 BY MR. HAMNER:

14 Q Good morning. Could you explain to the jury what you do for a living?

15 A Yes, sir. Traffic officer with the Las Vegas Metropolitan Police  
16 Department?

17 Q How long have you been with Metro?

18 A Eleven years.

19 Q And what'd you do before becoming an officer?

20 A I was in the United States military for 22 years.

21 Q On December 18, 2011, were you working for the Las Vegas  
22 Metropolitan Police Department?

23 A Yes, sir.

24 Q Were you on duty that day?

25 A Yes, sir.

1 Q I want to ask if you responded to a call for service at 9:57 in the  
2 morning at 3950 North Las Vegas Boulevard here in Clark County?

3 A Yes, sir.

4 Q What was at that location?

5 A It was a -- the call came out as a vehicle into a structure. So, I was  
6 dispatched to the call and I got there and looked at the situation. There were some  
7 things that weren't consistent with accident.

8 Q Now you mentioned car and vehicle. When you got that report, did you  
9 have preliminary facts as to whether or not it may have been accidental versus  
10 deliberate before you got on scene?

11 A I'm not sure, but if that was dispatched over the radio it was shortly  
12 before I got there.

13 Q Now, Officer, you mentioned when you got on the scene you noticed  
14 that something didn't seem accidental to you.

15 A Yes, sir.

16 Q We'll get to your observation, but I want to take a step back further.  
17 Have you ever investigated accidents before in your ten years on the force?

18 A Oh, yes, sir, hundreds.

19 Q Have you ever involved in a situation where a vehicle goes through  
20 doors or the wall of a building?

21 A Yes, sir.

22 Q So, you've seen those before?

23 A Yes, sir.

24 Q How many have you seen?

25 A I would say close -- maybe five, ten maybe more, but I've seen it, yes.



1 Q Okay. And I want to clarify. Is that the total number of ones that you've  
2 seen going just simply through a building or is that just a deliberate one versus an  
3 accident?

4 A No; these are usually accidents I've seen that have been accidental.

5 Q Okay. So, five to ten that have been accidental?

6 A Yes, sir.

7 Q Have you ever seen some that in your opinion when you got there you  
8 believed it was a deliberate act?

9 A Yes, sir.

10 Q How about how many of those have you seen?

11 A Roughly about five, but there's definitely indicators.

12 Q Okay. When you got to the scene you said you mentioned -- there was  
13 something that seem right as far as accidental?

14 A Yes, sir.

15 Q What was jumping out based on your observations?

16 A After -- when I first got there and I'm looking at the scene after talking to  
17 some of the witnesses, I'm watching -- I see where the vehicle tracks were coming  
18 through the parking lot, and the parking lot being wide enough for five cars to be  
19 side by side. I'm looking and I'm seeing the -- yaw marks of the vehicle turning and  
20 as its turning, it's not decreasing speed, it's increasing speed. And that's indicated  
21 by the yaw marks -- when I say yaw marks I'm talking -- most people would think  
22 'em as a skid mark. It's when the vehicle loses traction and it starts to move  
23 sideways because it's carrying too much speed.

24 Q All right. I'm going to show you what's been admitted as State's 5. Is  
25 this the road that we're talking about?

1           A     Yes, sir. That's the parking lot.

2           Q     Could you fit one set of cars going in one direction and another set of  
3 cars going in the other direction?

4           A     You could probably fit two vehicles going both ways, two this way two  
5 that way.

6           Q     Where is the front entrance of the church; can you see that here?

7           A     I want to -- I can't -- I want to say it's --

8           Q     You can put your finger on there and you can put a big old slash  
9 through it. It should pop up. The calibration is a little bit off.

10          A     Okay. Right in here somewhere I believe is where it's at.

11          Q     Okay. So, your calibration --

12          A     Right there.

13          Q     I'm assuming the double doors are not actually in the street. So, are  
14 you intending on --

15          A     Yes; correct.

16          Q     -- kind of push somewhere over here?

17          A     Yes, sir.

18          Q     All right. So, you got there. I'm going to show you what's been  
19 admitted as State's 6; does that kind of fairly and accurately depict what you walk up  
20 to and you see?

21          A     Yes, sir.

22          Q     Now you mentioned these tire marks. I'd like to show you at this time--  
23 I'll like to first approach opposing counsel -- what has been previously marked as  
24 proposed Exhibits -- State's proposed Exhibits 15, 17, 18 and 19; permission to  
25 approach the witness?

1 THE COURT: Granted.

2 MR. HAMNER: Thank you.

3 BY MR. HAMNER:

4 Q Let the record reflect I'm showing the witness State's proposed Exhibits  
5 15, 17, 18 and 19. Sir, I want you to take a look at those --

6 A Okay.

7 Q -- and tell me if you recognize these?

8 A Yes, sir. These are the photos taken at the scene indicating the marks I  
9 was talking about.

10 Q Are these fair and accurate depictions of all four exhibits of kind of the  
11 tire marks left by this vehicle?

12 A Yes, sir.

13 MR. HAMNER: All right. At this time, we'd ask that State's proposed Exhibits  
14 15, 17, 18 and 19 be admitted into evidence.

15 MR. POSIN: No objection, Your Honor.

16 THE COURT: They'll be admitted.

17 **[STATE'S EXHIBIT #'s 15, 17, 18 AND 19 ADMITTED]**

18 MR. HAMNER: Permission to publish to the jury?

19 THE COURT: Granted.

20 MR. HAMNER: And, you know, Your Honor -- I don't know how we want to do  
21 this. The blow-up's not very good. I don't know if you have a policy about handing it  
22 to the jury or not because --

23 THE COURT: No, I don't. Sometimes it doesn't -- the contrast is not good on  
24 the ELMO. So, if it would be better, I'd rather you publish them among the jury.

25 MR. HAMNER: Okay. I'm going to approach the jury and publish State's

1 Exhibit 15. First I'm going to approach him just to give him a description.

2 BY MR. HAMNER:

3 Q Let's look at State's 15 for a second. What are you seeing in that photo  
4 that was of significance to you?

5 A There's two things, actually three things. If you look, you'll see a very  
6 faint -- and it's almost like it's a white color from where it scrapped the top of the  
7 asphalt off you'll see this line right there and it follows straight up and it makes an  
8 arc, gets a little dark here, and then you see a dark residue from the tire and then  
9 goes to the back of the tire. If you look over here, you can faintly see the same thing  
10 on the left tire.

11 Q Did you notice any kind of variation in the tires kind of going from this  
12 way to that or is it one kind of smooth pathway?

13 A This is what's consistent with, as I said, when you're going and you're  
14 making that abrupt turn where it scraps the top of the asphalt to where he -- it's not  
15 slowing down, it's acceleration. That's this right here.

16 Q Okay. Did it appear to be -- any braking applied --

17 A No, not at all.

18 Q -- at least what you could you see?

19 A No.

20 MR. HAMNER: All right. I'd like to publish 15 to the jury.

21 BY MR. HAMNER:

22 Q Now, Officer, I'm going to show you 17, 18 and 19. What do you note  
23 at least in 17 that was important for your investigation?

24 A Again, it's the yaw marks. It's right here. I know it's pretty faint. You  
25 can see where -- I believe this is the back of the car that's parked to the left of the

1 the pastor?

2 A Well yes. He came up to the altar to join the church.

3 Q And did your church accept him as a member?

4 A Yes, we did.

5 Q Did he have any difficulty walking up to the front when he decided to  
6 join your church?

7 A No; he came up with a big smile happy to do it.

8 Q And when he announced that he'd like to join, did he have to say  
9 anything or was it just a physical walking up?

10 A It was a just a walk up but he was smiling. The pastor asked him his  
11 name. He gave him her name and she prayed for him and we said welcome home.  
12 She told him -- she normally take 'em back to get their information to take him back  
13 to get his information. She took him back and got his information. He came back  
14 out and came back up to the front again and sit there.

15 Q And during all the time that you've observing him during your 8 a.m.  
16 service, Is there anything kind of unusual about the way he's walking or interacting  
17 with people at this point?

18 A Other than being extra happy, no.

19 Q Okay. I want to turn your attention about the time that the service kind  
20 of concludes. Around what time does the 8 a.m. wrap up?

21 A Normally between 9:20, 9:40.

22 Q Now is there another service that happens after the 8 a.m.?

23 A Yes; we have a 10 o'clock service.

24 Q Okay. So what do you do during this kind of transition period? What  
25 are you doing at this point?

1           A       I'm normally with the pastor. We let the 8 o'clock service go. I'm  
2 standing with the pastor at the double doors inside to make sure that everyone is  
3 able to get out and leave, and she's greeting everyone that leaves, thanking them  
4 for coming. And that's where I was at at the time so I could see everything that's  
5 going on inside the sanctuary and watching members as they leave.

6           Q       Okay. I'd like to show you State's -- it's already been admitted as  
7 State's 1 but I can't make this pop back on. I'm going to show you what's been  
8 admitted as State's Exhibit 1; you recognize that building right there?

9           A       Yes.

10          Q       Could you point out where the entrance to the church is where you  
11 were standing; do you see it depicted in this picture here? Do you see it depicted in  
12 this picture here?

13          A       Yeah -- yes.

14          Q       You could take your finger and actually just make a slash right on the  
15 TV screen and it will make a mark; could you do that?

16          A       Okay. This is the door where -- I was inside this door.

17          Q       And I know the marking is moving a little bit to the left. So, when you  
18 say I was near this door, is this the door you're talking about?

19          A       Yes.

20          Q       Okay. So, you're standing out there, those are the double doors that  
21 you're talking about?

22          A       Not at first. I was inside those doors. There's other double doors inside  
23 there.

24          Q       Okay. So, are you in the double doors to the sanctuary or are you at  
25 the double doors at the actual entrance from the outside to the church?

1           A     I was at the double doors to the sanctuary at first.

2           Q     All right. So, now you're there. Do you notice anything at that point in  
3 time while you're standing around at that point?

4           A     I noticed that Mr. Hickman was being escorted out.

5           Q     And who was escorting him out?

6           A     At first Craig was escorting him out.

7           Q     And tell the jury this. Was he being escorted out the front or was he  
8 being escorted in another direction?

9           A     He was being escorted out the back way which is the other side.

10          Q     Okay. And do you see kind of generally -- could you make a mark  
11 generally where the back entrance is to your church?

12          A     Yeah. Right over here.

13          Q     Okay. So, somewhere on this side there's an exit where you can walk  
14 out?

15          A     Yes.

16          Q     And that's where Craig was going with the Defendant?

17          A     Yes.

18          Q     Now could you tell what the Defendant's demeanor was at that point?

19          A     Smiling and walking with Craig.

20          Q     He seemed all right at that point?

21          A     Yes.

22          Q     What do you notice next, anything?

23          A     Not at that time. He left with Craig.

24          Q     Okay. And then what's the next thing you kind of remember as it  
25 relates to this case, Mr. Thompson?

1           A       The next thing I remember is as everybody left, the pastor went back --  
2 she had went into her office. I was checking the double doors inside and I could see  
3 that Mr. Hickman had came back inside and I could see that Kevin had asked -- was  
4 talking to Mr. Hickman. So, I came over where I could hear Kevin and Mr. Hickman  
5 talk because normally between 9:50 to say 9:55 they have a prayer service with the  
6 serving leaders, you know, before the 10 o'clock service and they were trying to do  
7 that, but with Mr. Hickman being -- walking around as he was, it was creating some  
8 kind of confusion.

9           Q       Okay. I want to stop you just for a second. I know you've been asked  
10 this before. Do you have sort of role at the church, at least around this time on  
11 December 18, 2011?

12          A       Yes; I was part of the safety.

13          Q       Okay. And who are some of the other members of the safety team, Mr.  
14 Thompson?

15          A       Craig Hutton was the safety team leader, Allen Burse was on the safety  
16 team --

17          Q       Okay.

18          A       -- and myself.

19          Q       All right. Now you said you mentioned you saw Mr. Madden, Pastor  
20 Madden.

21          A       Kevin -- Minister Madden, yeah.

22          Q       Mr. Madden, Kevin Madden?

23          A       Yes.

24          Q       Now you see him and you approach?

25          A       Yes.



1 Q Now you had already seen the Defendant walk out but now he's back  
2 inside the sanctuary of the church.

3 MR. POSIN: Objection; leading.

4 MR. HAMNER: I don't think it suggests the answer.

5 THE COURT: No; it's more asked and answered so it's overruled.

6 BY MR. HAMNER:

7 Q So, now he's back inside the sanctuary; is that right Mr. Thompson?

8 A Yes, it is.

9 Q All right. So, you approach. What do you -- do you hear the Defendant  
10 say anything at this time?

11 A I hear Kevin telling him you have to leave.

12 Q Okay. And what was the Defendant's demeanor to that request by  
13 Minister Madden?

14 A Well he was shouting that he wanted to see his daughter. He was  
15 looking for his daughter.

16 Q Is he still as happy and jovial as he was before?

17 A No; he was shouting, he was angry. He had changed from happy to  
18 angry.

19 Q Okay.

20 A And that's why Kevin was trying to get him out because we was trying  
21 to have the prayer before the 10 o'clock service.

22 Q Was Minister Madden yelling at him?

23 A No, he wasn't yelling.

24 Q Now when you heard speak did he mumble?

25 A Which one?

1 Q I apologize. When the Defendant spoke saying I want to see my  
2 daughter was he mumbling at the time?

3 A No, he wasn't mumbling; he was shouting.

4 Q Did he sound incoherent?

5 A No.

6 Q Did he sound, based on the interaction between the two, as if he didn't  
7 understand what was going on?

8 A He understand everything that was going on from what I saw.

9 Q So, ultimately is he escorted out again, Mr. Thompson?

10 A Yes; he was taken by the arm by Minister Madden and Minister Madden  
11 took him over to Allen Burse.

12 Q And is that the back entrance this time or is that someplace else?

13 A No; Allen brought him out the doors through where I was at which is the  
14 doors on the this side in.

15 Q So, now we're out at the front entrance of the church?

16 A Yes.

17 Q And Allen's there at this point?

18 A Allen was there because Mr. Hickman apparently had drove around the  
19 building and parked on this side now.

20 Q Okay. But Mr. Thompson you didn't see that; right?

21 A I didn't see him drive around, but I saw his car on this side since Mr.  
22 Burse was taking him over to this car.

23 Q And go ahead and take a look at this map. Can you maybe make a  
24 point to show us kind of generally where you believe the general area where the  
25 Defendant's car was in the parking lot?

1 A It was -- it was about -- there's a -- we were about here.

2 Q We can't even see with those markings. Why don't you --

3 A It's about here because there's a brick like --

4 Q Okay.

5 A -- thing so it was about here. Right here as he pulled out.

6 Q We're talking somewhere in this area here?

7 A Yes.

8 Q All right. Now when he was escorted out, was he having difficulty

9 walking?

10 A No; he wasn't having difficulty walking because Allen had him by the

11 arm and escorted him to his car.

12 Q Did he appear as if the Defendant was leaning on Allen for support?

13 A No, he was not.

14 Q Now where do you see Allen take the Defendant at this point?

15 A He took him to his car that was parked here.

16 Q And what do you remember seeing next?

17 A Allen was like coming back up to the church. He was like backing up

18 coming back up to the church watching Mr. Hickman.

19 Q Okay. Do you see what the Defendant does at this car? Does the

20 Defendant get in his car?

21 A He got in his car, he backed out, and then he started like he was

22 coming out like he was, as I said, white line come there, well he was driving down

23 like he was leaving, and Allen was coming back but he was like backing, watching

24 him as he leaves. And Mr. Hickman, like when he was coming out, he like swung at

25 Allen with his car to try to get Allen but Allen, since he was watching, was able to

1 jump out of the way.

2 Q Okay.

3 A And Mr. Hickman kept coming up and as he got about here, he turned  
4 his wheels --

5 Q And, sir, you're going to need to make a mark. We can't really see it.

6 THE COURT: He did.

7 MR. HAMNER: Oh, sorry.

8 THE WITNESS: When he got back here, he turned his wheels and aimed the  
9 car at us, and we were standing here. There was about six or seven of us standing  
10 here at the door. I'm standing on the right side of the door and there was a lady  
11 standing there with me because she was coming in and there was other people  
12 coming in. And he turned his wheels and aimed at us trying to -- I think it was --

13 BY MR. HAMNER:

14 Q Could you please point -- and I don't know the marks to make; I didn't  
15 see it -- where was Allen Burse standing kind of on that street when the Defendant,  
16 as you said, tried to hit him?

17 A Allen was standing to the right about here.

18 Q Okay. So, he's in the street though? He's not in those trees. Is he in  
19 the trees or is he in -- I know the mark --

20 A No, he was the street.

21 Q He's in the street so we're talking maybe something like here?

22 A Yeah, right next to the white line, yeah.

23 Q Near the white line. Okay. I want you to describe to the jury how he's  
24 driving this car. Does it appear that the vehicle is in control or does it appear like it's  
25 wobbling or out of control at the time that it's driving towards Allen and driving

1 towards you and the other people?

2 A When he was -- when he backed up and came out, he was in control. It  
3 was like going straight out. But then when he swerved at Allen, it was like he  
4 missed Allen. So, I guess he wanted to get something and it was like he was in  
5 control. And then he just turned when saw us standing there, he just turned his  
6 wheels and he just came right at us like he wanted to hit something and it was only  
7 us there. So, he wanted to hit us, is my opinion.

8 Q Okay.

9 A And it was like a scene of Twilight Zone, I mean, because -- it was like  
10 panic. I mean, I was afraid for the lady that was standing right there in front of me  
11 because I was holding the door for her. And when I saw the car coming I had  
12 enough time to react to try to pull her out of the way and she fell, and I'm thinking  
13 we're going to get hit, and by the grace of God she didn't get hit and I didn't get hit.  
14 And there were two little girls, from what I understand, inside the church, right inside  
15 the door playing and one of the girls apparently got hit and everyone was shouting  
16 that she was underneath the car, and it was chaos. We all thought she was  
17 underneath the car. We could see the shoe but we couldn't find the little girl.

18 Q Mr. Thompson, at any point did you hear the brakes being slammed on  
19 before this car went through the church?

20 A I didn't hear any brakes. I could hear an acceleration but I didn't hear  
21 any brakes.

22 Q Did you hear the tires?

23 A Tires?

24 Q Did you hear the tires making any noise as it was approaching?

25 A Not of any brakes.

1 Q Not of brakes, but did you hear 'em like squealing at all before that?

2 A Like an acceleration, yes.

3 Q Okay. Did the Defendant at any point toot or honk the horn before  
4 coming through?

5 A No.

6 Q Did you hear any warnings shouted like get of the way or anything like  
7 that coming from the Defendant's car?

8 A No.

9 Q Now about how many people were out there? I'm sorry if I didn't hear  
10 that. You said there was some people but --

11 A About seven or eight people, if my memory served me right, that was  
12 out there. There was more inside the vestibule, but there were only seven or eight  
13 that was out there.

14 Q Now did you see after this car went through the church, did Allen Burse  
15 have a reaction at that point?

16 A Yes, he did. Thank God he did.

17 Q What did he do?

18 A He was able to get inside the car somehow and he was able to restrain  
19 Mr. Hickman and was able to get to the ignition to turn the engine off because from  
20 my vantage point where I was at when the car came into the door of the church, it  
21 got struck, and when it hit the door it popped open the passenger door. And where I  
22 was standing, when the lady got up, I was able to get up there and hold the door  
23 that was popped open. And I was watching as Allen had gotten in there, Mr.  
24 Hickman looked like he was trying to either put the car in drive or reverse to try to do  
25 something else with the car. And we was thinking that he was trying to either back

1 up and do it again or put it in drive and go further. We didn't know what he was  
2 trying to do, but Allen was able to try to get the key out of the ignition.

3 Q Okay. I'm going to show you State's 10. Is that what you're referring to  
4 when you say that the car appeared to be kind of wedged in by the door?

5 A Yes.

6 Q So, you don't remember the Defendant at any point in time after  
7 immediately going to turning off the engine on his own?

8 A No, he did not.

9 Q Allen Burse needed to do that?

10 A Yes; because he was trying to get the car to go in drive or he was trying  
11 to do some other action [indiscernible].

12 Q When you got near the car and you Allen Burse trying to restrain the  
13 Defendant, what was the Defendant's demeanor at that point?

14 A He was very agitated. He was making -- he was saying a lot of things.

15 Q Okay. Was he cursing at that time?

16 A He was cursing; he was -- he made a couple comments to me, either to  
17 me or Allen but he was looking up at me as I was holding the door and he said that  
18 you're next. So, I didn't know he was talking about me or Allen, but I assumed he  
19 was talking about me but I don't know what next means because I've never met the  
20 man before.

21 MR. HAMNER: Court's indulgence. Thank you. No further questions at this  
22 time.

23 THE COURT: Cross.

24 MR. POSIN: Thank you, Your Honor.

25 **CROSS-EXAMINATION**

1 BY MR. POSIN:

2 Q Mr. Thompson, you were in another courtroom on this case once  
3 before; right?

4 A Yes, I was.

5 Q And that was about a month after the incident in question; right?

6 A I don't know how long it was.

7 Q Well the incident was back in December of 2011; does that sound right?

8 A The incident, yes.

9 Q And then was there a hearing in about January of 2012; does that  
10 sound about right to you?

11 A I don't know the exact dates, but we did -- there was a hearing, yes.

12 Q Would it help refresh your recollection if I showed you a transcript of  
13 that hearing?

14 A Sure.

15 MR. POSIN: May I approach, Your Honor?

16 THE COURT: Yes.

17 THE WITNESS: Okay.

18 BY MR. POSIN:

19 Q Okay. So, Mr. Thompson, have you looked at the document I just  
20 showed you, this document?

21 A Yeah.

22 Q And did that refresh your recollection as to the date of the hearing tghat  
23 you were in ?

24 A Yeah.

25 Q And you testified at that hearing; right?



1           A     Yeah.

2           Q     And would you say the events were a little fresher in your mind back  
3 when you testified a month after the hearing than a year and a half later or so?

4           A     It was still unbelievable, but yes.

5           Q     And at that time you were asked some questions and you said that Mr.  
6 Hickman was drunk; right? You used the word wet initially; right?

7           A     yes.

8           Q     You didn't use the word buzzed?

9           A     Well I just said wet this time too.

10          Q     That's his word. The word you used was wet and then you clarified that  
11 to mean drunk; right?

12          A     I just said wet this time also, sir.

13          Q     That's true, and you did. And you didn't use the word buzzed until  
14 somebody else presented that word to you; right?

15          A     Well the definition could be clarified in several different ways.

16          Q     It could be several different ways. But when you just asked both that  
17 time and this time what his condition was you said wet and drunk; correct?

18          A     I said wet this time; I said he was drunk, but drunk --the definition can  
19 still be the same, sir.

20          Q     And you noticed that when he was still sitting down at the front of the  
21 church; right?

22          A     Yes.

23          Q     And that was something that you were already discussing before he  
24 was escorted anywhere or anything happened, you were discussing that with other  
25 people that you observed that he was drunk?

1 A Yes.

2 MR. POSIN: Thank you. No further questions, Your Honor.

3 THE COURT: Redirect.

4 MR. HAMNER: Thank you.

5 **REDIRECT EXAMINATION**

6 BY MR. HAMNER:

7 Q I want to talk to you on t hose questions for a second. At that prior  
8 proceeding, do you recall the first words you actually used were a little tipsy; would  
9 that accurate? Or would it be helpful to refresh your recollection as to which order  
10 you used different words to describe his level of drinking? Would it help to -- do you  
11 remember if whether or not you used the words a little tipsy first at the prior  
12 proceeding?

13 A It's been two years so --

14 Q Okay. So, so would it help to refresh your recollection?

15 A Yes, sir, please.

16 MR. HAMNER: Okay. Permission to approach the witness?

17 THE COURT: Granted.

18 BY MR. HAMNER:

19 Q Thank you. Let the record reflect I'm showing the witness his voluntary  
20 statement. I'm showing you page 55 and 56, 56 line 1. Take a look and read t his  
21 area here. Take a look and see what order of words you used and then I'm going to  
22 re-ask you these questions. Just let me know when your memory's refreshed. Look  
23 at lines 1 and 2.

24 THE COURT: You're showing him the preliminary hearing transcript?

25 MR. HAMNER: Yes, I am, Your Honor.

1 THE COURT: You said voluntary statement.

2 MR. HAMNER: I apologize.

3 THE WITNESS: Okay.

4 BY MR. HAMNER:

5 Q Okay. We a little clear now on the order?

6 A Yeah.

7 Q Let me re-ask the question. So, tell the jury, what were the first words  
8 you used to describe him drinking?

9 A He was a little tipsy.

10 Q And then you followed that up with saying what?

11 A He was drunk.

12 Q Did you use another word before saying he was drunk?

13 A Wet.

14 Q So, you first said a little tipsy then you said wet and then you said  
15 drunk?

16 A Yes.

17 Q Do you recall whether you were asked by the State what exactly do you  
18 mean by any of those words at that proceeding?

19 A Yes.

20 Q Did we follow-up within a more broader explanation from you at that  
21 point in time?

22 A Yes.

23 Q Okay. Did it help refresh your recollection to see whether we did.  
24 Okay.

25 MR. HAMNER: Permission to approach, Your Honor?

1 THE COURT: Granted.

2 BY MR. HAMNER:

3 Q Take a look and see if we did actually ask for an explanation after you  
4 made those statements. Does that help refresh your recollection as to whether or  
5 not we actually wanted a follow-up from you when you used those words?

6 A Yeah.

7 Q Okay. Did we actually ask, what do you actually mean by a little tipsy?  
8 Did we actually do that in the prior proceeding?

9 A No.

10 Q Did I ask you -- and it was me who was there; wasn't it?

11 A Yes.

12 Q So, I didn't ask you what do you mean by wet?

13 A No.

14 Q Did I ask you well what do you mean by drunk?

15 A No.

16 Q Okay. If I had asked those questions, would you have given me an  
17 answer?

18 A Yes.

19 Q And I asked you today; is that right?

20 A Yes.

21 Q Do you recall whether the defense attorney at that time asked you well  
22 what do you mean by a little tipsy?

23 A No.

24 Q How about a little wet?

25 A No.

1 Q How about drunk?

2 A No.

3 Q If they had asked for an explanation would you have provided it?

4 A Yes, I would.

5 Q But I asked today and you provided it?

6 A Yes, I did.

7 MR. HAMNER: Thanks. No further questions.

8 THE COURT: Recross.

9 MR. POSIN: Nothing further, Your Honor.

10 THE COURT: Thanks. May this witness be excused?

11 MR. HAMNER: Yes, Your Honor.

12 THE COURT: Thank you very much for your testimony.

13 MR. SCOW: We'll call Marquetta Jenkins.

14 MR. POSIN: Your Honor, I'm sorry. I wonder if we could call that witness

15 back in for one moment and give him the instruction asked for for the last witness

16 not to discuss his testimony with the other witnesses.

17 THE COURT: Sure.

18 MR. HAMNER: I'm sorry. I didn't hear that. I apologize.

19 THE COURT: Mr. Posin asked if I could admonish the witness to not discuss

20 his testimony.

21 Mr. Washington, if you please not discuss your testimony with other witnesses

22 in the trial before the trial is over I'd appreciate that.

23 MR. WASHINGTON: Yes, ma'am.

24 THE COURT: Thank you.

25 MR. POSIN: Thank you, Your Honor.

1                                   **MARQUETTA JENKINS**

2           [having been called as a witness and being first duly sworn, testified as follows:]

3           THE COURT CLERK: Please be seated and state and spell your name for  
4 the record.

5           THE WITNESS: Marquetta Jenkins, M-A-R-Q-U-E-T-T-A Jenkins  
6 J-E-N-K-I-N-S.

7           THE COURT: You may proceed.

8                                   **DIRECT EXAMINATION**

9 BY MR. SCOW:

10          Q     Marquetta, I'm going to take you back to December 18<sup>th</sup> 2011; do you  
11 remember that day?

12          A     Yes.

13          Q     On that day, were you going to attend church services at the New  
14 Antioch Christian Fellowship Church?

15          A     I had attended the 8 a.m. service, yes.

16          Q     So, you had actually attended the 8 a.m. service?

17          A     Uh-hm.

18          Q     And that's a yes?

19          A     Yes.

20          Q     Sorry. She's recording what you say --

21          A     Okay.

22          Q     -- and uh-hm and uh-huh don't come out well on the record.

23 So, you had attended the 8 a.m. service. How long had you been attending services  
24 at the New Antioch church?

25          A     Prior to that day?

1 Q Yes.

2 A For three years.

3 Q Okay. So is the place you're familiar with and people that were there  
4 you were familiar with them as well?

5 A Yes.

6 Q Were you present with anyone else in your family?

7 A On December 18<sup>th</sup>?

8 Q Yes.

9 A Yes; my daughter.

10 Q Okay. What was your daughter's name?

11 A Jayla Manor [phonetic].

12 Q So, you were with your daughter, Jayla. And where were you seated  
13 during that 8 a.m. service?

14 A In the center of the church toward the back.

15 Q So, toward the back of the aisles in the middle, like in the middle of a  
16 bench?

17 A Yes.

18 Q Did you notice anything unusual or that caught your attention during  
19 that 8 a.m. service?

20 A Only toward the end of the service when the gentleman walked in,  
21 probably ten to 15 minutes before church was out, and he was kind of a distraction  
22 because he wanted to walk across the altar and typically no one walks across the  
23 altar until the altar call happens.

24 Q So, he's walking across the front during the service?

25 A Yes.

1 Q Was there any efforts made to escort him to the back of the services?

2 A Yes; he was escorted to the back but then he walked up the center  
3 aisle to the front and he sat on the first row of the altar -- right before the altar.

4 Q Okay. So, after he's escorted to the back he walked in to the front  
5 again?

6 A Yes.

7 Q Did he sit down at that time?

8 A Yes.

9 Q And you had described it as being by the altar?

10 A Well the pastor is on the altar and it's kind of heightened and then  
11 there's a walk area and then chairs. So, the first row right in front of the altar.

12 Q Okay. The gentleman that had walked in that you saw do you see in  
13 the courtroom today?

14 A Yes.

15 Q Can you point out that individual and describe an article of clothing that  
16 he's wearing today?

17 A The white shirt and black glasses.

18 Q Okay. And is he wearing a jacket?

19 A No.

20 MR. SCOW: Your Honor, can the record reflect identification of the  
21 Defendant, Wilburt Hickman.

22 THE COURT: It will.

23 BY MR. SCOW:

24 Q Was there anything else about that gentleman, the Defendant, or  
25 anything that seemed unusual to you during those services?



1           A     The disruption and you could smell the alcohol as he walked past.

2           Q     So, did he walk past you as he went to the front?

3           A     I was more -- a little bit maybe like two or three seats in from the aisle

4     so I could still smell the alcohol as he walked past.

5           Q     Okay. So, a couple seats in as he's walking through the middle aisle?

6           A     Uh-hm.

7           Q     After he had already been escorted back?

8           A     Yes.

9           Q     You could smell it as he walked past?

10          A     Yes.

11          Q     Did anything else occur in the rest of the 15 minutes or so of the

12     services?

13          A     Not during the service. The pastor, at the end of the service, called an

14     altar call for anyone that wanted to join church or that wanted prayer, and he was one

15     of the people that went to the front of the church to either join or prayer.

16          Q     Now when you say he, are you referring to the Defendant?

17          A     Yes, yes.

18          Q     So, he went up for that altar call that called for prayer or to join to the

19     church?

20          MR. POSIN: Objection; leading and asked and answered.

21          THE COURT: Sustained.

22     BY MR. SCOW:

23          Q     So, after he goes up for that altar call, the Defendant, what happens?

24          A     The new members committee comes out and them as well as one of

25     the security guards escort him to the back along with the other people that came up

1 for joining the church or for the prayer.

2 Q Okay. So, he wasn't the only one who had gone up for that altar call?

3 A Correct.

4 Q So, after he goes back with the other people to take care of records or  
5 whatever is happening there, what do you do?

6 A Church is over. At that time everything finishes and myself as well as  
7 one of the other members of the church we go and we get our children out of  
8 children church and we're standing there in front of the church talking about the  
9 Christmas program that's supposed to take place that night.

10 Q So, where was your daughter during those 8 a.m. services?

11 A We have auxiliary area in the back of the church that the children have.  
12 There's children's church during the main services.

13 Q So, your daughter was not with you during the main services?

14 A Correct.

15 Q So, then to the point you get your daughter and as you're walking out  
16 you said you with somebody else as well?

17 MR. POSIN: Objection; leading and asked and answered.

18 MR. SCOW: I'm setting foundation for the next step.

19 THE COURT: Overruled.

20 BY MR. SCOW:

21 Q So, you're walking out and there's another lady with you; is that --

22 A Yes.

23 Q And was your daughter -- and you said there was a child with the other  
24 lady?

25 A Yes.

1 Q Were your kids friends?

2 A Yes.

3 Q And you said they were discussing a program for that evening?

4 A We had a Christmas program set for the evening and both of the girls  
5 were in the program. So, they were discussing it as well as the other lady I was with  
6 -- her name is Anneesah -- as well as Anneesah and I were talking as they were  
7 talking as well.

8 Q Okay. And do you know the name of Anneesah's daughter?

9 A Anyla.

10 Q Where do you end up as you're speaking with Anneesah and her  
11 daughter with your daughter?

12 A We go to the -- right outside of the church doors on the front end of the  
13 church and we sit there talking.

14 Q Okay. About how long were you there talking; do you recall?

15 A Maybe five, ten minutes.

16 Q As you were there talking with Anneesah, did there come a point in time  
17 that you saw the Defendant again?

18 A Yes.

19 Q When was that? Tell us about that.

20 A Well we were standing outside talking. I believe his car had to be either  
21 -- either he had left the service or he came from the back of the church and drove to  
22 the front of the church where we were and he parked, which the parking is there's a  
23 street between the church and the parking aisle. He parked and he said he wasn't  
24 ready to leave. He walks back into the church and then he's escorted back out of  
25 the church to his car.

1 Q Okay. So, did you see him park his car --

2 A Yes.

3 Q -- from where you standing at that main entrance?

4 A Yes.

5 Q I'm going to show you first State's Exhibit 6. In Exhibit 6, is this the  
6 front main entrance of the church?

7 A Yes.

8 Q Now as you were standing there speaking with Ms. Anneesah, was that  
9 car there?

10 A No.

11 Q So, this car wasn't there. You were speaking with Anneesa; you see  
12 the Defendant park his vehicle. From this point, where was that car parked? From  
13 here, could you see where the vehicle was parked?

14 A No 'cause it's actually -- like the street that you see here is what's  
15 between the main church and the parking spaces. So, it's on the opposite side of the  
16 roadway there.

17 Q Is that where he was initially parked?

18 A Yes.

19 Q But then you saw him come around the building and park on this side of  
20 the building?

21 A When I say this side of the building because there's a back side of the  
22 church also where there's parking. So, when you say on this side of the building I  
23 would say yes just because there's parking there also.

24 Q On both sides?

25 A Correct.

1 Q So, from where you were standing here you could see where the  
2 Defendant had parked his car?

3 A Yes.

4 Q And you said when he got out he said something; what was it that he  
5 said?

6 A I'm not ready to leave yet.

7 Q Okay. And you heard that from where you were standing?

8 A Yes; 'cause he had got out of the car at that time and he was walking  
9 back into the church.

10 Q Okay. Was that something you heard when he was at his car, as he  
11 was walking?

12 A No; he had got out of his car. He was almost to the church to enter the  
13 church when he said it.

14 Q Okay. And that's where you were standing then when you heard him  
15 say that?

16 A Yes.

17 Q So after he went in or I guess as he's walking in, can you describe his  
18 demeanor, how he was acting at that point in time?

19 A He was pretty mellow, but you could tell that he wasn't like all there, like  
20 he's walking in and he's just like, oh, I'm not ready to leave yet. I'm going to go  
21 back. But of course we didn't think anything of it. It wasn't like he was upset or irate  
22 about leaving or, you know, you could tell that if it wasn't for the smell of alcohol you  
23 wouldn't have really known that he had been drinking 'cause he got out of the car  
24 and he's just walking normal and he's -- I'm not ready to leave yet. So, he walks  
25 past us and he goes back into the church.

1 Q So, just to make sure I'm clear on what you had said. What was it that  
2 led you believe that alcohol was involved at all?

3 A I could smell liquor when he walked past us to back into the church.  
4 And I had smelled it when he walked into the church earlier when we were in  
5 service.

6 Q Okay. But your observations what you saw him do the things that he  
7 was doing, could you tell that alcohol was involved or even a factor by what you  
8 saw?

9 A Not from the speech or from his walking I couldn't tell.

10 Q So, it's just the smell?

11 A Yes.

12 Q So, after he had gone in and you heard him say I'm not ready to leave,  
13 what happens after that?

14 A One of the security guards escorted him back out telling him that he  
15 couldn't come; he had to leave the church, and I believe his name was Allen;  
16 escorted him back to his car and he got into his car at that time.

17 Q So, he, the Defendant, got back into his car?

18 A Correct.

19 Q After Allen had escorted him out?

20 A Correct.

21 MR. POSIN: Objection; asked and answered.

22 THE COURT: Overruled.

23 BY MR. SCOW:

24 Q So, at the point where Allen had escorted him out, he gets in his car,  
25 the Defendant gets in his car. Are you still out in the front of the church at this main

1 entrance here?

2 A Yes.

3 Q Are you still there with other people?

4 A Yes; my daughter, Anneesah, and Anyla.

5 Q Okay. And do you recall if there other members there or security,  
6 anybody else at that entrance?

7 A There were a couple other security guards that walked out after Allen  
8 but I don't exactly remember who they were.

9 Q Okay. But there were other people there also?

10 A Yes.

11 Q What happens after the Defendant gets into his car; what do you  
12 observe?

13 A We continue to talk, but because there was the disruption of him being  
14 escorted back to his car when I tried to kind of keep an eye what was going on in the  
15 parking lot. So, he backs out of the parking stall and the wheels of his car back out  
16 normal and they turned more to the right but then when I see the wheels go all the  
17 way to the left, I stopped the conversation and I just yelled and grabbed my  
18 daughter and we -- there's a railing here that me and my --

19 Q Can you touch the screen? Sorry to interrupt.

20 A Oh, sorry.

21 Q It'll put a mark if you draw on the screen.

22 A Okay. So, the railing here is where me and my daughter went over the  
23 rail to get out of the way because we didn't know what was going to happen at that  
24 point. We just got scared. Everybody screaming. The first thought is to grab my  
25 daughter and get out of the way.

1 Q Okay. So, what was the car doing as you're screaming and jumping out  
2 of the way?

3 A It all happened so fast. All I really recall is that the wheels turning all  
4 the way to the left, which would be toward the church, and then you can hear the  
5 engine of the car start to go which at that point it was like grab my daughter and get  
6 out of the way; we're yelling and screaming. Other people are yelling and  
7 screaming.

8 Q So, is that happening as the car is coming in your direction?

9 A Yes.

10 Q Now the car that we see pictured here, was that the car that the  
11 Defendant had gotten into?

12 A Yes.

13 Q And that was the car he then drove at the church?

14 A Yes.

15 Q And with you and other members jumping out of the way?

16 MR. POSIN: Objection; leading.

17 THE COURT: Sustained.

18 BY MR. SCOW:

19 Q Is this how the car ended up, the final resting place?

20 A Yes.

21 Q After the car drove in and got stuck right there, what happened then?  
22 Describe the scene for us.

23 A There was people coming out of the church; there were people yelling  
24 and screaming because you could hear the engine like rev up like he was still trying  
25 to go. And that's when I walked away from the accident and I had just seen my



1 brother pull out of the parking lot. So, I called my brother. I walked around the car  
2 to call my brother to have him come back to the church because my daughter was  
3 shaken up. The other girl, we saw her on the ground, so we checked on her as I'm  
4 calling my brother.

5 Q Okay. Who was that other little girl?

6 A Anyla.

7 Q So, that was Anyla?

8 A Uh-hm.

9 Q Did you hear the Defendant say anything in the car after the car had  
10 gone into the church like that?

11 A He was yelling he didn't understand why he couldn't see his daughter  
12 and other things that -- I don't remember exactly but I know that it was something in  
13 relations to something that had happened to his daughter that he was talking about  
14 as he was still in the car.

15 Q Now as the car was coming in your direction -- I know you said this  
16 happened pretty quickly?

17 A Yes.

18 Q But did you see the car like swerve one direction or another as it was  
19 coming towards the church?

20 A No. Once I saw the wheels go left and I could hear the engine, it was  
21 like a gut instinct that we better just get out of the way. I don't remember seeing it  
22 swerve or anything.

23 Q Did it come directly --

24 A It came directly to the church.

25 Q Where you standing at those double doors?

1           A     Yes.

2           Q     I know you kind of described how you felt something was about to  
3 happen which caused you to get out of the way. What would have happened if you  
4 and those around you didn't jump out of the way at that time frame?

5           MR. POSIN: Objection; calls for speculation.

6           THE COURT: Overruled.

7           THE WITNESS: If we didn't get out of the way because right where the doors  
8 -- here -- I was about here 'cause -- oh no -- it's going to far over ---

9 BY MR. SCOW:

10          Q     It's marking too far to the left than where you want to mark.

11          A     Yes. A little bit more over to the right is where I was standing 'cause we  
12 had just walked out the door and we didn't move over to the side or anything 'cause  
13 there wasn't people coming for a while for the 10 o'clock service.

14          Q     So, you were standing like right in front of the open door area?

15          A     Yes.

16          Q     Were you afraid for your life at that time?

17          A     Yes.

18          Q     Other than the smell of alcohol, did you ever see the Defendant tripping  
19 or stumbling as he walked?

20          A     No.

21          Q     Mumbling or talking incoherently or gibberish?

22          A     No. I can understand pretty much all what he was saying. It's been  
23 almost two years. So, I don't remember everything but you could understand what  
24 was being said.

25          MR. SCOW: Okay. Court's indulgence.

1 BY MR. SCOW:

2 Q As the car was coming your direction, were the brakes ever applied?

3 A No.

4 Q After the car had stopped, did you hear the car engine after it had  
5 lodged in the doors as well?

6 A Yes.

7 Q And you may not have been around but after this had happened, the  
8 Defendant drove his car into the church, did you ever hear him make any apologies?

9 A No.

10 MR. SCOW: I don't have any more questions, Your Honor. Pass the witness.

11 THE COURT: Cross.

12 MR. POSIN: Thank you, Your Honor. I have no questions for this witness.

13 THE COURT: May she be excused?

14 MR. SCOW: Yes, Judge.

15 MR. POSIN: Yes.

16 THE COURT: Thank you very much for your testimony.

17 THE WITNESS: Thank you.

18 THE COURT: And if you would please not discuss your testimony with any  
19 other witnesses until after the trial is over.

20 THE WITNESS: Okay.

21 THE COURT: Thank you.

22 All right. Ladies and gentlemen, we're going to take a ten minute  
23 recess. During this recess, it is your duty not to converse among yourselves or with  
24 anyone else on any subject connected with the trial or read, watch or listen to any  
25 report of or commentary on the trial by any person connected with the trial or by any

1 medium of information, including without limitation, newspaper, television, radio or  
2 internet and you are not to form or express an opinion on any subject connected  
3 with the this case until it is finally submitted to you. We'll be in recess until quarter to  
4 four.

5 [Recess taken at 3:37 p.m.]

6 [Proceedings resumed at 3:52 p.m.]

7 [Inside the presence of the jury]

8 THE COURT: Please be seated. The record will reflect we're back within the  
9 presence of the jury; Defendant is present with his counsel, the Deputy District  
10 Attorney prosecuting the case are present as are all officers of the Court; will  
11 counsel so stipulate?

12 MR. POSIN: So stipulated.

13 MR. HAMNER: Yes, Your Honor.

14 THE COURT: All right. Call your next witness.

15 MR. HAMNER: The State calls Anneesah Franklin to the stand.

16 **ANNEESAH FRANKLIN**

17 [having been called as a witness and being first duly sworn, testified as follows:]

18 THE COURT CLERK: You may be seated. Could you please state your  
19 name and spell it for the record.

20 THE WITNESS: Anneesah Franklin, A-N-N-E-E-S-A-H F-R-A-N-K-L-I-N.

21 THE COURT CLERK: Thank you.

22 THE COURT: Okay. Proceed.

23 MR. HAMNER: Thank you, Your Honor.

24 **DIRECT EXAMINATION**

25 BY MR. HAMNER:

1 Q Ma'am, if you could, are you familiar with the New Antioch Christian  
2 Fellowship Church?

3 A Yes.

4 Q Now that's located on 3950 Las Vegas Boulevard here in Clark County'  
5 isn't it?

6 A Yes.

7 Q Now I want to turn your attention to December 18, 2011; do you  
8 remember where you were that morning?

9 A Yes.

10 Q Tell the jury. Where were you?

11 A My daughter and I, we attended a 8 o'clock service that Sunday and  
12 that was pretty much it. We attended the church Sunday service.

13 Q And when you say the church service, are you talking about the New  
14 Antioch church?

15 A Yes.

16 Q Okay. Now you mentioned your daughter, Anyla. How old was Anyla  
17 at the time you went there on December 18<sup>th</sup> of 2011?

18 A She was nine years old.

19 Q I'm going to show you what's been admitted as State's Exhibit 1.

20 A Okay.

21 Q Thank you. Do you recognize that building, ma'am?

22 A Yes.

23 Q And what is that?

24 A That's New Antioch Christian Fellowship center.

25 Q And do you recognize where the entrance of the church from there?

1           A     Yes.

2           Q     Could you maybe -- if you touch your finger and you make a mark on  
3 the screen it will actually pop up on the monitor.

4           A     Okay.

5           Q     So -- I know the calibration's a little bit off. So, were you pointing a little  
6 bit to the right? Were you kind of pointing in this direction here?

7           A     It's the double doors over -- yes.

8           Q     Okay. Right there. Now during that 8 a.m. service, did you see  
9 anybody here in the courtroom that you recognize that was at that 8 a.m. service?

10          A     Yes.

11          Q     Could you please point out that individual and maybe an article of  
12 clothing that they're wearing and where they're located in the courtroom?

13          A     He's wearing a white long sleeved shirt and he has glasses and he's in  
14 front of me.

15          Q     Okay. Is he wearing a coat or not wearing a coat?

16          A     He is not wearing a jacket.

17          MR. HAMNER: All right. Let the record reflect that the witness has identified  
18 the Defendant in this case, Your Honor.

19          THE COURT: It will.

20          MR. HAMNER: Thank you.

21          BY MR. HAMNER:

22          Q     Now when -- did you see him during the actual service, Ms. Franklin?

23          A     Yes.

24          Q     What kind of stood out to you, at least at that point?

25          A     He's smiling. After the service the pastor asked if anyone wanted to

1 join and he stood up and he gave his name and we all said welcome home and he  
2 went to the back and he was smiling.

3 Q Smiling or smelling? I couldn't quite hear you.

4 A He was happy. He was smiling.

5 Q Happy. All right. So, he was happy. So, you noticed that he was  
6 happy?

7 A Yeah.

8 Q Were there anything remarkable that how he kind of moved about  
9 inside the sanctuary of the church?

10 A I don't know.

11 Q Did you see him stumble or fall?

12 A No.

13 Q Did you see him needing to lean on anybody for help for assistance?

14 A No.

15 Q You noticed he was happy. That's the one thing that stood out to you?

16 A Yhes.

17 Q I want to turn your attention to after the 8 a.m. service is over, Ms.  
18 Franklin. Where do you go once church has ended?

19 A You leave. Some stay to talk to individuals, other members from the  
20 church.

21 Q Okay.

22 A At that time, I left to go out towards the entrance and I was speaking to  
23 a young lady.

24 Q And that's the entrance that you pointed out here, this entrance right  
25 here, the double doors?

1           A     It's over -- yes, the double doors.

2           Q     Okay. So, these double doors?

3           A     Yes.

4           Q     So, you walk out. Who did you walk out with; do you remember?

5           A     My daughter.

6           Q     Who else was with you at that time or who were you talking to at that

7 point?

8           A     It was a young lady named Marquette and her daughter.

9           Q     Was her daughter about the same age as Anyla?

10          A     Yes.

11          Q     So, you guys are out there and you're talking. How many other kind of

12 people are out there at that point?

13          A     I'm not sure.

14          Q     Were there more than just the four of you?

15          A     There was others out there, yes.

16          Q     And they're all standing fairly close to you at that point in time?

17          A     I'm not sure.

18          Q     Okay. What do you notice as it relates to this case? You're standing

19 out there. What do you kind of notice next that catches your attention?

20          A     We were talking about the gym, the young lady, Marquetta and I, and

21 instantly we seen about four male individuals come out with an individual --

22          Q     Okay.

23          A     -- and we just heard bits and pieces saying you're not supposed to be

24 here. You can't come here no more. Things like that. I seen him and I seen them.

25 It was -- I know two of 'em were like the security team. I looked and I went back to



1 the conversation with Marquetta.

2 Q And you said they were walking out with someone. Who was that  
3 person they were walking out with?

4 A The gentleman in the white attire shirt.

5 Q Okay. So, the Defendant?

6 A Yes.

7 Q Now when these individuals from the church were speaking to him,  
8 were they yelling at him?

9 A No; they weren't yelling. They were just letting him know speaking  
10 authority saying you cannot be here. Do not come back here no more.

11 Q Did you get a chance to get a look at the Defendant as this was  
12 happening?

13 A Yes.

14 Q What did he look like? What was his demeanor like at this point?

15 A He was silent. He was walking a little bit in front of them and he was  
16 just walking to his vehicle and they were walking as well a little bit behind him to  
17 make sure that he got into his vehicle.

18 Q When you looked at his face, could you see if he was expressing an  
19 emotion?

20 A He just looked angry but, again, I don't know. There was a little bit of  
21 wrinkles in his face. I don't know if he was angry but, again, he was just silent.

22 Q Based on your observations, that's the impression that you got? He  
23 was quiet and he was angry about something?

24 A Yes.

25 Q Now I want you to take a look at this map again, ma'am. Did you see

1 where the staff walked with the Defendant, if at all? Did they all continue to walk  
2 with him out of the church?

3 A I seen the Defendant and the four individuals as they came out of the  
4 church.

5 Q Okay.

6 A And they were walking with him.

7 Q And where does the Defendant ultimately go, if you even noticed?

8 A As I seen him, he was walking to his vehicle. And, again, I turned to  
9 continue my conversation with Marquetta.

10 Q Okay. Do you see -- could you tell the jury maybe by pointing or circling  
11 on the screen, where is the general area that the Defendant was walking to when  
12 you said he was walking to his car?

13 A He was walking like this way.

14 Q And are there parking stalls -- you can see trees -- but are there parking  
15 spaces that are kind of along that wall?

16 A Yes.

17 Q Now when you saw him walk, did he have any difficulty walking at that  
18 point in time?

19 A No, not that I seen, no.

20 Q So, he wasn't leaning on any security staff or falling down or stumbling?  
21 You weren't seeing anything like that?

22 A No.

23 Q Was there anything really remarkable about the manner he went from  
24 that church to his car?

25 A No.

1 Q So, you see him walk to his car and you returned talking to your friend  
2 or Marquetta? What's the next thing you remember happening or seeing?

3 A As I looked -- as I was talking to Marquetta, I heard the tires screeching,  
4 like a churr [phonetic] and I heard male voices saying get out the way, get out the  
5 way, move. And as I was looking -- as I was talking and I was looking through my  
6 peripheral I seen the car coming instantly. I panicked and I ran and when I thought I  
7 was away from the car, the car was going like this. When I actually-- because the  
8 way that I drew it, he was going like this and it was going right into the church and  
9 then it turned. And that's why -- that's how it was able to hit me and I fell to the  
10 ground.

11 Q Okay. Now I'm going to show you what's already been admitted as  
12 State's Exhibit 6. Do you recognize what's depicted in State's Exhibit 6?

13 A Yes.

14 Q What is that? Tell the jury.

15 A It's a vehicle ran into the church, the white Cadillac.

16 Q Is that the vehicle that you saw coming at you?

17 A Yes.

18 Q Is that what it looked like after this incident came to its conclusion?

19 A Yes.

20 Q I want you to tell the jury where you are standing. Make a mark.  
21 Where are you and Anyla standing when this is happening?

22 A Can you be more specific?

23 Q Do you see in this picture where you and Anyla were standing before  
24 the car came at you?

25 A When they were leaving, we were standing somewhere over here by

1 the railing a little bit.

2 Q And it was you and Anyla and Marquette and her daughter?

3 A Yes.

4 Q Okay. Where are you standing -- were you standing in a different place  
5 once the car starts coming towards you?

6 A Yes, because I moved, yes.

7 Q All right. What direction do you move in?

8 A I moved somewhere in this direction.

9 Q So, if we're looking at the picture, if you're looking at the picture, you're  
10 telling us you moved to the right?

11 A Yes.

12 Q Okay. To the opposite side of those double doors?

13 A Yes.

14 Q Are you successful in getting away from the car?

15 A I got hit, so no.

16 Q You got hit. Describe to the jury what -- what happened as you were  
17 being hit?

18 A When I got hit I didn't actually realize everything blanked out when I got  
19 hit. I didn't -- honestly I didn't feel any pain or anything. It was -- I just flew. I  
20 remember flying in the air and I fell hard and everything that was in my hand I  
21 dropped. But instantly I honestly thought about my daughter. So, just instantly got  
22 up looking for my daughter.

23 Q Were you able to see what happened to Anyla?

24 A I did not see. The only thing I seen was when she flew on top of the  
25 hood and fell. That was it.

1 Q So, you saw your daughter actually on the hood, the front hood of this  
2 car?

3 A Yes, I did.

4 Q When this vehicle -- when the Defendant's vehicle was coming towards  
5 that church, did you ever hear the brakes being slammed on or applied?

6 A No.

7 Q Did you ever hear any honking of a horn or a voice coming from in the  
8 car saying get out of the way?

9 A No.

10 Q Was the car slowing down or was it accelerating when it came towards  
11 you, your daughter and the other people in front of that church?

12 A I do not know. When the car hit the church, I still -- I was still hearing  
13 the tires being rolled, the acceleration from the tires.

14 Q So, when you heard those tires it sounded like the tires were  
15 accelerating not an idle rolling of wheels?

16 A Yes.

17 Q When you looked up and you saw this vehicle, did it appear as if the  
18 vehicle was out of control of the driver, like it was kind of weaving back and forth or  
19 did it seem like it was following on a direct path?

20 A I'm not sure.

21 Q Okay.

22 A But I did not see it weaving or anything.

23 Q How quickly did all of this unfold?

24 A Seconds.

25 Q What as the reaction of your daughter to the situation?

1           A     She was in pain. She just kept crying and saying, Mommy, what did I  
2 do. I didn't do anything.

3           Q     Was she complaining about a particular part of her body?

4           A     Her foot, yes.

5           Q     Did you notice anything --- did she lose any article of clothing after this  
6 incident?

7           A     Her shoe.

8           Q     What happened to her shoe?

9           A     I don't know exactly what happened to her or how it fell off but the tire  
10 had ran over her foot.

11          Q     I want you to tell me a little bit about what happened afterwards. The  
12 police arrive. Do you give them any information or something along those lines?

13          A     Yes.

14          Q     And then what do you do after that? Do you stay at the church or do  
15 you go someplace else?

16          A     We had to stay; give out information, and then when they said it was  
17 okay for us to leave, they offered for us to go the emergency. They ended up  
18 wrapping it up. And my daughter, she was still okay, so I just rushed us to the UMC,  
19 just went to the UMC to check because I didn't feel anything. I was just a little dizzy  
20 when I got to the emergency room, and they checked me, but my concern was my  
21 daughter. So, we went to the emergency room to make sure that she was okay.

22          Q     Did you actually ultimately suffer some injuries?

23          A     Yes.

24          Q     And what were they?

25          A     There was acute cervical sprain in my neck, and the nurse and the

1 doctor said it was from the whiplash.

2 Q How about your daughter?

3 A There was a broken bone. There was a metatarsal or something like  
4 that that was broken in her foot.

5 Q So, she actually broke a part of her foot?

6 A Yes.

7 MR. HAMNER: Now I want to show opposing counsel what's been previously  
8 marked as State's proposed Exhibits 21, 22 and 23. Permission to approach the  
9 witness, Your Honor?

10 THE COURT: Granted.

11 BY MR. HAMNER:

12 Q Let the record reflect I'm showing the witness what's been previously  
13 marked as State's proposed Exhibits 21, 22, and 23. I'm going to show you State's  
14 proposed 21; do you recognize what's in this exhibit?

15 A Yes.

16 Q What's in that exhibit?

17 A Anyla, my nine year old child, and she has a wrapping on her leg from  
18 when the wrapped up her foot.

19 Q Is this a fair and accurate -- I apologize; I didn't mean to cut you off --

20 A No, it's okay.

21 Q -- is than a fair and accurate depiction of what you looked like on that  
22 day?

23 A Yes. She looks a little bit more calmed down because she was very  
24 panicky at first when it happened.

25 Q Okay. So, that's taken some time afterwards. This is not immediately

1 after she got hit?

2 A No, not at all.

3 Q But that's a fair and accurate picture of what she looked like around the  
4 time that photo was taken?

5 A Yes.

6 Q I want to show you State's proposed 22 and 23; do you recognize  
7 what's in these exhibits?

8 A Yes.

9 Q And what is that?

10 A It's her foot being wrapped up at the incident when the paramedics and  
11 the police arrived at the scene.

12 Q So, this is at the scene rather than at the hospital; is that right?

13 A Correct.

14 Q All right. And these are fair and accurate depictions of these photos?

15 A Yes.

16 Q All right.

17 MR. HAMNER: At this time, I'd ask that State's proposed Exhibits 21, 22 and  
18 23 be admitted?

19 MR. POSIN: No objection, Your Honor.

20 THE COURT: They'll be admitted.

21 **[STATE'S EXHIBIT #'s 21, 22 AND 23 ADMITTED]**

22 MR. HAMNER: Permission to publish, Your Honor?

23 THE COURT: Granted.

24 MR. HAMNER: Thank you.

25 BY MR. HAMNER:



1 Q So, this is Anyla?

2 A Yes.

3 Q And that's what she looked like a little while after; is that right?

4 A Yes.

5 Q I'm showing State's 22. This is a picture of the cast. There was a  
6 wrapping at least they put on at the church?

7 A Yes.

8 Q And 23 is also a picture of that same foot?

9 A Yes.

10 Q Tell me a little bit about what they had to prescribe your daughter to  
11 help with her injury?

12 A There was just antibiotics to keep the pain from occurring.

13 Q So, they gave her medicine for pain?

14 A Yes.

15 Q Do you remember the name of the medication?

16 A I don't.

17 Q Okay. Do you remember whether your daughter had any residual pain  
18 in the days after this incident regarding her foot?

19 A Yes.

20 Q Tell the jury a little bit about what she was going through.

21 A She -- well after the incident happened, she was having nightmares a  
22 lot. She was always at nighttime complaining about her foot and how it hurt [sic].  
23 That was pretty much it after that. I would give her pain pills or I would give her a  
24 pain pill like every eight hours as the doctor prescribed her. But after that, after the  
25 pain pills were gone, she was still having a little bit of pain also.

1 Q Was she able to do all the same things she was able to do before she  
2 was hit by this car or did she have difficulty do some things?

3 A She had difficulties -- are you speaking around the time that the incident  
4 happened or after when the healing went on.

5 Q Well let's take it one at a time. Let's talk about immediately after the  
6 accident, the few days ensuing after what happened here. Was she having trouble  
7 at that point?

8 A Yes, she was on crutches.

9 Q Okay. What sort of things wasn't she -- what sort of things wasn't she  
10 able to do that she normally used to do before at that point?

11 A She couldn't run and play.

12 Q Okay. How long was she on crutches for?

13 A It wasn't that long. It was about -- I want to say maybe about a week.  
14 I'm not sure.

15 Q Now was she in some type of cast or soft cast or hard cast?

16 A She was in a boot.

17 Q In a boot. A walking boot or something?

18 A Yes.

19 Q How about after that? How after that first week, was she still having  
20 some difficulties in some respects?

21 A Just with the pain. Sometimes the pain will come and go. But for the  
22 most part the doctor said that she heals pretty quickly so --

23 Q All right. But she still complained of pain even after a week --

24 MR. POSIN: Objection; asked and answered.

25 THE COURT: Overruled.

1 BY MR. HAMNER:

2 Q But she still complained of pain after that fact?

3 A Yes.

4 Q How long do you think she complained of pain to you?

5 A I don't know.

6 Q Was it about a month, two months?

7 MR. POSIN: Objection; asked and answered.

8 THE COURT: Sustained.

9 BY MR. HAMNER:

10 Q But it certainly didn't stop after a week; would that be accurate?

11 MR. POSIN: Objection; leading.

12 THE COURT: I'll allow it. Overruled.

13 BY MR. HAMNER:

14 Q I know you don't know the exact amount of time, but would it be fair to  
15 say that it simply wasn't one week that she didn't complain of pain anymore?

16 A It was more than one week.

17 MR. HAMNER: Court's indulgence. All right. Thank you, Ms. Franklin. I  
18 have no further questions at this time.

19 THE COURT: Cross.

20 MR. POSIN: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 BY MR. POSIN:

23 Q Ms. Franklin, the bone that your daughter broke was the fifth  
24 metatarsal; correct?

25 A I'm not sure if it was the fifth but I know it was a metatarsal.

1 Q Did you receive documents from the hospital after you went to the -- to  
2 North Vista?

3 A Yes.

4 Q Would it refresh your recollection if I showed you those documents?

5 A Yes.

6 MR. POSIN: May I approach the witness, Your Honor?

7 THE COURT: Yes.

8 BY MR. POSIN:

9 Q Without reading anything on this, does this look like the document that  
10 you were provided by the hospital?

11 A Yes.

12 Q And if you could look right there; does that refresh your recollection?

13 A Yes.

14 Q Was it the fifth metatarsal bone or rather the metatarsal of the fifth toe  
15 that was broken?

16 A It was somewhere in the foot. I'm sorry.

17 Q Okay.

18 A I don't know.

19 Q If you have five toes, would the fifth metatarsal -- would the fifth toe be  
20 the -- your little pinky toe; right?

21 A The fifty toe, yes.

22 Q Okay. And the metatarsal would be the second bone from the end; is  
23 that your understanding?

24 A I don't know.

25 Q Okay. Thank you. That's all I have, Your Honor.

1 THE COURT: Thank you. Redirect.  
2 MR. HAMNER: No, Your Honor.  
3 THE COURT: May this witness be excused?  
4 MR. HAMNER: Yes, Your Honor.  
5 THE COURT: Thank you.  
6 THE WITNESS: Thank you.  
7 THE COURT: Do you not discuss your testimony with any of the other  
8 witnesses in the trial until it's over.  
9 THE WITNESS: Yes.  
10 THE COURT: Thank you.  
11 MR. SCOW: The next witness will be Anyla Hoye.  
12 THE COURT: Good morning.

13 **ANYLA HOYE**

14 [having been called as a witness and being first duly sworn, testified as follows:]

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

17 THE WITNESS: My whole --

18 THE COURT CLERK: Just your first name and last name.

19 THE WITNESS: Anyla Hoye, A-N-Y-L-A H-O-Y-E.

20 THE COURT CLERK: Thank you.

21 THE COURT: You may proceed.

22 **DIRECT EXAMINATION**

23 BY MR. SCOW:

24 Q This is a big room. So, if you remember to try to keep your voice up a  
25 little so the jury can hear you that would be good. Okay. Anyla, how old are you?

1           A     Eleven.

2           Q     Okay. So, back in December of 2011, were you nine years old at that  
3 time?

4           A     Yes.

5           Q     Okay. Today I'm going to talk to you about some things that happened  
6 the day that you had your foot broken back in December of 2011. Before we go into  
7 that, I just want to make sure that -- ask you a few questions. Okay. Do you know  
8 the difference between telling the truth and telling a lie?

9           A     Yes.

10          Q     Is telling the truth a good thing or a bad thing?

11          A     A good thing.

12          Q     How about lies; are they good or bad?

13          A     Bad.

14          Q     Okay. So, if I told you that my hair was bright pink right now; was that  
15 true or is that a lie?

16          A     A lie.

17          Q     Okay. So, as we talk about things I'm going to ask you to tell the truth.  
18 Okay.

19          A     Okay.

20          Q     So, back on that day that your foot was broken, were you at church that  
21 day?

22          A     Yes.

23          Q     And were you at the morning church services with your mom?

24          A     Yes.

25          Q     Okay. And while she went into some church services, did you go into

1 inside the car?

2 A Well by that time when I get out, I'm looking out of the car. People are  
3 running through. I go through this other door and go out and Burse is in the vehicle.

4 Q So, you see Allen Burse inside the vehicle?

5 A Yes.

6 Q What is he doing inside the vehicle? What did you see him doing?

7 A He trying to detain the man. He trying to hold him down 'cause the man  
8 in there, scrabbling around, fussing and cussing; he's mad, he's frustrated.  
9 Everybody's scared and nervous. Burse goes in there -- I believe that's the  
10 passenger side -- to go in there to detain the man because now we don't know  
11 what's going on next.

12 Q Pastor Madden, could you hear anything that the Defendant is saying  
13 when he's inside of that car after he has come through your church?

14 A Yeah. I go around, I go around because I see Burse in there scuffling  
15 with the man that they're detaining. The man in there talking about I'm going to kill  
16 you mother fuckers.

17 Q How loudly did he say it?

18 A Well he said it loud enough. I think Burse had him to a point where he  
19 couldn't say it too loud but it was clear enough for me to hear him 'cause I'm  
20 standing right inside the passenger door.

21 Q And what's your feelings at this point?

22 A Well my feelings at this point is Burse can do whatever --

23 MR. POSIN: Objection; relevance.

24 THE COURT: All right. Just a minute. Sustained.

25 BY MR. HAMNER:

1 Q Do you issue any commands to Mr. Burse?

2 A I just tried to hold him, keep him detained. At the time, I believe Burse  
3 grabbed the keys out of the ignition.

4 Q Okay. Pastor, I want you to explain to the jury what the Defendant's  
5 demeanor's like after he's now come through your church in this Cadillac or in this  
6 vehicle?

7 A Well his demeanor is that he's made, he's upset, he's in a tussle with  
8 Burse and his demeanor would be like he was trying to get Burse -- if he could have  
9 had enough strength to get Burse up off of him or to get loose, he would get him  
10 loose and ain't no telling what he would do either pull out the car, pull back.

11 MR. POSIN: Objection; speculation.

12 THE COURT: Wait. Sustained.

13 MR. HAMNER: Pastor Madden, if you could just focus on just your  
14 observations at this point; just kind of what you saw.

15 THE WITNESS: Well I'm seeing him tussling back with Burse.

16 BY MR. HAMNER:

17 Q Okay. When he's saying these things -- I think you said he threatened  
18 to kill you people, something along those lines, how many times did you hear him  
19 say that?

20 A At that time, it had to be about three times 'cause now, you know, it's  
21 taking a while for the police to get there.

22 Q Now when he said these things to you guys, is he shouting or is he  
23 speaking in hushed tones? How is he verbalizing?

24 A Well Burse got him pinned down and they tussling and he was just like  
25 I'm going to kill you, I'm going to kill you mother fuckers. I'm going to kill you. You



1 don't know who you -- you know, and I really don't like that. I'm just giving you what  
2 he said. I really don't like that coming out of my mouth.

3 Q So, Pastor Madden, when he was saying these things, was he  
4 mumbling?

5 A No, he wasn't mumbling.

6 Q Was he incoherent?

7 A No, he wasn't incoherent.

8 Q How many times did the Defendant apologize for what he did?

9 A Did you say apology?

10 Q I did.

11 A No apology.

12 Q You didn't hear him say something how he lost control of the car; I'm  
13 sorry?

14 A No.

15 Q In what county did all this take place in?

16 A Clark County, I believe.

17 MR. HAMNER: Court's indulgence. A couple more questions.

18 BY MR. HAMNER:

19 Q Pastor Madden, did you ever see this vehicle from the outside?

20 A When you said outside.

21 Q Did you ever take a step outside of the church to see this vehicle?

22 A Yes.

23 Q At this time, I'm going to show opposing counsel what's been previously  
24 marked as State's proposed Exhibit 6, 7, 8, 9, 13, 14. Permission to approach the  
25 witness.

1 THE COURT: Granted.

2 MR. HAMNER: Let the record reflect -- permission to approach?

3 THE COURT: Yes.

4 MR. HAMNER: Thank you.

5 BY MR. HAMNER:

6 Q Let the record reflect I'm showing the witness what's been previously  
7 marked as State's proposed Exhibit 5, 7, 8 and 9 first. Take a look at these, sir, and  
8 tell me if you recognize what's in these exhibits

9 A That's the rear of the Cadillac.

10 Q And that's fair and accurate depiction of it in State's proposed Exhibit  
11 6?

12 A Yes.

13 Q How about 7?

14 A That's the rear of the Cadillac.

15 Q That's a fair and accurate depiction of it?

16 A Yes, sir.

17 Q How about proposed 8?

18 A That's the passenger side back door of the Cadillac, passenger side.

19 Q A fair and accurate depiction of it?

20 A Yes.

21 Q How about 9, proposed 9?

22 A That's the passenger side door slightly open of the Cadillac.

23 Q Okay. I'm showing you State's proposed Exhibits 13 and 14; do you  
24 recognize this?

25 A Yeah. It's the rear of the Cadillac.

1 Q And that's fair and accurate depiction of State's proposed 13?

2 A Yes.

3 Q And how about 14?

4 A Fourteen would be the -- you see the bumper on the Cadillac, the rear,  
5 the back bumper of the Cadillac.

6 Q Fair and accurate depiction?

7 A Yes, sir.

8 MR. HAMNER: At this time, the State requests proposed Exhibit 6, 7, 8 9, 13  
9 and 14 be admitted into evidence.

10 MR. POSIN: No objection.

11 THE COURT: They'll be admitted.

12 **[STATE'S EXHIBIT #'s 6, 7, 8, 9, 13 AND 14 ADMITTED]**

13 BY MR. HAMNER:

14 Q So, this is what it looked like from behind?

15 A Yes.

16 Q What's that to the left of the Cadillac?

17 A Are you saying my left or my right?

18 Q What is that? I'm sorry. If you're looking at the Cadillac, to the left of  
19 the Cadillac, what is that thing off to the left of that? Is that a railing of some sort?

20 A So, that's my left; right? You talking about this right here.

21 Q Your left. That's correct.

22 A This right here. Okay. That's like some stairs -- I mean, like a ladder  
23 that go to the roof.

24 Q Let me show you State's 7y. What is this?

25 A Oh, right there, yeah, that's a railing for the handicapped; you know, it's

1 like a handicapped where they can do their wheelchair if they was parked on the  
2 other side over there.

3 Q Do you recall if that was damaged at all during this incident?

4 A I don't recall that at all, sir.

5 Q You don't recall it having to be replaced or anything like that?

6 A No, I don't believe it did. I don't believe we had to have that replaced.

7 Q Okay. So, it didn't appear to be touched?

8 A I don't believe it was, sir.

9 Q We're going to show you State's 8. Do you remember how Allen Burse  
10 got into that car; if you remember seeing it? I don't know if you remember seeing it  
11 or not, but do you remember how Allen Burse got inside the vehicle?

12 A Yeah.

13 Q Did you see him to into the vehicle?

14 A I didn't see him go into the vehicle. I seen him in the vehicle when I  
15 came through the other door.

16 Q Okay. So, you didn't see him go in?

17 A I didn't see him go in the vehicle.

18 Q Understood. Permission to -- this is State's proposed Exhibit 9. I  
19 apologize. Did you notice any markings on the street when you got out there,  
20 Pastor, behind the car?

21 A Not at that time, sir.

22 Q Not at that time.

23 A Yeah. At the time I didn't know the markings on the street.

24 Q After the whole thing kind of got cleaned up, did you notice markings  
25 out on the street?

1 A Yeah. After it got cleaned up, I noticed the markings.

2 Q What did you notice out there?

3 A The skirt right there.

4 Q When you say skirt, what are you referring to?

5 A Well the black mark right here, right there, we noticed that right there.

6 Q Okay. Thirteen. Were there other marks out there maybe more faint?

7 A Yeah. It was other marks more faint that was out there and, you know,

8 more within the foyer, you know.

9 Q Okay. I want to show you what's been admitted as State's 5. I think

10 that before you told me this was the road. Could you a mark on where the front

11 entrance of your church is, the double doors that he went through?

12 A Right there. I'm pointing right there, right there.

13 Q So, he went in through those double doors?

14 A Yes.

15 Q How many cars -- you've been out there before; right?

16 A Uh-huh.

17 Q How many cars could you kind of stack end to end across?

18 A In the parking slots?

19 Q Yeah.

20 A I'd say about 50.

21 Q I'm sorry?

22 A Probably about 50.

23 Q Okay. Just from one end to the other.

24 A Oh. From one end.

25 Q Yeah. From the parking wall over to the church.

1 A Oh, just from the parking wall. Okay.

2 Q Yes. I mean, how many car lengths is that, ball park?

3 A About ten, about 20. You know, if you line them up straight this way.

4 Q So, your estimation --

5 A I'm just -- I'm really not sure.

6 Q You're not really sure.

7 A We never park them straight.

8 Q I'll ask you another question. Pastor Madden, is that a narrow road?

9 A That's a narrow road.

10 Q It is a narrow road?

11 A Yeah.

12 Q Or it is a wide road?

13 A Now listen. I'm confused on what you're asking.

14 Q Let me ask you another question. Have you ever seen cars going back  
15 and forth on that road before?

16 A This here? Yeah.

17 Q How many -- usually how many cars can fit going on that road?

18 A Side by side.

19 Q Sure.

20 A You get two --

21 Q Passing opposite traffic.

22 A Yeah, you can get of 'em easy.

23 Q You get two of them easy.

24 A Yeah, two of 'em easy. I mean, if it was a two way street it'd  
25 comfortable.

1 MR. HAMNER: Okay. Court's indulgence. Thank you. No further questions  
2 at this time.

3 THE COURT: Thank you. Cross.

4 MR. POSIN: Thank you.

5 **CROSS-EXAMINATION**

6 BY MR. POSIN:

7 Q Mr. Madden, do you know Washington Thompson?

8 A Yes, I do.

9 Q You mentioned that name earlier?

10 A Yes.

11 Q And if Washington Thompson described Mr. Hickman as being drunk.

12 Now he testified at an earlier occasion, would that be -- would he be mistaken,  
13 wrong, incorrect?

14 A What do you call drunk?

15 Q Well that's what he used. When he used that word was he wrong?

16 A In the state of Nevada, your blood level is .02 -- what is it -- .02 or  
17 something. They call you drunk, you know, it don't mean you're inebriated, you  
18 know, you're falling over and staggering. So, I need to know what you calling drunk.

19 Q Well if he used that word, would you call him incorrect, lying?

20 A You know, it's different perceptions 'cause, you know, what he believed  
21 might be drunk and what I think is drunk might be two different. So, it's his  
22 perception.

23 Q Do you know Tiffany Trass?

24 A Yes.

25 Q If Tiffany Trass said that this gentleman was incoherent when she

1 testified a year and a half ago, would she be --

2 MR. HAMNER: Objection, Your Honor

3 MR. POSIN: Would she be incorrect?

4 MR. HAMNER: -- objection, Your Honor. Calls for hearsay and relevance.

5 THE COURT: Well that's overruled, but doesn't call for hearsay as far as the  
6 hearsay objection. I think it's relevant. So, that's overruled.

7 MR. HAMNER: Well it's assuming a fact not evidence, Your Honor.

8 THE COURT: That's sustained.

9 BY MR. POSIN:

10 Q If Tiffany Tass were to testify that this gentleman was --

11 MR. HAMNER: Objection, Your Honor. The statement -- the question's  
12 calling for facts that are not in evidence.

13 THE COURT: Approach.

14 [Bench conference -- not recorded]

15 THE COURT: All right. So, the objection at the bench was if the question  
16 lacked foundation. I'll sustain that and see if you can lay a better foundation of the  
17 question.

18 BY MR. POSIN:

19 Q Do you know Tiffany Trass?

20 A Yes.

21 Q Is Tiffany Trass a member of your church?

22 A Yes.

23 Q Was Tiffany Trass in church on the morning that this incident occurred?

24 A I don't remember.

25 Q If Tiffany Trass were to say that she was there that morning, would you



1 agree with that Mr. --

2 A Yes, I would.

3 Q And the service that we're talking about started at 8 o'clock and went till  
4 some time before 10 o'clock because there was a 10 o'clock service; right?

5 A Yes, sir.

6 Q And you testified that this gentleman came in towards the end of that  
7 service?

8 A Yes.

9 Q So, if Tiffany Trass were to have been in that service, the 8 o'clock  
10 service, and have observed this gentleman at that service, she would have  
11 observed him at the end of that service; right?

12 A Yes.

13 Q And that's approximately the same time that you were there observing  
14 the same gentleman; correct?

15 A Yes.

16 Q So, if Tiffany Trass were to testify that he was incoherent, which she be  
17 mistaken?

18 MR. HAMNER: Objection, Your Honor; lack of foundation.

19 THE COURT: All right. Did you see ever see Tiffany Trass speak to the  
20 Defendant?

21 THE WITNESS: I never seen her speak to the Defendant.

22 THE COURT: Did you ever see her interact with him at all?

23 THE WITNESS: Nope; no ma'am.

24 THE COURT: All right. I'm going to sustain the objection because I can't  
25 pinpoint when this allegedly occurred.

1 MR. POSIN: And, Your Honor, obviously I believe that it occurred within a  
2 very narrow timeframe, right at the end of the 8 o'clock service which was only a two  
3 hour service anyway so at some time toward the end.

4 MR. HAMNER: If we're going to testify, can we approach?

5 THE COURT: Okay. I'm not going to let you ask the question. If you wish to  
6 recall this witness as your own witness at a later time --

7 MR. POSIN: I may. And I've asked him to be subject to recall, Your Honor.

8 THE COURT: I'm going to go down essentially the same line of questioning,  
9 if I may, with Allen Burse and we'll see where that leads, but I anticipate the same  
10 Objection. We'll see if my foundation satisfied you with this [indiscernible].

11 THE COURT: Okay. Well I -- until I hear the questions, I don't know. Okay.

12 BY MR. POSIN:

13 Q Do you know Allen Burse?

14 A Yes, sir.

15 Q And you've testified about Allen Burse being involved in the same  
16 incident at the same time as you were with this gentleman on that morning; right?

17 A Yes, sir.

18 Q So, if Allen Burse were to testify that he was mumbling, would Allen  
19 Burse be --

20 MR. HAMNER: Objection, Your Honor, lack of foundation.

21 THE COURT: Overruled.

22 BY MR. POSIN:

23 Q Would Allen Burse be incorrect, lying, mistaken?

24 A Say that again?

25 Q If Allen Burse were to testify that on that morning, at the time this was

1 going on, that he was mumbling, would Allen Burse be mistaken, incorrect, lying?

2 A Well he probably wouldn't depending on what time he encountered with  
3 him.

4 Q Well is it your testimony that he was encountering him at about the  
5 same time you were?

6 A Well you know you have Allen Burse was on the safety team so he may  
7 have approached him at a different time that I wasn't there.

8 Q Okay. If Allen Burse were to testify that he didn't seem to understand  
9 what we, Allen Burse and others were saying, would Allen Burse be incorrect,  
10 mistaken, lying?

11 A Well I can't speak for Allen Burse. I got to speak for what I witnessed  
12 and what I seen.

13 MR. POSIN: Fair enough. That's all I have, Your Honor.

14 THE COURT: Thank you. Redirect.

15 MR. HAMNER: Real briefly.

16 **REDIRECT EXAMINATION**

17 BY MR. HAMNER:

18 Q So, Mr. Madden -- Pastor Madden, I got to ask you. Were you with  
19 Allen Burse at every point in time between 8 a.m. and the time the car came through  
20 your church?

21 A No, no, sir, and that's what I'm expressing to him. I wasn't with Allen  
22 Burse from the beginning of the time we seen this man to the end.

23 Q Okay. And to be clear. Just explain to the jury when you did -- when  
24 you were there to at least hear the Defendant's statement or interact with you or  
25 other people, was he mumbling?

1           A     No, sir.

2           Q     Was he incoherent?

3           A     No, sir.

4           Q     Did he fail to understand any questions posed to him whether by you or  
5 someone else?

6           A     No, sir.

7           MR. HAMNER: Thank you. No further questions.

8           THE COURT: Recross.

9           MR. POSIN: No recross, Your Honor.

10          THE COURT: All right. Thank you. All right. How is my alternate doing?  
11 Hanging in there. Counsel, approach.

12                               [Bench conference -- not recorded]

13          THE COURT: Ladies and gentlemen, we're going to recess for the evening.  
14 Since we're heading off a little early in deference to our alternate feeling a little  
15 under the weather. Hopefully he'll be feeling better tomorrow. And we're not going  
16 to start until 1:30 tomorrow because I have a very lengthy calendar. So, at 1:30  
17 tomorrow you'll go ahead -- and the marshal will tell you where to meet. We'll back  
18 here in this courtroom tomorrow.

19                So, Ladies and gentlemen, during overnight recess, it is your duty  
20 it is your duty not to converse among yourselves or with anyone on any subject  
21 connected with the trial or to read, watch or listen to any report of or commentary on  
22 the trial by any person connected with the trial or by any medium of information,  
23 including without limitation, newspaper, television, radio or internet and you are not  
24 to form or express an opinion on any subject connected with this case until it's finally  
25 submitted to you. Okay. We'll be in recess.

1 MR. POSIN: Before we recess, can I ask the Court for an instruction to the  
2 witness not to discuss this case with any of the other witnesses in this case.

3 THE COURT: Pastor, please don't discuss your testimony with any of the  
4 other witnesses who will be testifying. And would you like him to remain under  
5 subpoena?

6 MR. POSIN: Yes, Your Honor.

7 THE COURT: All right. So, basically we're not going to issue another  
8 subpoena to you, but we may recall you and if you are recalled, we'll have -- we'll  
9 communicate with the State folks because they're the ones that their victim witness  
10 people coordinate to have you come in.

11 THE WITNESS: Okay.

12 THE COURT: Thank you very much for your testimony.

13 THE WITNESS: Thank you, Your Honor.

14 [Outside the presence of the jury]

15 THE COURT: All right. The record will reflect the jury has departed the  
16 courtroom. Are there any matters outside the presence?

17 MR. POSIN: No, Your Honor.

18 MR. SCOW: To make one inquiry. Earlier, you had said Friday that we'd  
19 start maybe around 11 because you have a civil calendar.

20 THE COURT: Actually it looks like we'll be able to start earlier, maybe 10 or  
21 10:30. We're down to only three matters on the civil calendar.

22 MR. SCOW: I was going to ask for 10 or 10:30 anyway because I have to  
23 take my wife to the airport that morning. So, I just wanted to make sure that I didn't  
24 cause any delay or anything.

25 THE COURT: And was there anything from you, Mr. Posin?

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MR. POSIN: No, Your Honor.

THE COURT: All right. So, we'll start tomorrow 1:30.

MR. HAMNER: Yes, Your Honor.

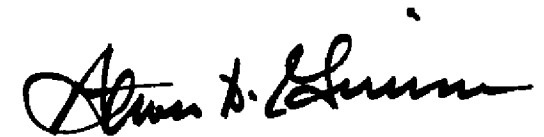
THE COURT: And we'll see you then.

MR. HAMNER: Thank you.

[Jury Trial, Day 1, concluded at 4:48 p.m.]

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

  
PATRICIA SLATTERY  
Court Transcriber



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

WILBURT HICKS  
Aka WILLIAM HICKS,

Defendant.

CASE#: C278699

DEPT. V

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

WEDNESDAY, SEPTEMBER 4, 2013

**RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS  
JURY TRIAL, DAY 2**

APPEARANCES:

For the State:

RICHARD H. SCOW, ESQ.  
Chief Deputy District Attorney  
CHRISTOPHER S. HAMNER, ESQ.  
Deputy District Attorney

For the Defendant:

MITCHELL L. POSIN, ESQ.

RECORDED BY: LARA CORCORAN, COURT RECORDER

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1 WEDNESDAY, SEPTEMBER 4, 2013 AT 2:07 P.M.

2  
3 [Inside the presence of the jury]

4 THE COURT: Thank you. Please be seated. This is a continuance of the  
5 trial in State of Nevada versus Wilburt Hickman, case number C278699, and the  
6 record will reflect that we are within the presence of all 12 members of the jury as  
7 well as the two alternates. Defendant is present with his counsel and Deputy District  
8 Attorney prosecuting the case are here as are all officers of the Court. Will counsel  
9 so stipulate?

10 MR. SCOW: Yes, Your Honor.

11 MR. POSIN: Yes, Your Honor.

12 THE COURT: How's my jury today? I'm sorry to have kept you waiting for an  
13 extra half hour but unfortunately today's another record, personal record for the  
14 longest Wednesday calendar. So, we were going until about 20 minutes ago. So,  
15 we're ready to go now. Would you like to call your next witness?

16 MR. SCOW: Yes, Your Honor. Allen Burse.

17 THE COURT: Thank you.

18 **ALLEN BURSE**

19 [having been called as a witness and being first duly sworn, testified as follows:]

20 THE COURT CLERK: Please be seated. If you'd please state and spell your  
21 first and last name for the record.

22 THE WITNESS: Allen Burse, A-L-L-E-N B-U-R-S-E.

23 THE COURT: Proceed.

24 MR. SCOW: Thank you, Judge.

25 **DIRECT EXAMINATION**

1 BY MR. SCOW

2 Q Allen, I'm going to direct your attention back to December 18<sup>th</sup> 2011; do  
3 you remember that day?

4 A Yes.

5 Q Were you arriving at the New York New York Antioch Christian  
6 Fellowship Church at about 9:30 in the morning on that day?

7 A Yes.

8 Q And is that church located at 3950 North Las Vegas Boulevard in Clark  
9 County, Nevada?

10 A Yes.

11 Q And can you tell us what you observed as you pulled in to the parking  
12 area of the church?

13 A As I arrived, I noticed one of the members, one of the security officers,  
14 talking with a black male in the parking lot.

15 Q What was the name of the security member?

16 A Craig Hutton.

17 Q Craig Hutton. You saw him speaking with -- you said an African  
18 American male in the parking lot?

19 A Yes.

20 Q I'm going to show you State's Exhibit 1. If you look on your screen  
21 there you'll be able to see. Does this depict the overhead of the church area on Las  
22 Vegas Boulevard?

23 A Correct; yes.

24 Q And can you indicate on here where it was that you had pulled in?

25 A I pulled in here.

1 Q Okay. So, you pulled in right there and you observed Craig Hutton  
2 speaking with an African American male?

3 A Yes.

4 Q Were they outside of the church?

5 A Yes, sir.

6 Q About approximately where were they? If you put another mark on  
7 there where they were.

8 A They were about here.

9 Q Okay. So, what did you when you pulled into that parking lot?

10 A I was stopped by Craig and he told me that we had to escort this  
11 gentleman that he was speaking with off property.

12 Q Okay. And at that point in time did you know why he was being  
13 escorted off the property?

14 A No, sir.

15 Q Okay. What did you do then after Craig had asked you for your help?

16 A I exited by vehicle and accompanied Craig in to talking with this guy,  
17 the male, and just advised him to go ahead and leave property.

18 Q And the male that was speaking with Craig and that you then started to  
19 speak with as well, do you see him in the courtroom today?

20 A Yes.

21 Q Can you point to that individual and describe an article of clothing that  
22 he's wearing in Court?

23 A The gentlemen sitting at the defense table with the white shirt on with  
24 the glasses.

25 Q With a coat or no coat?

1           A     No coat.

2           MR. SCOW: And, Your Honor, can the record reflect that identification of the  
3 Defendant?

4           THE COURT: It will.

5 BY MR. SCOW:

6           Q     So, you then engaged the Defendant in conversation along with Craig?

7           A     I accompanied Craig. I didn't say anything because I didn't know what  
8 was going on. I just stood there.

9           Q     Okay. So, Craig was asking him to leave the property?

10          A     Yes.

11          Q     Okay. So, as you approached and you're going to assist Craig, what  
12 happens at that point?

13          A     Mr. Hutton -- Craig -- was advising the gentleman to go ahead and  
14 leave property. We were being told that, I need my daughter to pray for me. I need  
15 my daughter to pray for me. I need to see my daughter.

16          Q     Who was saying this?

17          A     The Defendant.

18          Q     The Defendant that you pointed to. He was saying that he needed to  
19 see his daughter and what else?

20          A     That he needed his daughter to pray for him.

21          Q     Okay. And at that point in time what are you observations of the  
22 Defendant; did he seem agitated at all?

23          A     Yes.

24          Q     Asking to see his daughter. Was is Craig or what are you saying in  
25 return?

1           A     As I stated, I didn't say anything. Craig, in turn, kept asking him to  
2 leave property; go to his vehicle; go ahead and leave property, and he again stated  
3 he wanted to see his daughter. He needed his daughter to pray for him right now.

4           Q     Now at the prior hearing you testified and described the scenario that  
5 you had come upon as you've just testified that it seemed to you that the Defendant  
6 didn't understand either what was going on what he was told; do you remember  
7 that?

8           A     Yes, yes, sir.

9           Q     Okay. Now having said that, can you describe for the jury what you  
10 mean by when you came upon the scene and it didn't seem that he understood?

11          A     He didn't -- he didn't leave. He wouldn't leave. I mean, clearly  
12 speaking, we needed you to leave property. He needed to get off property, he  
13 needed to leave, and he just keep responding I need my daughter to pray for me. I  
14 need to see my daughter.

15          Q     So, he wasn't leaving when asked and he responded by saying I need  
16 to see my daughter. So, to you it seemed he didn't --

17          MR. POSIN: Objection; leading.

18          THE COURT: Sustained.

19          BY MR. SCOW:

20          Q     So, based on that interaction and you not knowing what had happened  
21 before, what was your observation of the scenario?

22          A     My observation is that he just -- he didn't want to leave as he was just  
23 really, really agitated.

24          Q     And he wasn't obeying commands?

25          A     He wasn't obeying our orders to go ahead --

1 MR. POSIN: Objection; leading.

2 THE COURT: Sustained.

3 BY MR. SCOW:

4 Q So, at some point in time had you been in the church at all?

5 A No, sir.

6 Q Do you know what happened at all inside the church?

7 A No, sir.

8 Q Or why he was being asked to leave?

9 A No, sir.

10 Q So when he's saying I want to see my daughter, did that make sense to  
11 you?

12 A No, sir.

13 Q Did at some point in time did the Defendant actually go his car?

14 A Yes.

15 Q Okay. Tell us about that.

16 A After the interaction in the parking lot, he finally made it to his vehicle  
17 and went to his trunk. At that point, Craig and I stepped back because we didn't  
18 know what was in the trunk, we didn't know what he was going for. He, in turn,  
19 closed the trunk and entered into his vehicle, started the vehicle, put it in reverse,  
20 and drove around the south end of the building.

21 Q And if you hit the bottom left corner it'll erase those marks that you put.  
22 So, from this general area where you said this interaction had taken place you said  
23 he walked to his car?

24 A Yes.

25 Q That was on his own power?

1 A Yes.

2 Q Did you see him stumble or anything like that?

3 A No, sir.

4 Q When he was talking to you at that time, did he mumble or say  
5 incoherent things?

6 A No.

7 Q Just that he wanted to see his daughter?

8 A Just that he wanted to see his daughter.

9 Q Where was his car parked in here, if you remember?

10 A I know the car was parked along this wall. This is a wall and it's a water  
11 building and then over here is the housing tract, and his car was parked in this area  
12 here on this wall here.

13 Q So, in this area along the wall over here?

14 A Yes.

15 Q Now when you're putting the marks does the mark actually go to a little  
16 of the left of where you're trying to mark?

17 A Yes.

18 Q Okay. So, parked in this area somewhere along this wall?

19 A Yes.

20 Q So, you saw him walk from here to his car?

21 A Yes.

22 Q Did he ever use any of the cars to support

23 A No, sir.

24 Q You said when he got to his car, did he what at that point?

25 A He opened his truck.



1 Q Okay. He opened the trunk. You testified he then closed it, got in the  
2 car, and what happens then?

3 A Reversed it. Started it, reversed it, and drove in this direction of the  
4 church.

5 Q Drove towards the back?

6 A Yes.

7 Q Okay. And did you lose sight of him then at that point?

8 A I did after he got to the corner here and turned the corner on the other  
9 side of the church.

10 Q Is there a road also in the back of the church that you can't see in this  
11 frame?

12 A Yes.

13 Q So, he turns the corner. What did you do at that point?

14 A I, in turn, came out to Las Vegas Boulevard here right at the entrance to  
15 make sure that he was coming around the building, coming around the building, and  
16 exiting onto Las Vegas Boulevard.

17 Q So, you just stayed out in this area to see if you saw his car leave?

18 A Yes.

19 Q Did you see the car leave?

20 A No, sir.

21 Q Okay. After -- how many minutes were you waiting?

22 A Three or four minutes.

23 Q To make sure that the car had left?

24 A To make sure the car had left.

25 Q And you never saw it leave?

1           A     No, sir.

2           Q     What did you do then?

3           A     I then walked down Las Vegas Boulevard to this area and I noticed his  
4 car parked in a stall and didn't see him in the parking lot anywhere out here.

5           Q     I know the marks are kind of faint, but can you mark on there  
6 approximately where it was that you saw his car parked?

7           A     It's going to be right about here.

8           Q     I think I see your mark right here. So, it's like in this area right in here?

9           A     Yes, sir.

10          Q     Okay. Do you see the car parked over there the same one that he had  
11 drove around the back of the church in?

12          A     Yes, sir.

13          Q     What did you do then at that point?

14          A     At that point I made my way to the front entrance of the church which is  
15 here, the big mark, right there.

16          Q     So, it's not exactly where you're touching, but is it this area right in  
17 here?

18          A     Yes.

19          Q     It's where the front entrance is?

20          A     Yes.

21          Q     Is that a double door?

22          A     Yes, sir, it is.

23          Q     Okay. So, you're making your way towards that area of the church;  
24 what happens?

25          A     As I get to the door, the Defendant is being escorted out by one of the

1 ministers, Minister Manning.

2 Q Did you say Minister Madden?

3 A Manning.

4 Q Manning. If you can keep your voice up a little bit. Kevin Manning?

5 A Kevin Manning; right. And he was being brought to the doors. At that  
6 point, you know, I take over for Kevin, for minister, and I escort the gentleman to his  
7 car, all the way to his car and just asked him to go ahead and leave. We've asked  
8 you to leave. Go ahead and leave.

9 Q Let me stop you right there. From the first time that security was  
10 speaking with the Defendant, was he physically escorted, I mean, touched and  
11 helped to the car at all?

12 A No, sir, our first encounter, no, sir, he wasn't.

13 Q But when Kevin came out with the Defendant, did he have his hands on  
14 the Defendant physically [indiscernible]?

15 A Yes; when we were out of the church -- out of the sanctuary of the  
16 church.

17 Q And that's when you took over?

18 A Yes, sir.

19 Q Did you have any background in law enforcement?

20 A Yes, sir.

21 Q How many years?

22 MR. POSIN: Objection; relevance.

23 THE COURT: Overruled.

24 THE WITNESS: Ten.

25 BY MR. SCOW:

1 Q Ten years as a police officer?

2 A Yes.

3 Q Was here locally?

4 A Yes, sir.

5 Q Is that in part why you would have taken over that point in time --

6 MR. POSIN: Objection; leading.

7 MR. SCOW: It's not leading if it doesn't suggest the answer; overruled.

8 THE WITNESS: Yes; I took over. I felt that my experience would better deal  
9 with the problem.

10 BY MR. SCOW:

11 Q Having been a police officer, driven the streets, and encountered --

12 MR. POSIN: Objection; leading.

13 THE COURT: I'm not sure it's leading, but it is kind of testifying. So, try and  
14 -- if there was a going to be a question that was going to be leading. So, I'm going  
15 to sustain that objection.

16 BY MR. SCOW:

17 Q So, you take over at that point in time escorting the Defendant to his  
18 car?

19 A Yes.

20 Q And did you have your hands on him?

21 A Yes, sir.

22 Q How was it that you did that?

23 A I did that with an arm bar.

24 Q Okay. Can you describe what that is?

25 A An arm bar is having the arm extended and placing your other arm,

1 your other hand in the arm pit and in the shoulder area keeping the subject away  
2 and just escorted him to his car.

3 Q So, would the arm be extended out to the side of behind? Where would  
4 the arm --

5 A It was actually out to the side and we were walking to his car.

6 Q Okay. And on this part at this point in time -- at a previous hearing you  
7 described as you were escorting him out he was mumbling; do you recall that?

8 A Yes.

9 Q Can you describe what it was that he was saying as you escorted him  
10 to the car?

11 A He wanted to see his daughter. That was his whole thing. He just  
12 wanted to see his daughter.

13 Q Okay. Now was this something that he was yelling out at that time?

14 A No, he wasn't yelling it at all.

15 Q So, why would you describe it as mumbling?

16 A Because it was low under his breath. I could hear him because I was  
17 right there.

18 Q So, under his breath you said?

19 A Yes, yes.

20 Q When you got the Defendant to his car, the general area is right in here;  
21 is that correct?

22 A Yes, sir.

23 Q What happens when you get him to his car?

24 A As he begins to enter in to this car, he gets in his car; intuition,  
25 experience, told me not to turn my back on him. So, I backed away from him.

1 Q Okay. So, you're backing. Towards the church building or where you  
2 going?

3 A Yeah. I'm backing away towards the middle of the walkway towards the  
4 door.

5 Q But you are keeping our eye -- and you're facing the car; is that what  
6 you said?

7 A Yes.

8 Q Why was that?

9 A Intuition. Something just told me something's about to happen.

10 Q So, your intuition -- you felt like something was going to happen?

11 MR. POSIN: Objection; leading.

12 THE COURT: Sustained.

13 MR. SCOW: I'm just stating what he had just said.

14 THE COURT: I know you are. I think you don't need to restate everything he  
15 says. Sustained.

16 BY MR. SCOW:

17 Q Did you ever testify at a previous hearing as well in this case to where  
18 you just said that you had felt that something was about to happen; do you recall  
19 that?

20 A Yes.

21 Q And do you recall during that hearing if the Defendant had said  
22 something in response to what you had just said?

23 A Yes, sir.

24 Q What was that?

25 A That I almost broke his damn arm.

1 Q Okay. And so that's something that the Defendant had said?

2 A Yes.

3 Q After you'd said that your intuition told you something was about to  
4 happen, what was it that Defendant said?

5 A You know, that you almost broke my damn arm.

6 Q And he was talking about you almost broke his arm?

7 A Yes.

8 Q So, then what happens as you're backing up, keeping your eye on the  
9 car; what happens?

10 A He backs out. He puts the car in reverse and backs out. I'm looking  
11 right into the car, the front windshield, and the motors revs, wheels start spinning.  
12 The car comes directly at me. I jump out of the way. He turns the car right into the  
13 crowd of people that's standing at the front door of the church and crashes into the  
14 door hitting several people and taking the car into the church.

15 Q Now let's go through this a step at a time. Let's go back to that prior  
16 hearing when you had said that you felt like something was about to happen and the  
17 Defendant blurted out because you almost broke my arm. Do you remember if he  
18 had said anything else after that?

19 A You almost broke my damn arm. That's why. That's what he said. A

20 Q So, that's why something was about to happen.

21 MR. POSIN: Objection, Your Honor; calls for speculation.

22 THE COURT: I don't remember how he phrased it.

23 MR. SCOW: Your Honor, the witness said that's why and ended there. The  
24 question then tried to give some interpretation before as to what that meant.

25 THE COURT: All right.

1 MR. SCOW: Well the question was --

2 THE COURT: What was the question.

3 MR. SCOW: That going back to the prior hearing when you testified that you  
4 were keeping an eye on him because something was about to happen, the  
5 Defendant said something about because you almost broke my arm, was there  
6 anything else that was said; do you recall. And he said because you almost broke  
7 my arm. That's why.

8 THE COURT: Okay. And this was said at a hearing, not at the time he was  
9 at the church?

10 MR. SCOW: Correct; at a prior hearing.

11 THE COURT: Okay. That wasn't clear. Okay. All right. Overruled.

12 BY MR. SCOW:

13 Q Now you had said before as you're backing up and keeping an eye on  
14 the Defendant in the car that he backs up?

15 A Yes.

16 Q When he backs up, which direction is the car facing?

17 A The car facing Las Vegas Boulevard. It's facing the exit to leave.

18 Q So, the car was facing out towards the street out here?

19 A Yes, sir.

20 Q Okay. And did the car stop at that point when it's facing Las Vegas  
21 Boulevard?

22 A It came to a complete stop, yes.

23 Q What did you observe that happened at that point?

24 A I noticed the engine rev up, the wheels started spinning, the car came  
25 directly at me. I jumped out of the way and it continued into the church into the



1 crowd of people.

2 Q So, did you see the tires turn in your direction?

3 A Yes.

4 Q At what point in time was that in relation to when you heard the tires  
5 screeching?

6 A The tires started screeching, the wheels turned, and he came at me.

7 Q So, maybe -- when you say the wheels turned were they like spinning  
8 like this --

9 A Spinning.

10 Q -- or did they turn in your direction?

11 A The wheels started -- he started squealing his tires, the wheels turned,  
12 and the car started moving towards me.

13 Q And moving towards you. And you said -- what did you do at that point  
14 in time?

15 A I jumped out of the way.

16 Q What would have happened if you didn't move out of the way?

17 A I would have been hit.

18 Q So, were you in fear for your life at that point in time?

19 A Absolutely; yes, sir.

20 Q And did this happen -- was this quick? Did this happen a short period  
21 of time between when he backed up and drove at you, was this relatively quick?

22 A Yes.

23 Q So, you jumped out of the way. And where did the car go after you  
24 jumped out of the way?

25 A The car continued its path. After he came at me, the car continued its

1 path into the doors of the church where the other people were standing.

2 Q There were other people standing in the front doors, those double doors  
3 of the church?

4 A Yes; yes, sir.

5 Q About how many?

6 A Six, about six or seven people.

7 Q Six or seven people. Were any of those people kids -- children?

8 A Yes.

9 Q So, after you jump out of the way, the car continues on; there's people  
10 in front of the church. Did you see them at that point in time as the car passes you?

11 A As the car passes me, yeah, I could see the people.

12 Q So, what did they do as that car approached the doors?

13 A They're running and moving. The little girl didn't. She wasn't fast  
14 enough to get out of the way.

15 Q The little girl got hit by the car?

16 A Yes, sir.

17 Q Showing you State's Exhibit 6. If you can hit that bottom left corner  
18 again it'll erase some of those finger marks. Is this where the car ended up after it  
19 passed you?

20 A Yes, sir.

21 Q After the people are jumping out of the way, is this where the car ended  
22 up?

23 A Yes, sir.

24 Q What did you do after the car ran into those doors?

25 A I came around the passenger side of the vehicle and entered the cabin

1 of the vehicle through the back passenger door.

2 Q When the wheels started spinning, turning towards you and starts  
3 going, could you see the Defendant behind the steering wheel?

4 A Yes.

5 Q What was he doing?

6 A He was looking at me.

7 Q So, you knew he was behind the wheel of that car?

8 A Yes; he was driving the vehicle.

9 Q So, after it lodges in the doors, what did you do again?

10 A I came through the passenger side of the vehicle, opened the back  
11 passenger door, and entered the cabin of the vehicle.

12 Q Showing you Exhibit 8. Is this showing the passenger side of the car?

13 A Yes, sir.

14 Q Now it looks like the front passenger door is open. Is that the one you  
15 had gone in?

16 A No, sir.

17 Q Which door did you go through?

18 A I went through this door.

19 Q Okay. The back one. What did you do when you went in the car?

20 A I immediately started to attempt to get his hand off the gear shift  
21 because he was trying to reverse the vehicle.

22 Q And could you hear the engine at that point?

23 A Yes, sir.

24 Q What was the engine doing?

25 A It was revving.

1 Q So, you could hear the engine going even though the car's in the doors  
2 you could hear the engine revving?

3 A Yes, sir.

4 Q You had said that the hand -- the Defendant's hand was on the gear  
5 shifter?

6 A Yes, sir.

7 Q And what did you do?

8 A I struck him arm several times attempting to have him break free of the  
9 gear shift. After about the third or fourth strike, it came free. At that point, I put the  
10 car in park and turned it off and held him down.

11 Q Was he physically resisting you at this point?

12 A Yes.

13 Q Because you were trying to take his hand off, was he fighting against  
14 your efforts?

15 A Yes; he's holding on to the gear shift pretty good. That's why it took  
16 four or five strikes.

17 Q Because you were hitting his arm to try to get him let to go?

18 A Yes, sir; trying to get him to let go of the gear shift.

19 Q Has your attempting to gain control of the Defendant as he's sitting in  
20 the driver's seat, are you able to see outside the car at that point too?

21 A Yes, sir; yes, sir, I am.

22 Q What do you see when you look outside the car?

23 A As I'm holding him down, I look over and I see a shoe, a kid's shoe, and  
24 I immediately started asking the other guys and the other people around was she  
25 underneath the car, you know, I asked that several times and didn't get a response.

1 Q What was the scene like outside the car?

2 A It was chaotic, it was chaotic.

3 Q And during this time when you're in the car, the Defendant's car, and  
4 you're trying to get him under control, did you hear him saying anything at that  
5 point?

6 A No, sir, I honestly don't remember if he said anything.

7 Q You don't remember if he had said anything? What was it that you were  
8 focused on?

9 A Trying to stop him from furthering his car into the church; trying to  
10 subdue him, keep him from hurting anybody else.

11 Q So, you don't remember if you had said anything in that period?

12 A No, sir, I don't.

13 Q What happens then after you get the Defendant under control, the  
14 people outside are kind of chaotic looking for the girl with the missing shoe, what  
15 happens then? Do you put the Defendant into handcuffs?

16 A Yes, sir.

17 Q Where'd you get those handcuffs?

18 A I had to switch places with another officer. So, I went to my car and  
19 grabbed set of handcuffs out of my car and came back to his car and placed him in  
20 hand restraints.

21 Q And at some point did Metro police officers respond to the scene?

22 A Yes, sir, they did.

23 Q About how long after the car ran into the church was it that police  
24 responded?

25 A Thirty, 35 minutes, maybe. It was a while.

1 Q It took some time?

2 A Yes, sir.

3 Q And were you and other security members then involved with trying to  
4 keep control of the scene and maintain the Defendant in custody?

5 A Absolutely; yes.

6 Q You said you didn't remember anything being said but in the time you  
7 were in the car trying to get him off the gear and the steering wheel, at any time after  
8 that was there ever an apology from the Defendant?

9 A No, sir.

10 MR. POSIN: Objection; relevance.

11 THE COURT: Overruled.

12 THE WITNESS: No, sir.

13 BY MR. SCOW:

14 Q And at any point in time during that entire incident from the first time  
15 you met up with him on the exit side of the building so when the car ran into the  
16 church was he ever, from your observations, incoherent?

17 A No, sir.

18 Q Unable to do things of his own will and power?

19 A No, sir. He was definitely coherent.

20 Q At any point in time could you smell the odor of alcohol?

21 A Yes, sir.

22 Q At what point or points?

23 A The initial contact when Craig and I met with him on --when I first  
24 arrived and as Craig was talking to him, I could smell the odor of alcoholic beverage  
25 coming from his person.

1 Q At the time where the wheels are screeching after he just backed up,  
2 the wheels are screeching turning towards you, how would you describe the  
3 Defendant's actions at that time?

4 A Deliberate, very deliberate.

5 MR. SCOW: Court's indulgence.

6 BY MR. SCOW:

7 Q Just one more thing. In relation to where you were versus the crowd,  
8 showing you what's marked as State's proposed Exhibit 16 and ask if you recognize  
9 this?

10 A Yes, sir.

11 Q What is that a picture of?

12 A It's a picture of the wall against -- where his car was parked against  
13 before he ran into the church -- where he backed up from to come at me.

14 Q So, this is the area where he parked a second time?

15 A A second time; yes, sir.

16 Q When he backed up and then drove at you?

17 A Yes, sir.

18 Q So, it fairly and accurately depicts that scene as it was on December  
19 18<sup>th</sup>, 2011?

20 A Yes, sir.

21 MR. SCOW: Move to admit State's proposed 16.

22 MR. POSIN: No objection, Your Honor.

23 THE COURT: It'll be admitted.

24 **[STATE'S EXHIBIT #16 ADMITTED]**

25 MR. SCOW: I'm publishing for the jury. This is the area where -- as you

1 described the incident, where he backed up and then drove at you; this is where that  
2 took place?

3 MR. POSIN: Objection; leading.

4 MR. SCOW: I'm just setting foundation.

5 THE COURT: Overruled.

6 BY MR. SCOW:

7 Q So, on this picture, can you indicate approximately where you were as  
8 the Defendant backed up and then drove at you?

9 A I was about here.

10 Q Okay. And in this photograph, can you see where the people were or  
11 approximately where they would have been outside the doors?

12 A My back is to him. So, at some point I wouldn't be able to see him. I'm  
13 looking at him.

14 Q Okay. Then when the car passes you said you see the people  
15 scattering out of the way?

16 A Yes.

17 Q Is that in this picture, the area where they then scattered?

18 A Yes, sir.

19 Q And where is that?

20 A It's just -- actually it's on the other side of this car here so it's in that  
21 general area.

22 Q Okay. And then showing back to State's Exhibit 6; do you see on here  
23 where it was that the people were congregated?

24 A Yes.

25 Q Where was that?



1 A They were congregated here.

2 Q Okay. So, right in front of that -- the double doors?

3 A Yes, sir.

4 MR. SCOW: I'll pass the witness, Your Honor.

5 THE COURT: Cross.

6 MR. POSIN: Thank you, Your Honor.

7 **CROSS-EXAMINATION**

8 BY MR. POSIN:

9 Q Now this incident happened in December of 2011; right?

10 A Yes, sir.

11 Q And then you testified as you mentioned in another hearing in this case,  
12 and that was some time after that; right?

13 A Yes, sir.

14 Q In fact, that was in January of 2012, just about a month later; right?

15 A Yes, sir.

16 Q At that time you swore to tell the truth. You held up your hand and you  
17 said I'm going to tell the truth?

18 A Yes, sir.

19 Q And at that time you mentioned the fact that Mr. Hickman was  
20 mumbling; right?

21 A Yes, sir.

22 Q And you mentioned the fact that it was like he was under -- not  
23 understanding what we were saying; right?

24 A Yes, sir.

25 Q And then you also talked about at some point that you were back

1 pedaling away from him; do you remember that?

2 A Yes, sir.

3 Q Now you meant physically back pedaling; right?

4 A Walking backwards, yes.

5 Q Walking backwards.

6 A Yes.

7 Q Now back pedaling has another meaning; doesn't it?

8 A If you play football as a defense back, of course it does.

9 Q It also means figuratively, you can back pedaling away from something;  
10 that you can be moving away from something you previously said?

11 A I was walking backwards away from his vehicle.

12 Q Okay. Now today do you think you're back pedaling away from those  
13 statements?

14 A No.

15 Q Because in fact he was mumbling; wasn't he?

16 A No; I could hear him.

17 Q All right. Well isn't that a bit of a back pedaling? You didn't say that  
18 when you testified a month later; did you?

19 A I could hear him. Nobody else could hear him.

20 Q You didn't say that to the Court when you testified a month after this  
21 happened; did you?

22 A I said mumbling.

23 Q You said mumbling and now you're back pedaling; aren't you?

24 A No, I don't back pedal.

25 MR. POSIN: That's all I have, Your Honor.

1 THE COURT: Redirect.

2 MR. SCOW: Yes; thank you.

3 **REDIRECT EXAMINATION**

4 BY MR. SCOW:

5 Q At that prior hearing were you asked to describe what you meant by  
6 mumbling when you said mumbling?

7 A Yes.

8 Q You were asked what that mean at that prior hearing?

9 A No, no, I wasn't.

10 Q At the prior hearing you weren't but today you were?

11 A Yes.

12 Q At the prior hearing you weren't asked by the prosecutor or by the  
13 defense attorney what you meant by mumbling?

14 A Nr, sir.

15 Q What was it that you meant by mumbling?

16 A He was talking low under his breath. I could hear him because I within  
17 two or three feet of him. Nobody else could hear him.

18 Q And at that prior hearing when the Defendant had made the statement  
19 you almost broke my arm that's why; how was it that he said that?

20 A He yelled it.

21 Q He yelled it out?

22 A Yes, sir.

23 MR. SCOW: No more questions.

24 MR. POSIN: No recross, Your Honor.

25 THE COURT: Thank you very much for your testimony.

1 THE WITNESS: Thank you.

2 THE COURT: Call your next witness.

3 MR. HAMNER: The State calls Washington Thompson to the stand.

4 THE MARSHAL: The State calls Washington Thompson.

5 **WASHINGTON THOMPSON**

6 [having been called as a witness and being first duly sworn, testified as follows:]

7 THE COURT CLERK: You may seated. And if you could please state your  
8 name and spell it for the record.

9 THE WITNESS: Yes, Washington Thompson. That's W-A-S-H-I-N-G-T-O-N  
10 T-H-O-M-P-S-O-N.

11 THE COURT CLERK: Thank you.

12 THE COURT: You may proceed.

13 **DIRECT EXAMINATION**

14 BY MR. HAMNER:

15 Q Good afternoon, Mr. Thompson.

16 A How you doing?

17 Q Good. Are you familiar with a place called the New Antioch Christian  
18 Fellowship Church?

19 A Yes, I am.

20 Q How do you -- how do you know about that place?

21 A That is my church that I go to.

22 Q How long have you been going to the New Antioch church for?

23 A Approximately four years.

24 Q All right. Now I want to turn your attention back to December 18, 2011  
25 probably about 8 o'clock in the morning. Do you remember where you were around

1 that time?

2 A Yes.

3 Q Where were you?

4 A At church services.

5 Q At the New Antioch church?

6 A Yes.

7 Q And that's located on 3950 Las Vegas Boulevard here in Clark County;  
8 isn't it?

9 A Yes, it is.

10 Q Now what did you notice -- did something kind of stand out during that 8  
11 a.m. service did you notice when you were inside at the service?

12 A Yes.

13 Q What kind of jumped out?

14 A Well we had one guest that came in that was acting a little peculiar.

15 Q Okay. Now prior to that guest arriving, how did the service up to that  
16 point go?

17 A It was a normal service.

18 Q Now do you see that guest here in the courtroom today?

19 A Yes.

20 Q Mr. Thompson, if you could point out that guest and an article of  
21 clothing that they're wearing and where they're located in the courtroom we'd  
22 appreciate it.

23 A He's sitting right there with glasses on with a white shirt.

24 MR. HAMNER: Let the record reflect that the --jacket on or off?

25 THE WITNESS: Off.

1 MR. HAMNER: All right. Let the record reflect the witness has identified the  
2 Defendant, Wilburt Hickman.

3 THE COURT: It will.

4 BY MR. HAMNER:

5 Q All right. So, Defendant comes in and you notice him. Tell the jury  
6 what kind of caught your eye about it?

7 A Well when he came in he was -- he was jovial, he was walking around.  
8 When he first came in, he came through the door. The ushers tried to seat him like  
9 they normally do any other guests that come in. He didn't want to seat where they  
10 wanted to sit him at. He wanted to go up front of the church and sit in the front pews  
11 in the front chairs, and they normally don't sit guests there. They kind of fill up the  
12 church from the back to the front. Well he wanted to go up front. They allowed him  
13 to go up front because he insisted on going up front. And when he went up front, he  
14 kept moving around a lot like he was really -- he was acting happy, jovial, but he  
15 kept moving around and looking around. And one of the other members on the  
16 safety team told me and the other guy that was on safety that day make sure you  
17 keep an eye on this guy. He looks wet.

18 Q I'm going to stop you right there for a second. That's giving us a lot of  
19 information. I'm going to break it up just a little bit.

20 A Okay.

21 Q So, one of the things that you mentioned was that you said that the  
22 Defendant was pretty particular about where he wanted to sit?

23 A Yes.

24 Q He was very insistent exactly where he wanted to sit in the courtroom --  
25 scratch that -- in the church, in the sanctuary; is that what you're telling us?

1 A Yes, it is.

2 Q Okay. And you said his demeanor initially was pretty happy?

3 A Yes.

4 Q Now you used this word wet. What did you mean by that?

5 A It means that he was drunk. He had been drinking and he was kind of  
6 high, and wet is a term that we use for that.

7 Q Okay. Do you remember coming to a prior proceeding and maybe even  
8 using the word -- in addition to wet maybe a little tipsy; do you remember saying that  
9 maybe previously?

10 A Yes.

11 Q Now, Mr. Thompson, have you ever seen drink alcohol before?

12 A Yes.

13 Q Have you seen people drink a few drinks?

14 A Yes.

15 Q Have you seen people drink a lot of drinks?

16 A Yes.

17 Q Sloppy drunks; you've seen those too?

18 A Yes.

19 Q What sort of situation are we dealing with when the Defendant comes?  
20 Are we dealing with a sloppy drunk. Is that the type of situation we're dealing with?

21 A No, he wasn't a sloppy drunk in my opinion, no.

22 Q Tell the jury. What are we kind of dealing with here at this point?

23 A I was say it was in between. He was not sloppy; he was high. He was  
24 like really at the point where he was -- he wasn't falling around; he was feeling good.  
25 He was high.

1 Q Have you ever heard the term buzzed before?

2 A Yes.

3 Q Does that sound about right? Does buzzed seem to kind of fit this

4 situation?

5 A Yes, it does.

6 Q Okay. Now when he walked up to the church, was he stumbling

7 around?

8 A You mean when he walking around in the church?

9 Q Yeah. When he came up to sit up, was he having a hard time walking

10 to make it up to that front part?

11 A No.

12 Q Did he lean on any of the ushers to kind of help him get there on his --

13 because he couldn't get there on his own?

14 A No.

15 Q Okay. Anything remarkable about the way he moved when he was

16 inside church?

17 A Not really, no.

18 Q All right. Now at some point later is there a point where you guys have

19 like an altar call and like a joining of the church; does something like happen during

20 your services?

21 A Yes, it is.

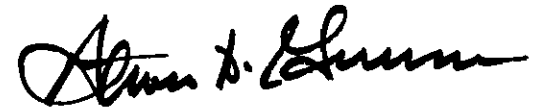
22 Q Okay. Did something along those lines happen during that service?

23 A Yes. Shortly after we took up the offering, the pastor always asked

24 anyone -- any visitors if they would like to join our church, become members.

25 Q And did the Defendant have any reaction to that request or question by





CLERK OF THE COURT

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(702) 671-2500  
Attorney for Plaintiff

I.A. 1/12/12  
9:00 A.M.  
PD BALLOU

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

WILBURT HICKMAN, aka  
William Hicks,  
#0905481

Defendant.

Case No: C-12-278699-1

Dept No: V

I N F O R M A T I O N

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

MARY-ANNE MILLER, 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 WILBURT HICKMAN, aka William Hicks, the Defendant(s) above named, having committed the crimes of **ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165); BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.481); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481.2e); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471); BURGLARY (Category B Felony - NRS 205.060) and MALICIOUS DESTRUCTION OF PROPERTY (Category**

1 **C Felony - NRS 206.310, 193.155**), on or about the 18th day of December, 2011, within the  
2 County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such  
3 cases made and provided, and against the peace and dignity of the State of Nevada,

4 COUNT 1 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

5 did then and there, without authority of law, and malice aforethought, willfully and  
6 feloniously attempt to kill ANNEESAH FRANKLIN, a human being, by striking the said  
7 ANNEESAH FRANKLIN with a deadly weapon, to-wit: a Cadillac.

8 COUNT 2 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

9 did then and there, without authority of law, and malice aforethought, willfully and  
10 feloniously attempt to kill ANYLA HOYE, a human being, by striking the said ANYLA  
11 HOYE with a deadly weapon, to-wit: a Cadillac.

12 COUNT 3 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

13 did then and there, without authority of law, and malice aforethought, willfully and  
14 feloniously attempt to kill ALLEN BURSE, a human being, by driving a Cadillac at or in the  
15 direction of the said ALLEN BURSE with a deadly weapon, to-wit: a Cadillac.

16 COUNT 4 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

17 did then and there, without authority of law, and malice aforethought, willfully and  
18 feloniously attempt to kill WASHINGTON THOMPSON, a human being, by driving a  
19 Cadillac at or in the direction of the said WASHINGTON THOMPSON, being inside and/or  
20 in front of the said ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

21 COUNT 5 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

22 did then and there, without authority of law, and malice aforethought, willfully and  
23 feloniously attempt to kill MARQUETTE JENKINS, a human being, by driving a Cadillac  
24 at or in the direction of the said MARQUETTE JENKINS, being inside and/or in front of the  
25 said ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

26 COUNT 6 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

27 did then and there, without authority of law, and malice aforethought, willfully and  
28 feloniously attempt to kill RAHMEKA ADAMS, a human being, by driving a Cadillac at or

1 in the direction of the said RAHMEKA ADAMS, being inside and/or in front of the said  
2 ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

3 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

4 did then and there, without authority of law, and malice aforethought, willfully and  
5 feloniously attempt to kill SHARON POWELL, a human being, by driving a Cadillac at or  
6 in the direction of the said SHARON POWELL, being inside and/or in front of the said  
7 ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

8 COUNT 8 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

9 did then and there, without authority of law, and malice aforethought, willfully and  
10 feloniously attempt to kill TIFFANY TRASS, a human being, by driving a Cadillac at or in  
11 the direction of the said TIFFANY TRASS, being inside and/or in front of the said  
12 ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

13 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON

14 did then and there wilfully, unlawfully, and feloniously use force or violence upon  
15 the person of another, to-wit: ANNEESAH FRANKLIN, with use of a deadly weapon, to-  
16 wit: a Cadillac, by driving said Cadillac at an occupied building, striking the said  
17 ANNEESAH FRANKLIN.

18 COUNT 10 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
19 SUBSTANTIAL BODILY HARM

20 did then and there wilfully, unlawfully and feloniously use force or violence upon the  
21 person of another, to-wit: ANYLA HOYE, age nine (9) years old, with use of a deadly  
22 weapon, to-wit: a Cadillac, by driving said Cadillac through the entrance of the said  
23 ANTIOCH CHURCH, resulting in substantial bodily harm to the said ANYLA HOYE.

24 COUNT 11 - ASSAULT WITH A DEADLY WEAPON

25 did then and there wilfully, unlawfully, feloniously and intentionally place another  
26 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt

27 //

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1 to use physical force against another person, to-wit: ALLEN BURSE, with use of a deadly  
2 weapon, to-wit: a Cadillac, by driving said Cadillac at the said ALLEN BURSE in an  
3 attempt to strike him.

4 COUNT 12 - ASSAULT WITH A DEADLY WEAPON

5 did then and there wilfully, unlawfully, feloniously and intentionally place another  
6 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
7 to use physical force against another person, to-wit: WASHINGTON THOMPSON, with  
8 use of a deadly weapon, to-wit: a Cadillac, by the said WASHINGTON THOMPSON,  
9 being inside or in front of a church, having to move to the side to avoid Defendant, who  
10 drove said Cadillac at the said WASHINGTON THOMPSON.

11 COUNT 13 - ASSAULT WITH A DEADLY WEAPON

12 did then and there wilfully, unlawfully, feloniously and intentionally place another  
13 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
14 to use physical force against another person, to-wit: MARQUETTE JENKINS, with use of a  
15 deadly weapon, to-wit: a Cadillac, by the said MARQUETTE JENKINS, being inside or in  
16 front of a church, having to move to the side to avoid Defendant, who drove said Cadillac at  
17 the said MARQUETTE JENKINS.

18 COUNT 14 - ASSAULT WITH A DEADLY WEAPON

19 did then and there wilfully, unlawfully, feloniously and intentionally place another  
20 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
21 to use physical force against another person, to-wit: RAHMEKA ADAMS, with use of a  
22 deadly weapon, to-wit: a Cadillac, by the said RAHMEKA ADAMS, being inside or in  
23 front of a church, having to move to the side to avoid Defendant, who drove said Cadillac at  
24 the said RAHMEKA ADAMS.

25 COUNT 15 - ASSAULT WITH A DEADLY WEAPON

26 did then and there wilfully, unlawfully, feloniously and intentionally place another  
27 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
28 to use physical force against another person, to-wit: SHARON POWELL, with use of a

1 deadly weapon, to-wit: a Cadillac, by the said SHARON POWELL, being inside or in front  
2 of a church, having to move to the side to avoid Defendant, who drove said Cadillac at the  
3 said SHARON POWELL.

4 COUNT 16 - ASSAULT WITH A DEADLY WEAPON

5 did then and there wilfully, unlawfully, feloniously and intentionally place another  
6 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
7 to use physical force against another person, to-wit: TIFFANY TRASS, with use of a deadly  
8 weapon, to-wit: a Cadillac, by the said TIFFANY TRASS, being inside or in front of a  
9 church, having to move to the side to avoid Defendant, who drove said Cadillac at the said  
10 TIFFANY TRASS.

11 COUNT 17 – BURGLARY

12 did then and there wilfully, unlawfully, and feloniously enter, with intent to commit a  
13 felony, to-wit: Attempt Murder and/or Battery and/or Assault, that certain building occupied  
14 by ANTIOCH CHURCH, located at 3950 North Las Vegas Boulevard, Las Vegas, Clark  
15 County, Nevada.

16 COUNT 18 - MALICIOUS DESTRUCTION OF PROPERTY

17 did wilfully, unlawfully, feloniously or maliciously destroy and/or injure the real  
18 and/or personal property of another, to-wit: building, owned by ANTIOCH CHURCH,  
19 located at 3950 North Las Vegas Boulevard, Las Vegas, Clark County, Nevada, by driving a  
20 Cadillac through the entrance of the said ANTIOCH CHURCH, the value of said damage  
21 being over \$5,000.00.

22  
23 MARY-ANNE MILLER  
DISTRICT ATTORNEY  
Nevada Bar #001419

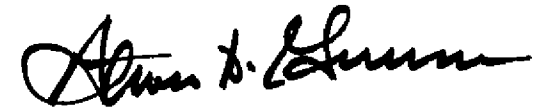
24  
25  
26 BY /s/ Christopher S. Hamner  
CHRISTOPHER S. HAMNER  
Deputy District Attorney  
Nevada Bar #0011390

27  
28 //

Names of witnesses known to the District Attorney's Office at the time of filing this  
Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
ADAMS, Rahmeka	3950 N. Las Vegas Blvd., Las Vegas, NV
BURSE, Allen	ANTIOCH CHURCH 3950 N. Las Vegas Blvd., Las Vegas, NV
CUSTODIAN OF RECORDS OR DESIGNEE	C.C. DETENTION CENTER RECORDS
CUSTODIAN OF RECORDS OR DESIGNEE	L.V. METROPOLITAN POLICE DEPT DISPATCH
CUSTODIAN OF RECORDS OR DESIGNEE	L.V. METROPOLITAN POLICE DEPT RECORDS
FRANKLIN, Anneesah	2049 Jesse Scott St., Las Vegas, NV
GREEN, Darren	LVMPD #6881
HOYE, Anyla	2049 Jesse Scott St., Las Vegas, NV
JENKINS, Marquette	5370 E. Craig Rd #2187, Las Vegas, NV
POWELL, Sharon	3861 Autzen Statium Wy, Las Vegas, NV
THOMPSON, Washington	ANTIOCH CHURCH 3950 N. Las Vegas Blvd., Las Vegas, NV
TRASS, Tiffany	4540 S. Maryland Pkwy, Las Vegas, NV

DA#11F21695X/jr  
LVMPD EV#1112181478  
(TK12)



CLERK OF THE COURT

**INFO**

STEVEN B. WOLFSON  
District Attorney  
Nevada Bar #001565  
CHRISTOPHER S. HAMNER  
Deputy District Attorney  
Nevada Bar #0011390  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

I.A. 1/12/12  
9:00 A.M.  
PD BALLOU

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

WILBURT HICKMAN, aka  
William Hicks,  
#0905481

Defendant.

Case No: C-12-278699-1

Dept No: V

AMENDED  
I N F O R M A T I O N

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, 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 WILBURT HICKMAN, aka William Hicks, the Defendant(s) above named, having committed the crimes of **ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165); BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.481); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481.2e); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471); BURGLARY (Category B Felony - NRS 205.060) and MALICIOUS DESTRUCTION OF PROPERTY (Category**

1 **C Felony - NRS 206.310, 193.155**), on or about the 18th day of December, 2011, within the  
2 County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such  
3 cases made and provided, and against the peace and dignity of the State of Nevada,

4 COUNT 1 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

5 did then and there, without authority of law, and malice aforethought, willfully and  
6 feloniously attempt to kill ANNEESAH FRANKLIN, a human being, by striking the said  
7 ANNEESAH FRANKLIN with a deadly weapon, to-wit: a Cadillac.

8 COUNT 2 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

9 did then and there, without authority of law, and malice aforethought, willfully and  
10 feloniously attempt to kill ANYLA HOYE, a human being, by striking the said ANYLA  
11 HOYE with a deadly weapon, to-wit: a Cadillac.

12 COUNT 3 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

13 did then and there, without authority of law, and malice aforethought, willfully and  
14 feloniously attempt to kill ALLEN BURSE, a human being, by driving a Cadillac at or in the  
15 direction of the said ALLEN BURSE with a deadly weapon, to-wit: a Cadillac.

16 COUNT 4 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

17 did then and there, without authority of law, and malice aforethought, willfully and  
18 feloniously attempt to kill WASHINGTON THOMPSON, a human being, by driving a  
19 Cadillac at or in the direction of the said WASHINGTON THOMPSON, being inside and/or  
20 in front of the said ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

21 COUNT 5 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

22 did then and there, without authority of law, and malice aforethought, willfully and  
23 feloniously attempt to kill MARQUETTE JENKINS, a human being, by driving a Cadillac  
24 at or in the direction of the said MARQUETTE JENKINS, being inside and/or in front of the  
25 said ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

26 COUNT 6 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

27 did then and there, without authority of law, and malice aforethought, willfully and  
28 feloniously attempt to kill RAHMEKA ADAMS, a human being, by driving a Cadillac at or



1 in the direction of the said RAHMEKA ADAMS, being inside and/or in front of the said  
2 ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

3 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

4 did then and there, without authority of law, and malice aforethought, willfully and  
5 feloniously attempt to kill SHARON POWELL, a human being, by driving a Cadillac at or  
6 in the direction of the said SHARON POWELL, being inside and/or in front of the said  
7 ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

8 COUNT 8 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

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10 feloniously attempt to kill TIFFANY TRASS, a human being, by driving a Cadillac at or in  
11 the direction of the said TIFFANY TRASS, being inside and/or in front of the said  
12 ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

13 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON

14 did then and there wilfully, unlawfully, and feloniously use force or violence upon  
15 the person of another, to-wit: ANNEESAH FRANKLIN, with use of a deadly weapon, to-  
16 wit: a Cadillac, by driving said Cadillac at an occupied building, striking the said  
17 ANNEESAH FRANKLIN.

18 COUNT 10 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
19 SUBSTANTIAL BODILY HARM

20 did then and there wilfully, unlawfully and feloniously use force or violence upon the  
21 person of another, to-wit: ANYLA HOYE, age nine (9) years old, with use of a deadly  
22 weapon, to-wit: a Cadillac, by driving said Cadillac through the entrance of the said  
23 ANTIOCH CHURCH, resulting in substantial bodily harm to the said ANYLA HOYE.

24 COUNT 11 - ASSAULT WITH A DEADLY WEAPON

25 did then and there wilfully, unlawfully, feloniously and intentionally place another  
26 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt

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1 to use physical force against another person, to-wit: ALLEN BURSE, with use of a deadly  
2 weapon, to-wit: a Cadillac, by driving said Cadillac at the said ALLEN BURSE in an  
3 attempt to strike him.

4 COUNT 12 - ASSAULT WITH A DEADLY WEAPON

5 did then and there wilfully, unlawfully, feloniously and intentionally place another  
6 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
7 to use physical force against another person, to-wit: WASHINGTON THOMPSON, with  
8 use of a deadly weapon, to-wit: a Cadillac, by the said WASHINGTON THOMPSON,  
9 being inside or in front of a church, having to move to the side to avoid Defendant, who  
10 drove said Cadillac at the said WASHINGTON THOMPSON.

11 COUNT 13 - ASSAULT WITH A DEADLY WEAPON

12 did then and there wilfully, unlawfully, feloniously and intentionally place another  
13 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
14 to use physical force against another person, to-wit: MARQUETTE JENKINS, with use of a  
15 deadly weapon, to-wit: a Cadillac, by the said MARQUETTE JENKINS, being inside or in  
16 front of a church, having to move to the side to avoid Defendant, who drove said Cadillac at  
17 the said MARQUETTE JENKINS.

18 COUNT 14 - ASSAULT WITH A DEADLY WEAPON

19 did then and there wilfully, unlawfully, feloniously and intentionally place another  
20 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
21 to use physical force against another person, to-wit: RAHMEKA ADAMS, with use of a  
22 deadly weapon, to-wit: a Cadillac, by the said RAHMEKA ADAMS, being inside or in  
23 front of a church, having to move to the side to avoid Defendant, who drove said Cadillac at  
24 the said RAHMEKA ADAMS.

25 COUNT 15 - ASSAULT WITH A DEADLY WEAPON

26 did then and there wilfully, unlawfully and feloniously attempt to use physical force  
27 against another person, to-wit: SHARON POWELL, with use of a deadly weapon, to-wit: a  
28 Cadillac, by the said SHARON POWELL, being inside or in front of a church, having to

1 move to the side to avoid Defendant, who drove said Cadillac at the said SHARON  
2 POWELL.

3 COUNT 16 - ASSAULT WITH A DEADLY WEAPON

4 did then and there wilfully, unlawfully, feloniously and intentionally place another  
5 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
6 to use physical force against another person, to-wit: TIFFANY TRASS, with use of a deadly  
7 weapon, to-wit: a Cadillac, by the said TIFFANY TRASS, being inside or in front of a  
8 church, having to move to the side to avoid Defendant, who drove said Cadillac at the said  
9 TIFFANY TRASS.

10 COUNT 17 – BURGLARY

11 did then and there wilfully, unlawfully, and feloniously enter, with intent to commit a  
12 felony, to-wit: Attempt Murder and/or Battery and/or Assault, that certain building occupied  
13 by ANTIOCH CHURCH, located at 3950 North Las Vegas Boulevard, Las Vegas, Clark  
14 County, Nevada.

15 COUNT 18 - MALICIOUS DESTRUCTION OF PROPERTY

16 did wilfully, unlawfully, feloniously or maliciously destroy and/or injure the real  
17 and/or personal property of another, to-wit: building, owned by ANTIOCH CHURCH,  
18 located at 3950 North Las Vegas Boulevard, Las Vegas, Clark County, Nevada, by driving a  
19 Cadillac through the entrance of the said ANTIOCH CHURCH, the value of said damage  
20 being over \$5,000.00.

21  
22 STEVEN B. WOLFSON  
DISTRICT ATTORNEY  
Nevada Bar #001565

23  
24 BY /s/ Christopher S. Hamner  
25 CHRISTOPHER S. HAMNER  
26 Deputy District Attorney  
Nevada Bar #0011390

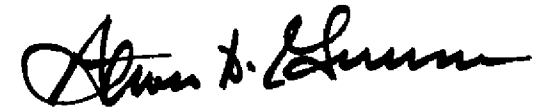
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Names of witnesses known to the District Attorney's Office at the time of filing this  
Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
ADAMS, Rahmeka	3950 N. Las Vegas Blvd., Las Vegas, NV
BURSE, Allen	ANTIOCH CHURCH 3950 N. Las Vegas Blvd., Las Vegas, NV
CUSTODIAN OF RECORDS OR DESIGNEE	C.C. DETENTION CENTER RECORDS
CUSTODIAN OF RECORDS OR DESIGNEE	L.V. METROPOLITAN POLICE DEPT DISPATCH
CUSTODIAN OF RECORDS OR DESIGNEE	L.V. METROPOLITAN POLICE DEPT RECORDS
FRANKLIN, Anneesah	2049 Jesse Scott St., Las Vegas, NV
GREEN, Darren	LVMPD #6881
HOYE, Anyla	2049 Jesse Scott St., Las Vegas, NV
JENKINS, Marquette	5370 E. Craig Rd #2187, Las Vegas, NV
POWELL, Sharon	3861 Autzen Statium Wy, Las Vegas, NV
THOMPSON, Washington	ANTIOCH CHURCH 3950 N. Las Vegas Blvd., Las Vegas, NV
TRASS, Tiffany	4540 S. Maryland Pkwy, Las Vegas, NV

DA#11F21695X/jr  
LVMPD EV#1112181478  
(TK12)



CLERK OF THE COURT

1 **NOTC**

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 CHRISTOPHER S. HAMNER  
6 Deputy District Attorney  
7 Nevada Bar #011390  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 **THE STATE OF NEVADA,**  
10 **Plaintiff,**

11 **-vs-**

12 **WILBURT HICKMAN,**  
13 **aka William Hicks, #0905481**  
14 **Defendant.**

**CASE NO: C-12-278699-1**  
**DEPT NO: V**

14 **NOTICE OF HABITUAL CRIMINALITY**

15 COMES NOW, the STATE OF NEVADA, through STEVEN B. WOLFSON,  
16 District Attorney, by and through CHRISTOPHER S. HAMNER, Deputy District Attorney,  
17 and hereby places Defendant WILBURT HICKMAN, aka William Hicks on notice of the  
18 State's intent to enhance the Defendant's punishment pursuant to the provisions of NRS  
19 207.010 in the event of conviction of some or all of the counts charged in the Information.  
20 This notice is filed pursuant to the provisions of NRS 207.010 and 173.095.

21 DATED this 23rd day of August, 2013.

22 STEVEN B. WOLFSON  
23 Clark County District Attorney  
24 Nevada Bar #001565

25 BY /s/ CHRISTOPHER S. HAMNER  
26 CHRISTOPHER S. HAMNER  
27 Deputy District Attorney  
28 Nevada Bar #011390

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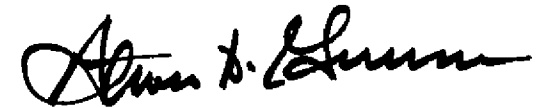
CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of Notice Of Habitual Criminality, was made this 23rd day of August, 2013, by facsimile transmission to:

MITCHELL POSIN, ESQ.  
382-7496

BY: /s/ C. Cintola  
C. Cintola  
Employee of the District Attorney's Office

cc/L3



CLERK OF THE COURT

**INFO**  
STEVEN B. WOLFSON  
District Attorney  
Nevada Bar #001565  
CHRISTOPHER S. HAMNER  
Deputy District Attorney  
Nevada Bar #0011390  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

WILBURT HICKMAN, aka  
William Hicks, #0905481

Defendant.

Case No: C-12-278699-1

Dept No: V

SECOND AMENDED  
INFORMATION

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, 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:

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made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill ANNEESAH FRANKLIN, a human being, by striking the said ANNEESAH FRANKLIN with a deadly weapon, to-wit: a Cadillac.

COUNT 2 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill ANYLA HOYE, a human being, by striking the said ANYLA HOYE with a deadly weapon, to-wit: a Cadillac.

COUNT 3 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill ALLEN BURSE, a human being, by driving a Cadillac at or in the direction of the said ALLEN BURSE with a deadly weapon, to-wit: a Cadillac.

COUNT 4 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill WASHINGTON THOMPSON, a human being, by driving a Cadillac at or in the direction of the said WASHINGTON THOMPSON, being inside and/or in front of the said ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

COUNT 5 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill MARQUETTE JENKINS, a human being, by driving a Cadillac at or in the direction of the said MARQUETTE JENKINS, being inside and/or in front of the said ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

COUNT 6 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill RAHMEKA ADAMS, a human being, by driving a Cadillac at or in the direction of the said RAHMEKA ADAMS, being inside and/or in front of the said ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

1 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

2 did then and there, without authority of law, and malice aforethought, willfully and  
3 feloniously attempt to kill SHARON POWELL, a human being, by driving a Cadillac at or  
4 in the direction of the said SHARON POWELL, being inside and/or in front of the said  
5 ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

6 COUNT 8 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

7 did then and there, without authority of law, and malice aforethought, willfully and  
8 feloniously attempt to kill TIFFANY TRASS, a human being, by driving a Cadillac at or in  
9 the direction of the said TIFFANY TRASS, being inside and/or in front of the said  
10 ANTIOCH CHURCH with a deadly weapon, to-wit: a Cadillac.

11 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON

12 did then and there wilfully, unlawfully, and feloniously use force or violence upon  
13 the person of another, to-wit: ANNEESAH FRANKLIN, with use of a deadly weapon, to-  
14 wit: a Cadillac, by driving said Cadillac at an occupied building, striking the said  
15 ANNEESAH FRANKLIN.

16 COUNT 10 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
17 SUBSTANTIAL BODILY HARM

18 did then and there wilfully, unlawfully and feloniously use force or violence upon the  
19 person of another, to-wit: ANYLA HOYE, age nine (9) years old, with use of a deadly  
20 weapon, to-wit: a Cadillac, by driving said Cadillac through the entrance of the said  
21 ANTIOCH CHURCH, resulting in substantial bodily harm to the said ANYLA HOYE.

22 COUNT 11 - ASSAULT WITH A DEADLY WEAPON

23 did then and there wilfully, unlawfully, feloniously and intentionally place another  
24 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
25 to use physical force against another person, to-wit: ALLEN BURSE, with use of a deadly  
26 weapon, to-wit: a Cadillac, by driving said Cadillac at the said ALLEN BURSE in an  
27 attempt to strike him.

28 ///

1 COUNT 12 - ASSAULT WITH A DEADLY WEAPON

2 did then and there wilfully, unlawfully, feloniously and intentionally place another  
3 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
4 to use physical force against another person, to-wit: WASHINGTON THOMPSON, with  
5 use of a deadly weapon, to-wit: a Cadillac, by the said WASHINGTON THOMPSON,  
6 being inside or in front of a church, having to move to the side to avoid Defendant, who  
7 drove said Cadillac at the said WASHINGTON THOMPSON.

8 COUNT 13 - ASSAULT WITH A DEADLY WEAPON

9 did then and there wilfully, unlawfully, feloniously and intentionally place another  
10 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
11 to use physical force against another person, to-wit: MARQUETTE JENKINS, with use of a  
12 deadly weapon, to-wit: a Cadillac, by the said MARQUETTE JENKINS, being inside or in  
13 front of a church, having to move to the side to avoid Defendant, who drove said Cadillac at  
14 the said MARQUETTE JENKINS.

15 COUNT 14 - ASSAULT WITH A DEADLY WEAPON

16 did then and there wilfully, unlawfully, feloniously and intentionally place another  
17 person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt  
18 to use physical force against another person, to-wit: RAHMEKA ADAMS, with use of a  
19 deadly weapon, to-wit: a Cadillac, by the said RAHMEKA ADAMS, being inside or in  
20 front of a church, having to move to the side to avoid Defendant, who drove said Cadillac at  
21 the said RAHMEKA ADAMS.

22 COUNT 15 - ASSAULT WITH A DEADLY WEAPON

23 did then and there wilfully, unlawfully and feloniously attempt to use physical force  
24 against another person, to-wit: SHARON POWELL, with use of a deadly weapon, to-wit: a  
25 Cadillac, by the said SHARON POWELL, being inside or in front of a church, having to  
26 move to the side to avoid Defendant, who drove said Cadillac at the said SHARON  
27 POWELL.

28 ///

COUNT 16 - ASSAULT WITH A DEADLY WEAPON

did then and there wilfully, unlawfully, feloniously and intentionally place another person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt to use physical force against another person, to-wit: TIFFANY TRASS, with use of a deadly weapon, to-wit: a Cadillac, by the said TIFFANY TRASS, being inside or in front of a church, having to move to the side to avoid Defendant, who drove said Cadillac at the said TIFFANY TRASS.

COUNT 17 – BURGLARY

did then and there wilfully, unlawfully, and feloniously enter, with intent to commit a felony, to-wit: Attempt Murder and/or Battery and/or Assault, that certain building occupied by ANTIOCH CHURCH, located at 3950 North Las Vegas Boulevard, Las Vegas, Clark County, Nevada.

STEVEN B. WOLFSON  
DISTRICT ATTORNEY  
Nevada Bar #001565

BY /s/ Christopher S. Hamner  
CHRISTOPHER S. HAMNER  
Deputy District Attorney  
Nevada Bar #0011390

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

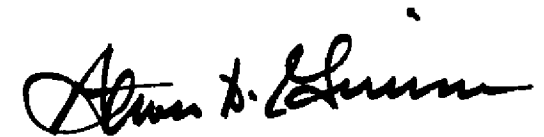
<u>NAME</u>	<u>ADDRESS</u>
ADAMS, Rahmeka	3950 N. Las Vegas Blvd., Las Vegas, NV
BURSE, Allen	ANTIOCH CHURCH 3950 N. Las Vegas Blvd., Las Vegas, NV
CUSTODIAN OF RECORDS OR DESIGNEE	C.C. DETENTION CENTER RECORDS
CUSTODIAN OF RECORDS OR DESIGNEE	L.V. METROPOLITAN POLICE DEPT DISPATCH
CUSTODIAN OF RECORDS	L.V. METROPOLITAN POLICE DEPT

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OR DESIGNEE  
FRANKLIN, Anneesah  
GREEN, Darren  
HOYE, Anyla  
JENKINS, Marquette  
POWELL, Sharon  
THOMPSON, Washington  
TRASS, Tiffany

RECORDS  
2049 Jesse Scott St., Las Vegas, NV  
LVMPD #6881  
2049 Jesse Scott St., Las Vegas, NV  
5370 E. Craig Rd #2187, Las Vegas, NV  
3861 Autzen Statium Wy, Las Vegas, NV  
ANTIOCH CHURCH  
3950 N. Las Vegas Blvd., Las Vegas, NV  
4540 S. Maryland Pkwy, Las Vegas, NV

DA#11F21695X/ckb  
LVMPD EV#1112181478  
(TK12)



CLERK OF THE COURT

1 **RTRAN**

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5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**

7  
8 **THE STATE OF NEVADA,**

9 **Plaintiff,**

10 **vs.**

11 **WILBURT HICKS**  
12 **Aka WILLIAM HICKS,**

13 **Defendant.**

CASE#: C278699

DEPT.

14  
15 **BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE**

16 **TUESDAY, SEPTEMBER 3, 2013**

17 ***RECORDER'S PARTIAL ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS***  
18 **JURY TRIAL, DAY 1**

19 **APPEARANCES:**

20 **For the State:**

**RICHARD H. SCOW, ESQ.**

**Chief Deputy District Attorney**

**CHRISTOPHER S. HAMNER, ESQ.**

**Deputy District Attorney**

21  
22 **For the Defendant:**

**MITCHELL L. POSIN, ESQ.**

23  
24  
25 **RECORDED BY: LARA CORCORAN, COURT RECORDER**

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1 TUESDAY, SEPTEMBER 3, 2013 AT 9:33 A.M.

2  
3 [Outside the presence of the prospective jury panel]

4 THE COURT: All right. Thank you. Please be seated. This is case number  
5 C278699, State of Nevada versus Wilburt Hickman. Is the State ready to proceed?

6 MR. HAMNER: Yes, Your Honor.

7 THE COURT: Is defense ready to proceed?

8 MR. POSIN: Thank you, Your Honor, yes we're ready.

9 THE COURT: All right.

10 Good morning. Welcome to Department. I'm Judge Carolyn Ellsworth  
11 and this is my marshal, Bill Crank, my court recorder, Lara Corcoran, and my court  
12 clerk Denise Trujillo, and we'll be with each other for the next several days if you're  
13 on this jury.

14 What we're going through right now is called the voir dire process and  
15 you are known right now are the venire panel. If you're seated on the jury then you'll  
16 be the jury panel, but right now you are the venire. And as we ask you questions  
17 we're going to be doing that under oath in order for us to determine whether you are  
18 suitable to be a juror, and to be a juror you need to be fair and impartial and not  
19 biased toward either side or against. And that's what we're looking for in a jury  
20 panel.

21 [Voir Dire -- not transcribed- from 9:40 a.m. to 2:25 p.m.]

22 THE COURT: All right. If the clerk will swear in the members of the jury and  
23 the alternate.

24 [The Clerk swore in the jury panel and the alternate jurors]

25 [The Court Clerk read the Information -- not transcribed]

1 [Opening Statement of the State -- not transcribed]

2 [Opening Statement of the Defense -- not transcribed]

3 THE COURT: Thank you. Will the State call its first witness.

4 MR. HAMNER: Yes, Your Honor. The State calls Kevin Madden to the stand.

5 May I approach to retrieve some exhibits?

6 THE COURT: Yes, of course.

7 MR. HAMNER: Thank you, Your Honor.

8 THE MARSHAL: Please raise your right hand and face our clerk.

9 **KEVEN MADDEN**

10 [having been called as a witness and being first duly sworn, testified as follows:]

11 THE COURT CLERK: Please be seated and please state your name and  
12 spell it for the record.

13 THE WITNESS: Kevin Madden, K-E-V-I-N M-A-D-D-E-N.

14 THE COURT: Thank you. You may proceed.

15 MR. HAMNER: Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 BY MR. HAMNER:

18 Q Mr. Madden, you have some sort of connection to the New Antioch  
19 Christian Fellowship Church?

20 A Yes, I do.

21 Q Why don't you tell the jury a little bit about what your association is with  
22 the church?

23 A My association with the church is that I've been a member there since I  
24 was say July '07 and going on two years now I've been the assistant pastor for the  
25 [indiscernible] fellowship and vows keeper, which is the marriage couples.

1 Q Now is this a church that's located on 3950 Las Vegas Boulevard North  
2 here in Clark County?

3 A Yes, sir.

4 Q And Mr. Madden, what is your kind of official title at this point?

5 A Assistant pastor.

6 Q What do we call you? Assistant pastor, pastor, Mr. Madden; what  
7 should I call you??

8 A Well the average call Pastor.

9 MR. HAMNER: Pastor. Got it. All right. At this time, I'd like to show  
10 opposing counsel what's been previously marked as State's proposed Exhibits 1, 2,  
11 3, 4 and 5. Permission to approach the witness.

12 THE COURT: Granted.

13 BY MR. HAMNER:

14 Q Thank you. Let the record reflect that I'm showing the witness State's  
15 proposed Exhibits 1 through 5. Sir, I want you to take a look at State's proposed  
16 Exhibit 1; do you recognize what is in that exhibit?

17 A Yes; that's the building where our church is housed.

18 Q Is that the church that you've been talking about at this point, the New  
19 Antioch Church?

20 A Yes.

21 Q Is that a fair and accurate depiction of what it looks like?

22 A Yes, sir.

23 Q I want to show you State's proposed Exhibit 2; do you recognize that?

24 A Exhibit 2, yes.

25 Q What is that?

1 A The building where our church is house .  
2 Q Is that just of a different angle?  
3 A A different angle.  
4 Q But that's a fair and accurate depiction of it?  
5 A Yes, sir.  
6 Q How about State's proposed Exhibit 3?  
7 A The building where our church is housed.  
8 Q Okay. So, just at a different angle?  
9 A Yes.  
10 Q Is it a fair and accurate depiction of your church?  
11 A Yes, sir.  
12 Q I'm going to show you State's proposed Exhibits 4 and 5; do you  
13 recognize what's depicted in 4 and 5?  
14 A Yes; the building where our church is housed.  
15 Q Okay. What vantage point is that at from?  
16 A This vantage point would be if you're going east on Las Vegas  
17 Boulevard this would be the second driveway.  
18 Q Okay.  
19 A Right here which would be the front of the church 'cause the double  
20 doors is right here.  
21 Q Okay.  
22 A That would be, you know, what we call if you go in front of -- in the  
23 double doors our foyer then you got the main entrance to the church.  
24 Q And is Exhibit 5 just closer up representation of that same driveway?  
25 A Yes.

1 Q All right. And these are fair and accurate depictions, 4 and 5 what I just  
2 described?

3 A Yes, sir.

4 MR. HAMNER: Your Honor, at this time, we'd ask that State's proposed  
5 Exhibits 1 through 5 be admitted into evidence.

6 MR. POSIN: No objection.

7 THE COURT: They'll be admitted.

8 **[STATE'S EXHIBIT #'s 1 THROUGH 5 ADMITTED]**

9 MR. HAMNER: Thank you. I'd like to show you State's proposed Exhibit 1;  
10 permission to publish to the jury, Your Honor.

11 THE COURT: Granted.

12 MR. HAMNER: Thank you.

13 BY MR. HAMNER:

14 Q I'm showing what's been admitted as State's 1. Now, sir, if you look on  
15 here, where is your church located? If you look on that monitor, I think if you even  
16 touch with your finger, make a big circle around what building is your church?

17 A The first building.

18 Q And put your finger on it and touch so the jury can see you make that.

19 A Right there.

20 Q Can you make a circle around the whole building?

21 A I'll do my best.

22 MR. HAMNER: It's not working so well.

23 THE WITNESS: It's not working so well.

24 BY MR. HAMNER:

25 Q All right. Why don't you put a big X through the building. There you go.

1           A     That's the building right there.

2       =     Q     All right. Let the record reflect the witness has made an X on the first  
3 building. Is that closest to Las Vegas Boulevard?

4           A     Yes.

5           Q     Okay. And which side in the front entrance to your church located?

6           A     Right in there.

7           Q     Where are the double doors to your church?

8           A     The double doors would be about right -- well I'm trying to get it -- it  
9 would be right up in there.

10          Q     Okay. Now before I kind of get into any more of the details, I want to  
11 turn your -- before we get to December 18, 2011, I just need to ask you another  
12 question. Pastor Madden, isn't it true or is it true that in 1997 you were convicted for  
13 high level drug trafficking out of Reno?

14          A     Yes, sir.

15          Q     Okay. Now I want to talk a little bit about December 18, 2011 about 8  
16 o'clock in the morning. Where were you around 8 a.m. that day?

17          A     Eight a.m. is our first service.

18          Q     Okay. And that's on a Sunday?

19          A     That's on a Sunday.

20          Q     All right. So, where were you during the 8 a.m. service?

21          A     At that time I sits in the pool pit.

22          Q     Okay. So, you sit in there. How did service kind of run at least in the  
23 beginning?

24          A     As usual. You know, our prayers and worship team get up, you know,  
25 they sing and we call it ushering in the spirit, you know, just to get connected with

1 the congregation, and after the worship song our pastor get up and speak and bring  
2 the message and, you know, after the message, you know, we have what they call a  
3 altar call.

4 Q Okay. Why don't you explain to the jury for a minute what exactly is an  
5 altar call?

6 A Altar call is when, you know, you believe that end of your message was  
7 moved to what we believe, you know, what we call salvation or want to come to  
8 repentance; you know, the message might have struck home. They might be  
9 dealing with a situation that's pertaining to the message and they just want and  
10 come and just pray and we lay hands on 'em; we pray and we talk to 'em or we  
11 might ask 'em what you here for, is there any specific we can pray with you about.  
12 And they'll make a request and we'll pray with 'em doing the alter call, and  
13 everybody would come to the pool pit.

14 Q Okay.

15 A At the altar call.

16 Q It is also kind of one of the ways that you bring new members into the  
17 church; you start with kind of like an altar call?

18 A Yes, sir.

19 Q All right. Now do you see any person in this courtroom today that may  
20 have been there during that 8 a.m., service, Pastor Madden?

21 A Yes.

22 Q Could you please point that person out and point out an article of  
23 clothing that they're wearing?

24 A I believe that's a beige colored shirt.

25 Q Okay. And where is that individual sitting? If you could just point at one

1 part of the courtroom.

2 A On my left side sitting to the gentleman right here with a blue and white  
3 suit on.

4 MR. HAMNER: All right. Let the record reflect the witness has identified the  
5 Defendant, Your Honor.

6 THE COURT: It will.

7 BY MR. HAMNER:

8 Q So, this individual was at that 8 a.m. service; is that right?

9 A He was at the -- he came in towards the end of the 8 a.m. service.

10 Q Now what did you notice about him when he came in, Pastor?

11 A Well it was late, you know. The service was going to the end, you  
12 know. We were about to have altar call right before the altar call and he come in.  
13 And what stood out is that we have what we call sanctuary attendance that would sit  
14 you.

15 Q So, those are like ushers?

16 A Yeah, ushers. And they would seat you, but you this particular  
17 gentleman didn't want to be seated where they was trying to seat him.

18 Q Okay.

19 A And he walked to the front.

20 Q All right. So, that's the thing that stood to you?

21 A Yeah.

22 Q He walked to the front. Tell me about what you noticed when he  
23 walked up the front? Did he have a lot of difficulties making it up to the front?

24 A No, no, he didn't have no difficulties at all.

25 Q How about any stumbling?



1           A     No stumbling at all.

2           Q     Falling down?

3           A     None of that at all.

4           Q     You even ushered to help him get to that front row?

5           A     No.

6           Q     Okay. So, that's what stands out. He sits up in the front row?

7           A     Yes.

8           Q     What did he do at that point?

9           A     Well he had a seat. There was a few seats open. He had a seat and it  
10 was strange to me because he had shades on. He was well dressed. I mean, it  
11 was like he was coming to church. He was well dressed; sat down right now. So,  
12 now, you know, my antenna go up because I'm like why at the end of the service  
13 he'd wanted to be seated in the front. You know, anybody would think, anything that  
14 stepped in at that time know we at the end of the service.

15          Q     Okay. So, when you had the altar call, did the Defendant participate in  
16 the altar call?

17          A     Yes; yeah. He got up and came to the altar.

18          Q     Do you remember hearing him coming up to the altar?

19          A     Well you don't hear him, you see him.

20          Q     You saw him. Any difficulty getting up to the altar?

21          A     No.

22          Q     All right. Did he speak at that time? I don't want to get into any  
23 specific statements. Did he speak at that time?

24          Q     I don't remember him speaking. I know we prayed for him because the  
25 men -- it would be me and another brother named Dwayne, which works the altar --

1 would be praying for the men.

2 Q All right. Does ultimately does he express an interest in wanting to  
3 become a member of the church?

4 A Yes; he said he wanted to join.

5 Q And when someone wants to be a member, does the staff help or kind  
6 of after the service then?

7 A Well what you do is right after the altar call, you know, the altar clears  
8 out and we do what we call the offering. Then the Pastor would get back up and ask  
9 do anybody want to join the church.

10 Q And did he respond --

11 A And he jumped up.

12 Q Okay. When he spoke out, did he sound incoherent?

13 A No.

14 Q Did he sound like he was mumbling?

15 A No.

16 Q Did he sound like he didn't understand?

17 A No.

18 Q Okay. So, he joins the church at that point or expresses interest?

19 A Yeah. They asked you his name and he voiced his name, which I  
20 couldn't recall what his name was. I couldn't tell you what his name is today. But  
21 we always ask if the people that's asked to join, the pastor would ask them what  
22 their name are, they have to state their name and she'll say well let's welcome home  
23 and we'll all say welcome home. And we have a lady what take them to another  
24 room in the foyer which is the pastor's office and they would sign some papers.

25 Q Okay.

1           A     You know, get information so they can contact them later, send them a  
2 letter or something.

3           Q     Do you recall whether he walked back with someone from your building  
4 or not? I don't know if you remember or not.

5           A     Now that I don't know.

6           Q     Okay. Now I want to turn your attention to about the end of the 8 a.m.  
7 service. It's kind of concluded. Do you know an individual by the name of Samira  
8 Grove [phonetic]?

9           A     Yes.

10          Q     Do you run into an individual by the name of Samira Grove at that time?

11          A     After the 8 o'clock service, yes.

12          Q     Now before you get into anything that she said, I want you to describe  
13 to the jury what Samira Grove's demeanor is like when you see her after the 8 a.m.  
14 services is concluded?

15          A     Scared to death, scared to death. She -- after the 8 o'clock service I  
16 goes to the back to talk to security just to put them aware of what I'm paying  
17 attention to and seeing, you know. I don't know what's going on at the place, but I  
18 talked to security. I come back in on my way back into the sanctuary because we  
19 got -- when you leave the sanctuary we got a multipurpose room what we call a  
20 kitchen. So, I was in the multipurpose room on my way back into the sanctuary, I  
21 run into Samira Grove. I guess she was looking for me. She said, Kevin, Kevin,  
22 get this -- get him out of here. You got to get him outta here.

23          Q     Now do you know who she was referring to?

24          A     She was talking about him.

25          Q     Okay. Did she tell you how they knew each other during this --

1           A       She didn't go into the detail of how they knew each other. She was  
2 telling me I got to get this man outta here, get him outta here.

3           MR. POSIN: I think up to this point I see that this is to get context, but I think  
4 they're getting into some hearsay and I don't want there to be any commentary  
5 about statements that she may have made about my client.

6           THE COURT: All right. Well I don't think we've gotten to the point where it  
7 would be for the truth of the matter asserted at this point. So, it's overruled but, you  
8 know, when that time comes.

9           MR. POSIN: Well I'm just concerned, Your Honor --

10          THE COURT: Yeah.

11          MR. POSIN: -- because the witness is kind of expanding upon the answers.  
12 And so it's not that the question is improper; it's just that, you know, he's starting to  
13 tell the whole story.

14          THE COURT: All right. Mr. Hamner.

15          MR. HAMNER: I understand, Your Honor.

16          THE COURT: Be careful. And if you'll just be careful to, sir -- Pastor, if you'll  
17 make sure you pay close attention to the questions that he's asking.

18          THE WITNESS: Okay.

19 BY MR. HAMNER:

20          Q       Fair to say she -- you said she was scared to death; is that right? I  
21 don't want you to get into specifics, but you felt like she was scared to death at this  
22 point?

23          A       Yeah.

24          Q       Hysterical?

25          A       Yeah.

1 Q Had you ever seen Samira behave like that in church before?

2 A No, never.

3 Q When you saw one of the members of your congregation that panicked,  
4 how did that affect you as a pastor? Were you concerned at that point?

5 A Well I'm concerned and now I'm scared.

6 Q Okay. So, what do you decide to do?

7 A I decide to go back outside and I get what we call our safety team and  
8 speak with a guy named Crag Hutton.

9 Q Okay.

10 A And I say, Craig, the guy that we was aware of -- but I pointed him out  
11 and told him who he was -- we need to get him away from here.

12 Q Okay. Are there any other members of your safety team that you could  
13 explain to the jury?

14 A We would have Brother Burse and Washington Thomas -- Thompson at  
15 the time --

16 Q Washington Thompson and Brother Burse. Is that Allen Burse?

17 A Allen Burse, yeah.

18 Q Okay. So, you tell Craig you're concerned about him?

19 A Yes.

20 Q And was Craig doing anything at that point in relation to the Defendant?

21 A Well at this time I had to walk out the door which would be what we call  
22 our back door at the church, and Craig was out there. I said, Craig, I need you to get  
23 this guy away from here. Samira just expressed to me that she, you know, you  
24 need to get this man away here. You gotta go, you gotta go. Craig say we got him  
25 away from here. He's leaving now.

1 Q I'm showing you what's been admitted as State's 3. And I'll probably  
2 zoom in a little bit to make this a little bit easier.

3 ALTERNATE JUROR #2: Your Honor, may I be dismissed for the restroom?  
4 I feel I may be sick if I could be permitted?

5 THE COURT: Oh, yes. We're going to take a brief recess.

6 And during this recess, it is your duty not to converse among yourselves or  
7 with anyone on any subject connected with the trial or to read, watch or listen to any  
8 report of or commentary on the trial by any person connected with the trial or by any  
9 medium of information, including without limitation, newspaper, television, radio or  
10 internet and you're not to form or express an opinion on any subject connected with  
11 this case until it's finally submitted to you. We're in recess.

12 [Recess taken at 3:51 p.m.]

13 [Outside the presence of the jury]

14 THE COURT: All right. The record shall reflect we're outside the presence of  
15 the jury. If you could keep tabs if he's able to return.

16 THE MARSHAL: Yes, Your Honor.

17 [Proceedings resumed at 4:09 p.m.]

18 [Inside the presence of the jury]

19 THE COURT: All right. Please be seated. The record will reflect we are back  
20 within the presence of the jury and the two alternates. Defendant is present with his  
21 counsel, the Deputy District Attorneys prosecuting the case and all officers of the  
22 Court are present as well; will counsel so stipulate?

23 MR. POSIN: Yes, Your Honor.

24 THE COURT: And so we'll try and get through this witness and then we'll call  
25 it an afternoon so we don't have any further issues. Okay.

1           ALTERNATE JUROR #2: Understood, Your Honor.

2           THE COURT: All right. Thank you. Proceed.

3 BY MR. HAMNER:

4           Q     So, Mr. Madden, I want to turn your attention to State's 3. This is kind  
5 of a zoomed up version. Now you mentioned that you spoke to Craig and that they  
6 were -- what were they doing with the Defendant at that point when you went to go  
7 talk to him about your concerns?

8           A     Well when I was talking to him, we was at the back door. I come out  
9 the back door and Craig was sitting there -- standing there and I asked him, I say,  
10 you need to get this guy away from here, and Craig say he's leaving.

11          Q     Okay. And when you say you're at the back door, could you put an X or  
12 a slash as to where the back door of your church is?

13          A     I'm trying to get it as close as possible; right there where -- right up in  
14 that area.

15          Q     So, this area here is kind of where the back door is here?

16          A     Yeah, yeah, yeah.

17          Q     And where is the front entrance because it notes it's a reverse angle.  
18 Could you put like a mark kind of where the front entrance of the church is?

19          A     The front entrance.

20          Q     Yeah.

21          A     It would be on the other side of the building then. You talking about the  
22 front door?

23          Q     Yes.

24          A     Okay. That be on the other side of the building over here.

25          Q     So, somewhere over on this side?

1           A     Yeah.

2           Q     All right. Now Pastor Madden, if you could also just explain to us briefly  
3 using that building there, where is kind of the foyer of the church? Where's the  
4 sanctuary of the church? Kind of what's the layout in there that we're talking about?

5           A     Okay. This being the front over here where we marked off that, that  
6 being the front double doors, this would be the foyer, this would be the sanctuary, up  
7 in this area; this would be the multipurpose room right here, and then we got a  
8 kitchen in the back.

9           Q     Okay.

10          A     We call the kitchen.

11          Q     How about this area up here kind of near the front; what's over there?

12          A     You go through the kitchen. That's the kids camp.

13          Q     Kids camp?

14          A     Yeah.

15          Q     Okay. So, you're talking with -- you're talking with Craig near the back?

16          A     Yes.

17          Q     And you're saying he's leaving at that point?

18          A     Yes; Craig said he's leaving. We took care of it. He's leaving.

19          Q     Is he outside at this point? Where's the Defendant at this point?

20          A     At the time I don't know where the Defendant is. I see Craig and Craig  
21 say he's leaving. We got him. He's leaving.

22          Q     Okay. All right. Did he give you any direction as to where the guy was  
23 going?

24          A     No; he didn't give him no direction of where he was going.

25          Q     All right. Based on that -- were you left with the impression at that point



1 that the Defendant wasn't going to be inside your church anymore?

2 A At that point I'm thinking the Defendant may be on his way to this car  
3 and Craig asked him to leave and he leaves.

4 Q Okay. So, crisis averted. The guy's out of the church. What do you do  
5 next, Pastor?

6 A We get ready for the 10 o'clock service.

7 Q All right. So, what do you to get ready for the 10 o'clock service?

8 A So, I go back in to the sanctuary attendants -- I'm walking back through  
9 the multipurpose room on my way into the sanctuary.

10 Q This is the multipurpose room back here.

11 A That's the multipurpose room coming to the back door.

12 Q And you through that to the sanctuary here?

13 A Yeah; I'm on way to the sanctuary.

14 Q Okay. And what do you notice when you walk back in to the sanctuary  
15 for the 10 a.m. service?

16 A I see him coming back in there.

17 Q The Defendant back in your sanctuary?

18 A Yea.

19 Q After he got 86'd?

20 A Yeah.

21 Q Okay. Pastor, what is he doing at that point when you see inside the  
22 sanctuary?

23 A Well he's coming through the double doors. So, we got the double  
24 doors coming from the foyer. He's coming through the double doors and what I see  
25 him, I approach him.

1 Q All right.

2 A I walk straight to him.

3 Q Now I want to ask you, is she stumbling around at this point?

4 A No.

5 Q Leaning on anything?

6 A Uh-huh.

7 Q Just totally actually the fool inside the sanctuary at that point?

8 A No.

9 Q Nothing?

10 A No.

11 Q Okay. So, you approach him. Are you concerned at that point?

12 A Yeah.

13 Q Why?

14 A Because, you know, his daughter, Samira Grove. And Samira Grove

15 came to me and say get this man away me. She was all hysterical.

16 Q Okay. So, Mr. Madden you approached the Defendant. Do you notice

17 anything specific that you didn't notice before when you approach him this time?

18 A Do I know anything different?

19 Q Did you notice anything about him at that point?

20 A Well he looked like he was upset.

21 Q He looks pretty upset at that point?

22 A Yeah.

23 Q Did you smell anything at that point?

24 A Well when I got closer to him, you know, I smelled liquor.

25 Q Okay. You smelled liquor. You've been around people who drink

1 before?

2 A Yeah, I drank.

3 Q Okay. You've seen somebody who is a pretty sloppy drunk before?

4 A Yeah.

5 Q Is this one of those situations?

6 A No, it's not one of those situations.

7 Q So, he's not sloppy drunk at this point?

8 A No, no.

9 Q He just what? I mean --

10 A He just looked mad, and I'm concerned -- I'm really a little intimidated at  
11 the time.

12 Q Okay. Why is that?

13 A Because he come back in to the church.

14 Q So, what do you say to him?

15 A So I walked up to him and I asked him, how can I help you; and he said,  
16 I'm looking for my daughter.

17 Q Is that exactly how he says it?

18 A That's what he said.

19 Q All right. What's his demeanor when he says I'm looking for my  
20 daughter?

21 A It was kind of hard.

22 Q By hard to you mean angry?

23 A Yes.

24 Q Now when you asked him that question, did he sound incoherent when  
25 he responded?

1           A     No.

2           Q     Was he mumbling?

3           A     No.

4           Q     Did he not understand your question at least based on his reaction to  
5 your question?

6           A     Well he answered the question when I asked him how can I help you;  
7 he said I'm looking for my daughter.

8           Q     So, you didn't think he had any trouble understanding if he actually  
9 answered your question.

10          A     Yes; right after.

11          Q     Okay. So, what do you say?

12          A     I said who is your daughter and he say Samira.

13          Q     And then what happened?

14          A     So, I asked him, I said, sir, you're going to have to leave because this  
15 was right after Samira, she's all -- the little incident, she's hysterical and everything  
16 like that. So, I said, sir, I'm going to have to ask you to leave. He said, I'm looking  
17 for my mother fuckin' daughter.

18          Q     Okay. Now you described him being angry when you first walked up to  
19 him. When he said that to you, was his anger level the same, lower, higher?

20          A     Well he stepped it up a notch then. And mind you, we got another  
21 service taking place. We have people coming in, we got people leaving; we got kids  
22 in the sanctuary. So, I'm already kind of timid because he was asked to leave, the  
23 safety team told me he was leaving, and all of a sudden I see him back in to the  
24 building, then he's now cussing. So, my thing now is to figure out how to get him out  
25 of the building.

1 Q I got to ask you, Pastor, were you yelling at him?

2 A No, sir.

3 Q So, you were speaking to him, what, the same way you're talking to me  
4 now?

5 A Yes, sir.

6 Q And you said he was loud. Was he yelling when he was saying these  
7 things to you?

8 A It was loud. You know, you got the difference between yelling -- yelling  
9 is when you just -- to me, I'm thinking you're yelling like aye aye aye la la la. But  
10 when he asked the question he said, I'm looking for my mother fuckin' daughter.

11 Q Understood. Pastor, how many times did he ask for his daughter during  
12 that conversation with you?

13 A It would be twice.

14 Q So now you say you're concerned because you've got people and kids  
15 and things and you're trying to figure out how to get 'em out of there. So, what do  
16 you decide to do at that point?

17 A At that time I grabbed him by the -- what is it -- the bicep --

18 Q Uh-huh.

19 A -- and the forearm. He was standing -- so it had to be his right arm. So,  
20 I grabbed his bicep and his forearm on the wrist and I grabbed him, grabbing kind of  
21 firm and walked him through our double doors through the foyer out the front door  
22 and I seen Craig and Burse -- at the time I said, man, get this cat away from here.

23 Q Okay. And on this map here you pointed this out as being -- you  
24 walked into the sanctuary through the foyer --

25 A Yeah.

1 Q -- and out the double doors --

2 A Yes.

3 Q -- and then you saw Craig?

4 A I seen Craig.

5 Q Who else was there?

6 A Burse.

7 Q Allen, Allen Burse.

8 A Yeah; and another guy named -- by the name of Dwayne McCoy which,

9 you know, he sits in the pool pit with me.

10 Q All right. That's kind of another pastor maybe?

11 A Yes. Well a minister. He's not a pastor; he's a minister.

12 Q So, you pass him off to Craig and Allen, and at that point are you guys

13 outside?

14 A Well we outside and I don't give the man to Craig or Burse. I just kind

15 of --

16 Q Let him go.

17 A -- let him go and turn around and tell Craig, get him away from here.

18 Q Okay. How many people are kind of in the foyer and outside kind of

19 milling around the church at this point?

20 A Well give or take it could 15 to 20 people, you know, and just -- and

21 you're talking about the people coming in and the people leaving at the time, we're

22 in transition of services so we're trying to get the 10 o'clock service started.

23 Q Okay. So, Pastor, at this point, you think it's a wrap once you kind of

24 passed this guy off?

25 A Yeah, I think it's done.

1 Q All right. So, then happens? Where do you go?

2 A So, I walked back into the building through the foyer into our sanctuary  
3 with the double doors --

4 Q Uh-hm.

5 A -- and I'm just getting ready for service, you know, saying hi to a few  
6 people, you know. We don't want to get no indication like its some big radical thing  
7 going on. We're keeping it calm. So, I'm greeting a few people. And then all the  
8 sudden I hear something like a gunshot.

9 Q How loud are we talking about? Tell the jury. How loud are we talking  
10 about here?

11 A Boom boom boom.

12 Q That's pretty loud.

13 A That's what I hear. And at the time when I heard that, I turn around and  
14 I see another young lady running towards me through the double doors with a girl --  
15 with a girl in her hand talking about she'd been hit, she'd been hit, and she curled  
16 her. I run through the double doors and I'm looking and I see a Cadillac in our foyer.

17 Q Aside from this woman, describe the scene. What are other people  
18 doing at this point?

19 A Man, everybody is hysterical. I mean, it's a mess. People hollering,  
20 folks panicking; nervous. I'm nervous.

21 Q Are people standing still at this point or what they are doing?

22 A They're moving. You know, we trying to move kids out of the way;  
23 we're looking under the car to see if there's anybody else under the car. We don't  
24 know if there's anybody under the car. We don't know. So, we try to assess what's  
25 going on, you know, 'cause I'm assuming that I didn't see him hit the girl, but the one

1 girl came in and brought the little girl, wrapped her up and trying to protect her.  
2 She'd been hit, she'd been hit, so now we're looking out of the corner to see if  
3 anybody else is under the car.

4 MR. HAMNER: I want to show opposing counsel what's been previously  
5 marked as State's proposed Exhibit 10, 11 and 12. Permission to approach the  
6 witness.

7 THE COURT: Yes.

8 MR. HAMNER:

9 BY MR. HAMNER:

10 Q Let the record reflect I'm showing the witness State's proposed Exhibit  
11 10, 11 and 12. I want you to take a look at State's proposed Exhibit 10; do you  
12 recognize what's that?

13 A Yes.

14 Q What is that?

15 A That's the car that was in the foyer.

16 Q Is that a fair and accurate depiction of what it looked like?

17 A Yes.

18 Q On that day?

19 A Yes.

20 Q I'm going to show you State's proposed 11; what's that?

21 A That's car in our foyer.

22 Q A fair and accurate depiction of it?

23 A Yes.

24 Q State's proposed Exhibit 12?

25 A That's the car in our foyer.



1 Q Thank you. Is this a fair and accurate depiction of State's proposed  
2 Exhibit 12?

3 A Yes.

4 MR. HAMNER: Your Honor, at this time, I'd ask that State's proposed  
5 Exhibits 10, 11 and 12 be admitted into evidence.

6 MR. POSIN: No objection, Your Honor.

7 THE COURT: They'll be admitted.

8 **[STATE'S EXHIBIT #s 10, 11 AND 12 ADMITTED]**

9 MR. HAMNER: I'm showing you State's 10.

10 THE COURT: Permission to publish.

11 MR. HAMNER: Permission to publish. I apologize, Your Honor. Permission  
12 to publish State's 10, 11 and 12.

13 THE COURT: It's granted.

14 MR. HAMNER: Thank you.

15 BY MR. HAMNER:

16 Q So, that's what you ran into and what's you saw?

17 A Yes.

18 Q Has anything like this ever happened at your church before?

19 A Never.

20 Q Have you ever seen anything like this before, Pastor?

21 A Well a long time ago when I had a friend -- a girlfriend run into a house.

22 MR. HAMNER: Withdrawn.

23 MR. POSIN: Objection; relevance, Your Honor.

24 THE COURT: All right. Sustained.

25 BY MR. HAMNER:

1 Q What is that thing laying on top of the car, Pastor?

2 A That's the door.

3 Q Is that -- you kept talking about double doors. So, is that just one of the

4 doors?

5 A That's one of the doors.

6 Q State's 12. So, now you're running around looking around for maybe

7 someone under the car; it's getting kind of crazy in there. Do you remember

8 anything else about the Defendant at this point in time?

9 A The Defendant is still in the car and then you got the -- I don't know --

10 the door right here. I don't know if I can --

11 Q You can touch it. It'll make a mark.

12 A Okay. The door right there.

13 Q I can't see what you're talking about.

14 A Okay. So, you got the double doors and then if you go -- it's -- I'm

15 going to my left, there's another door right there.

16 Q Okay.

17 A At that time, that door is open.

18 Q So, one door is open and one door is obviously laying on the vehicle?

19 A Yeah, yeah, yeah, yeah.

20 Q Now you said the Defendant was still in the car?

21 A The Defendant's still in the car.

22 Q Pastor Madden, do you recall whether -- when that car immediately

23 came through, the engine just cut out and stopped?

24 A I'm not sure if the engine was still running or stopped. I'm not sure.

25 Q Okay. Well do you remember anything that the Defendant was doing



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