

ARMSTRONG - CROSS

1 THE COURT: I'm sorry?

2 MR. GUYMON: Objection, it assumes facts not in  
3 evidence.

4 THE COURT: Overruled.

5 THE WITNESS: Well, I did -- I did before, but --

6 BY MR. SCISCENTO:

7 Q But those three weeks is when you stopped?

8 A Yeah, I did it a couple times.

9 Q Back on August 14th of '98 you had a girlfriend  
10 named Brandy Priest?

11 A Yes.

12 Q And she lived how far away from you in the Everman  
13 house?

14 A On the other side of town.

15 Q You gave her a VCR?

16 A No.

17 Q You never transferred a VCR to her in any way?

18 A No.

19 Q You had a VCR there prior to -- prior to Deco  
20 getting there, is that right?

21 A No, I had a VCR, I don't know where it was, but --

22 Q But you got rid of it?

23 A My VCR?

24 Q Yes.

25 A Yeah, I don't know when, though, it was a while ago.

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1 Q You also had a Play Station prior to Deco living  
2 there?  
3 A Yes, I had a Play Station.  
4 Q And you sold that Play Station?  
5 A Actually I gave it away for drugs.  
6 Q You gave it away for drugs?  
7 A Yes, that's correct.  
8 Q Your statement you said that you sold it?  
9 A No, I gave it away to drugs.  
10 Q Okay. So that's -- the statement that you gave to  
11 the police said you sold it is incorrect?  
12 A Yes.  
13 Q You didn't have a job back in August of '98?  
14 A No.  
15 Q You were getting in debt with money?  
16 A Not really, my mom was paying my bills, or like she  
17 paid the rent.  
18 Q But your lights, your electricity was being turned  
19 off, the phone was being turned off?  
20 A Yeah, like I wouldn't pay 'em, and then I'd turn 'em  
21 back on.  
22 Q So in fact you were having trouble with money?  
23 A Yes.  
24 Q You couldn't pay some of your bills?  
25 A Yes, or I wouldn't --

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ARMSTRONG - CROSS

1 Q They were being turned off?

2 A Yes.

3 Q Let me ask you, Matt Mowen and Mr. Gowan -- Goran --  
4 Gorringe, I'm sorry, Gorringe, would you consider them, the  
5 nickname you had for them was it "hippies"? Did you ever make  
6 a statement like that to Ace?

7 A I don't know, I may have, I don't -- I don't recall  
8 that, I don't know.

9 Q You don't recall that?

10 A No, I don't.

11 Q Did you ever tell Ace that you wanted to do a "lick"  
12 on the hippies?

13 A No.

14 Q Do you know what the word "lick" means?

15 A Yes, I know what it means.

16 Q What does it mean?

17 A Like to steal something or some -- yeah, I guess  
18 just to steal something, I guess it means.

19 Q So you think "licks" means to steal something?

20 A Yes.

21 Q Did you ever want to do a lick with Ace Hart?

22 A No.

23 Q Never?

24 A No.

25 Q So if somebody says that you did, they're incorrect,

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ARMSTRONG - CROSS

1 too?

2 A Yeah.

3 MR. DASKAS: Objection, Judge, that's assuming facts  
4 not in evidence.

5 THE COURT: That's not really assuming -- I do think  
6 that it's improper, I'll sustain it.

7 BY MR. SCISCENTO:

8 Q So you never said to anybody that you and Ace Hart  
9 ever did any licks?

10 A Not that --

11 Q Let me ask you, how tall are you?

12 A About 6'4".

13 Q A rather tall, big guy?

14 A Sure.

15 Q You're saying that you've never been over to the  
16 house on Terra Linda?

17 A No.

18 Q Prior to the 14th?

19 A Never.

20 Q How about on the night of the 13th?

21 A No.

22 Q Were you ever in the driveway on the 13th?

23 A No.

24 Q You never knew where they lived?

25 A No.

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ARMSTRONG - CROSS

1 Q Matt Mowen came over to your house numerous times?  
2 Few --  
3 A Couple of times.  
4 Q Few times?  
5 A Yeah.  
6 Q The reason he came over was what?  
7 A To either party with us or get some drugs.  
8 Q You were -- you were -- he was either buying drugs  
9 -- was he selling drugs to you?  
10 A He -- or like through that house they did, they came  
11 over in -- before, like in June, and like around June they  
12 used -- I used to buy mushrooms off of them.  
13 Q Through what house?  
14 A The house that it happened, that they would -- like  
15 the people that lived there came over.  
16 Q Okay. But you never went over there?  
17 A No.  
18 Q You didn't know where they lived?  
19 A No.  
20 Q So you bought drugs out of the Terra Linda house?  
21 A No.  
22 Q From the people in the Terra Linda house?  
23 A They came to my house.  
24 Q You talked about Matt Mowen selling acid?  
25 A Yes.

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ARMSTRONG - CROSS

1 Q About a hundred sheets a day I think you said?  
2 A Yeah, he said something around that.  
3 Q And he told you at one point how much money he made?  
4 A I'm not sure what.  
5 Q He mentioned there was thousands?  
6 A He made a lot of money, yeah.  
7 Q He mentioned that there was thousands of dollars  
8 that he made?  
9 A Yeah, I believe so --  
10 Q Okay. And this was told to you --  
11 A -- a lotta money.  
12 Q I'm sorry. This was told to you back in August of  
13 '98?  
14 A Yes.  
15 Q How long had it been since you had had a job in  
16 August of '98?  
17 A About four months.  
18 Q Okay. And you were in search for another job?  
19 A Yes.  
20 Q There is a car that you described, a white Tempo,  
21 four door?  
22 A Two or four, I'm not sure what.  
23 Q Okay. You ever driven in that car?  
24 A Yes, I have.  
25 Q You've driven that car, too, correct?

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1 A Yeah, I actually went to the store in it.

2 Q Okay. So you have been behind the wheel of that car  
3 once --

4 A Yes.

5 Q -- at least? Did you ever drive that car, you  
6 personally, over to the house at Terra Linda?

7 A No.

8 Q There was a time that you said earlier that you and  
9 Ace and a person you call Deco and Red, that'd be Terrell  
10 Young, 720] drove by the house and Ace pointed the house out?

11 A Yes.

12 Q So Ace now says to them that's where they live?

13 A Yes.

14 Q And you didn't think there was anything wrong with  
15 that, telling 'em where they lived, that being Matt Mowen?

16 A No, I --

17 Q Did there ever come a time that you wanted --

18 MR. SCISCENTO: Court's indulgence for one moment.

19 BY MR. SCISCENTO:

20 Q You ever asked anybody to commit any robberies for  
21 you?

22 A I told Deco to -- or I asked him if he would steal  
23 rims for me.

24 Q If he what?

25 A If he would steal this -- a guy's rims for me.

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1 Q A guy's rims?  
2 A Yes.  
3 Q What about stealing a car?  
4 A No.  
5 Q Stealing the whole car itself? You just wanted him  
6 to steal the car to take the rims off of it?  
7 A Steal the rims.  
8 Q Okay. Any other times that you asked anybody to  
9 commit any robberies?  
10 A No.  
11 Q So that was the only time that you ever planned to  
12 do any kind of robbery?  
13 A Yeah, but I didn't -- nothing happened, I didn't do  
14 anything of it.  
15 Q You stated earlier when you were in Hawaii and  
16 Detective Buczek and Detective Sergeant Hefner interviewed  
17 you, you stated to them that you wanted them to rip off his  
18 car, whose car were you talking about?  
19 A That was the rims that I was talking about.  
20 Q On which car?  
21 A On -- I don't know, this guy Chris's car.  
22 Q Who's Chris?  
23 A Somebody I met at school.  
24 Q And where does he live?  
25 A I'm not sure.

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1 Q Do you know where stayed?  
2 A Where he did at the time?  
3 Q Yes.  
4 A I did then, I don't know now.  
5 Q Was it near Terra Linda?  
6 A I don't believe so, I -- it was in some apartment  
7 somewhere.  
8 Q I'm sorry?  
9 A It was in some apartment somewhere.  
10 Q Now, let's talk about the night in question on the  
11 14th, I guess it was early morning, you said it was still dark  
12 outside, right? You saw --  
13 A The night of the 13th --  
14 Q Yes.  
15 A -- morning?  
16 Q You saw Deco -- it was the morning of the 14th.  
17 A Yes.  
18 Q You saw Deco and Red come back in?  
19 A Yes.  
20 Q And you say that they're wearing black pants?  
21 A Yes, I saw them wearing black pants.  
22 Q Okay. Was there anybody else with them?  
23 A No.  
24 Q Was -- do you know a person named Sikia Smith?  
25 A Yes.

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1 Q Was Sikia Smith with them -- with them that night?  
2 A No.  
3 Q Had you seen Sikia Smith at your house that day?  
4 A I don't believe so, no.  
5 Q Did you notice what kind of shoes Deco was wearing  
6 that night?  
7 A No, I didn't notice that.  
8 Q You notice what kind of shirt he was wearing?  
9 A Black shirt.  
10 Q So it was all black?  
11 A Yes.  
12 Q Do you remember what you were wearing that night?  
13 A No, I was sleeping, probably shorts, I'm not sure.  
14 Q What kind of shorts were you wearing?  
15 A I don't know. I don't know what I was wearing.  
16 Q Long shorts, short shorts? You know what I'm  
17 talking long shorts, the ones that come below the knees?  
18 A Yeah, I'm not -- I'm not sure what I was wearing  
19 really.  
20 Q Okay.  
21 A I was sleeping.  
22 Q Were you wearing a white T-shirt that night?  
23 A I have no clue.  
24 Q You have white T-shirts though in your possession?  
25 A I don't know if I did then or not.

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1 Q You don't remember if you had any, you don't know if  
2 you were wearing it, or?  
3 A I don't know if I had any.  
4 Q Now, when you said that they came in and you talked  
5 about -- they didn't say anything, they walked right in the  
6 back bedroom, and then they came back out and they said to you  
7 what?  
8 A That they had killed those --  
9 Q Deco said that to you?  
10 A Yes.  
11 Q And what did --  
12 A Red said it -- Red told me first, and then Deco came  
13 and told me.  
14 Q And you told Ace Hart later?  
15 A Yes.  
16 Q That night you went right back to bed?  
17 A I don't -- I don't remember what exactly happened  
18 after that, I don't recall.  
19 Q On the night of the 13th were you smoking any crack  
20 cocaine?  
21 A No.  
22 Q You didn't do any crack cocaine?  
23 A No.  
24 Q You didn't do any with Charla Severs, the person you  
25 know as La La?

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1 A No.

2 Q Did you ever do any crack cocaine with her?

3 A No.

4 Q You never smoked it in her presence?

5 A I may have like maybe one of the two times that I

6 did.

7 Q Once or twice with her?

8 A Yeah -- not with her, but like she was around.

9 Q These are the one and two times that -- the only

10 times that you ever smoked it in the three weeks that Deco

11 lived there?

12 A Yeah, that --

13 Q Okay. So that was it. So now it was just Charla

14 sees you smoking it twice and that's the only time you ever

15 done it?

16 A What's that?

17 Q In this three-week period?

18 A Yeah.

19 Q Prior to that three-week period did you smoke crack

20 cocaine every day?

21 A Almost, yeah.

22 Q Have you received any kind of treatment for

23 addiction, or do you have an addiction?

24 A No.

25 Q You just quit?

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1 A I just quit when I moved.

2 Q You had known Matt Mowen a couple of weeks prior to  
3 August 14th, 1998?

4 A No, I met him before August.

5 Q And you met him at your house when he came over and  
6 bought drugs?

7 A I met him before with -- through Ace when -- like  
8 when we partied before, like in June.

9 Q So it was really Ace's connection that brought Mowen  
10 into your life?

11 A Yes.

12 Q And it was Ace that brought in Donte to your life?

13 A Yes.

14 Q And Ace, as you mentioned before, was smoking crack  
15 cocaine with you during August?

16 A Yes.

17 Q After you hear on the night of the -- the morning of  
18 the 14th, after you hear about this murder, you go back to  
19 bed?

20 A I'm not sure. Yeah, I -- I don't remember what  
21 happened right after.

22 Q I want to make sure I understand, you didn't --

23 A I didn't leave the house or anything.

24 Q You didn't leave the house?

25 A No.

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ARMSTRONG - CROSS

1 Q You didn't smoke any crack cocaine that -- that  
2 morning?

3 A No.

4 Q Okay. You went back -- you're not sure if you went  
5 back to bed and you're not sure if you stayed up?

6 A Yeah, I don't know what exactly.

7 Q But the next morning you had a job interview?

8 A Umm, on the 15th.

9 Q So it was a day later?

10 A Yes.

11 Q You went to --

12 A On the 14th I talked to Ace.

13 Q The 14th you talked to Ace and you talked to B.J.?

14 A Yeah, well, Ace at B.J.'s house.

15 Q Ace at B.J.'s house?

16 A Yes.

17 Q Was B.J. with -- did B.J. come over on the 14th?

18 A I don't believe they came over on the 14th, it was  
19 the 15th in the morning.

20 Q B.J. and Ace came over on the 15th?

21 A 15th.

22 Q Okay. And that's when this other conversation took  
23 place?

24 A Yes.

25 Q And B.J. was present and Ace was present?

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ARMSTRONG - CROSS

1 A Yes.

2 Q And Deco was present?

3 A Yes.

4 Q So I want to see if I understand this, on the 15th  
5 you've been informed of a quadruple murder and you're going to  
6 take an interview with -- go interview for a job at Stallion  
7 Mountain?

8 A Yes.

9 Q With Ace and B.J.?

10 A Yes.

11 Q The three of you together?

12 A Yes.

13 Q Was anybody else with you?

14 A No.

15 Q You drove out there alone?

16 A Yeah.

17 Q Who drove?

18 A Bryan.

19 Q You drove in his car?

20 A Yeah, his mom's car.

21 Q And you were going to interview for a job as what?

22 A I think for the -- in the construction part of the  
23 golf course.

24 Q To work on the golf course?

25 A Yes.

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ARMSTRONG - CROSS

1 Q And there was an in that you had through the golf  
2 course, right?

3 A Yes, through Ace.

4 Q Ace's mom had an in that was going to let you get a  
5 job there?

6 A Yeah. Ace --

7 Q So as you're driving over there, do you talk about  
8 this, this murder, these murders with Ace or B.J.?

9 A Not that I -- I don't recall what was said.

10 Q Okay. So now these people who are friends of Ace,  
11 and friends of yours who you found out have been murdered,  
12 you're driving to a job interview, you put on a nice new suit,  
13 right --

14 A We drive -- yeah.

15 Q -- or a nice shirt, clean shirt, white shirt?

16 A I don't know what I was wearing at the time.

17 Q As you're driving over there you're not talking  
18 anything about these murders?

19 A I don't know. I don't recall. I don't know what  
20 was said.

21 Q The 16th what'd you do?

22 A I was -- I stayed at Bryan's house.

23 Q Okay. You stayed over there, did you guys talk  
24 about -- Bryan and Ace and you --

25 A We were talking about what to do, I'm sure.

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ARMSTRONG - CROSS

1 Q The whole day you talked about it?

2 A I don't know about the whole day, no.

3 Q How many hours a day did you talk about it?

4 A I don't -- I don't know, not that much. I mean we  
5 just would talk about what we're gonna do.

6 Q Okay. Did we what to do yet?

7 A No, we didn't know what to do.

8 Q It's been 14th, 15th, 16th, that's been three days  
9 now?

10 A Yes.

11 Q The 17th the police show up at Bryan's house because  
12 there's a disturbance?

13 A Yes.

14 Q Okay. And somebody tells, correct me if I'm wrong,  
15 somebody tells Bryan's mother, go easy on him he's under a lot  
16 of stress 'cause he knows about a quadruple murder?

17 A No, I don't know.

18 Q Okay. How does it come out?

19 A I believe Bryan just told 'em.

20 Q Bryan just said --

21 A Yeah, Bryan just said that he knew like what had  
22 happened and that who was involved.

23 Q So now four days later, 14th, 15th, 16th and 17th,  
24 at about 5:00 o'clock in the afternoon?

25 A Yeah, I'm not sure exactly what time.

II-233

ARMSTRONG - CROSS

1 Q The police show up to Bryan's house because of a  
2 disturbance?

3 A Yes.

4 Q Was a domestic violence?

5 A Well, him and his mom was arguing, so.

6 Q Okay. Him and his mom were coming, they were  
7 arguing, yelling back and forth, somebody called the police,  
8 the police show up, am I right?

9 A Yes.

10 Q And on domestic violence they're going to put one  
11 person in jail, is that correct?

12 A I don't know. Yeah, I don't know what -- I don't  
13 know what happened.

14 Q Did they ever -- did the police who were there ever  
15 place Bryan in handcuffs?

16 A I'm not sure.

17 Q They separated him from everybody else?

18 A I don't -- I don't really remember --

19 Q You don't remember?

20 A -- if they did or not.

21 Q Where were you while this was --

22 A They may have talked to him.

23 Q Where were -- where were you while this was going  
24 on?

25 A In the living room.

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ARMSTRONG - CROSS

1 Q Okay. Did you see the police talking to Bryan?

2 A Yeah, they were talking to his mom.

3 Q Okay. Where was Bryan at this time?

4 A I believe in the living room also.

5 Q He was where?

6 A In the living room also.

7 Q Can you see his handcuffs at this time?

8 A I'm not sure. I don't --

9 Q Was he ever placed in handcuffs that night?

10 A I don't -- I don't remember. I don't know.

11 Q You don't remember?

12 A No.

13 Q And at this point suddenly he says I know about  
14 these quadruple murders?

15 A Yes.

16 Q And then you get up and you -- and you tell the  
17 police you also know?

18 A Yes, we all did.

19 Q Four days later?

20 A Yes.

21 Q Did you ever talk to anybody else during that four-  
22 day period about these murders?

23 A No.

24 Q So it's only you, Ace and B.J.?

25 A I believe so, yeah.

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ARMSTRONG - CROSS

1 Q I want to make sure I understand this, first recall  
2 Deco and Red come into your house that night, the morning of  
3 the 13th, but not Sikia Smith?

4 A No.

5 Q Were you upset -- did you expect to receive anything  
6 from either Deco, Red or Sikia Smith, cocaine or anything?

7 A For what?

8 Q For going over to the Terra Linda house?

9 A No.

10 Q Were you upset the next day that there was not  
11 cocaine brought back to you?

12 A No.

13 Q So if somebody testifies to that fact then that's  
14 incorrect?

15 A Yes.

16 Q Okay. So you didn't expect to receive anything from  
17 this -- from the Terra Linda house?

18 A No.

19 Q You didn't even know it was gonna happen?

20 A No, I didn't know that --

21 Q You had no idea that was -- what was about to go  
22 down?

23 A No, I didn't know that they were gonna kill anybody  
24 or anything like that, no.

25 Q What'd you think they were going to do?

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ARMSTRONG - CROSS

1           A     I thought in my own opinion that they were going to  
2 burglarize the house, try to steal the money.

3           Q     You gave 'em information about who lived there,  
4 right?

5           A     No.

6           Q     You didn't give 'em any information?

7           A     No.

8           Q     You didn't ask them -- you didn't tell them that  
9 there was going to be drugs there?

10          A     No.

11               MR. SCISCENTO: Court's indulgence one moment.

12 BY MR. SCISCENTO:

13          Q     As a way of supplementing your income did you ever  
14 sell any drugs?

15          A     Yes.

16          Q     You sold some shrooms, as a matter of fact, right?

17          A     Yes.

18          Q     Who'd you sell them to?

19          A     People I knew.

20          Q     Let me focus back on this. When Matt Mowen would  
21 come over to pick up some drugs or buy some drugs from Deco,  
22 were you present at that time?

23          A     Yes.

24          Q     Did you see a transaction go -- happen?

25          A     No, I think he came over and Deco didn't have

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ARMSTRONG - CROSS

1 anything. He --

2 Q You never saw a transaction happen?

3 A I don't remember, not that I can remember. I don't  
4 know.

5 Q Did you ever see the person you call as Deco sell  
6 any drugs to anybody?

7 A Me and Ace.

8 Q Do you know how he'd package it up?

9 A I don't know.

10 Q You know if he'd put 'em in little boxes or wrapped  
11 them up in tinfoil?

12 A I don't know.

13 Q You never saw that?

14 A No.

15 Q You never saw how he would transfer to anybody?

16 A No.

17 Q When you were being interviewed -- the police went  
18 out to Hawaii to interview you --

19 A That's correct.

20 Q -- is that correct?

21 A Yes.

22 Q And you mentioned there -- they had asked you about  
23 the Play Station?

24 A Yes.

25 Q And you said that you already had one?

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ARMSTRONG - CROSS

1 A Yes.

2 Q And in fact that wasn't true?

3 A I had one before, yes.

4 Q You have testified where you've been a witness in  
5 another murder case, is that correct?

6 A Yes.

7 Q That case you were the only witness?

8 A No.

9 Q Well, it appears that you were at the wrong place at  
10 the wrong time on this -- in this other murder case?

11 MR. GUYMON: Objection, Your Honor, may we approach  
12 the bench?

13 THE COURT: Sure.

14 We'll take the recess while we're talking at the  
15 bench. During this recess you're admonished not to talk or  
16 converse among yourselves, with anyone else on any subject  
17 connected with this trial, or read, watch or listen to any  
18 report of or commentary on the trial, or any person connected  
19 with it by any medium of information, including, without  
20 limitation, newspaper, television or radio, or to form or  
21 express any opinion on any subject connected with this case  
22 until it's finally submitted to you.

23 We'll be in recess 'til 4:15.

24 Just stick there for a minute.

25 We'll be in session outside your presence.

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(Jury recessed at 4:05)

THE COURT: What's up?

UNKNOWN SPEAKER: What's up?

MR. GUYMON: Judge, I'm concerned with the relevance with regards to his testimony in another case, number one; and number two, if they are going to get to his involvement on arrest it would be improper impeachment.

THE COURT: Where is this going, Joe?

MR. SCISCENTO: Well, Your Honor, I think it does show that there is some involvement in other cases --

MR. FIGLER: Other --

MR. SCISCENTO: -- and there's some involvement with the State, that he has a working relationship with them, and he suddenly appears at the wrong place at the wrong time for murder cases.

THE COURT: That's all you can give me? You want to flesh it out a little? Because if that's all you got, those general terms, we're not going to get into it.

MR. FIGLER: Well, Your Honor, Mr. Armstrong was the key, if not the only witness in an apparent murder case that involved young people in drugs and alcohol and fighting and stuff. Mr. Armstrong just happens to be there and provide the key testimony to the State. Now this witness has also not been charged in this particular case at all, he's given testimony that conflicts with about four or five other

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ARMSTRONG - CROSS

1 witnesses that they have had, he's escaped us the entire time,  
2 we have a right to make inquiry as to his involvement with  
3 these type of people in these type of situations, and his  
4 proclamations of innocence in both.

5 THE COURT: Now, where does he testify, where is  
6 this other case?

7 MR. FIGLER: He testifies in Henderson Justice Court  
8 at the bind over for Michael Celis, C-E-L-I-S, which without  
9 his testimony he would not have been bound over, Mr. Celis,  
10 without Mr. Armstrong's testimony.

11 THE COURT: Do you know anything about this case?

12 MR. DASKAS: No, Judge.

13 MR. GUYMON: I don't know anything about the Celis  
14 case, I know this, the defendant -- or excuse me, the witness,  
15 Tod Armstrong did not receive any benefit whatsoever  
16 associated with that case or this case, and therefore it'd be  
17 improper impeachment. If --

18 MR. FIGLER: And we have a right to make  
19 implication, Your Honor.

20 THE COURT: I'll let you go this far, you already  
21 elicited in front of them that he's a witness in another case.  
22 Mr. Guymon has already asked him if he got any benefit in this  
23 case, made any promises. I'll ask if he has either an  
24 expectation of benefit in the other case or any promises. Not  
25 going to get into the substance of the other case, 'cause I

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1 don't think it's relevant that there may be some similarities.

2 MR. FIGLER: Just a coincidence that this witness  
3 just shows up at murder and murder scenes and that type of  
4 situation? That's highly relevant, Your Honor, and we have a  
5 right to get into it with this witness, it shows his --

6 THE COURT: You're not gonna do it here, Dayvid.

7 MR. FIGLER: -- prejudices, his biases.

8 THE COURT: No, I don't see it. No, that's as much  
9 as I'll permit.

10 4:15.

11 (Court recessed)

12 (Jury is not present)

13 THE COURT: Something that you wanted to discuss,  
14 Mr. Guymon.

15 MR. GUYMON: Judge, here is my problem, and I'm not  
16 suggesting that Joe Sciscento, Dave Figler are unethical, but  
17 I will tell you this, in the brief moment that I spoke with  
18 Tod Armstrong I learned, and counsel has confirmed it, that he  
19 is not the only witness in that case. And the question was  
20 "isn't it true you're the only witness in that case." And it  
21 impugns this man's integrity so much in front of this jury,  
22 and it's absolutely unethical to ask a question that you know  
23 is not true. Now come to find out Dayvid Figler represented  
24 that defendant, and Dayvid knows that he is not the only  
25 witness in that case, that there --

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ARMSTRONG - CROSS

1 MR. FIGLER: The only present witness.

2 MR. GUYMON: -- that there are countless voluntary  
3 statements from people that were at the party. This  
4 apparently was a party setting --

5 THE COURT: Was he the only witness at the  
6 Henderson --

7 MR. SCISCENTO: He's the only one that identifies --

8 THE COURT: -- preliminary hearing?

9 MR. SCISCENTO: The other people changed their  
10 story.

11 MR. FIGLER: He's the only one at the Henderson case  
12 that didn't have any type of --

13 THE COURT: Play back Sciscento's question so that  
14 it refreshes my memory.

15 (Pause in the proceedings while the tape is  
16 played back to Court and counsel)

17 \* \* \* \* \*

18 MR. GUYMON: I'm going to ask that it be stricken --  
19 and that the jury not consider that. Because the sole  
20 question is did --

21 MR. FIGLER: Are we on the record now?

22 THE COURT: We're on the record, aren't we?

23 COURT RECORDER: Well, we were until just the very  
24 moment --

25 MR. GUYMON: I'm sorry, I was asking -- you answered

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ARMSTRONG - CROSS

1 the question.

2 COURT RECORDER: We're on the record.

3 THE COURT: Okay. What are you looking for in terms  
4 of a remedy?

5 MR. GUYMON: I'm looking for this, I'm looking for,  
6 number one, that it be stricken; that, number two, and I think  
7 proper impeachment is did you -- do you -- have you gotten any  
8 benefit at all. If he hasn't gotten any benefit he's --

9 THE COURT: Which I've already ruled.

10 MR. GUYMON: Okay. But it's --

11 THE COURT: Okay. That's the only other thing we  
12 can ask when we get back --

13 MR. GUYMON: I'd ask that the jury be told to strike  
14 that and they cannot consider his testifying or involvement in  
15 any other case, it's not for them to consider.

16 THE COURT: Well, we've only had those few brief  
17 questions, I'm not going to touch what we've got. He's been  
18 asked the question, he denied it, they're not going to go into  
19 it anymore, that's as far as we're going to go.

20 MR. SCISCENTO: Your Honor, we want to go in three  
21 more questions on that.

22 THE COURT: You can ask him if he got any benefit in  
23 that case or expects it. Yeah. Whether he --

24 MR. FIGLER: Right. Said that murder had nothing to  
25 do with this murder, you identified the shooter in that one,

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ARMSTRONG - CROSS

1 did you get any benefit for it, boom and we're out.

2 MR. SCISCENTO: Can I do that?

3 THE COURT: Yeah.

4 MR. FIGLER: Okay.

5 MR. GUYMON: Well, Judge, can -- then on  
6 rehabilitation, without opening --

7 THE COURT: Why is him identifying the shooter --

8 MR. DASKAS: It's not relevant.

9 MR. FIGLER: That was the key, that's the whole key  
10 about his value to the State.

11 THE COURT: But that doesn't matter.

12 MR. SCISCENTO: Nobody else identifies --

13 THE COURT: The point -- all that's relevant in this  
14 case in terms of impeachment is in order -- in that case for  
15 your testimony, (a), were you charged ever in that case, (b),  
16 do you expect any benefit, and that's as far as we're gonna  
17 go.

18 MR. FIGLER: All right. That's what we're asking.

19 THE COURT: Not the facts of the case.

20 MR. FIGLER: That's what we're asking.

21 MR. GUYMON: Now, Judge, if I attempt to clean it up  
22 do I open the door to the facts of that case, 'cause I don't  
23 want to try that case, but I also don't want his integrity --

24 THE COURT: Yeah, it may very well.

25 MR. FIGLER: That's fine with us.

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ARMSTRONG - CROSS

1 THE COURT: He's already denied it, and I don't  
2 think that that's any more than a question with a denial, and  
3 there's no reason for the jury to disbelieve it.

4 4:15.

5 (Court recessed until 4:15 p.m.)

6 (Jury is present)

7 CROSS-EXAMINATION (Continued)

8 BY MR. SCISCENTO:

9 Q Mr. Armstrong, in a previous case you identified the  
10 shooter in a previous murder case, am I right?

11 A That's correct.

12 MR. GUYMON: Judge, I object to questioning him and  
13 trying that other case.

14 THE COURT: Your objection is sustained, the answer  
15 will be stricken, and the jury is specifically instructed to  
16 disregard both the question and the answer.

17 Move on to those other areas that we had discussed,  
18 Mr. Sciscento.

19 MR. SCISCENTO: Your Honor, if I may approach then?

20 THE COURT: Ask those other things if you care to.

21 BY MR. SCISCENTO:

22 Q The other murder case is unrelated to this case, am  
23 I correct?

24 A Yes.

25 Q All right. You were a witness for the State in that

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1 other case, correct?

2 A That's correct.

3 MR. GUYMON: Judge, I'm going to object as to the  
4 relevancy of that other case.

5 THE COURT: Overruled. Go ahead.

6 MR. SCISCENTO: I'm cleaning it up right now.

7 THE COURT: Go ahead.

8 BY MR. SCISCENTO:

9 Q You haven't been charged with any crime in this  
10 case?

11 A No.

12 Q And you're saying you don't expect any benefits for  
13 your testimony today?

14 A No, no, no benefits.

15 Q Here. Did you receive any benefit for testifying in  
16 the other case?

17 A No.

18 Q You've now testified at two murder trials?

19 MR. GUYMON: Objection, relevancy, Judge.

20 THE COURT: Overruled.

21 BY MR. SCISCENTO:

22 Q In one year?

23 A Excuse me?

24 Q You testified at two murder trials in one year?

25 A No.

ARMSTRONG - CROSS

1 Q You testified at two murder -- in two murder trials,  
2 right?

3 A Yes, not in one year.

4 Q In this case you have not been charged with any  
5 crime?

6 A No.

7 Q When Sergeant Hefner and Detective Buczek were out  
8 in Hawaii they told you specifically we think you're lying?

9 A That's correct.

10 Q You remember that?

11 A Yes.

12 Q Did you talk to -- did you call Ace Hart at all from  
13 Hawaii after you gave a statement on the 9th -- 17th --  
14 September 17th, '98, did you speak to Ace Hart at all?

15 A Not that I know of, not that I can remember.

16 Q You haven't spoken to him since the day you left  
17 Vegas for Hawaii?

18 A Yeah, I don't believe so, yeah. Well, when I came  
19 back for a grand jury I did, in another case.

20 Q Did you ever tell Ace Hart we can't talk on the  
21 phone because I think it's tapped?

22 A I don't --

23 Q You never made that statement to him at all?

24 A No, I'm --

25 MR. SCISCENTO: Court's indulgence for one moment.

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ARMSTRONG - CROSS

1 BY MR. SCISCENTO:

2 Q Any other evidence that you stated earlier -- any  
3 other evidence comes up in this case, you still can be  
4 charged?

5 A Yes.

6 Q No promises have been made?

7 A No promises.

8 Q And you expect to fully walk out of this courtroom  
9 and get back on a plane for Hawaii?

10 A I guess so.

11 Q Sometime?

12 A Yes.

13 Q In the next couple of days. A couple of days ago  
14 where were you residing?

15 A Sorry?

16 Q Were you living in Hawaii a few days back, a few  
17 days ago?

18 A Yes.

19 Q And the State flew you out here?

20 A Yes.

21 Q -- to testify?

22 A Yes.

23 MR. SCISCENTO: No further questions, Your Honor.

24 THE COURT: Redirect.

25 //

ARMSTRONG - REDIRECT

REDIRECT EXAMINATION

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BY MR. GUYMON:

Q Are you aware of the fact that the law requires us  
to pay travel expenses of witnesses?

A Yes.

Q Have you received any other bonuses or monies,  
promises from us for being here today?

A None.

Q Did you want to come here today?

A No.

Q Why did you come here?

A It's the right thing to do. It's -- I mean four  
people died and I know about it, so I needed to let everybody  
know. Just 'cause, like, I mean, I knew about it, so I wasn't  
gonna not come.

Q You realize that if evidence comes forward that  
suggests that you participated, you, too, could be prosecuted?

A Yes.

Q Do you understand what perjury is?

A Yes.

Q Tell me this, they asked you about Deco selling  
cocaine to you?

A Yes.

Q Ace?

A Yes.

ARMSTRONG - REDIRECT

1 Q And B.J., Bryan Johnson?

2 A Yes.

3 Q When Donte Johnson would sell you rock cocaine,  
4 would he put the cocaine in anything?

5 A No, just in your hand, or -- we didn't put it in  
6 anything.

7 Q When he would sell it to Ace Hart, would he put it  
8 in anything?

9 A Not that I know of.

10 Q Did you ever see him sell it to Ace Hart?

11 A Yes, every time I saw him sell it to -- it would  
12 just be in his hand.

13 Q And how about to Bryan Johnson, you ever see him  
14 sell cocaine to Bryan Johnson?

15 A No, not to Bryan.

16 Q The day that Matt Mowen came over to the house, I  
17 believe you said it would have been between the 7th to the  
18 10th, they asked you if there was a transaction --

19 A Yes.

20 Q -- do you recall that question?

21 A Yes.

22 Q And your answer?

23 A No, not that I can remember.

24 Q Did you see Donte Johnson hand Matt Mowen a Black  
25 and Mild box on that occasion?

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1 A No.

2 Q Did Matt Mowen give anything to anybody during that  
3 transaction?

4 A No, I didn't see a transaction.

5 Q You were asked if you had a job during the month of  
6 August, 1998?

7 A That's correct.

8 Q Did Terrell Young have a job during August '98?

9 A No.

10 Q Did Donte Johnson have a job?

11 MR. SCISCENTO: Objection, Your Honor, foundation,  
12 personal knowledge.

13 THE COURT: To which part of that?

14 MR. SCISCENTO: I asked him specifically if it was  
15 him that had a job.

16 THE COURT: Assuming personal knowledge, that's  
17 assumed in all questions. What's the question again?

18 MR. GUYMON: I'll re-ask it then.

19 BY MR. GUYMON:

20 Q Do you have personal knowledge as to whether or not  
21 Terrell Young had a job in August 1998?

22 A No.

23 Q Do you have personal knowledge of that?

24 A Yeah, he didn't have.

25 Q Okay. And do you have personal knowledge as to

ARMSTRONG - REDIRECT

1 whether or not Donte Johnson had a job during August of '98?

2 MR. SCISCENTO: Your Honor, I object to this, I  
3 think this is --

4 THE COURT: Sustained.

5 BY MR. GUYMON:

6 Q You indicated that there was a time that you were  
7 using rock cocaine on nearly a daily basis?

8 A Yes.

9 Q June and July?

10 A Yes.

11 Q In August I take it you weren't using it daily?

12 A Yes, that's correct.

13 Q Why? Why, in other words, why June and July being  
14 different than August?

15 A Pretty much 'cause they were staying -- or Deco and  
16 Red were at my house, and then they didn't have any, and then  
17 just then Ace and Bryan weren't around as much, so I just  
18 didn't, 'cause I wasn't really buying it anyways, Bryan was,  
19 so.

20 Q They asked you a question regarding -- I think the  
21 question was, did you think that Donte Johnson and Terrell  
22 Young were going to kill the boys when the house is pointed  
23 out?

24 A No, I didn't -- didn't think that at all.

25 Q Well, what did you think?

II-253

ARMSTRONG - REDIRECT

1 MR. SCISCENTO: Your Honor, I object, I don't think  
2 I asked that.

3 THE COURT: Well, I don't know whether you did or  
4 not, and the jury can make their own judgment. What is the  
5 question going to be, or what was the question?

6 MR. GUYMON: Their question that they asked him  
7 was --

8 THE COURT: Well, I'm saying we're not going to go  
9 back and have Shirlee play it, what is your question to him?

10 MR. GUYMON: I'm asking him what he thought when he  
11 was in the car when the house was pointed out.

12 THE COURT: Leaving that by itself do you have an  
13 objection to that question?

14 MR. SCISCENTO: Yes.

15 THE COURT: What is it?

16 MR. SCISCENTO: I think that calls for speculation,  
17 it's not what he thought that --

18 THE COURT: Sustained.

19 MR. SCISCENTO: -- he thought was going to happen.

20 THE COURT: Sustained.

21 BY MR. GUYMON:

22 Q One last thing about promises or benefits, they  
23 asked you about that, is that correct?

24 A Yes.

25 Q Okay. Did I make you any promise in this case?

II-254

ARMSTRONG - RECROSS

1           A     Just the promise that if there is more evidence that  
2 I would be prosecuted or that I could be prosecuted.

3           Q     And was that promise clear to you?

4           A     Yes.

5           MR. GUYMON: I have no other questions.

6           THE COURT: Recross.

7           MR. SCISCENTO: Yes, thank you, Your Honor.

8                         RECROSS EXAMINATION

9 BY MR. SCISCENTO:

10          Q     You had stated earlier when you were interviewed at  
11 Hawaii that you didn't go over to the house and point it out,  
12 am I correct?

13          A     I'm sorry?

14          Q     You stated earlier that when you were being  
15 questioned in Hawaii on September 17th --

16          A     Yes.

17          Q     -- you stated that you never went over to the --  
18 went by the house and pointed it out?

19          A     Yes, I did.

20          MR. GUYMON: Objection, goes beyond the scope, Your  
21 Honor.

22          THE COURT: Sustained.

23 BY MR. SCISCENTO:

24          Q     So you're saying you had absolutely nothing to do  
25 with this murder -- these murders?

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ARMSTRONG - RECROSS

1 A I didn't.

2 Q You didn't plan it?

3 A No.

4 MR. GUYMON: Asked and answered, objection.

5 THE COURT: Sustained.

6 BY MR. SCISCENTO:

7 Q Didn't suggest it?

8 A No.

9 MR. GUYMON: Objection, asked and answered.

10 THE COURT: Sustained.

11 BY MR. SCISCENTO:

12 Q Didn't provide information to the people who you  
13 said did it?

14 A No.

15 THE COURT: All of these have been inquired into on  
16 cross already. Limit yourself please to the redirect.

17 BY MR. SCISCENTO:

18 Q You stated when Mr. Guymon asked you on redirect  
19 examination, you're testifying today because it's the right  
20 thing to do?

21 A That's correct.

22 Q 14th, 15th, the 16th and the 17th it wasn't the  
23 right thing to do?

24 A Yes, but I --

25 Q Four people were killed on those four days you

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ARMSTRONG - RECROSS

1 waited and didn't do a thing, and now it's the right thing to  
2 do?

3 MR. GUYMON: Objection, argumentative.

4 THE COURT: Overruled.

5 THE WITNESS: I also thought that I had a chance of  
6 being killed for the knowledge of those people being killed.  
7 So I was trying to figure out which -- along with my safety,  
8 and then the people that did that, that shouldn't have.

9 BY MR. SCISCENTO:

10 Q So as you're driving to Stallion Mountain with Bryan  
11 and Ace, you're afraid for your life at that point still?  
12 You're going to interview a job with this knowledge that four  
13 people are dead, and you're afraid for your life still?

14 A Yes.

15 Q And it wasn't right at that time, those four days,  
16 until the police came over on a domestic violence with Bryan  
17 Johnson there getting ready to be put into handcuffs, that you  
18 guys decide that's it we're going to make -- we're going to  
19 determine that Donte did it --

20 A Okay --

21 Q -- isn't that correct?

22 A -- I didn't determine anything, he told me that he  
23 did it.

24 Q Four days you guys talked about this, four days the  
25 three of you talked about this?

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ARMSTRONG - RECROSS

1 MR. GUYMON: Objection, asked and answered.  
2 THE COURT: Sustained.  
3 MR. SCISCENTO: No further questions, Your Honor.  
4 THE COURT: Anything further?  
5 Thank you, sir, you're excused.  
6 Call your next witness please.  
7 MR. GUYMON: LaShawnya Wright.  
8 MR. SCISCENTO: Could we approach on this one, Your  
9 Honor?  
10 THE COURT: Sure.  
11 (Off-record bench conference)  
12 THE COURT: This is your witness, Mr. Guymon?  
13 MR. GUYMON: Yes, Your Honor.  
14 THE COURT: I gather there's more than one person  
15 out there, why don't you go and bring in Ms. Wright. Ah,  
16 okay.  
17 LaSHAWNIA WRIGHT, PLAINTIFF'S WITNESS, IS SWORN  
18 THE CLERK: Please state and spell your full name  
19 for the record.  
20 THE WITNESS: LaShawnya Wright.  
21 COURT RECORDER: How do you spell your first name,  
22 please?  
23 THE WITNESS: L-A-S-H-A-W-N-Y-A.  
24 THE COURT: Go ahead, Mr. Guymon.  
25 //

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WRIGHT - DIRECT

DIRECT EXAMINATION

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BY MR. GUYMON:

Q LaShawnya, do you know Sikia Smith?

A Yes.

Q And how do you know Sikia Smith?

A That's my ex-boyfriend.

Q How long did you date Sikia Smith?

A Three months.

Q Can you tell me what months those were?

A May, June, July and August.

Q Of 1998?

A Yeah.

Q Did you know some of Sikia Smith's friends?

A Yeah.

MR. SCISCENTO: Your Honor, I'm sorry, perhaps we  
can ask her to move forward, I can't hear her. If she'd speak  
into the microphone.

(Off-record colloquy)

BY MR. GUYMON:

Q You indicated that you knew some of Sikia Smith's  
friends?

A Yes.

Q Let me talk a little bit about your relationship  
with Sikia Smith. Did the two of you live together for the  
three months in the summer of '98?

II-259

WRIGHT - DIRECT

1 A Two of the months.  
2 Q Excuse me?  
3 A Two of 'em.  
4 Q And what months did you live together?  
5 A June, July and August.  
6 Q Okay. And where was it that you lived together at?  
7 A Fremont Plaza Apartments.  
8 Q That's here in Clark County, Nevada?  
9 A Yeah.  
10 Q Okay. You indicated you knew some of Sikia's  
11 friends. Can -- was Donte Johnson someone you knew?  
12 A Yeah.  
13 Q Is he a friend of Sikia Smith?  
14 A Yes.  
15 Q Can you describe your relationship with Donte  
16 Johnson?  
17 A No, no.  
18 Q Well, is -- do you simply know him or do you have  
19 some relationship with him?  
20 A I know him.  
21 Q Okay. How long have you known Donte Johnson?  
22 A Since late '96.  
23 Q And how would you describe your relationship with  
24 Donte Johnson since '96?  
25 A He was a friend of my -- my kids' daddy.

II-260

WRIGHT - DIRECT

1 Q Do you want to have to be here today?

2 A No.

3 Q Did you meet any -- well, do you know Sikia Smith by  
4 any other names other than Sikia Smith?

5 A Bug.

6 Q And how 'bout Donte Johnson, did you know him by any  
7 other names?

8 A Yeah.

9 Q What names do you know Donte Johnson by?

10 A Deco.

11 Q Anything else?

12 A No.

13 Q Now do you know a boy by the name Terrell Young or a  
14 man named by Terrell Young?

15 A Yeah.

16 Q And how do you know Terrell Young?

17 A That was Deco friend.

18 Q Does Terrell Young go by any other names?

19 A Red.

20 Q Now is your friend Donte Johnson in court today?

21 A Yes.

22 Q Can you point to him and describe an article of  
23 clothing that he's wearing in court today. What color shirt  
24 does he have on?

25 A I don't know. White.

II-261

WRIGHT - DIRECT

1 MR. GUYMON: Record reflect the identification of  
2 the defendant.

3 THE COURT: It will.

4 BY MR. GUYMON:

5 Q Did you know Tod Armstrong?

6 A Yeah.

7 Q And how did you know Tod Armstrong?

8 A I knew him through Ace.

9 Q Were you better friends with Tod or with Deco?

10 A With Deco.

11 Q I'm asking were you better friends with Terrell or  
12 with Deco?

13 A Deco.

14 Q Did you know Ace Hart?

15 A Yeah.

16 Q How -- were you better friends with Deco or with  
17 Ace?

18 A Ace.

19 Q Okay. And how about Bryan Johnson, did you know  
20 Bryan Johnson?

21 A No.

22 Q You say you don't know Bryan Johnson?

23 A No.

24 Q Okay. Now, then --

25 A B.J.?

II-262

WRIGHT - DIRECT

1 Q Excuse me? B.J.  
2 A Yeah.  
3 Q Did you know B.J.? Were you friends with B.J.?  
4 A Not really.  
5 Q Now, then, in August of 1998 did you go to jail for  
6 something?  
7 A Yeah.  
8 Q Do you recall what day you got out of jail?  
9 A August 12th.  
10 Q When you got out of jail on August 12th, where did  
11 you go?  
12 A Home.  
13 Q And who was there?  
14 A Bug.  
15 Q And Bug's your boyfriend, Sikia?  
16 A Yeah.  
17 Q Did you spend the day and the night of August 12th  
18 and into the 13th there at the Fremont Plaza?  
19 A Yeah.  
20 Q On August 13th of 1998, did you see Deco and Terrell  
21 Young?  
22 A Yes.  
23 Q And where did you see 'em at?  
24 A In my apartment.  
25 Q Okay. And do you recall about what time of day it

II-263

WRIGHT - DIRECT

1 was?  
2 A It was in the afternoon. It was --  
3 Q And how long were they there at your apartment  
4 before they left the first time?  
5 A Like two or three hours.  
6 Q Did they leave?  
7 A Yeah.  
8 Q And who did Deco leave with?  
9 A Red.  
10 Q When Deco left did he have anything in his hands?  
11 A Yeah.  
12 Q What did he have in his hands?  
13 A A bag.  
14 Q Can you describe the bag for me?  
15 A It was a little duffel bag, a little black -- a dark  
16 colored duffel bag.  
17 Q And about how little was it, Ms. Wright?  
18 A Kinda like that.  
19 Q All right, can you give me about how many inches  
20 that is that you've just shown with your hand apart?  
21 A It's like 24 inches.  
22 Q 24 inches. Okay. And how tall was the bag? Can  
23 you show me with your hands?  
24 A Like 12 inches.  
25 Q Do you know what was in the bag?

II-264



WRIGHT - DIRECT

1 A Yeah.

2 Q Excuse me?

3 A Yes.

4 Q What was in the bag?

5 MR. FIGLER: Foundation, Your Honor.

6 THE COURT: Overruled.

7 (Pause in the proceedings)

8 THE WITNESS: A rifle, some duct tape, some brownny  
9 gloves.

10 BY MR. GUYMON:

11 Q Anything else?

12 A Another little gun.

13 Q Another little -- you say another little gun?

14 A Yeah.

15 Q Okay. A rifle, duct tape, brownny gloves.

16 MR. FIGLER: Your Honor, I'm going to object to him  
17 restating this testimony like this.

18 THE COURT: Sustained.

19 BY MR. GUYMON:

20 Q Can you describe the rifle?

21 A It was like a sawed off.

22 Q Did it have a handle on it?

23 A No.

24 Q What would you hold on to on the sawed off, to use  
25 your expression?

II-265

WRIGHT - DIRECT

1           A     I don't know, the back of it, I guess. I don't  
2 know.

3           Q     And what color was the back of it that you hold on  
4 to?

5           A     I don't know.

6           Q     About how long was the sawed-off rifle? Can you  
7 show me with your hands?

8           A     Like this.

9           Q     How many inches is that?

10          A     22 or 23.

11          Q     Describe the duct tape, if you will? What color was  
12 it?

13          A     Gray.

14          Q     The brownny gloves, what are brownny gloves, can you  
15 describe them?

16          A     They cloth gloves, brown.

17          Q     Did you know how many pair of gloves were in that  
18 bag?

19          A     I don't know.

20          Q     How about the little gun, I think is what you called  
21 it, what color was that gun?

22          A     Brown or black.

23          Q     What type of gun?

24          A     I don't know, it was little. I don't know, .380.

25          Q     Say a --

II-266

WRIGHT - DIRECT

1 A .25, I don't know.

2 Q Okay. You'd say a .380 or a .25. Can you show me  
3 how little that gun was with your hands?

4 A Like this.

5 Q How many inches is that?

6 A Six.

7 MR. FIGLER: Your Honor, I'd move to strike this  
8 witness's testimony with regard to what the possible caliber  
9 is. Clearly speculation and guessing and there's no  
10 foundation that she would know. She described a size, that's  
11 fine, but any other thing needs to be stricken from this  
12 record.

13 THE COURT: Sustained.

14 BY MR. GUYMON:

15 Q Had you seen that gun before?

16 A Not before that day, no.

17 Q Okay. That day, how was it that you saw that gun?

18 A I walked over past the closet.

19 Q Excuse me?

20 A I walked over past the closet and I seen it in the  
21 bag.

22 Q Okay. And how 'bout the rifle, did you see the  
23 rifle clearly in the bag?

24 A Yeah.

25 Q Did you see both the tape and the gloves clearly in

II-267

WRIGHT - DIRECT

1 the bag? Is that a yes?

2 A Yes.

3 Q Did you see anything else in the bag? You're  
4 shaking your head back and forth, is that a no, ma'am?

5 A No.

6 Q Now then are you familiar with guns?

7 A Somewhat.

8 Q Are you familiar with types of guns, say a  
9 semiautomatic versus a revolver?

10 A Yeah.

11 Q Could you tell me if the little gun was a  
12 semiautomatic or was it a revolver?

13 A It was a automatic.

14 Q And are you familiar with sizes of guns?

15 A Yes.

16 Q The different calibers? When you looked at that  
17 gun, if you could, could you tell me what size that gun was by  
18 looking at it in the bag?

19 MR. FIGLER: Object, Your Honor, asked and answered.

20 THE COURT: Overruled.

21 THE WITNESS: Five, six inches. Six inches. Five,  
22 six inches.

23 BY MR. GUYMON:

24 Q By looking at it could you tell me the caliber of  
25 the gun?

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WRIGHT - DIRECT

1 MR. FIGLER: Asked and answered.

2 THE COURT: Overruled. It was stricken before. I  
3 found sufficient -- I find sufficient foundation. Overruled  
4 now.

5 THE WITNESS: Hm-mmm. No.

6 BY MR. GUYMON:

7 Q No?

8 A I don't know if I -- I don't rememory [sic]. It  
9 could have been a .38, .380 --

10 MR. FIGLER: Objection, Your Honor, speculation.

11 THE COURT: Sustained. Move on to another area.

12 MR. GUYMON: Okay.

13 BY MR. GUYMON:

14 Q When Donte and Terrell left together can you tell me  
15 how long they were gone?

16 A Two hours.

17 Q Did Sikia Smith stay with you for that two hours or  
18 what did Sikia Smith do?

19 A He stayed there.

20 Q Do you know if Donte and Terrell left in a car or  
21 did they walk from the Fremont Plaza?

22 A Car.

23 Q Can you describe the car they left in?

24 A It was a white Tempo.

25 Q And do you know who was driving the white Tempo that

II-269

WRIGHT - DIRECT

1 day?

2 A No.

3 Q Okay. Now, when they -- when Deco and Red came  
4 back, did they come back to the Fremont Plaza?

5 A Yeah.

6 Q Were you still in your apartment?

7 A Yeah.

8 Q Was Sikia still with you?

9 A Yes.

10 Q Did they come -- did Deco and Red come back  
11 together?

12 A Yeah.

13 Q And how long did they stay at the Fremont Plaza this  
14 second time?

15 A 'Til 11:00.

16 Q 'Til 11:00 in the nighttime?

17 A Yeah.

18 Q So about how many hours do you think they were there  
19 until 11:00?

20 A Four.

21 Q How many?

22 A Four.

23 THE COURT: Ma'am, I know it's hard, but would you  
24 keep your voice up a little, please. Thank you.

25 //

II-270

WRIGHT - DIRECT

1 BY MR. GUYMON:

2 Q Can you tell me what Deco and Red were talking about  
3 when they were there at your house at the Fremont Plaza?

4 MR. SCISCENTO: Your Honor, I'm gonna object. If  
5 she's gonna testify as to what Red says --

6 THE COURT: I think she can say about the general  
7 nature of the conversation and then pursue it as to specific  
8 statements.

9 BY MR. GUYMON:

10 Q Can you tell me what, if anything, they were talking  
11 about with one another?

12 A They was talking about getting a lick.

13 Q You say they were talking about doing a lick? And  
14 what is a lick?

15 A It's a way to get money.

16 Q And what do you do during this lick to get money?

17 MR. SCISCENTO: Objection.

18 MR. SCISCENTO: Objection, Your Honor, foundation.

19 THE COURT: Overruled.

20 THE WITNESS: It depends on what kind of lick you're  
21 trying to hit.

22 BY MR. GUYMON:

23 Q Okay, and can you tell me what type of lick they  
24 were talking about doing?

25 A A robbery.

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WRIGHT - DIRECT

1 Q Did you know who they were gonna rob based upon the  
2 conversation?

3 A No.

4 Q You -- can you tell me what Donte was wearing that  
5 night when he left at 11:00?

6 A Can't say.

7 Q Excuse me?

8 A I don't know.

9 Q Okay. How 'bout Terrell Young, can you tell me what  
10 he was wearing when he left?

11 A No.

12 Q And how 'bout Sikia Smith, did he leave at 11:00  
13 with the other two?

14 A Yes.

15 Q Do you remember what Bug was wearing?

16 A Yeah.

17 Q Now when Bug left, do you remember what you told  
18 him?

19 A I just asked him where he was going.

20 MR. SCISCENTO: Objection, Your Honor, relevance of  
21 what she's telling to someone who's not this defendant.

22 THE COURT: Is there going to be some relevance to  
23 this?

24 MR. GUYMON: I'll -- let me move on. Yes, there is,  
25 Judge.

II-272



WRIGHT - DIRECT

1 THE COURT: Move on to some other area and if you  
2 want to come back to it you can approach the bench.

3 BY MR. GUYMON:

4 Q How -- well, let me see. Did the three of them  
5 leave together then?

6 A Yes.

7 Q Before they left, but when Donte and Red came back  
8 after being gone for two hours, did they bring the -- the bag  
9 back into the house?

10 A No.

11 Q Did you see the bag again that night before 11  
12 o'clock?

13 A No.

14 Q Okay. Now, when Sikia leaves, do they all three  
15 leave together at the same time?

16 A Yes.

17 Q And how long is Sikia gone for?

18 A 'Til 1:00 in the afternoon.

19 Q One -- excuse me?

20 A 'Til 1:00 in the afternoon.

21 Q Okay. 1:00 in the afternoon, so 14 hours later, is  
22 that right?

23 A Yeah.

24 Q And did you try to contact Bug during those 14  
25 hours?

II-273

WRIGHT - DIRECT

1 A Yeah.  
2 Q Did you hear from him?  
3 A No.  
4 Q How did you try to contact him?  
5 A I paged him.  
6 Q Now, how is that you made contact with Bug 14 hours  
7 later?  
8 A That's when he came home.  
9 Q That's when he came home?  
10 A Mm-hmm.  
11 Q To the Fremont Plaza?  
12 A Yeah.  
13 Q And when he comes home, does he go up the stairs?  
14 A Yeah.  
15 Q Do you see Deco and Red?  
16 A No.  
17 Q Did you see Deco and Red on the 14th, shortly after  
18 seeing Sikia?  
19 A Later.  
20 Q Excuse me?  
21 A Later.  
22 Q How many minutes later?  
23 A Five minutes.  
24 Q Okay. And how is it that you see Deco and Red five  
25 minutes after seeing Bug?

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WRIGHT - DIRECT

1 A They came upstairs. They came upstairs.

2 Q Now 14 hours later when you see Bug, how did he  
3 appear to you?

4 MR. FIGLER: Objection, Your Honor. Hearsay. It  
5 applies to both verbal and nonverbal, Your Honor, and its  
6 relevance. Objection to its relevance.

7 THE COURT: Overruled. If she understands the  
8 question she can answer it.

9 BY MR. GUYMON:

10 Q How did he appear? Was he still dressed the same?

11 A Yeah.

12 Q How did he appear?

13 A Scared.

14 Q When you see Donte, is he still dressed the same,  
15 five minutes after seeing Bug?

16 A I don't even remember what he had on. It's been two  
17 years ago.

18 Q And how about Terrell? Did he appear the same or  
19 different to you?

20 A The same, how? Dressed the same? I don't remember  
21 what they had on.

22 Q Okay.

23 A Mentally, yeah.

24 Q Okay. Now when Bug walks into the house five  
25 minutes before Donte and Red, is Bug carrying anything?

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WRIGHT - DIRECT

1 A Yeah.

2 Q What is Bug carrying?

3 A A Nintendo and a VCR.

4 Q Did you ask your boyfriend Sikia where he got the  
5 VCR and the Nintendo, I think you said?

6 A No.

7 Q When you see Donte and Terrell, do they have  
8 anything in their hands?

9 A [No audible response].

10 COURT RECORDER: What was that?

11 THE WITNESS: No.

12 BY MR. GUYMON:

13 Q Did you see the duffel bag again on the 14th?

14 A No.

15 Q Okay. Now, did -- what did you hear Deco say to  
16 Sikia in your apartment after all three of them come into the  
17 apartment?

18 A He wants the -- he wanted the VCR.

19 Q Who wanted the VCR?

20 A He wanted the VCR.

21 MR. SCISCENTO: Your Honor, can we get a -- who --  
22 who wanted the VCR?

23 THE COURT: I think in the context of the question  
24 that it's clear. If you don't think so, pursue it on cross.  
25 Go ahead.

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WRIGHT - DIRECT

1 BY MR. GUYMON:

2 Q Okay. Tell us who it was that wanted the VCR.

3 A De --

4 Q Excuse me?

5 A Deco.

6 Q Did Deco get the VCR from Bug?

7 A Yeah.

8 Q And how did he get it from Bug?

9 A Bought.

10 Q When you say he, Deco bought it?

11 A Yeah.

12 Q And what did Deco give to Sikia Smith?

13 A Twenty dollars (\$20).

14 Q Did you see that happening?

15 A Yeah.

16 Q Is that a yes?

17 A Yeah.

18 Q Okay, now, then, did Deco give the -- I think you  
19 called it a Nintendo to anyone?

20 MR. FIGLER: Objection, Your Honor, assumes facts  
21 not established by this witness.

22 MR. GUYMON: I'm sorry, my mistake.

23 BY MR. GUYMON:

24 Q Did Bug, your boyfriend, give the Nintendo to  
25 anyone?

II-277

WRIGHT - DIRECT

1 A No.

2 Q Was there any conversation that you heard about the  
3 Nintendo between these three?

4 A Red wanted it.

5 MR. FIGLER: Objection, Your Honor, hearsay.

6 THE COURT: Overruled.

7 BY MR. GUYMON:

8 Q Did Tiny Bug give it to Red?

9 A No.

10 Q Now, then, how -- was there any other conversation  
11 up in the apartment between these three that you overheard?

12 A No.

13 Q At that point in time did you want to know where Bug  
14 had been?

15 MR. FIGLER: Objection, Your Honor, irrelevant.

16 MR. GUYMON: I'm going to ask her a second --

17 THE COURT: Overruled.

18 BY MR. GUYMON:

19 Q Did you want to know where Bug had been?

20 A No.

21 Q Now, how long, in total, did these three stay there  
22 in your apartment before these transactions between the VCR  
23 and the Nintendo is done?

24 A Five minutes.

25 Q Okay. Did you see any guns during this period of

II-278

WRIGHT - DIRECT

1 time?

2 A No.

3 Q After this transaction, but on the same day, did you  
4 see a gun in your apartment?

5 A Yeah.

6 Q Had you ever seen that gun in your apartment before  
7 August 14th of 1998?

8 A No.

9 Q Can you describe that gun?

10 A It was a .380.

11 Q Are you sure of that?

12 A Yeah.

13 Q You say a .380, was it an automatic?

14 A Yeah.

15 Q And where in your apartment was that gun when you  
16 saw it?

17 A In Bug's hand.

18 Q Okay. And how close were you to Bug when you saw  
19 the gun?

20 A Across from him.

21 Q Did you talk with him about that gun?

22 MR. FIGLER: Objection, Your Honor, asked and  
23 answered. She was asked if there was any further conversation  
24 in there and she answered no.

25 THE COURT: Overruled on that basis.

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WRIGHT - DIRECT

1 MR. FIGLER: And it's also hearsay.

2 THE COURT: Is this still, I assume, supposedly  
3 during a conversation with all of them standing around?

4 THE WITNESS: No, this is not while all of 'em were  
5 there.

6 THE COURT: Who was there?

7 THE WITNESS: Just me and Bug.

8 THE COURT: Sustained.

9 MR. GUYMON: Thank you, Judge.

10 BY MR. GUYMON:

11 Q Do you know what happened to that gun?

12 A He sold it.

13 MR. FIGLER: Objection, Your Honor, foundation.

14 THE COURT: Overruled.

15 BY MR. GUYMON:

16 Q And how do you know -- I guess when you say "he"  
17 you're talking about Bug sold it?

18 A Yeah.

19 Q How soon after the 14th did Bug sell that gun?

20 A Might be the Saturday or Sunday.

21 Q Okay, so the 14th is Friday, so either Saturday the  
22 15th or Sunday the 16th, Bug sold it?

23 A Yeah.

24 Q Did you see Bug sell that gun?

25 A Yep.

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WRIGHT - DIRECT

1 Q Is that a yes?

2 A Yep.

3 Q Now, then, you say that Deco, Terrell and Bug were  
4 up in the apartment on the 14th for about five minutes. Did  
5 you see Deco again after the 14th?

6 A Saw him Saturday.

7 Q You saw him on Saturday? And where was he at on  
8 Saturday when you saw him?

9 A We was all outside on the street.

10 Q And tell me who -- when you say "we," who all was  
11 there?

12 A Me, him, Bug, some more people I don't know.

13 Q And who is him?

14 A Deco.

15 Q And tell me what happened while you, Bug, Deco and  
16 others were on the street? What did Deco do, if anything?

17 A Stopped at the newsstand.

18 Q What did Deco do at the newsstand?

19 A Bought a paper.

20 Q Do you remember what kind of paper it was?

21 A Newspaper.

22 Q Okay. And when Deco bought -- was it Saturday's  
23 newspaper?

24 A Yeah.

25 Q The RJ?

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WRIGHT - DIRECT

1 A Yeah.

2 Q When Deco bought the RJ, what, if anything, did Deco  
3 say about the RJ?

4 A He said "we made front page".

5 Q And who did he say "we made front page" to?

6 A Bug.

7 Q Now, did you see the front page of that newspaper?

8 A Yeah.

9 Q Would you recognize that newspaper if you saw it  
10 again?

11 A Yeah.

12 (Off-record bench conference)

13 THE COURT: Ma'am, if you'd just move a little  
14 closer to the microphone, it's very hard for the folks at that  
15 table to hear you. Thanks.

16 BY MR. GUYMON:

17 Q I'd like to show you a copy of the front page of the  
18 paper. Let me ask you, do you recognize this particular  
19 paper?

20 A Yeah.

21 Q And what does it say at the top of that paper?

22 A Saturday.

23 Q Okay. It's the Saturday RJ?

24 A Yes.

25 Q What's the date right here in the left corner?

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WRIGHT - DIRECT

1 A August 15th, '98.

2 Q Is this a copy of the newspaper that Donte Johnson  
3 purchased while you and Bug were near him?

4 A Yeah.

5 Q And does it have a particular picture on it, on the  
6 front page, that Donte Johnson spoke about?

7 A Yeah.

8 Q And can you point to the picture that he spoke  
9 about? Okay, the one on the bottom? And that is, in fact, a  
10 story captioned "Four Young Men Slain in Southeast," is that  
11 correct?

12 A Yes.

13 Q And I'm showing you what has been marked as State's  
14 Proposed Exhibit 184. Is this a reduced copy, the very same  
15 thing as this?

16 A Yeah.

17 Q The words, however, on the story, have been taken  
18 out, is that right?

19 A Yeah.

20 Q Is the picture still the same, though, ma'am?

21 A Yeah.

22 MR. GUYMON: I'd move to admit State's Proposed  
23 Exhibit 184.

24 MR. SCISCENTO: No objection.

25 THE COURT: It will be received.

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WRIGHT - DIRECT

(Plaintiff's Exhibit No. 184 admitted)

BY MR. GUYMON:

Q Is this a copy, with the exception of the words being taken out, of the very paper that Donte was talking about when he said that?

A Yes.

MR. GUYMON: May I publish it?

THE COURT: Sure.

BY MR. GUYMON:

Q Can you tell me how Donte was acting, what he did when he looked at that paper and said that?

(Pause in the proceedings)

How did he act about that newspaper?

A He was excited.

Q Was Bug excited?

MR. SCISCENTO: I'm going to object, Your Honor, I think that calls for some kind of speculation. Unless she can say specifically what she observed, what she saw, what she heard.

THE COURT: Overruled.

BY MR. GUYMON:

Q Did you see how Bug acted about the paper?

A Yes.

Q How did Bug act about the paper?

MR. FIGLER: Object, Your Honor, as to anyone else

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WRIGHT - DIRECT

1 other than the person who's standing trial --

2 THE COURT: Sustained.

3 BY MR. GUYMON:

4 Q What do you mean by excited, you use the word  
5 excited?

6 A Excited.

7 Q Do you mean upset when you say --

8 MR. FIGLER: Objection, Your Honor, leading.

9 THE COURT: Overruled.

10 BY MR. GUYMON:

11 Q Can you use another word, other than excited, to  
12 describe Donte Johnson's reaction when he made the statement  
13 about the paper?

14 MR. GUYMON: It's a yes or no.

15 THE WITNESS: Thrilled. Yes.

16 BY MR. GUYMON:

17 Q The word was thrilled?

18 A Yes.

19 Q Now then --

20 MR. GUYMON: Court's indulgence.

21 (Pause in the proceedings)

22 MR. GUYMON: I have no other questions, Your Honor.

23 THE COURT: Cross?

24 //

25 CROSS-EXAMINATION

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WRIGHT - CROSS

1 BY MR. SCISCENTO:

2 Q Ms. Wright, can you do me a favor, can you move up a  
3 little closer to the microphone? Okay. That way we probably  
4 understand you a little better.

5 You don't want to be here today testifying, right?

6 A No.

7 Q All right. Can you try to do me one big favor? Can  
8 you move the chair up just a little closer? I just want you  
9 closer to the microphone. There we go. All right. Let's  
10 start again.

11 You don't want to be here today, correct?

12 A No.

13 Q And you're here because the State has brought you  
14 here?

15 A Yes.

16 Q All right. You made -- like Faust you made a deal,  
17 am I right?

18 A No.

19 MR. SCISCENTO: Court's indulgence for one moment.

20 (Off-record colloquy)

21 BY MR. SCISCENTO:

22 Q Okay, Ms. Wright, let me bring you back on this.  
23 You have an agreement with the district attorneys, is that  
24 correct?

25 A Yeah.

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WRIGHT - CROSS

1 Q Yes. So can you say it, you have a deal with the  
2 district attorneys, am I right?

3 THE COURT: You've got to answer loud, ma'am.

4 THE WITNESS: A deal and agreement is no --

5 THE COURT: I can't hear you, ma'am.

6 (Court recorder colloquy)

7 THE WITNESS: Yeah.

8 BY MR. SCISCENTO:

9 Q Yes?

10 A Yeah.

11 Q All right. You were in custody when you first spoke  
12 to the district attorneys about this case, am I right?

13 A Yeah.

14 Q Yes. You have a felony that you're on probation for  
15 right now, correct?

16 A Yeah.

17 Q Yes?

18 A Mm-hmm.

19 Q The jury wants to hear this. You're on what they  
20 call a revocation, meaning they can revoke you from probation,  
21 am I correct?

22 A Yes.

23 Q If they revoke you from probation do you know what  
24 happens?

25 A Yeah.

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WRIGHT - CROSS

1 Q You go where?  
2 A To jail.  
3 Q You go to jail. You go to prison.  
4 A Mm-hmm.  
5 Q Where do you go to prison, do you know?  
6 A Nope.  
7 Q Okay. You have two kids?  
8 A Got three.  
9 Q Three kids. What ages are they?  
10 A Six, four and fourteen months.  
11 Q Okay. Who cares for those kids every day?  
12 A They daddy.  
13 Q Do you care for those kids?  
14 A They daddy.  
15 Q You don't care for those kids at all?  
16 A Yes, I do, but he has custody of his kids.  
17 Q All three of 'em?  
18 A Yep.  
19 Q What's -- is Sikia a father of one of your childs?  
20 A Could be.  
21 Q He could be the father of one of your childs?  
22 A Yeah.  
23 Q Is he the one who's taking care of the kids?  
24 A No.  
25 Q So their daddy's not taking care of the kids?

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WRIGHT - CROSS

1 A My kids' father has them.  
2 Q All three of 'em?  
3 A All three of 'em.  
4 Q Do you care about those kids?  
5 A Of course.  
6 Q Do you love them?  
7 A Yep.  
8 Q You'd do anything for them?  
9 A Yep.  
10 Q Let me ask you this, can you take care of them from  
11 prison?  
12 A No.  
13 Q You don't want to go to prison, do you?  
14 A No.  
15 Q You want to watch those kids grow up, am I right?  
16 A Yeah.  
17 Q 'Cause you love those kids, am I right?  
18 A Yes.  
19 Q And you can't do that from prison, am I right?  
20 A Mm-hmm.  
21 Q Okay. Did you give a statement -- have you ever  
22 given a written statement to the district attorneys in this  
23 case?  
24 A No.  
25 Q Have you ever sat down with a Detective Buczek,

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WRIGHT - CROSS

1 Sergeant Hefner, Detective Thowsen or any police officer and  
2 given them a statement in this case?

3 A Yep.

4 Q And when did you do that?

5 A It was when they came to the Budget Suites. I  
6 talked to one of the sergeants, I think it was Hefner.

7 Q Did he write down any notes?

8 A I don't know if he did -- yeah, he was writing.

9 Q Was there a tape recorder there?

10 A I don't know. I don't remember.

11 Q Did you -- did you write out any statements?

12 A No. I don't -- no.

13 Q When is the first time that you told police and the  
14 district attorneys about this case?

15 A When they came to the Budget Suites.

16 Q And it wasn't when you were in custody?

17 A Nope.

18 Q When is it that you decided to make a deal with them  
19 to testify so that you would not be placed back in prison?

20 A I wasn't going to prison.

21 Q You have a probation hold with your probation  
22 officer you know wants you to go back to prison -- wants you  
23 to go to prison, is that right?

24 A No.

25 Q Nope. Did Mr. Guymon make any phone calls for you

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WRIGHT - CROSS

1 on your behalf to your probation officer?

2 A Yes.

3 Q They continued your hearing until after this case?

4 A My hearing is in two weeks. I went yesterday.

5 Q They continued it after this case -- they continued  
6 the hearing for the revocation after this case, am I right?

7 A My revocation, which don't have nothing to do with  
8 this, my revocation got continued way back in November. They  
9 wanted to see what they was gonna do with my other case.  
10 That's why I have a revocation hearing. It don't got nothing  
11 to do with the DA.

12 Q Mr. Guymon make a phone call to the probation  
13 officer?

14 A I asked him to because I hadn't went to my -- my  
15 probation officer. I asked him to.

16 Q You expect any special treatment for your testimony  
17 today?

18 A No, 'cause I'm not getting none.

19 Q Do you think they're going to revoke you and put you  
20 back to prison?

21 A I had nothing to be revoked for.

22 Q All right. Now, you told us -- you told jury you  
23 lived at the Fremont Suites?

24 A Fremont Plaza.

25 Q Fremont Plaza. It's an apartment?

WRIGHT - CROSS

1 A Yeah.

2 Q It's a weekly the call it, right?

3 A Mm-hmm.

4 Q You lived there with Sikia Smith?

5 A Yes.

6 Q Yes. Sikia Smith is a friend of Terrell Young's?

7 A Yeah.

8 Q You're a friend of Ace Hart's?

9 A Yes.

10 Q How long have you known Ace Hart?

11 A Since '97.

12 Q Matter of fact you're closer friends with Ace Hart

13 than you are with the person you call Deco, right?

14 A Yeah.

15 Q You're very close with Ace?

16 A Yeah.

17 Q You guys ever do any drugs together?

18 A I don't do drugs.

19 Q Okay. Did you ever see Ace doing drugs?

20 A Yeah.

21 Q Did you see him smoke crack?

22 A Yeah.

23 Q Did he smoke it in your presence? In front of you

24 was he high, did you see him smoke it?

25 A I never seen him do it.

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WRIGHT - CROSS

1 Q Okay, but you know he does it?  
2 A Yeah.  
3 Q Do you know a person named Tod Armstrong?  
4 A Yeah.  
5 Q How do you know him?  
6 A I know him through Ace.  
7 Q How long have you known him?  
8 A I've known him since March of '98.  
9 Q You've known him longer than you've known the person  
10 you call Deco?  
11 A No.  
12 Q Are you closer with Tod than you are with Deco?  
13 A No.  
14 Q Have you ever smoked -- or did you ever see Tod  
15 Armstrong smoke any crack cocaine?  
16 A I never seen him, no.  
17 Q And Bryan, B.J., the person you called, Bryan  
18 Johnson, do you know Bryan Johnson?  
19 A Yes.  
20 Q How long have you known him?  
21 A I met him when I met Tod.  
22 Q So that was in April of '98?  
23 A March.  
24 Q March of '98.  
25 You talked about this newsstand. Where's this

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WRIGHT - CROSS

1 newsstand located that you went and got this newspaper at?

2 A Right down at the bottom of the stairs of Fremont  
3 Plaza.

4 Q Is it a newsstand, or is it just a --

5 A It's a newspaper stand, yes.

6 Q Is it a big newspaper stand, more than one or just a  
7 newspaper vending machine?

8 A Yeah, a vending machine.

9 Q A vending machine. You're not under the influence  
10 of any kind of alcohol or drugs at this moment, are you?

11 A You want to test me? I don't do drugs. I'm sorry.

12 Q So, your reluctance is just an internal reluctance?

13 A Yep.

14 Q It's nothing to do with any kind of drugs or  
15 anything like that?

16 A No.

17 Q You mentioned you saw a gun, a .38, I think you said  
18 it was?

19 A .380.

20 Q Yes. .380? That was in the apartment with Sikia?

21 A Yeah.

22 Q It was in Sikia's possession?

23 A Yeah.

24 Q This VCR you talked about, you said Deco bought the  
25 VCR for twenty dollars (\$20)?

WRIGHT - REDIRECT

1 A Yes.

2 Q If you have any place else to be you'd rather be  
3 there than here, right?

4 A Yep.

5 Q And it pains you to get up here and testify this  
6 day, right? Is that a yes?

7 A Yeah.

8 Q Are you telling this jury the truth today?

9 A I always do.

10 Q Always do. And it's not because of motivation not  
11 to go to prison?

12 A No.

13 Q And you want to make sure you see those three kids  
14 grow up, am I right?

15 A Yep.

16 MR. SCISCENTO: No further questions.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION

19 BY MR. GUYMON:

20 Q LaShawnya, defense counsel just asked you if it  
21 pains you to be here today, do you recall the question?

22 A Yes.

23 Q Why does it pain you so?

24 MR. FIGLER: Can we approach, Your Honor?

25 THE COURT: Okay.

II-295

WRIGHT - REDIRECT

1 MR. FIGLER: Thanks, Judge.

2 (Off-record bench conference)

3 THE COURT: Overruled.

4 BY MR. GUYMON:

5 Q Why is it that it's so painful to testify today?

6 A There's two reasons. 'Cause I sat out there and I  
7 watched that lady cry and I don't got nothing to do with this  
8 and I don't want to be in it and because I feel like I'm  
9 killing him.

10 Q Do you have feelings for Donte?

11 A It ain't no feelings like that, but I was supposed  
12 to be his friend.

13 Q Do you feel as though you've betrayed his friendship  
14 by telling the truth?

15 A Yes.

16 Q Now, then, and does that hurt your feelings?

17 A Yes.

18 Q Tell me this, I met you many months ago in a jail.  
19 You were there on a misdemeanor, is that right? Did you want  
20 to talk to me then?

21 A No.

22 Q Did you want to tell on your friend then?

23 A No.

24 Q Did I help you then?

25 THE COURT: The question is did he help you then,

II-296



WRIGHT - REDIRECT

1 ma'am?

2 MR. GUYMON: May I --

3 THE COURT: Phrase?

4 MR. GUYMON: -- lead a little bit, Judge?

5 THE COURT: Sure.

6 BY MR. GUYMON:

7 Q It's true that after I met you that very day you got  
8 released on that misdemeanor, didn't you?

9 A Yes.

10 Q Did that help convince you, give you reason to  
11 telling -- tell a lie?

12 A No.

13 Q Is that help that I gave you why you're here today?

14 A No.

15 Q Did that help outweigh the feeling of having to be  
16 here today?

17 A I told you I didn't wanna come.

18 Q Have you told -- how many times have you told me  
19 that?

20 A Every time you came.

21 Q Have I -- other than telling you that you have to  
22 honor a subpoena, have I forced you in any way to say  
23 anything?

24 A No.

25 Q Have I attempted to alter in any way your testimony?

WRIGHT - REDIRECT

1 A No.

2 Q What have I asked for in this case?

3 A The truth.

4 Q Have I got that?

5 MR. FIGLER: Objection, Your Honor.

6 THE COURT: What's the objection?

7 MR. FIGLER: The nature of the form of the question,  
8 it's improper.

9 MR. SCISCENTO: It's up to the jury to make that  
10 decision.

11 MR. FIGLER: That's correct, Your Honor.

12 THE COURT: Overruled.

13 MR. FIGLER: She can't vouch for herself.

14 THE COURT: Overruled.

15 BY MR. GUYMON:

16 Q Do you remember the question?

17 A Yes.

18 MR. FIGLER: It'd be self-serving, Judge.

19 THE COURT: What is the question again, Gary?

20 MR. GUYMON: I asked her if I've gotten the truth.

21 THE WITNESS: Yes.

22 THE COURT: Anything on recross?

23 //

24 //

25 RECROSS EXAMINATION

II-298

WRIGHT - RECROSS/FURTHER REDIRECT

1 BY MR. SCISCENTO:

2 Q Previous to today, how many times have you talked to  
3 Mr. Guymon regarding this case?

4 A Like six or seven times.

5 Q Six or seven times. How many times have you talked  
6 to the detectives in this case? Any detective, any police  
7 officer?

8 A Like twice.

9 Q Twice. Did they tell you any of the facts of the  
10 case?

11 A No.

12 Q How many times previous to today have you talked to  
13 Mr. Figler, myself or anybody in my office?

14 A Never.

15 Q Never.

16 MR. SCISCENTO: No further questions, Your Honor.

17 MR. GUYMON: Very briefly.

18 FURTHER REDIRECT EXAMINATION

19 BY MR. GUYMON:

20 Q On the number of times I spoke there was a hearing  
21 many months ago about your boyfriend's case, is that correct?

22 A Yes.

23 Q Did I talk to you then about that case?

24 A Yes.

25 Q There was a hearing about Terrell Young's case. Did

II-299

WRIGHT - FURTHER REDIRECT

1 I talk to you then about that case?

2 A Yes.

3 Q And then again when this case come up, did I talk to  
4 you about this case?

5 A Yes.

6 Q Did you want to talk to me when Sikia -- about  
7 Sikia's hearing?

8 A No.

9 Q Did you want to talk to me about Terrell's hearing?

10 THE COURT: I think we've gotten the point on this  
11 and --

12 MR. FIGLER: Thanks, Judge.

13 THE COURT: -- I think we're -- we have enough  
14 unless you've got a new area.

15 MR. GUYMON: One question.

16 THE COURT: Yeah.

17 BY MR. GUYMON:

18 Q Did you refuse to talk to them?

19 A No.

20 MR. GUYMON: I have no other questions.

21 THE COURT: Anything further Joe?

22 MR. SCISCENTO: Nothing further, Your Honor.

23 THE COURT: Thank you, ma'am, you are excused.

24 Okay, folks, we're going to take our evening recess,  
25 but we're going to remain in session outside your presence.

II-300

1           During this recess you're admonished not to talk or  
2 converse among yourselves or with anyone else on any subject  
3 connected with this trial, read, watch or listen to any report  
4 of or commentary on the trial or any person connected with it  
5 by any medium of information, including, without limitation,  
6 newspaper, television, radio, or form or express any opinion  
7 on any subject connected with this matter until it's finally  
8 submitted to you.

9           Now today you may remember we started at -- we were  
10 trying to start at 9:30 but some people were a little late and  
11 there was a lot of confusion out there, I understand. Note  
12 that tomorrow we're going to start earlier. Now the reason  
13 for that is, though you probably don't care, I don't have one  
14 of those morning calendars, so we're able to start first thing  
15 in the morning on the trial and if you will report to Stony no  
16 later than 7:55, five minutes of 8:00, we're going to start  
17 right at 8:00 if everybody is here.

18           Now, we heard five witnesses today. The prosecutors  
19 have given me a list of all of their witnesses in the case in  
20 chief; there's fifteen left. I expect we're going to make a  
21 very sincere effort tomorrow to finish the State's case.  
22 There's three or four or five who will probably take as much  
23 time as Tod and LaShawnya took, but most of them are more in  
24 the neighborhood of people like Sergeant Sutton, so it's going  
25 to be a real long day. We will not go beyond twenty minutes

II-301

1 of 6:00; it may be shorter than that if the State finishes  
2 before that, but it's going to be a long, grueling day. 8:00,  
3 we're going to take a one-hour lunch break, closer to the  
4 normal lunch hour, probably a little before 12:00, so that you  
5 can beat the crowds that come from the courthouse and the  
6 downtown area for lunch. But, get a good night's sleep  
7 because it's gonna be a long day.

8           You're excused. We have some work to do outside  
9 your presence. Thank you.

10                               (Jury recessed)

11           THE COURT: Okay, I'm going to rule on the State's  
12 motion for discovery. The State has indicated in chambers  
13 that it wanted an order forcing the defense to reveal in  
14 advance of a possible penalty hearing a list of witnesses,  
15 most especially any possible witness who was of an expert  
16 nature.

17           I've reviewed the authorities, which are split on  
18 this from out of state, there is no local authority. NRS,  
19 though, 174.234, as the State acknowledges, limits reciprocal  
20 discovery to the case in chief. The legislature made that  
21 judgment, that's as far as it went. It doesn't speak in this  
22 reciprocal discovery in carving out maybe a 40-year trend  
23 towards -- away from no discovery to reciprocal discovery, our  
24 legislature did not decide to get to the point of the penalty  
25 hearing. And, I, as a trial court am not convinced, after

II-302

1 reading all these authorities that I'm going to make that  
2 leap.

3 I've read also the case where our Supreme Court  
4 invalidated part of an earlier discovery statute, it's not  
5 really on point, but it gives me a feeling in reading the  
6 Virginia -- the case that comes out of the Virginia -- Eastern  
7 District of Virginia, which is a federal case, and the two  
8 California cases, I'm not convinced our Supreme Court will  
9 ever go as far as the California cases. But if we're gonna go  
10 that far it's going to be at the appellate level, not through  
11 this trial court.

12 Now I will say, I heard you voluntarily to give it  
13 up anyway. I do that first because I think it's right. And  
14 if I were in the legislature I would have passed a reciprocal  
15 discovery bill that would have included that.

16 Secondly, without predicting that I'm going to grant  
17 a motion to continue that Mr. Guymon and Mr. Daskas asked for  
18 it, because I'm really convinced that they're pretty  
19 experienced and can anticipate the probable witness that  
20 you're gonna call in terms of general area, the only way  
21 they're going to get a continuance, even by -- the only  
22 opportunity they're going to have for a continuance is if  
23 you've don't tell him who it is and then they convince me they  
24 should have two days or four days to get somebody of their own  
25 and if you want to be in that position, which I'm not

II-303

1 predicting will occur, but could occur where we have a penalty  
2 hearing where the last thing the jury hears is a State witness  
3 testifying all by themselves for three, four, five days after  
4 you've put on your mitigation case, you can decide.

5 So, I'm not going to order it, the State's motion is  
6 denied, but I urge you to do it voluntarily anyways.

7 By the way, one fairly minor point. No more tag  
8 team. If it's his witness he does the objections.

9 MR. SCISCENTO: Let me address that issue, Your  
10 Honor --

11 THE COURT: Yeah.

12 MR. SCISCENTO: -- because I understand this Court's  
13 position in this. We didn't really have any pretrial  
14 information on LaShawnya other than David --

15 THE COURT: But I think it's been happening other  
16 times.

17 MR. SCISCENTO: David had heard the trials, I was  
18 taking the witness --

19 THE COURT: So this shouldn't happen again?

20 MR. SCISCENTO: I don't think it'll happen again.

21 THE COURT: Okay.

22 MR. SCISCENTO: He knew about this information and I  
23 did not.

24 THE COURT: Okay. That's -- that's the normal rule  
25 in courts everywhere, I've been all over the country, with two

II-304



1 counsels we don't play tag team. So, let's try not to do  
2 that.

3 Off the record.

4 (Court adjourned at 5:25 p.m. until the following day  
5 Wednesday, June 7th, 2000 at 8:00 a.m.)

6 \* \* \* \* \*

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CERTIFICATION

I (WE) CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM  
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DISTRICT COURT JUN 08 2000 19

CLARK COUNTY, NEVADA SHIRLEY B. PARRAGUIRRE, CLERK

BY *Carole D'Aloia*

CAROLE D'ALOIA DEPUTY

STATE OF NEVADA,

Plaintiff,

vs

Donte Johnson

Defendant.)

Case No: 98-C-153154-C

Dept No: V

## AMENDED JURY

|     |                    |     |                   |
|-----|--------------------|-----|-------------------|
| 01. | KATHLEEN BRUCE     | 07. | TIMOTHY LOCKINGER |
| 02. | ASHLEY WARREN      | 08. | JAMES JUAREZ      |
| 03. | ROBIN JENKINS      | 09. | JOHN YOUNG        |
| 04. | HANS WEDING        | 10. | KIMBERLY COLE     |
| 05. | ANTHONY CAMPITELLI | 11. | CONNIE PATTERSON  |
| 06. | MONICA SANDOVAL    | 12. | KEITH CHASTAIN    |

## ALTERNATES

1. BRUCE MAYHEW

2. RICHARD FRIAS

Rev4/99

PERKINS - CROSS

1 a statement and there was another time they were asking, what  
2 time did you come over here, and you said between the hours of  
3 10:00 and 12:00, is that right?

4 A Yeah. What day is this supposed to be?

5 Q Well, I guess you can start up here, and just kind  
6 of read down there, just to yourself.

7 A Okay.

8 Q Okay. So when you were asked the question on the  
9 14th of what time you arrived, your answers to the police at  
10 that time was what?

11 A 10 o'clock.

12 Q 10 o'clock? And when you said what time did you  
13 leave, you were [inaudible]?

14 A I don't.

15 Q In the statements you stated earlier, said about  
16 12:00 and that's consistent with the second time you said in  
17 your statement, am I right?

18 A Right.

19 Q Okay. So on the 14th, when you talked to Detective  
20 Buczek, you said at the time I left, I arrived between 10:00  
21 and left about 12 o'clock, is that right?

22 A Yes.

23 Q But today you're saying that you left at 9:00  
24 o'clock?

25 A Yes.

II-100

PERKINS - CROSS

1 Q Is there a reason why the times are different now?

2 A Yeah. I was crushed. I mean, I was totally  
3 distraught. I mean, I don't know anybody who remembered the  
4 times after something like that.

5 Q What time -- you gave the statement at 8:14 at night  
6 about?

7 A I don't, know for sure.

8 Q Has anybody in the District Attorney's office or  
9 Metropolitan Police Department told you that the times were  
10 incorrect?

11 A I don't recall.

12 Q No detective came up to you and said that those  
13 times did not match?

14 A I don't recall, no.

15 Q And nobody's ever told you, you need to change your  
16 times?

17 A No.

18 Q You know -- you knew Matt Mowen for a while, right?

19 A Yes, I did.

20 Q And you were there that -- on the 13th, he was  
21 there?

22 A Yes.

23 Q And you were there with your friends Hess and your  
24 friend Crow?

25 A Kruger. Kruger.

II-101

PERKINS - CROSS

1 Q Kruger. I'm sorry. You knew that Mr. Mowen used  
2 drugs?

3 A As far as the pills, sure.

4 Q Any other kind of drugs?

5 A Not that I recall. I mean, when we were in high  
6 school, we had experimented together. You know, when we were  
7 kids, we'd fool around with marijuana, stuff like that, but  
8 nothing hard.

9 Q What do you consider hard drugs?

10 A Cocaine, methamphetamine.

11 Q What about coke, cocaine?

12 A Not that I recall.

13 Q You know if anybody there at that house use any  
14 cocaine or anything? You don't know?

15 A No, I don't know.

16 Q If I may -- in your statement that you gave on the  
17 14th -- maybe if you look down here. Now, the statement ask  
18 you, can you please -- what kind of drugs do they normally do?  
19 Your answer, if you recall?

20 A Beer, mostly beer and sometimes coke.

21 Q Okay. Coke being the slang word for cocaine?

22 A Yes.

23 Q Which is an illegal substance.

24 A Yes.

25 Q Do you know if they ever did -- do you know what

II-102

PERKINS - CROSS

1 methamphetamine is?

2 A Yes.

3 Q Crystal meth?

4 A Yes.

5 Q Speed?

6 A Yes.

7 Q It's a powder substance. It's a poor man's form of  
8 cocaine?

9 A Yes.

10 Q You ever seen any of that at the house?

11 A No, not that I recall, no.

12 Q Do you know -- do you know how to manufacture -- I  
13 mean, have you ever heard any ways on manufacturing  
14 methamphetamine?

15 A No.

16 Q You mentioned that there was some muscle relaxers.

17 A Yes.

18 Q Okay. What kind, do you remember?

19 A I don't remember what kind, no.

20 Q Does the word Percocets mean anything to you?

21 A I've heard of it before.

22 Q Okay. Where -- when have you heard that?

23 A I've just -- the name's come up. I don't recall. I  
24 can't give you a specific time. I've heard the name. I'm  
25 sorry.

II-103

PERKINS - CROSS

1 Q Do you know if Mr. Mowen ever was in possession of  
2 Percocets?

3 A I know he was in possession of pills. I don't -- I  
4 really don't recall the name.

5 Q Okay.

6 (Off-record colloquy)

7 BY MR. DASKAS:

8 Q Now, the statement that you gave to the police on  
9 August 14th, you'd mentioned something about Matt Mowen  
10 acquiring some Percocets, is that correct?

11 A Yes.

12 Q Where did he purchase it from?

13 A Tijuana.

14 Q Okay. And he brought them back with him?

15 A Yes.

16 Q Okay. And you said that you've seen him carry those  
17 pills?

18 A I seen them that night at the house, yes.

19 Q Do you know a concert called the Phish concert?

20 A Yes.

21 Q It's P-H-I-S-H?

22 A Yes.

23 Q And that's a new day dead concert, am I correct?  
24 You know the deadheads?

25 A Yes.

II-104



PERKINS - CROSS

1 Q If you would follow my days.

2 A Okay.

3 Q And today's concerts, the Phish concerts are -- the  
4 deadhead people follow them around.

5 A I've never been to a Phish concert.

6 Q Okay. Do you know if anybody, Matt Mowen or Tracey  
7 Gorringer or anybody --

8 A Yes. They did listen to the band and, yes, they did  
9 follow them for a little while, yes.

10 Q Did they ever tell you when they followed it, they  
11 would purchase or sell any kind of drugs?

12 A No.

13 Q On the 13th of August, when you were there, did you  
14 see any cocaine being used that night?

15 A No, I did not.

16 Q How long did you stay at the house?

17 A On the 13th?

18 Q Yes.

19 A Not long, not long at all. I can't remember the  
20 specific time I got there, but I know we didn't stay long,  
21 because I felt sick.

22 Q Do you know if anybody in that house was using any  
23 cocaine --

24 A No, I don't know.

25 Q -- or any crack cocaine?

II-105

PERKINS - REDIRECT

1 A I don't know.

2 Q Have you ever seen crack cocaine before?

3 A No, I haven't.

4 Q Did you see -- that night, you didn't see any  
5 packages which may have contained any crack cocaine?

6 A No.

7 Q No?

8 A No.

9 Q Did you see any drugs called -- you know what  
10 mushroom are?

11 A Yes.

12 Q Did you ever see any of those --

13 A No, I did not.

14 Q -- that night?

15 A I did not, no.

16 Q Have you ever seen 'em previously?

17 A No, I have not.

18 MR. SCISCENTO: The Court's indulgence for one  
19 moment. No further questions, Your Honor.

20 THE COURT: Any redirect?

21 MR. DASKAS: Very briefly, Judge.

22 REDIRECT EXAMINATION

23 BY MR. DASKAS:

24 Q Justin, the defense attorney asked you if you had  
25 ever heard the name Percocet and he showed you a statement

PERKINS - REDIRECT

1 where you referred to Percocet pills, is that correct?

2 A Yes.

3 Q Now, when I asked you on direct examination about  
4 some pills you had taken, are those the Percocets you're  
5 talking about?

6 A Yes.

7 Q The pain pills?

8 A Yes, the muscle relaxers.

9 Q The defense attorney showed you a couple statements  
10 and indicated that you had some times confused, times on the  
11 13th and the 14th. You recall those questions, correct?

12 A Yes.

13 Q Let me show you what purports to be a voluntary  
14 statement you completed on August 14th. Do you recognize this  
15 as a statement you filled out on the 14th?

16 A Yes.

17 Q That is sometime after you discovered your three  
18 friends?

19 A Very shortly after, yes.

20 Q And there's a time here that appears toward the  
21 bottom of the voluntary statement.

22 MR. DASKAS: I'm referring defense counsel to the  
23 bottom left or bottom middle of the -- of the page.

24 BY MR. DASKAS:

25 Q You see where it says 1855?

II-107

PERKINS - REDIRECT

1 A Yes.

2 Q All right. That would be, what, 6:55 p.m., is that  
3 correct, military time?

4 A I don't know.

5 Q All right. If I tell you that 6:55, would that  
6 sound about right, that you discovered your friends some time  
7 around 6:00 p.m. on the 14th and you filled out a statement  
8 around 6:55, some 55 minutes later?

9 A Yes.

10 Q Tell me about your emotional state when you  
11 discovered your three friends dead in their home on the 14th?

12 A I didn't know what to do. I mean I was there the  
13 night before, I was thanking God I was still here.

14 Q I assume you never walked into anything like this in  
15 the past or since then?

16 A Never.

17 Q Does that explain why, perhaps, you got some of the  
18 times confused when you filled out your statement?

19 MR. SCISCENTO: I object, Your Honor. That calls --  
20 it calls for speculation, Your Honor.

21 THE WITNESS: I know that's why.

22 THE COURT: It's also been asked and answered.  
23 Let's move onto a new area.

24 MR. DASKAS: I have no further questions, Judge.

25 THE COURT: Anything further, Mr. Sciscento?

PERKINS - RECROSS

1 MR. SCISCENTO: Yes. Yes, Your Honor.

2 RECROSS EXAMINATION

3 BY MR. SCISCENTO:

4 Q Your very -- Mr. Perkins, the very voluntary  
5 statement that Mr. Daskas asked you about, it says in the very  
6 beginning -- this is your handwriting, correct?

7 A Yes.

8 Q And those are your signatures on this?

9 A Yes.

10 Q And it says -- your handwriting says, "The last time  
11 I saw Tracey --

12 MR. DASKAS: Judge, I'll object. This is beyond the  
13 scope and it's improper impeachment. There's nothing to  
14 impeach at this point.

15 MR. SCISCENTO: It's not beyond the scope. He's  
16 asking specifically -- he specifically referred to this and  
17 I'm asking him about this and what he wrote. He asked  
18 specifically about the time that we disagree.

19 THE COURT: Is it gonna concern the time?

20 MR. SCISCENTO: It's gonna concern the time.

21 THE COURT: Okay. Otherwise, it's beyond the scope.

22 Go ahead.

23 MR. SCISCENTO: And I'll be right -- oh, two  
24 seconds -- or two questions.

25 //

II-109

DeLUCIA - DIRECT

1 BY MR. SCISCENTO:

2 Q Mr. Perkins, on there you wrote down the times,  
3 approximately, and the time that you wrote was what?

4 A 10:00 to 12:00.

5 Q Okay. On the date?

6 A 8/13/98.

7 MR. SCISCENTO: The Court's indulgence for one  
8 moment.

9 THE COURT: Sure.

10 (Off-record colloquy)

11 MR. SCISCENTO: Your Honor, I have no further  
12 questions.

13 THE COURT: Anything further?

14 Thank you, sir. You're excused.

15 Call your next witness and please approach the bench  
16 while he's coming in.

17 MR. DASKAS: The State calls Nick DeLucia.

18 (Off-record bench conference)

19 NICHOLAS DeLUCIA, PLAINTIFF'S WITNESS, IS SWORN

20 THE CLERK: Please state your full name and spell  
21 your last name for the record.

22 THE WITNESS: Nicholas DeLucia, D-E-L-U-C-I-A.

23 DIRECT EXAMINATION

24 BY MR. DASKAS:

25 Q Nick, let me direct your attention back to August of

II-110

DeLUCIA - DIRECT

1 1998. Where did you live at that time?

2 A 4815 Terra Linda.

3 Q Is that right next door to 4825 Terra Linda?

4 A It is.

5 Q That's here in Las Vegas, Clark County, Nevada?

6 A Correct.

7 Q Did you know any of the individuals who lived in the  
8 home at 4825 Terra Linda?

9 A I did not.

10 Q Did you ever see anybody at that residence, however?

11 A Yes, I did.

12 Q Describe the people you saw who lived at the home,  
13 if you know that they lived at the home?

14 A I don't know who actually lived there. There was  
15 always a lot of people there.

16 Q During August of 1998, where were you working?

17 A I was working at Western High School for GSL  
18 Electric.

19 Q Do you recall the shift that you generally worked in  
20 August of 1998?

21 A I worked from 2:00 a.m. to 10:30 a.m.

22 Q Was there a particular time that you would normally  
23 wake up in order to get to work by 2:00 a.m.?

24 A About 12:30 a.m.

25 Q Let me direct your attention specifically to

II-111

DeLUCIA - DIRECT

1 August 13th of 1998, and really into the early morning hours  
2 of the 14th. Would you have been scheduled to work at 2:00  
3 a.m. on the 14th of August 1998?

4 A Correct.

5 Q And would you have woken up at 12:30, like you just  
6 mentioned, on the 14th in order to arrive to work by 2:00  
7 a.m.?

8 A I would have, yes. My dogs actually woke me up a  
9 little earlier than that.

10 Q You say your dogs woke you up. Do you recall, and  
11 we're talking again about the 13th and into the early morning  
12 hours of the 14th, what time you woke up on those dates?

13 A It was on -- about 11:30 p.m. on the 13th, the dogs  
14 woke me up.

15 Q You say your dogs woke you up. Were they outside or  
16 inside the house?

17 A They were inside the house, inside the bedroom.

18 Q I assume they started barking and that made you wake  
19 up?

20 A Yes.

21 Q How do you know it was 11:30 p.m. on the 13th?

22 A I remember looking at the clock, see if I can go  
23 back to sleep.

24 Q Was it unusual for your dogs to bark at that time?

25 A Yes.

II-112



DeLUCIA - DIRECT

1 Q Did you do anything after you woke up?

2 A I listened, but I didn't hear anything.

3 Q Did you go back to sleep?

4 A I never did get back to sleep.

5 Q Did you eventually get up at 12:30, say on the 14th  
6 to go to work?

7 A Yes, I did.

8 Q And if you know, what time did you leave your house  
9 to get to work on the 14th?

10 A It was 1:30 a.m.

11 Q Did you drive past 4825 Terra Linda when you left  
12 for work?

13 A Yes, I did.

14 Q Tell me what, if anything, you saw at the 4825  
15 residence?

16 A I could see a person in the yard next to mine with a  
17 hose coming from the backyard into the front yard and then I  
18 could see another person who was up by the driveway just -- I  
19 don't know what they were doing. They was just out by the  
20 driveway. So two people I actually saw.

21 Q You say you saw two people total outside of the 4825  
22 residence?

23 A Yes.

24 Q Could you tell if either of them were men or women?

25 A I could tell the one closest to my house, which was

DeLUCIA - DIRECT

1 retrieving the hose from the backyard was a white male about  
2 my size and build.

3 Q And what about --

4 A The other -- the other one was like a silhouette. I  
5 couldn't tell.

6 Q Could you tell anything about the clothing either of  
7 these individuals was wearing?

8 A You know, I believe it was like a white T-shirt and  
9 jean shorts that the one guy was wearing close to me, but I --  
10 I can't -- I can't really remember.

11 Q You're not certain about the clothes?

12 A No.

13 Q Did you stop in front of the 4825 residence?

14 A No.

15 Q You drove to work?

16 A Right.

17 Q I assume you returned to your home the next day or  
18 the 14th, when you finished your work shift?

19 A Yes, I did.

20 Q What time did you return home?

21 A About 11:00 a.m.

22 Q And did you drive, again, past the 4825 house when  
23 you returned home?

24 A Yes, I did.

25 Q Did you see anything unusual?

II-114

DeLUCIA - DIRECT

1 A No.

2 Q Did you see anything going on outside of the 4825  
3 residence?

4 A Nothing.

5 Q Did you go inside your house?

6 A Yep.

7 Q At some point later that evening on the 14th, did  
8 something unusual happen?

9 A Yeah.

10 Q What happened?

11 A The person I later found out was Justin, came over  
12 to the house at exactly 6:00 p.m. asking us to call the  
13 police. His friends had been robbed.

14 Q You say a person you later found out to be Justin,  
15 came to your house, is that right?

16 A Yes.

17 Q Now, was that the young man who just left the  
18 courtroom?

19 A Yes.

20 Q And you mentioned that Justin showed up to your  
21 house at 6:00 p.m.?

22 A Exactly.

23 Q How is it that you know it was 6:00 p.m. when Justin  
24 arrived at your house on the 14th?

25 A My girlfriend was gonna watch Pavarotti.

II-115

DeLUCIA - DIRECT

1 Q Okay. You lived with this girlfriend at the time?

2 A Yes.

3 Q Did you hear a knock on your front door?

4 A Yes.

5 Q And how do you know it was Justin who was at your  
6 front door?

7 A I got up and looked out the window and saw him.

8 Q Did you hear what Justin was saying?

9 A Yes.

10 Q What did he say?

11 A He just asked her to call the police, that his  
12 friends had been robbed and they were tied up.

13 Q Can you describe his, that is, Justin's emotional  
14 state or demeanor at the time?

15 A He sounded panicky.

16 Q Panicky, you say?

17 A Yeah.

18 Q After he asked -- Justin asked your girlfriend to  
19 call the police, did he leave?

20 A Yes.

21 Q What happened next?

22 A Then he came back and asked us to call paramedics as  
23 well. His friends weren't responding to him.

24 Q Was Justin upset at that time?

25 A Yeah, he -- I -- I didn't see him at --

II-116

DeLUCIA - DIRECT

1 MR. SCISCENTO: Object, Your Honor, as to  
2 relevance.

3 THE COURT: Overruled.

4 THE WITNESS: I didn't think, you know, look out the  
5 window at that time. I was getting dressed to go outside to  
6 see if I could help and, I mean, he -- he seemed distraught.

7 MR. SCISCENTO: Objection; nonresponsive.

8 THE COURT: Sustained.

9 BY MR. DASKAS:

10 Q All right. After Justin returned a second time and  
11 asked that the paramedics be called, what did you do or where  
12 did you go?

13 A I got dressed and went outside to go see if I could  
14 help, over towards the house.

15 Q When you say over towards the house, are you talking  
16 about 4825 Terra Linda?

17 A Yes.

18 Q Tell me what you saw at 4825 Terra Linda?

19 A I came walking up in the front sidewalk area by the  
20 fence and I could see in the house. It looked like a person  
21 laying down on his stomach. I could see a tatoo and arms  
22 behind the back, duct tape. Justin was standing by the front  
23 door. He was just holding his head like this and walking in  
24 circles.

25 MR. DASKAS: And Judge, I guess, to be clear, the

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DeLUCIA - DIRECT

1 record should reflect Nick, the witness, has put his hands  
2 behind his head.

3 BY MR. DASKAS:

4 Q You say you saw duct tape on somebody inside the  
5 house?

6 A Yeah. I could -- I could see through the house and  
7 I could see what looked like they were, I guess, duct taped.  
8 I don't remember if I actually saw it was duct tape.

9 Q Did you see any -- any pets running --

10 MR. SCISCENTO: Your Honor, I'd object to this.  
11 Can we approach?

12 THE COURT: Sustained.

13 MR. DASKAS: Actually, Judge, can we approach on  
14 this one?

15 THE COURT: Sure.

16 (Off-record bench conference)

17 THE COURT: Overruled, the face down that we  
18 discussed at the bench. Witness -- what was the question  
19 again?

20 BY MR. DASKAS:

21 Q Nick, my question was when you walked out of your  
22 home and observed 4825 Terra Linda, did you see any pets  
23 around that residence?

24 A Yes, I did.

25 Q What did you see?

II-118

DeLUCIA - DIRECT

1 A Two puppy pit bulls.

2 Q All right. Were you near the residence when police  
3 arrived?

4 A Yes.

5 Q How many officers did you see arrive initially?

6 A Two.

7 Q And tell me what you saw those two officers do?

8 A They drew their guns, went inside the house and then  
9 they came back out of the house.

10 Q Can you estimate for me how long those two officers  
11 were inside the house after you saw them go inside with their  
12 guns drawn?

13 A Less than five minutes.

14 Q Did you ever disturb anything at the 4825 house?

15 A No. From what I could see out in the yard, I didn't  
16 even enter the yard.

17 Q How about the gate that surrounds 4825 Terra Linda?

18 A Yeah. Justin asked me to close it so the dogs  
19 couldn't get out.

20 Q And did you, in fact, close the gate?

21 A Yes.

22 Q Other than touching the gate, did you disturb  
23 anything at the 4825 residence?

24 A No.

25 MR. DASKAS: I'll pass the witness, Judge.

II-119

DeLUCIA - CROSS

1 THE COURT: Any questions of this witness?

2 MR. SCISCENTO: Yes.

3 CROSS-EXAMINATION

4 BY MR. SCISCENTO:

5 Q Mr. DeLuca?

6 A DeLucia.

7 Q DeLucia. How long did you live over there at the  
8 Terra Linda address?

9 A We had moved in June 20th.

10 Q And you lived directly next door?

11 A Yes.

12 Q How long have you -- I'm sorry. How long had you  
13 lived there?

14 A I guess, what, two months.

15 Q Three months prior to August 13th?

16 A It was June 20th we moved in, so just about two  
17 months.

18 Q About [inaudible]. During that time, you agree with  
19 me, that there were numerous parties going on?

20 A Yes.

21 Q Okay. You saw people and going to that house?

22 A Yes.

23 Q You would see some people come at different hours of  
24 the night?

25 A Yes.

II-120



DeLUCIA - CROSS

1 Q Some people would just drive their car up, park, get  
2 out and five minutes later, they'd be gone?

3 A I didn't observe it that closely.

4 Q You would see sometimes that cars would come up at  
5 different angles, instead of parking with the flow of traffic,  
6 and sometimes park against the flow of traffic? You see that  
7 numerous times?

8 A Not that I recall.

9 Q Did you see it anytime?

10 A I remember there was a bus. They had some friends  
11 in town once, but -- I mean, no, it wasn't like they were  
12 parking all over the yard.

13 Q But you agree with me that there was numerous  
14 activity coming and going in that house?

15 A Yes.

16 Q Were you ever -- did you ever make acquaintances,  
17 other than neighbor acquaintance with these -- these guys that  
18 lived in the house?

19 A No, not up until that time.

20 Q You never went over there and had a couple beers or  
21 partied with them in any way?

22 A Never.

23 Q You mentioned that you saw somebody in -- on the  
24 front porch and in your statement you say that he may have had  
25 a ponytail?

II-121

DeLUCIA - CROSS

1 A Yes.

2 Q You don't -- you're not sure or --

3 A Yes, I remember.

4 Q You're not sure if he had a ponytail?

5 A No, I remember it. You know, it looked like maybe  
6 his hair was back and --

7 Q Was there any kind of braid in that, in the hair?

8 A I didn't pay that much attention.

9 Q And you described this person as a 5'4", 135, 150  
10 pound white male?

11 A Yeah.

12 Q And then there was another person, and this happened  
13 at what time?

14 A This was at 1:30 in the morning.

15 Q 1:30 in the morning?

16 A Mm-hmm.

17 Q How long -- how long was the ponytail, if you  
18 recall?

19 A I didn't observe that closely.

20 Q But you observed it as possibly a ponytail?

21 A Possibly.

22 Q Okay. It was one of those short ones that the older  
23 guys wear that -- when they're going bald up here it sticks  
24 out a couple inches in the back?

25 A I wouldn't be able to tell you for sure.

II-122

DeLUCIA - CROSS

1 Q Okay. And did you see the end of it?  
2 A No.  
3 Q Then you don't know if it went down and traversed  
4 back?  
5 A No.  
6 Q Okay. On the night of the 13th, did you hear a  
7 party going on at that house?  
8 A No.  
9 Q Did you observe anybody over there between the hours  
10 of 10:00 and 12:00?  
11 A No. I was asleep.  
12 Q Let's talk about the second figure that you saw in  
13 the backyard. You said you only saw the shadow of that.  
14 A I didn't see anybody in the backyard. I saw a hose  
15 coming from the backyard and I thought there was somebody in  
16 the backyard. The other person I saw was by the driveway.  
17 Q By the driveway?  
18 A Right.  
19 Q In the front?  
20 A Right.  
21 Q Now, the driveway is -- some are two driveways.  
22 One goes north/south and the other is east/west?  
23 A Yeah. One's underneath the covered kind of parking.  
24 Q Where did you see that figure?  
25 A I saw him on the one that goes out towards the

II-123

DeLUCIA - CROSS

1 street by the gate.

2 Q So you're coming on the street and driving up --

3 A Mm-hmm. Yes.

4 Q -- from the straight --

5 A Yes.

6 Q -- you'd be on that big driveway?

7 A Yes.

8 Q And you don't remember what this person, that figure  
9 looked like?

10 A He was bigger than the other guy. I mean, I don't  
11 know exactly.

12 Q Do you recall his hair style?

13 A No.

14 Q Was he a white man?

15 A Don't know.

16 Q You don't know? You don't recall his hair style.

17 You don't know if he was a white man. Would you say he was 6  
18 foot?

19 A Not with all certainty.

20 Q But you said he was taller than the other person who  
21 was 5'4"?

22 A Yes. He was taller and bigger.

23 Q Significantly taller, at least a foot?

24 A He just looked bigger than the guy that was closer  
25 to me.

II-124

DeLUCIA - CROSS

1 Q Enough that you would notice from a distance?

2 A Yes.

3 Q You don't know if it was a white boy -- a white man  
4 or not?

5 A No.

6 Q During the time that you lived there, did you ever  
7 meet a person named Tod Armstrong?

8 A No.

9 Q Do you know a person named Chris Walker?

10 A No.

11 Q Or somebody named Johnny Walker?

12 A No.

13 MR. SCISCENTO: No further questions.

14 THE COURT: Anything further, Mr. Daskas?

15 MR. DASKAS: Judge, I have no redirect.

16 THE COURT: Thank you, sir. You're excused.

17 Call your next witness, please.

18 MR. DASKAS: The State calls Sergeant Randy Sutton.

19 MR. SCISCENTO: Can we approach, Your Honor?

20 THE COURT: Sure.

21 (Off-record bench conference)

22 RANDY LEE SUTTON, PLAINTIFF'S WITNESS, IS SWORN

23 THE CLERK: Please state your full name and spell  
24 your last name for the record.

25 THE WITNESS: My name is Randy Lee Sutton,

SUTTON - DIRECT

1 S-U-T-T-O-N.

2 DIRECT EXAMINATION

3 BY MR. DASKAS:

4 Q Mr. Sutton, you're employed by the Las Vegas  
5 Metropolitan Police Department, is that correct?

6 A Yes, I am.

7 Q What's your job title?

8 A I'm a sergeant.

9 Q All right. Are you assigned to any particular  
10 division?

11 A I'm assigned to the patrol division.

12 Q And how long have you been a sergeant in the patrol  
13 division with Metro?

14 A About eight years.

15 Q What are your duties and responsibilities, general,  
16 as a sergeant in patrol?

17 A The term sergeant denotes a supervisor of a patrol  
18 squad. My duties are to respond to major crime scenes, to  
19 supervise patrol officers that are assigned to my unit and to  
20 make sure that the flow of business goes on properly with my  
21 squad.

22 Q You say you've been a sergeant for eight years. In  
23 total, how long have you been employed in law enforcement?

24 A Twenty-four years.

25 Q Is that 24 years, is that all with Metro?

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SUTTON - DIRECT

1           A     No. I was a patrol officer in Princeton, New Jersey  
2 and a major crime detective for six years before coming to Las  
3 Vegas, then I spent some time in -- as a patrol officer, then  
4 as a detective, and then as a sergeant.

5           Q     Let me direct your attention to the 14th day of  
6 August 1998. You were a sergeant at that time?

7           A     That's correct.

8           Q     All right. Were you working on that date?

9           A     Yes.

10          Q     And were you assigned to any particular area of  
11 town?

12          A     Yes. At that time, I was assigned to the southeast  
13 area command and that area command has a geographical area in  
14 the southeast area of Las Vegas.

15          Q     When you patrol, do you work alone or with a  
16 partner?

17          A     Alone.

18          Q     On the 14th day of August, do you recall being  
19 dispatched to a home at 4825 Terra Linda here in Las Vegas?

20          A     Yes, I do.

21          Q     Do you recall what time you received that dispatch?

22          A     It was around 6:00 p.m.

23          Q     Do you recall the nature of the dispatch you  
24 received?

25          A     Yes. I had been monitoring the radio and I had

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SUTTON - DIRECT

1 heard a suspicious incident call take place at that address  
2 and a unit -- Officer Dave West has responded to it. I was  
3 already en route to the residence when Officer West got there  
4 and requested an immediate backup.

5 Q How long did it take for you to arrive at 4825 Terra  
6 Linda once you received the initial call?

7 A I would approximate it at ten minutes.

8 Q And was -- I guess now Detective West -- was  
9 Detective West at the crime scene already?

10 A Yes.

11 Q Tell me what you observed when you first arrived?

12 A As I drove up Terra Linda, I observed a fire truck  
13 who was actually the initial caller to Metro. They had  
14 requested us. Fire truck was there. Paramedics were there  
15 and Officer West had taken up a position right outside of the  
16 front entrance. The front doorway to the house. And that was  
17 the scene that greeted me as I -- as I drove up.

18 Q When you arrived and saw Detective West. Did he  
19 convey to you what he had learned prior to your arrival?

20 A Yes.

21 Q Is that common for officers to share information  
22 with each other?

23 A Very common.

24 Q And what did you learn from Detective West about his  
25 discoveries there at the crime scene?

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SUTTON - DIRECT

1           A     The details of the call were that fire department  
2 had requested Metro response because they had discovered  
3 several bodies in the house, that was the information that I  
4 had when I responded. When I arrived, Officer West, who had  
5 taken up the position outside of the front doorway, basically  
6 told me the same information and said that he -- when he  
7 arrived he saw through the open door. And I should mention  
8 that the front doorway was ajar. He said, sarge, there's  
9 several bodies on the floor, I've not cleared the house yet.

10           Q     You use the phrase "clear the house", what does  
11 "clear the house" mean?

12           A     To clear the house would -- the action would be to  
13 make sure that there are no suspects still in the -- in the  
14 area in -- within the -- within the house and also to check  
15 for any living people.

16           Q     So, when you arrived around 6:00 p.m., you're not  
17 certain if anybody -- any suspects are in the house?

18           A     Correct.

19           Q     Did, in fact, you and Detective West clear the  
20 house?

21           A     Yes, we did.

22           Q     Did you both remove your weapons from your holsters?

23           A     Yes.

24           Q     And tell me the responsibilities you each took, you  
25 and Officer West -- Detective West, as you cleared the house?

SUTTON - DIRECT

1 Describe what you both did, please?

2 A In order to safely clear a house or as safely as  
3 possible, what we do is we watch each other. I was the first  
4 to enter the house and Officer West was covering me. When I  
5 say covering me, he had his weapon in a position to engage any  
6 suspects that might pop out and that might try to do me bodily  
7 harm. So, my first entrance into the house was covered by him  
8 and then when I cleared a certain area, that is when I say  
9 clear, making sure that there are no suspects in it, then I  
10 indicated that to him, then he would move into the house, and  
11 we would leap frog through the house covering each other,  
12 making sure that there are no suspects in the residence..

13 Q Did you and Detective West go into every room of the  
14 home in the manner that you just described?

15 A Yes, we did.

16 Q Did you find any suspects in the home?

17 A No, we did not.

18 Q Tell me what you did observe as you went through the  
19 house in order to clear it?

20 A Prior to actually making entrance into the house I  
21 visually observed the interior through the -- through the open  
22 door, and the scene that greeted me at that time were three  
23 bodies laying on the floor of the living area and I noted that  
24 the -- all the bodies were duct taped in such a manner that  
25 their legs were duct taped behind them and their hands were

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SUTTON - DIRECT

1 duct taped behind them. I observed that there was a great  
2 deal of trauma to the heads, indicating head wounds, and there  
3 was a great deal of blood and matter under the -- under the  
4 heads of the -- of the victims.

5 Q You mentioned three victims in the living room area.  
6 At some point, did you discover a fourth victim?

7 A Yes.

8 Q Where was that person located?

9 A Adjacent to the living room area was a -- what would  
10 have been a dining room area and in that dining room area,  
11 Officer West made the first intrusion into that and yelled to  
12 me, I've got another victim in here. It was then my turn to  
13 make entrance into that area and I also observed another body  
14 similarly -- in similar condition.

15 Q I assume, based on your comments, all four victims  
16 were taped in a similar fashion?

17 A That's correct.

18 Q Were they also prone out on the floor in a similar  
19 fashion?

20 A Yes, they were.

21 Q You've described the bodies you discovered.  
22 Describe the condition of the home itself, the interior of the  
23 home?

24 A The interior of the residence was in great disarray.  
25 There was -- the furniture had been -- some of it had been

SUTTON - DIRECT

1 upended. There was paper strewn all over. There was -- it  
2 looked like it had been ransacked, it was just -- it was a  
3 total mess.

4 Q Was every room in a state of disarray?

5 A Yes.

6 Q Did you or Officer West disturb or alter the  
7 positions of the bodies in any fashion?

8 A Absolutely not.

9 Q Did you or Officer West disturb or alter the house  
10 and its contents in any fashion?

11 A No.

12 Q You mentioned, of course, that you cleared the house  
13 and went through every room. Other than going to every room,  
14 would you have altered anything in the house?

15 A No.

16 Q After you're satisfied that there are no suspects in  
17 the home, what do you do next?

18 A The main responsibility of the patrol division in  
19 responding to a major crime scene, especially murder, is to  
20 secure that crime scene. By secure it I mean to make sure  
21 that it is not disturbed in any -- in any way, pending the  
22 analysis of our crime scene -- our crime scene people and the  
23 arrival of our detective bureau and that is the -- that was  
24 the action that I took after I removed myself from the house.

25 Q Is that protocol with Metro for a patrol officer or

SUTTON - DIRECT

1 sergeant to call out homicide detectives to a scene such as  
2 this?

3 A Yes. The protocol would be investigators have to  
4 come out on a -- on a scene such as this in order to begin the  
5 long grueling investigation that takes place after such a  
6 crime. It has to be done in certain stages and the homicide  
7 bureau has the responsibility for conducting those  
8 investigations. The crime scene analysts have the  
9 responsibility to do the forensic work at these scenes.

10 Q Prior to either detectives or crime scene analysts  
11 arriving, do you make an effort to preserve the crime scene,  
12 to cordon off the crime scene?

13 A Yes, that's exactly what we did.

14 Q And tell me what, physically, you would have done to  
15 ensure that occurred?

16 A What we did was basically tape off the house. When  
17 I say tape it off we have -- we use a yellow evidence or crime  
18 scene tape and that is -- it's on a long spool. We attach it  
19 from one portion of the property to the other portion of the  
20 property and it's very -- it's a very vivid yellow and that  
21 says crime scene, do not enter. And we make sure that no one  
22 enters that crime scene other than the personnel that have  
23 responsibility for doing the investigative work, and that's  
24 exactly what we did.

25 Q Do you know whether seals or tape were placed over

SUTTON - DIRECT

1 the windows to the home while you were there?

2 A No, I don't know.

3 Q That would have been somebody else's responsibility  
4 I take it?

5 A Yes.

6 Q Were you satisfied by the time the detectives and  
7 crime scene analysts arrived that you had, in fact, preserved  
8 the crime scene?

9 A Yes.

10 Q Did you see anybody enter other than those persons,  
11 that is analysts and detectives?

12 A No.

13 Q When you were in the home initially clearing the  
14 home, did you see any wallets or billfolds near any of the  
15 victims?

16 A Yes, I do recall that there -- I do remember seeing  
17 a wallet or two that was on the ground.

18 Q Did either you or Detective West touch, alter,  
19 disturb those wallets in any fashion?

20 A Absolutely not.

21 Q You've been in law enforcement for twenty-four years  
22 and you've described the house as being ransacked. Did that  
23 suggest anything to you about this crime scene?

24 A Yes.

25 Q What did it suggest to you?

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SUTTON - DIRECT

1           A     It suggested to me that the motive behind this was  
2 probably robbery.

3           Q     Were you present when the homicide detectives  
4 actually arrived?

5           A     Yes.

6           Q     Do you recall who those detectives were?

7           A     No, I don't.

8           Q     Okay. Once those detectives arrived would you have  
9 turned over the crime scene to them however?

10          A     Yes.

11          Q     And would your responsibilities have been finished  
12 at that point?

13          A     Yes.

14          Q     Was that, in fact, done in this case?

15          A     It was.

16          Q     Let me show you, if I could, Sergeant, a series of  
17 photographs and we'll try to do this as quickly as possible.  
18 I'm showing you first of all what have been marked as State's  
19 Proposed Exhibit 8.

20               MR. DASKAS: Your Honor, if I may?

21               THE COURT: Yes.

22               MR. DASKAS: And for the record, Judge, I have shown  
23 defense --

24               MR. SCISCENTO: I'd like to --

25     //

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SUTTON - DIRECT

1 BY MR. DASKAS:

2 Q I'm showing you what's been marked as State's  
3 Proposed Exhibits 8 and then 11 through 19 inclusive. I'll  
4 ask you to take a look at those, thumb through them if you  
5 would, and tell me if you recognize what's depicted in all of  
6 those photographs?

7 A Yes, I do.

8 Q Tell me what's depicted in State's Proposed Exhibit  
9 8 and 11 through 19?

10 A These are exterior shots of the residence at 4824  
11 Terra Linda, the scene of the crime.

12 Q Do they fairly and accurately depict the condition  
13 of the residence when you arrived or shortly thereafter on  
14 August 14th, 1998?

15 A Except for the seals that have been placed at the  
16 entrance and egress points, yes.

17 Q With the exception of those seals which you  
18 mentioned would have been placed there by somebody else, are  
19 they accurate depictions of that scene?

20 A They are.

21 MR. DASKAS: Judge, I move for the admission of 8  
22 and 11 through 19.

23 THE COURT: Any objection?

24 MR. SCISCENTO: No objection.

25 THE COURT: They're all received.

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SUTTON - DIRECT

1 (Plaintiff's Exhibit Nos. 8, 11 through 19, admitted)

2 MR. DASKAS: May I also published them, Judge?

3 THE COURT: Sure.

4 THE COURT: Anything further, Robert?

5 MR. DASKAS: Actually, Judge, yes. Some additional  
6 photographs, if I could, please?

7 BY MR. DASKAS:

8 Q And let me also show you what has been marked and  
9 shown to defense counsel as State's Proposed Exhibits 21  
10 through 61. And again, I'm going to hand you all those, that  
11 is Proposed Exhibits 21 through 61, and ask you to take a look  
12 at those and tell me if you recognize what's depicted in each  
13 of those photographs?

14 (Pause in the proceedings)

15 Q Sergeant, have you reviewed State's Proposed  
16 Exhibits 21 through 61?

17 A Yes, I have.

18 Q Do you recognize what's in those photographs?

19 A Yes, I do.

20 Q What is depicted in those photographs?

21 A These are interior shots of the -- of the crime  
22 scene at 4825 Terra Linda of the -- of the various rooms and  
23 closeups of certain items that are -- were in the house.

24 Q Do they fairly and accurately depict the interior of  
25 the 4825 Terra Linda residence as you observed it on August

II-137

SUTTON - DIRECT

1 14th, 1998?

2 A Yes.

3 MR. DASKAS: Judge, I'd move for the admission of 21  
4 through 61 inclusive.

5 MR. SCISCENTO: Your Honor, we object. Can I  
6 approach?

7 THE COURT: You object to 61 is the only one of  
8 those?

9 MR. SCISCENTO: Well, we object to all of them at  
10 this point --

11 THE COURT: Okay.

12 (Off-record bench conference)

13 THE COURT: Okay. All except 61 are admitted, but  
14 let me ask about 61. Is this a picture of the legs of the --  
15 one of the three victims that you describe as being in the  
16 front or the fourth or do you know?

17 THE WITNESS: I don't know.

18 THE COURT: Okay. 61 won't come in at this point.

19 (Plaintiff's Exhibits Nos. 21 through 60 admitted)

20 MR. SCISCENTO: Thank you, Judge.

21 THE COURT: All the rest are received.

22 MR. DASKAS: Thank you.

23 BY MR. DASKAS:

24 Q Finally, Sergeant Sutton, let me hand you what's  
25 been marked as State's Proposed Exhibits 64 through 67, 69

II-138

SUTTON - DIRECT

1 through 71, and finally Number 81. I'll ask you to take a  
2 look at those and after you've reviewed them, tell me if you  
3 recognize what's depicted in those photographs?

4 A Yes, I do.

5 Q What's depicted in those photographs?

6 A These are photographs of the victims of the murder  
7 that took place at 4825 Terra Linda.

8 Q Okay. And also the interior of the Terra Linda  
9 residence?

10 A That's correct.

11 Q Do those proposed exhibits fairly and accurately  
12 depict both the victims and the interior of the Terra Linda  
13 residence as you observed it on August 14th, 1998?

14 A They do.

15 MR. DASKAS: Judge, I'd move for the admission of 64  
16 through 67, 69 through 71, and 81.

17 THE COURT: And you object, prejudicial and  
18 accumulative, right?

19 MR. SCISCENTO: Yes, Your Honor.

20 THE COURT: Where's 63? Haven't seen it since we've  
21 published. Where is 63?

22 MR. FIGLER: I think it's probably still with the  
23 jury, Your Honor.

24 MR. SCISCENTO: Still with the jury.

25 MR. GUYMON: Judge, could we approach on that issue?

II-139

SUTTON - CROSS

1 THE COURT: Sure.

2 (Off-record bench conference)

3 THE COURT: Okay. Of the listed ones, 71 will not  
4 come in, the others will.

5 (Plaintiff's Exhibit Nos. 64 - 67, 69, 70, 81 admitted)

6 THE COURT: Anything further of this witness, Mr.  
7 Daskas?

8 MR. DASKAS: Judge, I have no further questions of  
9 this witness.

10 THE COURT: How long do you intend to cross, if at  
11 all?

12 MR. SCISCENTO: A minute or two.

13 THE COURT: Okay. Go ahead.

14 CROSS-EXAMINATION

15 BY MR. SCISCENTO:

16 Q Sergeant Sutton --

17 A Yes.

18 Q -- have you ever been over to -- prior to August  
19 14th, have you been over to the Terra Linda residence?

20 A No.

21 Q You had no calls to that -- that address?

22 A No.

23 Q Okay.

24 MR. SCISCENTO: No further questions.

25 THE COURT: Anything further.

II-140

1 MR. DASKAS: Nothing, thank you.

2 THE COURT: Thank you, sir. You're excused.

3 We'll take out afternoon or our lunch recess now.

4 We will not take our afternoon recess because we'll probably  
5 have a few of those later.

6 During this recess you're not -- what was that? Oh.  
7 During this recess you're admonished not to talk and converse  
8 among yourselves or with anyone else on any subject connected  
9 with this trial; read, watch or listen to any report of or  
10 commentary on the trial or any person connected with it by any  
11 medium of information including, without limitation,  
12 newspaper, television, radio; or to form or express any  
13 opinion on any subject connected with this matter until it's  
14 finally submitted to you.

15 You will report back to Stony at 2 o'clock and we'll  
16 get those back from you. We will start right at 2:05 if  
17 everybody's assembled.

18 (Court recessed at 1:05 p.m.)

19 (Jury is present)

20 THE COURT: Call your next witness when you're ready  
21 Gary.

22 MR. GUYMON: Judge, right before the break I asked  
23 that those photographs be published before I call the next  
24 witness, Judge.

25 THE COURT: You can publish them. Fine. Go ahead.

II-141

1 MR. GUYMON: Can we do that?

2 THE COURT: Yeah.

3 MR. GUYMON: Okay. I believe they were photographs  
4 21 through 60, 63 through 67, 69 and 70. If I could have  
5 those from the clerk and publish them. What we'd ask, Judge,  
6 that the -- that the jurors take the photographs and quickly  
7 pass them across to banister with one another so we can call  
8 our next witness as quick as possible.

9 THE COURT: Okay. Why don't you just -- there's a  
10 huge amount of them. Why don't we just take about five  
11 minutes to look at those.

12 MR. GUYMON: Thank you, Your Honor.

13 (Off-record)

14 (Pause in the proceedings)

15 THE COURT: If you haven't seen all of them, all of  
16 them will go back to the jury room and you can take a look at  
17 them then. Why don't you just pass them back to Stony, even  
18 if you haven't seen all of them and let's call the next  
19 witness.

20 MR. GUYMON: Tod Armstrong.

21 (Off-record colloquy)

22 TOD ARMSTRONG, PLAINTIFF'S WITNESS, IS SWORN

23 THE CLERK: Please state your full name and spell  
24 your last name for the record.

25 THE WITNESS: Tod Armstrong, A-R-M-S-T-R-O-N-G.

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ARMSTRONG - DIRECT

DIRECT EXAMINATION

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BY MR. GUYMON:

Q Tod, directing your -- directing your attention to the summer of 1998, do you recall where you were living?

A Yes.

Q And where is it you were living?

A 4815 Everman Drive.

Q And 4815 Everman Drive, can you describe that particular location, is it a house, an apartment?

A It's a house.

Q Describe the house.

A Three bedroom house, two bath.

Q Can you tell me who the owner of that house is?

A My mother, Cheryl Stevens.

Q And in the summer of 1998, did you have any roommates that lived there with you?

A Ace Hart.

Q Anyone else?

A No, not roommates.

Q Okay. We talk a little bit about -- well, let me ask you this. Did your mother live there with you and Ace?

A No.

Q Where was your mother living at the time?

A Hawaii.

Q Okay. And where does your mother live now?

II-143

ARMSTRONG - DIRECT

1 A 3450 Irva Street.

2 Q In?

3 A Las Vegas.

4 Q Okay. She was living in Hawaii in 1998?

5 A Yes.

6 Q And in 1998, how old were you?

7 A Nineteen, twenty.

8 Q How old are you now?

9 A Twenty-two.

10 Q And can you tell us approximately how old Ace Hart  
11 is?

12 A About the same age, I believe.

13 Q Now, how is it that you Ace Hart and how is it that  
14 he became a roommate of yours?

15 A He was a friend of mine through like other friends.  
16 I met him kinda through school and friends I met at school.

17 Q About how many years have you been knowing Ace Hart?

18 A About three years.

19 Q Do you know a boy by the name -- or a man by the  
20 name of Bryan Johnson?

21 A Yes.

22 Q And how do you know Bryan Johnson?

23 A Same, pretty much through school and other friends.

24 Q And for how long has Bryan Johnson and the two of  
25 you known each other and been friends?

II-144



ARMSTRONG - DIRECT

1 A Probably about four years.

2 Q Tell me, if you can, when's the last time that you  
3 spoke to or saw Ace Hart?

4 A I haven't spoken to him since the grand jury of the  
5 other case of Ray or --

6 Q Okay. In 19 -- summer of 1998 then?

7 A Yeah.

8 Q You've not spoken to Ace since then?

9 A Yeah, I haven't talked to him since then.

10 Q And Bryan Johnson, how regularly do you see Bryan  
11 Johnson?

12 A I just -- not at all. I don't talk to any of them.  
13 He was outside right but --

14 Q You say Bryan Johnson's outside right now?

15 A Yes.

16 Q Did you speak to him just now?

17 A He just sat next to me, just -- not really.

18 Q Okay. What did you talk about?

19 A What's been going on, kind of work and -- that  
20 pretty much.

21 Q Did you talk about the facts of this case with Bryan  
22 Johnson before you walked in here?

23 A No.

24 Q Okay. Now then, did Bryan Johnson ever live with  
25 you?

II-145

ARMSTRONG - DIRECT

1 A Yes.

2 Q And about when was it that Bryan Johnson lived with  
3 you?

4 A It would be June of '98 and previous, before that I  
5 believe.

6 Q Okay. So, before June of '98 Bryan Johnson lived  
7 with you?

8 A Yeah.

9 Q Did Ace Hart live with you in June of '98?

10 A Yes.

11 Q Okay.

12 A For a little bit.

13 Q Now, you say Bryan moved out in June, did Ace move  
14 out at some point in time?

15 A No.

16 Q Okay. Directing your attention to early August, did  
17 you get additional people that came to stay at the house?

18 A Yes.

19 Q And can you tell me who those people were?

20 A Red, Deco, and then later La La.

21 Q Okay. Red, Deco and La La. Let me ask you, you  
22 know Red by any other name?

23 A I can't remember it. Sorry, I didn't know before.

24 Q Would you recognize Red if you saw a picture of him?

25 A Yes.

ARMSTRONG - DIRECT

1 Q And you said Deco came to live with you?

2 A Yes.

3 Q Is Deco in this courtroom?

4 A Yes.

5 Q Will you point and describe an article of clothing  
6 he's wearing in court today?

7 A White shirt, black glasses.

8 MR. GUYMON: The record reflect the identification  
9 of the defendant.

10 THE COURT: It will.

11 BY MR. GUYMON:

12 Q Did you know Deco by any other name?

13 A Donte Johnson and John White, I guess.

14 Q Now, how is it the -- that you got introduced to Red  
15 and Deco?

16 A Through Ace Hart.

17 Q And tell me what Red and Deco's relationship was, if  
18 you know?

19 A I don't know what their relationship was.

20 Q Okay. Did you meet them at the same time?

21 A Just friends. No.

22 Q Okay. Did they come to live or come to stay with  
23 you at the same time?

24 A Yes.

25 Q Okay. And Charla -- you mentioned Charla Severs --

II-147

ARMSTRONG - DIRECT

1 A Yes.

2 Q -- or La La --

3 A Yeah.

4 Q -- I think is what you said.

5 A Yes.

6 Q Do you also know her as Charla Severs?

7 A Yes.

8 Q Would you recognize her if you saw her?

9 A Yes.

10 Q Did she also come to stay with you at the same time  
11 at Everman?

12 A Yes.

13 Q Okay. Now, how is it that that came about? In  
14 other words, how is it that those three persons decide or come  
15 to your house to stay with you and Ace?

16 A Ace asked if he could stay for -- or they could stay  
17 for a couple of days?

18 A Okay. And what was your belief about how long Donte  
19 Johnson would be staying with you?

20 A Two or three days.

21 Q Were you in agreement with that?

22 A Yes.

23 Q Okay. Tell me how many keys were there to this  
24 particular residence at Everman?

25 A One.

II-148

ARMSTRONG - DIRECT

1 Q And who had that key?

2 A It would go between Ace and I.

3 Q And tell me this, what was the rent arrangement?

4 Did you have to pay rent at your mother's house?

5 A Yes.

6 Q How about Ace, did he have to pay rent?

7 A Yes.

8 Q For these two or three days when Ace and Red came to  
9 stay, were you charging them rent?

10 A No.

11 Q How 'bout La La?

12 A No.

13 Q You indicated that you might be able to recognize  
14 some photographs. Did you get to meet any of Donte Johnson's  
15 or Terrell Young's friends after they come to stay with you?

16 A Yes.

17 Q And would you recognize any of Donte Johnson or  
18 Terrell Young's friends if you saw a photograph of them?

19 A Yes.

20 Q Can you name a couple of their friends if you -- if  
21 you can think of them?

22 A Tiny Bug which is Sikia Smith, I don't -- Tiny Bug.  
23 I can't remember the rest of their names right now off the top  
24 of my head.

25 Q I'm showing you what has been marked as State's

II-149

ARMSTRONG - DIRECT

1 Proposed 181, are those pictures appropriately labeled with  
2 the appropriate names?

3 A Yes.

4 Q Okay. Do you know the picture on the far left hand  
5 side, if I'm standing behind the exhibit to be Terrell Young?

6 A Yes.

7 Q In the center?

8 A Yes.

9 Q Donte Johnson?

10 A Yes.

11 Q And on the far other side?

12 A Yes.

13 Q Who is that?

14 A That's Sikia Smith or Tiny Bug.

15 Q Okay. And can you tell me about how many times you  
16 saw Sikia Smith in the month of August?

17 A One or two times.

18 Q And where is it you saw him?

19 A At my house, at my --

20 Q And who would he be with when he'd come to the  
21 house?

22 A With Donte or Red.

23 Q Let's talk a little bit about the living  
24 arrangements there in the -- in your house at Everman. What  
25 bedroom did you stay in?

II-150

ARMSTRONG - DIRECT

1 Q Okay. And what --

2 A That it was those two. And then they didn't have  
3 anything I guess for them, so --

4 Q Who told you they didn't have anything for them?

5 A This is Deco saying this. Yeah, pretty much telling  
6 the story, and then Red would kinda jump in and like agree, or  
7 just like tell some parts but this is pretty much all Deco.

8 Q Okay. So Deco says that the first two didn't have  
9 anything for 'em?

10 A Yes. And they called some other people, like they  
11 had the -- Matt and Tracey call some other people so they can  
12 get money, or something.

13 Q Did Deco say what he was looking for at the house?

14 A I believe money.

15 Q Okay. And who was it that said that "they had,"  
16 mean, I guess Matt and Tracey call someone, who said that?

17 A Deco.

18 Q And did Deco tell you if more than two people  
19 arrived at the house?

20 A One person showed up, and then they brought him  
21 inside, and then another person showed up, I guess later,  
22 somebody said.

23 Q Okay. And who told you that "they" brought him  
24 inside?

25 A Deco. And Red kinda did, too, I believe.

II-185

ARMSTRONG - DIRECT

1 BY MR. GUYMON:

2 Q Did you think it was funny?

3 A No.

4 Q Now, with him laughing, did you believe it was true  
5 since he was laughing?

6 A Yes.

7 Q Did Donte tell you what, if anything, was taken from  
8 the boys that night?

9 A That night. No, he didn't tell me -- or actually he  
10 said he got some money, but not that much, like a couple  
11 hundred dollars, I think.

12 Q And who said a couple hundred dollars?

13 A Deco said that.

14 Q Okay. Now while Deco's talking, you indicated that  
15 Terrell was standing there?

16 A Yes.

17 Q And you had previously indicated that --

18 A He was the one that, I believe, said that grabbed a  
19 Play Station and a VCR.

20 Q And who was the one speaking the most in this  
21 conversation?

22 A Deco.

23 Q And what, if anything, is Terrell doing while Deco  
24 is talking to you?

25 A Just sitting, just listening and kinda agreeing,

II-188



ARMSTRONG - DIRECT

1 Q Did Deco say what he had done to the third boy when  
2 he brought him inside?

3 A Yeah, I'm not sure. No, I don't recall a name.

4 Q Okay. What did Deco tell you about a fourth person,  
5 if anything?

6 A Just when they -- he just came over and they just  
7 pulled him inside, too. And then -- I'm not sure, but one of  
8 the two, I guess was the one -- one of the last two were the  
9 ones that was mouthing off to 'em.

10 Q And who was the -- one of the last two mouthing off  
11 to?

12 A To Deco.

13 Q Okay. Is that what Deco told you?

14 A Yes.

15 Q Did Deco tell you what kind of things one of the  
16 last two said in order to take that as "mouthing off"?

17 A I'm not sure. He just said that he like wouldn't,  
18 like listen to him, he thought it was like a big joke or  
19 something.

20 Q Did Deco describe that person at all?

21 A No.

22 Q As a result of that person thinking it was a joke,  
23 what did Deco then tell you he did?

24 A He said he took him to like a back room somewhere  
25 and shot him in the head.

II-186

ARMSTRONG - DIRECT

1 Q After Deco told you he shot that person, what did  
2 Deco say he did next?

3 A He said that since he killed one that he had to kill  
4 everybody else, but he didn't want to kill Tracey because he  
5 was like really nice and like cooperating, and just did  
6 everything he said; but he said he forgot which one he was  
7 'cause he was like high, so he just shot them all.

8 Q So in total, how many people did Deco say he shot  
9 that night?

10 A Four.

11 Q Did Deco describe what, if anything, happened to the  
12 kids as he shot them?

13 A He said that one of 'em made like a noise, like a  
14 grunt, I guess.

15 Q Did he describe or make a noise like a grunt?

16 A Yeah, like an -- like, uhh; like, I guess just uhh,  
17 just like --

18 Q Now can you tell me what Donte's demeanor was like?  
19 How he was acting as he was telling you these things?

20 A Laughing.

21 MR. SCISCENTO: Your Honor, I'm gonna object to  
22 that, I don't see the relevance.

23 THE COURT: Overruled.

24 THE WITNESS: He was laughing, thought it was funny.

25 //

II-187

ARMSTRONG - DIRECT

1 and joining in the conversation, I guess, you might want to  
2 say.

3 Q In total, how long does this conversation last?

4 A Probably about five, ten minutes. Not that long.

5 Q Did he describe the boy at all that was mouthing  
6 off?

7 A No.

8 Q We're somewhere between, I guess, it's dark, 13th-  
9 14th, is that correct?

10 A Yes.

11 Q Now, when you received that information that night,  
12 what did you do with that information?

13 A Nothing. I didn't do anything. I told Ace the next  
14 morning, like on the 14th I told Ace.

15 Q Okay, let me get to it. Why would -- well, why  
16 didn't you tell somebody right then and there what you now  
17 learned?

18 A Well, I mean, I was -- was scared; I didn't know  
19 what to do. I mean, he just killed four people, why wouldn't  
20 he kill me? And so I didn't know what to do. I didn't know  
21 where to go or what to do, or anything.

22 Q Tell me something, on -- while it was dark, after  
23 you learned this information, where did Donte stay that night?

24 A At the house, my house.

25 Q Where did Terrell stay that night?

II-189

ARMSTRONG - DIRECT

1 A My house.

2 Q And where did Charla Severs stay that night?

3 A My house.

4 Q Can you tell me where they slept?

5 A I'm not sure.

6 Q Okay. You say the next day would be the 14th, is  
7 that right?

8 A Yes.

9 Q Okay. Let me go now to Stallion Mountain. Does  
10 that mean anything to you?

11 A Yes.

12 Q Okay. What is Stallion Mountain, if you know?

13 A It's a golf course.

14 Q And did you go to Stallion Mountain on the 15th?

15 A Yes, on the 15th I did.

16 Q Okay. Now that 15th is Saturday, am I right?

17 A Saturday, yeah.

18 Q Okay. Now, do you know -- you say it was dark  
19 somewhere here when you wake up?

20 A Yes.

21 Q So we're -- between the two days it's dark, or we're  
22 at one or the other?

23 A Yeah, at -- yes.

24 Q Do you know if you saw Ace Hart on the 14th?

25 A Yes, I believe so.

II-190

ARMSTRONG - DIRECT

1 Q Okay. Did you see Ace Hart on the 15th?

2 A Yes.

3 Q And why is it you saw Ace Hart on the 15th?

4 A He came -- and actually, I don't know if I saw him  
5 on the 14th, I think it was just the 15th.

6 Q Okay.

7 A He came over to go to the Stallion Mountain.

8 Q And tell me what you were gonna do at the Stallion  
9 Mountain?

10 A I wanted -- I needed to talk to somebody about a job  
11 there.

12 Q Okay. In August, did you have a job?

13 A No.

14 Q Did Ace have a job?

15 A No.

16 Q Did Bryan Johnson have a job?

17 A No.

18 Q Okay. And who went with you to Stallion Mountain,  
19 if anyone?

20 A Ace and Bryan.

21 Q Okay. Tell me about what time it was that the three  
22 of you went to Stallion Mountain?

23 A It was in the morning, or daytime; it was -- I  
24 believe it was like maybe 10:00, 11 o'clock, if I could  
25 remember correctly.

II-191

ARMSTRONG - DIRECT

1 Q Okay. And how much earlier, before you left the  
2 house, how much earlier did Bryan and Ace come over?

3 A Probably about a half hour to an hour earlier.

4 Q Okay. Now, do you know where Ace and Bryan had  
5 stayed the night before?

6 A I believe at Bryan's house.

7 Q Okay. And what is it that Ace and Bryan do when  
8 they come over to your house on the 15th to go to the  
9 interview?

10 A We -- they were -- we were just all talking about  
11 what happened, I guess, or Ace and Deco were in the laundry  
12 room, which is right next to the master bedroom. And then I  
13 walked up into the conversation.

14 Q Now, if you know, what, if anything, prompted Deco  
15 and Ace's conversation?

16 A I'm not sure.

17 Q Okay.

18 A I don't know.

19 Q Tell me what -- did you hear the conversation  
20 between Deco and Ace --

21 A Yes.

22 Q -- in the laundry room area?

23 A Yes.

24 Q And tell me what the conversation was about?

25 A It was about the killings, or what happened on the

II-192

ARMSTRONG - DIRECT

1 13th-14th --

2 Q Okay.

3 A -- nighttime.

4 Q And who was the one that's talking to Ace about it  
5 now?

6 A Deco.

7 Q And what is Deco now saying to Ace as you walk in  
8 and listen?

9 A Just pretty much what he had done, like that he  
10 killed the one guy 'cause he was mouthing off.

11 Q And the second time now that you're hearing this,  
12 who's the one that killed that person?

13 A Deco killed that guy.

14 Q Okay. Take me through that --

15 A And then --

16 Q -- conversation.

17 A -- he just pretty much told Ace the same thing that  
18 he told me, that he didn't want to kill Tracey because he was  
19 like cooperating; and then he just ends up killing 'em all.

20 Q Did he say during that conversation that you  
21 listened to on the 15th, how much money he got?

22 A Not -- I don't recall if he said that at that time  
23 or not, I'm not sure.

24 Q Did he talk at all about the things that were taken  
25 from the Terra Linda house?

II-193

ARMSTRONG - DIRECT

1           A     Don't think so. Maybe -- maybe the money, I'm not  
2 sure though.

3           Q     Okay. Now as Donte is saying these things to Ace,  
4 is anyone else around?

5           A     I'm not sure. I don't recall anybody else being  
6 around there.

7           Q     Okay. Do you know if Terrell Young was home at that  
8 time?

9           A     Yes, he was there, but he wasn't in the laundry  
10 room.

11          Q     Okay. Is this the only place that Donte talked  
12 about killing on the 15th, to your knowledge?

13          A     I think it went out into the living room and was  
14 discussed some in there.

15          Q     Okay. And --

16          A     And I believe Red was there in the living room:

17          Q     Okay. So the discussion travels from the laundry  
18 room to the living room, you say that's where Terrell would  
19 also be?

20          A     Yes.

21          Q     Is Deco part of that conversation?

22          A     Yes.

23          Q     Are you?

24          A     Yes.

25          Q     Ace?

II-194



ARMSTRONG - DIRECT

1 A And Ace. And then Bryan I believe was there, in  
2 there.

3 Q Okay. And can you tell me what is that conversation  
4 consisting of? Who's the one talking?

5 A Pretty much Red and Deco, and just how we were just,  
6 like, kinda still in shock, I guess.

7 Q Now during the conversation of the return on the  
8 13th, 14th, and again on the 15th, and based on what you heard  
9 Donte say, who killed the first person?

10 A Donte.

11 Q And who killed the second person?

12 A Donte.

13 MR. SCISCENTO: Your Honor, I'm gonna object to this  
14 as asked and answered.

15 THE COURT: Sustained.

16 BY MR. GUYMON:

17 Q Did you own a pager in August of 1998?

18 A No.

19 Q Did you see a pager in your home in August of 1998?

20 A Yes.

21 Q And tell me when you saw that.

22 A I saw it in the master bedroom, in the bathroom; it  
23 was sitting on the counter. I had broke mine previous, the  
24 month before, and I picked it up and I asked whose pager it  
25 was, 'cause I needed a pager. And then either Donte or Red

II-195

ARMSTRONG - DIRECT

1 said that it came from the --

2 MR. SCISCENTO: Your Honor, I move to exclude that  
3 as hearsay, unless he can say specifically who it came from.

4 THE COURT: Sustained.

5 MR. GUYMON: All right.

6 BY MR. GUYMON:

7 Q Can you tell me specifically whether it was Donte or  
8 Red that answered your question?

9 A Yeah, I'm not sure which --

10 Q All right.

11 A -- exactly.

12 Q Did the pager stay in the bathroom there?

13 A I set it back down as soon as I was told that, so.

14 Q Okay, I don't you to tell me what you're told.

15 A All right. Yes.

16 Q Did the pager stay where you placed it?

17 A No, it -- it disappeared somewhere, I don't know.

18 Q Okay. Now then, after your interview on August

19 15th, 1998, did you come back to Everman residence?

20 A Yes.

21 Q Did Donte continue to stay at the Everman residence?

22 A Yes.

23 Q Was that with your approval?

24 A No.

25 Q Did you ask him to leave on the 15th?

II-196

ARMSTRONG - DIRECT

1 A No. I didn't want to ask him to leave, I was  
2 scared; I didn't know --

3 MR. SCISCENTO: Your Honor, I move the strike as  
4 non-responsive.

5 THE COURT: What was the question?

6 MR. GUYMON: Did you ask him to leave?

7 THE COURT: Anything beyond yes or no would be.  
8 Sustained.

9 BY MR. GUYMON:

10 Q Did you have -- without telling me, did you have  
11 reasons why you didn't want to ask him to leave?

12 MR. SCISCENTO: Your Honor, again, I think --

13 THE COURT: What is the objection?

14 MR. SCISCENTO: Improper question, based on a --

15 THE COURT: You haven't even heard the whole  
16 question. What's the whole question?

17 MR. GUYMON: I asked him if he had reasons why he  
18 wouldn't ask him to leave.

19 THE COURT: Move on to another area.

20 MR. GUYMON: Okay.

21 BY MR. GUYMON:

22 Q Tell me, did you go to the police on the 15th or the  
23 16th?

24 A No.

25 Q Did you think the information you had was important?

ARMSTRONG - DIRECT

1 A Yes.

2 Q Can you tell me if you went to the police?

3 A Yes.

4 Q And when did you go to the police?

5 A On the 17th.

6 Q Now then, tell me --

7 A I mean, I didn't want to -- like from the 15th and  
8 like the 16th I was staying at Bryan's, and I didn't really --  
9 we were still kinda deciding on what to do 'cause I didn't  
10 know.

11 THE COURT: There's no pending question.

12 Will you ask a question.

13 BY MR. GUYMON:

14 Q Let me ask you this.

15 A Sorry.

16 Q Did you talk to -- you now know that Bryan knows  
17 something about it, Ace knows something about it, you know  
18 something about it, and you said you were staying now at  
19 Bryan's?

20 A Yes.

21 Q Did you talk to Bryan and Ace about what you should  
22 do with this?

23 A Yes.

24 Q Were you trying to decide between yourselves what to  
25 do?

II-198

ARMSTRONG - DIRECT

1 A Yes.

2 Q Had you reached a decision on the 17th?

3 A Not really, we really still weren't sure. Bryan got  
4 into an argument with his mom and the cops had came over for  
5 that, and then we told the cops.

6 Q Okay. So the --

7 A So, it kind of -- we just kinda fell into it, I  
8 guess.

9 Q Okay. Bryan gets into an argument with his mother?

10 A Yes.

11 Q The cops get to Bryan's mother's house?

12 A Yes.

13 Q And who was it that tells the police first, if you  
14 know?

15 A I think Bryan.

16 Q Okay. Now when you're standing there with the  
17 police, do you hear Bryan tell the police his information?

18 A Not it all, just that he knew like that that it --  
19 we were -- that it was involved with that case, that we knew  
20 who did it. And then he separated us and had us write down  
21 statements.

22 Q Okay. So the police separate you and you begin to  
23 separately tell what you know?

24 A Yes.

25 Q Now -- was that a patrolman, or a detective?

II-199

ARMSTRONG - DIRECT

1           A     Bedroom to the -- well, if you walk in the front  
2 door you go straight back and to the right is my room.

3           Q     Was that the master bedroom?

4           A     No.

5           Q     Okay. Who stayed in the other -- you said there  
6 were three bedrooms.

7           A     Yes.

8           Q     Who stayed in the other bedroom that wasn't the  
9 master bedroom?

10          A     Ace Hart.

11          Q     And tell me, in the month of August, was anyone  
12 sleeping in the master bedroom?

13          A     Yes.

14          Q     Who slept in the master bedroom?

15          A     Donte and La La would sleep in there sometimes.

16          Q     And where would Terrell Young sleep?

17          A     In there or in the living room. It was kind of --  
18 they -- everybody just come and slept wherever. Everybody  
19 just kind of slept every where kind of.

20          Q     Now, if it was your mother's home, why wouldn't you  
21 be staying in the master bedroom? Isn't that the bigger  
22 bedroom?

23          A     Yes. The people that moved out before I moved in, I  
24 helped them move so they gave me a waterbed and I didn't want  
25 to -- and it was in that room and I didn't want to take it

ARMSTRONG - DIRECT

1 apart and put it in the master room.

2 Q Okay. So there was some people that were living in  
3 the master bedroom, they had a waterbed they gave you?

4 A Yes, but the waterbed wasn't in the master bedroom,  
5 it was in the -- my bedroom.

6 Q Okay.

7 A That's why I just slept in there and made it my  
8 bedroom.

9 Q Okay. Tell me, when Donte Johnson and Terrell Young  
10 and Charla Severs came to stay for those couple of days, did  
11 they have any personal belongings with them? Any personal  
12 property of theirs?

13 A Just like some clothes and like Donte and then Red  
14 and them had some guns and --

15 Q Okay. Let me ask you, when -- you say Donte and  
16 them, who are we talking about? Donte --

17 A Red.

18 Q Donte and Red. When they actually came to stay, did  
19 you see the guns?

20 A Not at first.

21 Q When did you see the guns?

22 A I don't recall how long after.

23 Q Can you give me an approximate?

24 A Probably like four or five days.

25 Q And where is it that you saw the guns at?

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ARMSTRONG - DIRECT

1 A Everywhere in the house pretty much or on them.

2 Q Can you describe the guns?

3 A Yeah. There was a hand pistol, like a .380 and then  
4 a revolver. Another one that they called like a carp, I  
5 guess, I don't really know what it was, but. Then a .22 kind  
6 of rifle looking thing with a clip or whatever that pulls  
7 around behind your elbow, shoulder.

8 Q I'm going to ask you -- okay. We're going to talk  
9 about each one of those guns here. You say there was a .380,  
10 do you remember what -- you say it was a handgun?

11 A Yeah.

12 Q Can you show the jury about how large that handgun  
13 was, using your hands?

14 A About that big, pretty small.

15 Q Estimate how many inches that is?

16 A About six inches, seven inch.

17 Q From one end --

18 A To the other.

19 Q -- I guess of the handle to the barrel?

20 A Yeah.

21 Q Six to seven inches?

22 A Sure, yeah.

23 Q Can you remember the color of that gun?

24 A Black and it had like a gold diamond on the handle.

25 Q Gold diamond in the --

II-153



ARMSTRONG - DIRECT

1 A Like a gold --  
2 Q -- in the --  
3 A -- yeah, like a gold diamond on the handle of it.  
4 Q In the grip area?  
5 A Yes.  
6 Q Okay. Describe the revolver, if you can?  
7 A It was like just a six -- like a six shot revolver,  
8 I think. I don't really remember that one too much.  
9 Q Can you describe how --  
10 A I just remember --  
11 Q -- big or small it was?  
12 A Kind of like medium size, wasn't like a big one. It  
13 wasn't really small.  
14 Q And about how many inches from say the handle to the  
15 barrel?  
16 A Probably like -- probably pretty much the same, like  
17 six, seven, eight inches.  
18 Q Describe the weapon that you referred to as a carp,  
19 I believe?  
20 A Yeah.  
21 Q Now, where did you learn the name carp, who called  
22 it a carp?  
23 A Deco and Red.  
24 Q Okay. Describe it.  
25 Q Looks kind like a -- like a sawed off shotgun but --

II-154

ARMSTRONG - DIRECT

1 and it had like the wood handle here and then it came down  
2 with a wood handle here.

3 Q Okay. So the -- was the handle --

4 A And then the --

5 Q -- one continuous piece of wood or was it two pieces  
6 of wood?

7 A I'm not sure.

8 Q Okay.

9 A I'd have --

10 Q Can you show the jury like the motion or the  
11 dimension of the handle, how it actually traveled?

12 A I believe it was kind of like rounded off, I guess,  
13 in back.

14 Q So the bottom or the back in it rounds down?

15 A The -- yes.

16 Q And what color was that wood handle that rounds  
17 down?

18 A I believe it was the same color as the -- like a  
19 light brown, but I'm not sure, I'd have to -- I'm not sure.

20 Q Okay. And about how long was that barrel of the  
21 gun?

22 A I guess the whole gun itself was probably about that  
23 long.

24 Q And tell me how many inches that is?

25 A It's about a foot and a half, I guess, two feet

ARMSTRONG - DIRECT

1 maybe.

2 Q Describe --

3 A I mean I haven't seen it for like two years, so I  
4 don't really remember it too well.

5 Q Okay. You described one other gun, did you not?

6 A Yes, the .22.

7 Q The .22. Anything distinct about the .22?

8 A It looked like brand new, it was black and then it  
9 had the bar, I don't know what you call it, but it came --  
10 comes off from the gun and it kind of clicks so you could hold  
11 it with one hand or something, I guess. Kind of like in Rambo  
12 or something.

13 Q The handle was -- I mean you say it pulled back and  
14 out?

15 A Yes.

16 Q Okay. And then you could push it back into the gun  
17 is the motion you made?

18 A Yeah, yes.

19 Q The record should reflect the witness moved his hand  
20 from one side to another in a semi-circle. Is that what you  
21 did?

22 A Sure.

23 Q Okay. Do you what size that gun was?

24 A It was pretty large, probably two and a half feet,  
25 two feet, I guess. Two and a half feet.

II-156

ARMSTRONG - DIRECT

1 THE COURT: Hold on -- hold on one -- just one.  
2 second, Gary.

3 (Off-record colloquy concerning fan)

4 THE COURT: Go ahead, Gary.

5 BY MR. GUYMON:

6 Q Okay. Will you keep your voice up because the air  
7 conditioning's fairly loud in here.

8 A Yes.

9 Q Okay. Was there anything else distinct about that  
10 gun other than the, I guess the foldable handle, for lack of a  
11 better word?

12 A Just that it looked brand new.

13 Q Okay. Do you know what a clip is on a gun?

14 A Yes.

15 Q Do -- did any of these guns have clips?

16 A The -- actually the .22 had a banana clip.

17 Q And which one was the .22?

18 A The one with the handle or the one I was just  
19 describing.

20 Q Okay. Can you describe the clip for the jury, so  
21 they understand when we're talking about a clip?

22 A Banana clip to where the clip was curved.

23 Q Downward?

24 A Yeah, like --

25 Q Okay. And you -- in the shape of a banana, is that

II-157

ARMSTRONG - DIRECT

1 what you're making with your hand?

2 A Yes.

3 Q Okay. The record should reflect the shape, the  
4 curve as a little banana there. Can you tell me --

5 THE COURT: It will.

6 BY MR. GUYMON:

7 Q Can you tell me what goes in a clip?

8 A Bullets.

9 Q Was this gun -- did it actually have a clip that was  
10 loaded with bullets at the time that it was in your house?

11 A I believe so.

12 Q Okay. Do you know how many bullets could be placed  
13 in that clip in total?

14 A Quite a few, I don't know how many.

15 Q All right. Would you recognize the guns if you were  
16 to see them again?

17 A Yes.

18 Q Can you tell me where the guns were kept?

19 A Either on them or in a duffel bag of just pretty  
20 much I'd see it in the living room or in the master bedroom.

21 Q Okay. You say on them or in a duffel bag?

22 A Mm-hmm. Yes.

23 Q Can you describe the duffel bag that they were kept  
24 in?

25 A It's probably about two feet long, I guess. Pretty

ARMSTRONG - DIRECT

1 -- about a foot and a half high. Kind of like a sports bag, I  
2 guess.

3 Q Okay. Do you recall the color of the duffel bag  
4 that the guns were kept in?

5 A I believe it was black and green. I believe it was  
6 black and green but --

7 Q Okay.

8 A -- I can't quite remember.

9 Q And can you tell me where was the duffel bag kept?

10 A Either in the master bedroom or in the living room.

11 Q Okay. And can you tell me what regularity, if any,  
12 the guns were actually kept in the duffel bag? In other  
13 words, when they're not on their persons, how regular would it  
14 be that the guns would be in that --

15 A They would be --

16 Q -- bag?

17 A -- in a duffel bag. They would be in the duffel bag  
18 pretty much almost all the time.

19 Q Okay. Let me ask you, did you have a VCR in the  
20 living room of your house in August of 1998, in the early --  
21 say the first week when Donte came to stay for a couple days?

22 A No, I don't believe so.

23 Q Did you have a Nintendo Play Station in the living  
24 room of your house when Donte came to stay for a couple of  
25 days?

ARMSTRONG - DIRECT

1 A No.

2 Q How about a blue pager? Before Donte came to stay  
3 at your house, was there a blue pager anywhere in the house?

4 A No.

5 Q Can you tell me if Donte Johnson smoked cigarettes  
6 or cigars?

7 A Yes.

8 Q What -- well, was that yes to both or yes to one?

9 A Black and Milds, I don't know if they're cigars or  
10 what, but Black and Milds.

11 Q Okay. Did you know him to smoke any other brands  
12 other than Black and Milds?

13 A No.

14 Q Okay. And can you tell me would he smoke Black and  
15 Milds often or not so often? How would you -- how would  
16 you --

17 A All the time.

18 Q What's all the time mean?

19 A Like somebody would -- I don't know, like probably a  
20 pack a day or --

21 Q Can you describe a Black and Mild box?

22 A Yeah, it's skinny, it holds like one row of  
23 cigarettes, I -- about -- I think like eight cigars, maybe  
24 ten.

25 Q Okay. You say it's skinny. About how big is -- how

II-160

ARMSTRONG - DIRECT

1 large or small was the box?

2 A It was about that -- like that thin and then about  
3 that high.

4 Q And give me some inches on that so the record  
5 will --

6 A Like six inches high and a half an inch wide.

7 Q Let me ask you, did you know Matt Mowen?

8 A Yes.

9 Q And how did you know Matt Mowen?

10 A I met him through Ace Hart also.

11 Q And how long -- up until August of '98, how long had  
12 you known Matt Mowen?

13 A Just a couple of weeks. Or, no, actually I met him,  
14 I believe, in late June maybe early July.

15 Q Late June --

16 A It was a couple of months before.

17 Q Okay. Of '98?

18 A Yes.

19 Q All right. Did you know Tracey Gorringer?

20 A Yes.

21 Q And Jeffrey Biddle, did you know Jeffrey Biddle?

22 A It sounds familiar.

23 Q Okay. Let me go to Tracey Gorringer. How did you  
24 know Tracey Gorringer?

25 A I met him through Ace -- met him through Ace also.

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ARMSTRONG - DIRECT

1 Q And when did you meet Tracey Gorringer?

2 A Through Ace.

3 Q Can you tell me the approximate age of Matt and  
4 Tracey? Were they your age, older or younger?

5 A I believe Tracey was a little bit older and Matt, I  
6 think, was my age. I'm not sure.

7 Q And you say a little older, how old would Tracey  
8 have been older?

9 A A couple of years.

10 Q From June until August, can you tell me  
11 approximately how many times you saw Tracey?

12 A Just two times, maybe three.

13 Q And tell me why is it that you would see Tracey?

14 A Either we -- like one time we partied together and  
15 then other times I saw him when they were getting drugs.

16 Q Okay. You talked about partying then, you mention  
17 partying. What do you mean by partying together?

18 A We did cocaine.

19 Q You and Tracey did cocaine?

20 A Yes, and Matt.

21 Q And would that have been -- excuse me?

22 A And Matt also.

23 Q Would that have been in June of '98 or July of '98?

24 A Yes.

25 Q And where were you at when you did the cocaine then?

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ARMSTRONG - DIRECT

1 A In my house.

2 Q Okay. Tell me, in the months of June, July, and  
3 August, how frequent or infrequent did you do cocaine?

4 A Quite a bit.

5 Q What does quite a bit mean?

6 A I did it almost every day.

7 Q And what form of cocaine would you use?

8 A Rock.

9 Q And do you use rock cocaine?

10 A Smoke it.

11 Q You say you partied with Tracey Gorringer, where were  
12 you at when you partied with Tracey Gorringer?

13 A We were in the master bedroom.

14 Q Of the Everman house?

15 A Yes.

16 Q And Matt Mowen, how many times did you see Matt  
17 during, say, June, July, and August?

18 A Just a couple of times, same -- same as Tracey.

19 Q And where would that have been at?

20 A My house.

21 Q Okay. Had you ever been over to Matt Mowen's or  
22 Tracey Gorringer's house and partied with them there at their  
23 house?

24 A No.

25 Q Did you know in June of 1998 where Matt Mowen or

ARMSTRONG - DIRECT

1 Tracey Gorringer lived?

2 A No.

3 Q In July did you know where the two of them lived?

4 A No.

5 Q Do you know if Ace knew where the two of them lived?

6 A Yes.

7 Q Did you know Peter Talamantez?

8 A No.

9 Q Have you ever heard that name?

10 A No.

11 Q Okay. Now then, showing you what has been marked as  
12 July of 1998 and August of 1998, it's Exhibits 199 -- or  
13 excuse me, 159 and 158. Do you recognize those as calendar  
14 months?

15 A Yes.

16 Q Okay. I'll use those if you can refer to it, if  
17 it's helpful. Can you see it there?

18 A No.

19 Q Can you see it there?

20 A Actually I can't see.

21 Q If you need to refer to it, --

22 MR. GUYMON: Counsel? And I'd move for the  
23 admission of State's Proposed Exhibit 158 and 159, Your Honor.

24 MR. FIGLER: No objection.

25 THE COURT: Received.

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ARMSTRONG - DIRECT

(Plaintiff's Exhibit Nos. 158 and 159 admitted)

BY MR. GUYMON:

Q Can you see those there now?

A Yes.

Q Okay. Now then, can you give -- and I don't know if you can, but can you give me a specific date that Donte Johnson came to stay with you?

A I don't know.

Q What month?

A Beginning of August.

Q Now, did he end up staying more than a couple of days?

A Yes.

Q Was that with your approval or not?

A I didn't want him to, no.

Q Okay.

A I didn't want them to be there at all. They -- I was -- they scared me.

Q Let me ask you, if you didn't want him to be there and who was, for lack of a better word, who was the landlord of the house?

A Like I was pretty much in charge of the house, I guess.

Q Okay. If you were in charge of the house and you didn't want him to be there, did you tell him that?

II-165

ARMSTRONG - DIRECT

1 A No.

2 Q Why?

3 A I kind of knew that they were --

4 MR. SCISCENTO: Your Honor, I'm going to object to  
5 this, I think it calls for speculation. If we may approach?

6 THE COURT: Sustained.

7 MR. SCISCENTO: Your Honor, if we may approach? I  
8 want to get -- make sure we get something clarified.

9 THE COURT: Or do you want me to talk --

10 (Off-record bench conference)

11 BY MR. GUYMON:

12 Q Strike that last question. Let me ask you, did you  
13 tell Donte Johnson to leave?

14 A No, I didn't.

15 Q Did you tell Terrell Young to leave?

16 A No.

17 Q Did -- at any time did you attempt to think of a way  
18 to get them to leave?

19 A Yes.

20 Q Did you tell --

21 A I --

22 Q -- of your plan?

23 A No. I -- yeah, I talked to my girlfriend because I  
24 told her I didn't want them there and we were trying to think  
25 of ways to have them get out of the house, and she said like

II-166

ARMSTRONG - DIRECT

1 say that your mom's coming in town because I haven't been -- I  
2 wasn't talking to her too much and so I told them my mom was  
3 coming in town and that they needed to leave --

4 Q And where --

5 A -- because they couldn't be there.

6 Q -- was your mother staying in August of '98?

7 A She was in Hawaii.

8 Q Okay. And did -- so did you tell Donte Johnson and  
9 Terrell Young that your mom was coming --

10 A Yes.

11 Q -- back to the house?

12 A Yes.

13 Q And what did Donte Johnson say, if anything, about  
14 that?

15 A He goes, well, find out what exact date that she  
16 comes in and then we'll leave.

17 Q Okay. And did you have an exact date for when your  
18 mom was coming to stay?

19 A No, she wasn't really coming out, just said that to  
20 see if I can get 'em to leave.

21 Q Tell me, if you wanted Donte Johnson to leave did  
22 you have -- how many keys were there?

23 A One.

24 Q Did you ever say lock the front door and lock him  
25 out?

II-167

ARMSTRONG - DIRECT

1           A     Yeah, there was a broken bathroom window right by  
2 one of the side door, where the keys were for, so go through  
3 that.

4           Q     Okay. Tell me, how did -- if you know, how did  
5 Donte, Red, and Charla Severs get in and out of the house --

6           A     Either --

7           Q     -- with just one key to the house?

8           A     -- either through the window or if I was home they  
9 would just knock on the door and come in.

10          Q     Now then, can you tell me approximately how many  
11 weeks or how many days in total Donte Johnson, Terrell Young,  
12 and Charla Severs ended up staying at the house?

13          A     About two -- two weeks, two and a half weeks.

14          Q     Okay. During that two, two and a half week period  
15 of time did Donte Johnson, Terrell Young or Charla Severs have  
16 a means of transportation, a vehicle?

17          A     Yes.

18          Q     Can you describe the vehicle?

19          A     It was like a white Tempo. I'm not sure if it was  
20 two or four-door.

21          Q     Okay. And who would drive that car?

22          A     Deco.

23          Q     Tell me, you talked about Matt coming to the house,  
24 I think you said in early -- late June, early July?

25          A     Yes.

II-168

ARMSTRONG - DIRECT

1 Q And how many times in total did Matt come to the  
2 house?

3 A Probably three, four times.

4 Q Okay. And can you kind of give us a pace, if you  
5 will, as to when he would have come? If it was late June,  
6 early July, kind of give us a sequence of when Matt would come  
7 to the house?

8 A It would be like late June, early July, and then I  
9 guess he went out-of-town for a while and then came back in  
10 August, the beginning of August.

11 Q Did you see Matt Mowen again in the beginning of  
12 August?

13 A Yes.

14 Q And approximately what week would that have been  
15 when you saw Matt Mowen in the beginning of August?

16 A Somewhere around, I guess, like in between the 7th  
17 and the 10th. I guess somewhere around there.

18 Q Okay. Now, on the 7th -- between the 7th and 10th,  
19 how was it that you saw Matt Mowen, where was it at?

20 A It was at my house. He came over to try to get  
21 drugs.

22 Q Okay. And who was he trying to get drugs from?

23 A Deco.

24 Q Well, let me ask you this. Would you get drugs from  
25 Deco?

II-169



ARMSTRONG - DIRECT

1 A I used to, yes.  
2 Q What drug?  
3 A Cocaine or --  
4 Q Would Ace Hart get drugs?  
5 A Yes.  
6 Q From who?  
7 A From him and some other people that he knew.  
8 Q Who's "him?"  
9 A Deco. I'm sorry.  
10 Q How about Bryan Johnson? We talked about Bryan, did  
11 Bryan use drugs?  
12 A Yes, he did.  
13 Q And what drug did Bryan use?  
14 A The same.  
15 Q Rock cocaine?  
16 A Yes.  
17 Q Ace Hart, rock cocaine?  
18 A Yes.  
19 Q And you said Matt Mowen came over between the 7th  
20 and the 10th, what drug was he trying to get?  
21 A Rock cocaine.  
22 Q Was he -- did he get rock cocaine from Deco that  
23 day?  
24 A Yes, I believe so. I'm not -- I'm not really sure.  
25 I can't really remember.

II-170

ARMSTRONG - DIRECT

- 1 Q Not sure, yes or no on that?
- 2 A I couldn't answer that.
- 3 Q Okay. Tell me who all was home when Matt came to
- 4 the house?
- 5 A Deco, Red, La La, me, Ace, and maybe Bryan.
- 6 Q Maybe Bryan?
- 7 A I'm not sure. I'm not -- yeah.
- 8 Q Bryan's the one you're not sure of?
- 9 A Yes.
- 10 Q Are you sure of everyone else?
- 11 A Yes.
- 12 Q Okay. And can you tell me how long was Matt at the
- 13 house total?
- 14 A Like five, ten minutes.
- 15 Q Did all the people that you named have a
- 16 conversation or talk with Matt when he came over to the house?
- 17 A Yes.
- 18 Q Can you tell me where that conversation took place
- 19 at?
- 20 A It was in the living room.
- 21 Q Okay.
- 22 A Matt said that he just got back from a tour with
- 23 Phish, a band I guess, and that they made all kinds of money
- 24 selling acid and then --
- 25 Q You say Matt said he made all kinds of money. Did

II-171

ARMSTRONG - DIRECT

1 he say how much money he made?

2 A I'm not sure, he said he sold like a hundred sheet  
3 of acid or something.

4 Q That he had sold acid at the Phish concert?

5 A Yes.

6 Q Did he say whether or not he sold anything else?

7 A No, not that I believe -- not that I can remember.

8 Q Did Donte Johnson say anything when Matt said that?

9 A No, he didn't say anything.

10 Q And how far were you from Matt when Matt said that?

11 A Just a couple feet.

12 Q How far was Donte from Matt when Matt said that?

13 A The same, just a couple feet.

14 Q And Terrell?

15 A Like sitting on the couches and he was like right in  
16 the middle of the living room.

17 Q How about Terrell, was Terrell still within the same  
18 distance?

19 A Yes.

20 Q Could you clearly hear Matt?

21 A Yes.

22 Q Okay. Now then, when Matt said that, what did Donte  
23 do, if anything?

24 A I'm sorry?

25 A What did Donte do, if anything, when Matt said that?

II-172

ARMSTRONG - DIRECT

1           A     He just kind of looked around, like at Red and Ace  
2 and I. Just kind of like had an idea, I guess.

3           MR. SCISCENTO: I object to that, it calls for  
4 speculation.

5           THE COURT: Sustained.

6 BY MR. GUYMON:

7           Q     Okay. Without telling me what --

8           A     I'm sorry. Oh.

9           Q     -- just that he looked -- he looked around?

10          A     Yeah, he just kind of looked around.

11          Q     After the -- after the ten -- five or ten minutes,  
12 did Matt leave?

13          A     Yes.

14          Q     Did Donte stay there at the house for a little while  
15 after Matt left?

16          A     Yes.

17          Q     Terrell?

18          A     Yes.

19          Q     Charla?

20          A     Yes.

21          Q     You?

22          A     Yes.

23          Q     Ace?

24          A     Yes.

25          Q     And maybe BJ, we're not -- you're not sure?

II-173

ARMSTRONG - DIRECT

1 A Yeah, I'm not sure.

2 Q Was anything -- did you and Donte or you and Terrell  
3 talk about what Matt had now told you?

4 A No.

5 Q Did you say anything to anyone about where Matt had  
6 been or whether or not Matt had money?

7 A No.

8 Q Did you make any comment about Matt after he left?

9 A No.

10 Q Did Donte say anything about Matt after he left?

11 A No.

12 Q How about Terrell?

13 A No.

14 Q Now then, after Matt's visit, did you and Donte ever  
15 talk about Matt at all?

16 A No.

17 Q Okay.

18 A He would sometimes ask me like where they lived.

19 Q Who would ask you where?

20 A Donte or Deco.

21 Q And how many times, if you recall, did Donte ask you  
22 where Matt lived after Matt visited?

23 A Probably a dozen times.

24 Q Was anyone else ever around when Matt -- when Donte  
25 would ask that?

ARMSTRONG - DIRECT

1           A     I don't -- I'm not sure. I'm sure there was, maybe  
2     -- maybe Red or La La might have been around.

3           Q     Let me ask you, during the last -- say the week of  
4     the 9th, August 9th, 1998, was Ace Hart still staying at the  
5     house there at Everman?

6           A     No, he was pretty much staying at Bryan's house.

7           Q     And where was Bryan staying at the time?

8           A     On the other side of town. On the other side of  
9     town.

10          Q     And who with, if you know?

11          A     With his mom.

12          Q     Okay. Now, you say Ace was -- started to stay over  
13     there at Bryan's. Had Ace moved all his stuff out?

14          A     No.

15          Q     Okay. Would Ace come back to the Everman residence  
16     from time to time?

17          A     Yes.

18          Q     And how often?

19          A     Pretty much every day or every other day.

20          Q     When Donte began to ask you where Matt lived, can  
21     you tell me if you were able to tell Donte where he lived?

22          A     No.

23          Q     Did you -- subsequently were you able to tell Donte  
24     where Matt lived?

25          A     No, I didn't know where he lived.

II-175

ARMSTRONG - DIRECT

1 Q Okay. Do you know how Donte learned where Matt  
2 live?

3 A Yes.

4 Q Tell me how that happens, if you have personal  
5 knowledge?

6 A Yes. It was Deco, Red, Ace and I, we were in a car  
7 and Ace showed him where he lived.

8 Q Okay. Can you tell me who was driving the car?

9 A Deco was driving.

10 Q And who was seated in the front seat, passenger?

11 A Red.

12 Q And where were you seated?

13 A Behind Red.

14 Q And where was Ace seated?

15 A Ace was seated next to me in the back.

16 Q Now, do you know why it was that this house was  
17 pointed out to Donte?

18 A No, not for certain but I kind of had an idea that  
19 they wanted to break into the house and try to steal the money  
20 or --

21 MR. SCISCENTO: I'm going to object, Your Honor, it  
22 calls for speculation.

23 THE COURT: That'll be stricken, the jury will  
24 disregard it.

25 //

II-176

ARMSTRONG - DIRECT

1 BY MR. GUYMON:

2 Q Was there any conversation when the house was  
3 pointed out, why it was pointed out?

4 A No.

5 Q Okay. Now then, directing your attention to --  
6 well, can you tell me approximately when that would have been  
7 using August '98?

8 A It'd been in the middle, maybe like the 11th.  
9 Somewhere around the 11th, -- the 10th to the 12th, somewhere  
10 around.

11 Q Directing your attention to August 13th of 1998,  
12 were you at home that night?

13 A Yes.

14 Q All right. Was anyone else home that night?

15 A Yes, La La was home.

16 Q Okay.

17 A Or over there.

18 Q Now, you say you were home that night, La La was  
19 home that night?

20 A Yes.

21 Q You mean throughout the night?

22 A Yes, throughout the night.

23 Q Now, prior to the whole evening going, anyone else  
24 at the house prior to you going to bed?

25 A Deco and Red.

II-177



ARMSTRONG - DIRECT

1 Q Okay. And did Deco and Red leave the house?

2 A Yes, I believe so, because I woke up when they came  
3 home.

4 Q Okay. Was it dark when they left the house or was  
5 it still light when they left the house?

6 A I'm not sure exactly when they left.

7 Q Okay. Did you go to bed before it got dark or after  
8 it got dark?

9 A I believe it was after it was dark.

10 Q Were they home say while it was still light while  
11 you were at the house?

12 A I believe so, yes.

13 Q Okay. And you say that -- when you say you went to  
14 bed, where did you sleep that night?

15 A On the couch in the living room .

16 Q Okay. And do you know where Charla Severs slept  
17 that night?

18 A I believe in the master bedroom.

19 Q Okay. Did you actually see Donte and Red leave that  
20 night?

21 A I don't believe so, I don't remember.

22 Q Okay. You indicated though that you woke up when  
23 they came back?

24 A Yes.

25 Q All right. How did you know they had come back?

ARMSTRONG - DIRECT

1       A     They woke me up, they were walking in through the  
2 side door and I woke up. I just -- they were being loud  
3 and --

4       Q     When you wake up, are you able to see who it  
5 actually is?

6       A     Yes.

7       Q     And who's together at that time?

8       A     It was Deco and Red, and I was in the living room.

9       Q     Okay. And how close do they walk by you or to you?

10      A     Deco went to the master bedroom, and then Red sat on  
11 the other couch.

12      Q     And could you tell -- how many feet did Deco get to  
13 you as he went to the master bedroom?

14      A     Just probably like six feet.

15      Q     Okay. And how about Red, how close did he come to  
16 you when he sits down on the sofa?

17      A     The same, probably about six feet across.

18      Q     Could you see a point in time when they come into  
19 the house whether or not either one of them were carrying  
20 anything?

21      A     Yes, they were carrying a duffel bag, I think they  
22 may have had two of 'em.

23      Q     Okay. You say they may have had two duffel bags?

24      A     Yes.

25      Q     Can you describe either of the duffel bags?

ARMSTRONG - DIRECT

1 A It was the one -- the same one as they kept the guns  
2 in. And the other one, I don't quite remember.

3 Q Okay. Could you tell if the one that they had kept  
4 the guns in, if it had anything in it?

5 A Yes, it looked full.

6 Q You say it looked full?

7 A Yes.

8 Q What do you mean by that?

9 A I -- like it wasn't like all floppy or anything, it  
10 was -- there was something in it.

11 Q Had you seen -- about how many times had you seen  
12 the gun -- or the bag full before that time?

13 MR. SCISCENTO: I'm gonna object to this --

14 THE WITNESS: Pretty much, the guns are --

15 MR. SCISCENTO: -- Your Honor, I'm gonna object to  
16 this. I don't see the relevance.

17 THE COURT: Overruled.

18 BY MR. GUYMON:

19 Q Excuse me?

20 A The guns are pretty much usually in there, so it's  
21 most of the time full.

22 Q Did the bag look the same now as it had looked at  
23 other times when you'd seen it?

24 A Sure, yeah.

25 Q Could you actually see into the bags to see the

ARMSTRONG - DIRECT

1 guns?

2 A No.

3 Q Okay.

4 MR. SCISCENTO: Your Honor, I'm gonna object to that  
5 last one. The witness has stated he can't see inside of it,  
6 Mr. Guymon has alluded that there's guns inside of it. I  
7 mean, there's no evidence whatsoever at this point that there  
8 were guns inside of it.

9 MR. GUYMON: Actually --

10 THE COURT: Overruled. Go ahead.

11 MR. GUYMON: Thank you, Judge.

12 BY MR. GUYMON:

13 Q Now then, where was the bag that you're describing  
14 looked full, where was it placed?

15 A I believe it was right by the TV.

16 Q There in the living --

17 A By the TV. Yes, in the living room.

18 Q There in the living room?

19 A Yeah.

20 Q Could -- could you hear anything when it was placed  
21 down on the ground?

22 A No, not that I remember.

23 Q Okay. And you say you think there was a second bag?

24 A Yes.

25 Q And how sure are you of that?

II-181

ARMSTRONG - DIRECT

1           A     Pretty sure, because the -- Red pulled out like a  
2 Play Station and a VCR out of the bag.  
3           Q     Okay. You say Red pulled out a Play Station and a  
4 VCR?  
5           A     Yes.  
6           Q     Had you ever seen that Play Station before at the  
7 house?  
8           A     No.  
9           Q     Had you ever seen the VCR there at the house?  
10          A     No.  
11          Q     Now, when you wake up, you said you'd gone to bed on  
12 the 13th, when you wake up and you see Donte and Terrell, is  
13 the sun now up?  
14          A     No.  
15          Q     Do you have any idea what time it is when you wake  
16 up?  
17          A     I don't.  
18          Q     Is it light or dark out?  
19          A     Still dark.  
20          Q     Okay. You said Donte walked in the back bedroom.  
21 Do you say anything to Terrell Young when Donte walked into  
22 the back bedroom?  
23          A     Just asked 'em where they were.  
24          Q     How long is Donte back in the back bedroom?  
25          A     Just like a minute, just real quick.

II-182

ARMSTRONG - DIRECT

1 Q Do you see Donte again, and if so, where?

2 A He came out with La La.

3 Q Like where do they come out to?

4 A To the living room.

5 Q Tell me what happens once Donte and La La -- do they  
6 sit down in the living room?

7 A I'm not sure if they sat down. It was pretty much  
8 just everybody was in the living room. They just told me that  
9 they went to Matt's house and that they ended up killing four  
10 out of the four people.

11 Q Who is it that says they went to Matt's?

12 A It was Deco and Red --

13 Q Okay.

14 A -- they both pretty much told the story, or told  
15 what happened.

16 Q Okay. Tell me what you recall Deco saying that  
17 night about where he had been.

18 A Just that they were over there, and that he ended up  
19 killing one of the guys 'cause he was like mouthing off, or  
20 didn't like listen to him or something; he was just being  
21 obnoxious.

22 Q And did -- that was Deco saying that?

23 A Yes.

24 Q Who did Deco say killed that person, the guy that  
25 mouthed off?

II-183

ARMSTRONG - DIRECT

1           A     I'm sorry?  
2           Q     Who did Deco say killed the person that mouthed off?  
3           A     Oh, he said that he killed --  
4           Q     And who's --  
5           A     -- the person.  
6           Q     -- "he"?  
7           A     Deco.  
8           Q     Okay. Did Deco say how he killed that person?  
9           A     He said he shot him in the head.  
10          Q     Did he say anything else about that person that  
11     night?  
12          A     No. Just that he, like -- well, he said when they  
13     got there that there was somebody outside and that they went  
14     inside.  
15          Q     Let me stop you. Did he say what the person that  
16     was outside was doing when he got there?  
17          A     Yeah, he said he was watering the lawn.  
18          Q     And what did Deco say, if anything, that he did to  
19     that person when he got there?  
20          A     Just told him to go inside, that I can remember.  
21          Q     Okay.  
22          A     And then once they got inside, I guess Tracey was  
23     over there.  
24          Q     And who told you Tracey was over there?  
25          A     Deco.

II-184

ARMSTRONG - DIRECT

1 A Patrolman.

2 Q After you tell the patrolman what you know, what, if  
3 anything, does the patrolman do with that information?

4 A He took the statements, and then he drove us down to  
5 the detective office.

6 Q We're in the 17th then, is that correct?

7 A Yes.

8 Q And you go to the detective office. And you speak  
9 to homicide detectives?

10 A Yes.

11 Q Did you want to be speaking to homicide detectives  
12 on the 17th?

13 A I didn't -- I didn't really know. I didn't know  
14 what still to do 'cause I didn't -- I didn't want them, or  
15 Deco and Red knowing that I'm there, and then them not be at  
16 my house or something, and then have to worry about him --

17 MR. SCISCENTO: Your Honor, I object --

18 THE WITNESS: -- trying to find me.

19 MR. SCISCENTO: -- to this, unresponsive.

20 THE COURT: Overruled.

21 BY MR. GUYMON:

22 Q Now on the 17th when you speak the police officers  
23 -- or the detectives, did you give them consent to search your  
24 house?

25 A Yes.

II-200



ARMSTRONG - DIRECT

1 Q Who did you believe would be at the house? Or did  
2 you believe anyone --

3 A I --

4 Q -- would be there?

5 A -- thought that Deco and Red would be there, and La  
6 La.

7 Q Showing you what's been marked as State's Proposed  
8 Exhibit 98 through 112, with the exception of 100, can you  
9 take those for me?

10 A Yes.

11 Q I want you to look at those pictures briefly and  
12 tell me if you recognize, first of all, Number 98?

13 A Yes, it's my front door.

14 Q Is that as your house appeared in August of 1998?

15 MR. GUYMON: I move for admission of 98.

16 MR. SCISCENTO: No objection, Your Honor.

17 THE COURT: Received.

18 (Plaintiff's Exhibit No. 98 admitted)

19 MR. GUYMON: May I ask to publish the same?

20 THE COURT: Sure.

21 BY MR. GUYMON:

22 Q Directing your attention to State's Proposed Exhibit  
23 99, let me ask you if you recognize it?

24 A Yes.

25 Q And what room is that in your home?

II-201

ARMSTRONG - DIRECT

1 A This is the living room.

2 Q And tell me, is there anything in that home that  
3 hadn't been there, say in the first week of August of 1998?

4 A Yes.

5 Q And what is it that's now new to the home in -- in  
6 '98 of August?

7 A The Play Station and the VCR.

8 Q Okay. Now you pointed to something as a Play  
9 Station. Are there two items on the ground?

10 A Yes.

11 Q What are those items?

12 A Like there's a Nintendo and a Play Station.

13 Q All right. And who owned the Nintendo?

14 A It was an ex-roommate Joel.

15 Q He left it there?

16 A Yes.

17 Q The Play Station is the gray item with the kind of a  
18 circle on the top of it?

19 A Yes.

20 Q All right. Now when did that item come to the home?

21 A The night of the 13th and 14th morning.

22 Q Okay. Is that one of the items that you saw Terrell  
23 Young remove from the bag?

24 A Yes.

25 Q Is there any other items that weren't in the house

II-202

ARMSTRONG - DIRECT

1 before the 13th-14th?

2 A The VCR, and actually the movies that are right  
3 here.

4 Q Okay. The movies hadn't been there either?

5 A No.

6 Q And the VCR hadn't been there?

7 A Yeah.

8 Q Okay. And is that the same VCR, to your knowledge,  
9 that you saw on the -- come out of the bag on the 13th-14th?

10 A Yes.

11 MR. GUYMON: I move for the admission of State's  
12 Proposed Exhibit 99, and ask to publish the same.

13 MR. SCISCENTO: No objection.

14 THE COURT: Received.

15 (Plaintiff's Exhibit No. 99 admitted)

16 BY MR. GUYMON:

17 Q And can you tell me what the next number is there?  
18 Okay. Number 101, does it also depict the VCR location and  
19 the Play Station?

20 A Yes.

21 Q Does it fairly and accurately reflect where those  
22 items were put after the 13th-14th?

23 A Yes.

24 MR. GUYMON: Move for the admission of 101.

25 MR. SCISCENTO: No objection.

II-203

ARMSTRONG - DIRECT

1 THE COURT: Received.

2 (Plaintiff's Exhibit No. 101 admitted)

3 BY MR. GUYMON:

4 Q Can you tell me what's depicted in 102?

5 A The -- you can see part of the Play Station, the  
6 VCR, it looks like La La's purse, and some more movies, and --

7 Q Does it fairly and accurately depict the residence  
8 after the 13th-14th?

9 A Yes.

10 MR. GUYMON: I move the admission of 102.

11 THE COURT: Received.

12 (Plaintiff's Exhibit No. 102 admitted)

13 BY MR. GUYMON:

14 Q 103, can you tell me what's depicted in 103?

15 A It's a box; it's -- it was Deco's box with all his  
16 stuff.

17 Q Describe the box, if you would. What type of box?

18 A It's a Foobu [phonetic] shoe box.

19 Q And do you --

20 A Black.

21 Q -- see any items in particular in that box?

22 A The Black Milds that he would smoke --

23 MR. GUYMON: I move for --

24 THE WITNESS: -- are in there.

25 MR. GUYMON: I'd move for the admission of State's

II-204

ARMSTRONG - DIRECT

1 Proposed Exhibit 103, and ask to publish the same?

2 MR. SCISCENTO: No objection.

3 THE COURT: Received.

4 (Plaintiff's Exhibit No. 103 admitted)

5 BY MR. GUYMON:

6 Q 104, can you tell me if you recognize it?

7 A Yes.

8 Q And what's depicted there?

9 A It's a duffel bag.

10 Q Is that --

11 A And some -- another bag and then my radio.

12 Q Okay. And had you seen that duffel bag before?

13 A Yes.

14 Q What duffel bag is that?

15 A That's the duffel bag that he kept the guns in.

16 Q There's some duct tape, is there not, on top of the  
17 duffel bag?

18 A Yes.

19 Q Had you ever seen duct tape there at the house  
20 before?

21 A Maybe somewhere in my house. I don't know if I had  
22 duct tape or not.

23 Q Is that the same bag that was returned on the 13th-  
24 14th that you described as being full?

25 A Yes.

II-205

ARMSTRONG - DIRECT

1 MR. GUYMON: I'd move for the State's -- the  
2 admission of State's Proposed Exhibit 104.

3 MR. SCISCENTO: We object to that, Your Honor.

4 THE COURT: Received.

5 (Plaintiff's Exhibit No. 104 admitted)

6 BY MR. GUYMON:

7 Q I'm gonna leave for a minute 105 and 106 and ask you  
8 if you recognize 107?

9 A Yes.

10 Q What room is 107, if you know?

11 A This is the master bedroom.

12 Q And can you tell me whose items are shown there in  
13 the master bedroom, clothing items?

14 A It would probably be Deco's or Red's; I didn't have  
15 any clothes in that room, or Ace didn't have any clothes in  
16 that room, I don't think.

17 Q Do you recognize the shoes that are there?

18 A Yes, it was either Deco or Red's; they both had  
19 shoes like that.

20 MR. GUYMON: Judge, may we approach for a moment?  
21 If I could have that photograph, sir.

22 (Off-record bench conference)

23 BY MR. GUYMON:

24 Q 107 also has an additional item in the picture that  
25 you've not talked about. Can you -- do you recognize the

II-206

ARMSTRONG - DIRECT

1 additional item?

2 A That I haven't talked about.

3 Q Well --

4 A Out of the pictures, or?

5 Q No, no. In 107 at the bottom of those pants -- how  
6 many pair of black pants are there there?

7 A There's two.

8 Q Okay. At the bottom of those pants, you see  
9 something you recognize?

10 A There's a gun.

11 Q Okay. Do you recognize that gun?

12 A Yes.

13 Q And how is it you recognize that gun?

14 A That's the one I was explaining earlier.

15 Q Which one is it?

16 A The .22 with a banana clip and the -- I don't know  
17 what you'd call it, but the thing that clicks around.

18 Q Okay. And where was that gun kept?

19 A That would be like around the bag, or I don't know,  
20 whatever, inside the bag.

21 Q Same bag we saw earlier in I think 104, the green  
22 and brown bag?

23 A Yes.

24 Q And does this picture fairly and accurately depict  
25 that gun you described and those clothing items there in the

II-207

ARMSTRONG - DIRECT

1 master bedroom of your home?  
2 A I'm sorry?  
3 Q Is this --  
4 A Sorry, this is my home.  
5 Q Yes.  
6 A That's the master bedroom.  
7 MR. GUYMON: I'd move for the admission of State's  
8 Proposed Exhibit --  
9 THE COURT: Subject to the earlier objection, it'll  
10 be -- it'll be overruled. That objection [sic] will be  
11 admitted.  
12 (Plaintiff's Exhibit No. 107 admitted)  
13 MR. GUYMON: May I publish it, Judge?  
14 THE COURT: Sure.  
15 BY MR. GUYMON:  
16 Q And the next picture, 108?  
17 A Yes.  
18 Q And I believe 109. Do you recognize 108? Let's  
19 just start with 108.  
20 A Yes.  
21 Q Okay. And how do you recognize 108?  
22 A It's my backyard where they dug up the keys --  
23 Q Okay. And were --  
24 A -- in the --  
25 Q -- you present when they dug up items?

II-208



ARMSTRONG - DIRECT

1 A Yes.

2 Q Okay. Did you actually watch 'em dig up items?

3 A Yes.

4 Q Okay. Let's go to the next picture. Do you still  
5 recognize the next picture as your backyard?

6 A Yes.

7 Q Okay. And can you begin to see something there in  
8 it?

9 A The blue pager.

10 Q Okay. And do you recognize the blue pager?

11 A Yes.

12 Q Did you actually see it dug up?

13 A Yes.

14 Q When had you seen this -- or had you seen this blue  
15 pager every before?

16 A This is the one that I saw in the bathroom.

17 Q Okay. And the keys, had you seen the keys before?

18 A Yeah, kind of. Like they -- I seen 'em before when  
19 they were staying at the Thunderbird.

20 Q Are those keys to your house?

21 A No.

22 Q Do you know what -- where those keys go to?

23 A One I know, the -- for the Thunderbird.

24 Q Okay. That's a hotel here in town?

25 A Yes.

II-209

ARMSTRONG - DIRECT

1 Q Okay. Did Terrell Young have any black jeans at  
2 your house?

3 A Yes, they both had.

4 Q And do you remember, if you do, what Deco was  
5 wearing when he walks into the house on the 13th-14th of  
6 August?

7 A They were both wearing all black.

8 Q You say they were both wearing all black.

9 A Yes.

10 Q Who was "they" or --

11 A Deco and Red.

12 Q Can you tell me how Deco wore his pants in August of  
13 1998?

14 A Pretty big I guess, pretty -- like larger than what  
15 his waist would be.

16 Q Okay. Would he wear them right on his waist?

17 A No.

18 Q Where would he wear them?

19 A Just at -- I'm not really -- like lower than that,  
20 kinda sagging, I guess.

21 Q Lower than my pants today?

22 A Yes.

23 Q Okay. Now then, after speaking to the police in  
24 August of '98, did you stay here in Las Vegas, Nevada?

25 A No.

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ARMSTRONG - DIRECT

1 Q Where did you go?  
2 A I moved to my mom's house in Hawaii.  
3 Q While in Hawaii, did the police come out to Hawaii  
4 and speak to you?  
5 A Yes.  
6 Q Did you learn at some point in time that you, in  
7 fact, were a suspect in this case?  
8 A Yes.  
9 Q Okay. So you learned in the papers that you were a  
10 suspect?  
11 A Yes.  
12 Q Have any promises been made to you about whether  
13 you're a suspect as you testify today?  
14 A No, just -- no.  
15 Q Have any promises been made either by the  
16 detectives, myself, Mr. Daskas or anyone from the DA's office  
17 about whether or not you can or will be prosecuted?  
18 A Yes, that I can be prosecuted, that if more  
19 evidence, or that something shows up that I was involved, that  
20 I would be prosecuted.  
21 Q Did you participate in any way in this killing?  
22 A No.  
23 Q Did you go to the house that night?  
24 A No.  
25 Q Did you plan it?

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ARMSTRONG - CROSS

1 A No.

2 MR. GUYMON: Pass the witness, Your Honor.

3 THE COURT: Cross.

4 MR. SCISCENTO: Your Honor, can we approach for a  
5 moment?

6 THE COURT: Sure.

7 (Off-record bench conference)

8 (Pause in the proceedings)

9 MR. SCISCENTO: So it doesn't affect my cross, Your  
10 Honor, I'd ask the -- you to have the jury return the pictures  
11 so I can know exactly when they're finished examining them.

12 THE COURT: Sure. Let's just wait a second and get  
13 them back.

14 While they're finishing up would you approach bench  
15 again, please. This doesn't involve you Dayvid, I don't want  
16 you to get all that extra exercise.

17 (Off-record bench conference)

18 MR. SCISCENTO: I'm waiting for the pictures to be  
19 returned, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. SCISCENTO:

22 Q Mr. Armstrong, when did you first go back to Hawaii,  
23 or when did you first go to Hawaii?

24 A The first time I've ever been to Hawaii?

25 Q No, since August 14th, and that's in '98.

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ARMSTRONG - CROSS

1           A     I believe it was on the 18th or 19th, 20th,  
2 somewhere within those couple days.

3           Q     So within five days --

4           A     Yes.

5           Q     -- of August 14th you went to Hawaii?

6           A     Yeah, five -- yeah, pretty close after.

7           Q     And you stayed there the entire time until today?

8           A     No.

9           Q     And did you come back here?

10          A     Yes, I've come back and then gone back again.

11          Q     You came back to testify?

12          A     No, I actually moved back here.

13          Q     When did you move back here?

14          A     I moved there and I was there for a couple months,  
15 and then my mom and I both moved back.

16          Q     And then you moved back to Hawaii?

17          A     And then I just moved back in last July.

18          Q     And you've been over there in Hawaii ever since  
19 then?

20          A     Since July, last July.

21          Q     Okay. Let's focus on this, Ace Hart at the time  
22 back in August of '98 was one of your best friends?

23          A     Yes.

24          Q     Probably your only friend, other than B.J.?

25          A     No, not really, I had a lot of friends, but --

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ARMSTRONG - CROSS

1 Q Those two were your closest?  
2 A Yes.  
3 Q Closer than anybody else that you had at that time?  
4 A Pretty close, yeah.  
5 Q You guys --  
6 A I had some other close friends, though.  
7 Q You guys did a lot together?  
8 A Yes.  
9 Q Saw each other almost every day?  
10 A Yes.  
11 Q You smoked a lot of crack cocaine?  
12 A Yes.  
13 Q Matter of fact you smoked it almost every day?  
14 A Yes.  
15 Q The person you call Deco provided you with that  
16 crack cocaine?  
17 A Sometimes, yes.  
18 Q And you accepted that as compensation for him to  
19 stay with you, isn't that correct?  
20 A No.  
21 Q When he first got there you agreed that he would  
22 provide you with some crack cocaine and therefore he'd stay  
23 there?  
24 A No.  
25 Q No?

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ARMSTRONG - CROSS

1 A When he was there actually I didn't do anything  
2 hardly at all.

3 Q You didn't do any drugs while he was there?

4 A Maybe like two times I did.

5 Q You only did it two times that he lived in the three  
6 weeks?

7 A When he was there, yes.

8 Q Okay. So the three weeks he was there you only did  
9 it twice?

10 A Couple times, yeah.

11 Q So if Charla Severs gets up and testifies that you  
12 did it -- smoked it every day, she'd be lying?

13 A Yeah.

14 Q Okay.

15 THE COURT: Just because that question is sometimes  
16 put by both sides in that form, I'm going to tell you now on  
17 my own that it's not a fair question in my mind, and it's not  
18 going to be permitted.

19 MR. SCISCENTO: Can we rephrase it?

20 THE COURT: Sure.

21 BY MR. SCISCENTO:

22 Q If Charla Severs said that you smoked crack cocaine  
23 every day she would be incorrect?

24 MR. GUYMON: Objection, assumes facts not in  
25 evidence.

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CONFIDENTIAL

FILED IN OPEN COURT

JUN 07 2000 20

DISTRICT COURT  
CLARK COUNTY, NEVADA

SHIRLEY B. PARRAGUIRRE, CLERK

\* \* \* \* \*

BY *Carole D'Aloia*

CAROLE D'ALOIA

DEPUTY

STATE OF NEVADA

Plaintiff

vs.

DONTE JOHNSON,  
aka John Lee White

Defendant

CASE NO. C153154

DEPT. V  
DOCKET "H"

Transcript of  
Proceedings

BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

JURY TRIAL - DAY 2  
TUESDAY, JUNE 6, 2000  
VOLUME II

APPEARANCES:

FOR THE PLAINTIFF:

GARY L. GUYMON  
Chief Deputy District Attorney  
ROBERT J. DASKAS  
Deputy District Attorney

FOR THE DEFENDANT:

DAYVID J. FIGLER  
Deputy Special Public Defender  
JOSEPH S. SCISCENTO

COURT REPORTER:

SHIRLEE PRAWALSKY  
District Court

TRANSCRIPTION BY:

NORTHWEST TRANSCRIPTS, INC.  
Las Vegas Division  
P.O. Box 35257  
Las Vegas, Nevada 89133-5257  
(702) 658-9626

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CE



1 LAS VEGAS, NEVADA, TUESDAY, JUNE 6, 2000, 9:30 A.M.

2 (Jury is not present)

3 THE COURT: Gary and Joe, this is the time that we  
4 indicated we were gonna have on the record the -- what were  
5 contemporaneous objections by Mr. Sciscento and Mr. Figler to  
6 certain aspects of jury selection that I wanted to do outside  
7 the presence of the jury without delay at a time such as this.  
8 One of those was as to several of the jurors Mr. Figler  
9 particularly objected to the use of the State's peremptory  
10 challenges with reference to Mr. Morine, Calvert and other  
11 jurors who he referred to as life-affirming jurors, people who  
12 had indicated that they were essentially against the death  
13 penalty, but not invariably.

14 Is that about the drift of that objection and your  
15 basis for a request for additional peremptory challenges,  
16 which I also indicated I was doing, Mr. Figler?

17 MR. FIGLER: That's one half of the request, for  
18 extra peremptory challenges.

19 THE COURT: What's the other half, for the record?

20 MR. FIGLER: Your Honor, it was taken in combination  
21 with the denial of our ability to either exercise the causes  
22 for -- the challenges for cause on those individuals who  
23 indicated, after thorough questioning, that had they convicted  
24 someone of premeditated murder or multiple murders that they  
25 would not consider any other option but the death penalty. At

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1 that time Your Honor asked us to approach the bench and we had  
2 a discussion, lengthy discussion, at the bench with regard to  
3 my inability, since the prosecutors had objected to ask those  
4 type of questions, to ask questions about premeditation and to  
5 ask questions about mitigation because the jury had not been  
6 instructed as so, however, it was our position that because  
7 they were unequivocal, that if they felt that there was a  
8 premeditated murder or multiple homicides that they would  
9 consider nothing but the penalty of death, that we would not  
10 have to utilize our peremptory challenges on those  
11 individuals, but should be able to challenge those individuals  
12 for cause. That was denied.

13 Then, the second part of it, as Your Honor stated,  
14 pursuant to Morgan v. Illinois, the defendant has an absolute  
15 right to have not only a cross-section of his community stand  
16 in judgment of him when it comes to the very ultimate penalty  
17 of death, but certainly is entitled to people who are,  
18 quote/unquote, "life qualified." We hear the expression  
19 "death qualified" coming from Witherspoon and Witt.

20 THE COURT: Is that the way you read Morgan, by the  
21 way, that it prohibits the State from using peremptory  
22 challenges to get rid of those sort of people?

23 MR. FIGLER: I look at it this way, Judge. There's  
24 an absolute right to have a cross-section.

25 THE COURT: What I asked you, Mr. --

1 MR. FIGLER: There's an absolute right to have life

2 --

3 THE COURT: What I asked you, Mr. Figler, is that  
4 the way you read Morgan or is it something --

5 MR. FIGLER: Morgan --

6 THE COURT: -- after Morgan or the spirit of Morgan  
7 or other cases? I'm just asking you the basis of it.

8 MR. FIGLER: I would say that Morgan specifically  
9 allows for the challenge to be made against peremptory  
10 challenges when the prosecutors utilize them to rid the jury  
11 of anyone who opposes the death penalty but also indicates  
12 that they would follow the law. And each and every of those  
13 individuals, Mr. Morine, Ms. Calvert, all the others,  
14 indicated, after thorough questioning, that they would indeed  
15 follow the law.

16 The net effect of allowing the State to utilize  
17 their peremptories against those individuals is to stack the  
18 deck towards death on this particular case. The only harm  
19 that would have occurred had Your Honor required the State to  
20 not be able to exercise their peremptories against those  
21 individuals is to perhaps have a chance that this individual  
22 would face a jury that may not be so inclined to institute  
23 what is otherwise a death penalty that is applied  
24 inappropriately and disproportionately towards black  
25 individuals when there's a white individual involved in

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1   contravention of the Eighth Amendment, in contravention of the  
2   true spirit of the mitigation versus the aggravating factors  
3   being weighed fairly and justly by an unbiased jury.

4           The prosecutor's goal, perhaps, in this particular  
5   case, is to be able to seek the death penalty and they accord  
6   that with the idea of seeking justice, but it is not to get  
7   the death penalty, Your Honor. It is merely to see whether or  
8   not a particular case qualifies for the death penalty and  
9   submit it to a fair judge, which would be, in fact, in this  
10   case, the jury. What Your Honor has essentially done is  
11   disallow the process of justice to go forward by allowing the  
12   State, in whatever misguided pursuit it is, to seek and then  
13   get the death penalty in a particular case, to stack the deck  
14   in their favor and get rid of everyone on that particular jury  
15   who might oppose the death penalty, even though they'd be  
16   willing to follow the law as is given in the State of Nevada  
17   and that fundamentally is unfair and violates the due process  
18   rights of Mr. John White.

19           THE COURT: You think there's a corollary right that  
20   -- like Batson goes both ways? You think that you cannot  
21   knock, with your peremptory challenges, people who heavily  
22   favor the death penalty or is that something you can do and  
23   they cannot?

24           MR. FIGLER: Well, you know, if Mr. Daskas and Mr.  
25   Guymon were facing the death penalty, the imposition of death

II-5

1 by this jury's decision, then I would say yes, they should  
2 have the same absolute right to challenge me for knocking off  
3 peremptory people -- people who strongly are in favor of the  
4 death penalty, but wouldn't be able to do it.

5 THE COURT: Okay, your record -- your record's very  
6 extensive and it's been made. There's also a contemporaneous  
7 Batson challenge to Juror Number 7.

8 Would you indicate, for the record now, Mr. Daskas,  
9 what you indicated to me at the bench which led to the  
10 overruling of the Batson challenge?

11 MR. DASKAS: Yes, Judge.

12 THE COURT: Because of your race-neutral reasons for  
13 excusing that juror.

14 MR. DASKAS: I will, Judge. And I should state that  
15 Mr. Guymon questioned that witness. As she proffered answers,  
16 I wrote down the answers and I think I have her quotes, Judge.  
17 She stated that it would be, quote, "difficult to pass  
18 judgment on the defendant," end quote. When Mr. Guymon asked  
19 her her thoughts about holding people responsible for their  
20 actions or their choices, she said that she had no comment on  
21 that. And I should note, Judge, that at least the majority of  
22 prospective jurors were asked that very question and she  
23 answered differently than all the other prospective jurors  
24 that were asked that very question.

25 There was a question, Number 33 on the

1 questionnaire, that asked the jurors to circle which one best  
2 expressed their opinion about the death penalty, whether they  
3 would always vote for it, whether they were opposed to it or  
4 would consider it in certain circumstances. She simply did  
5 not answer that question and that caused us some concern,  
6 Judge. She also indicated on her questionnaire that she has a  
7 stepson who's in jail and that she could give life with parole  
8 to a person convicted of quadruple homicide.

9 All those certainly are race-neutral reasons, Judge,  
10 and that was sufficient, in our opinion, to overcome the  
11 Batson challenge.

12 THE COURT: And you also articulated at the bench  
13 your own personal belief, based on your trial experience, in  
14 her body language that she wasn't responsive to you, Mr.  
15 Guymon, and that was an additional reason.

16 MR. GUYMON: That is correct, Your Honor. When I  
17 spoke -- As I spoke to her, and I spoke to her fairly close to  
18 her, I mean, I was nearer to her, as I was to many of them,  
19 but she happened to sit in number 7 where I was the nearest to  
20 her, she sat with her hands crossed and had what I sense was  
21 some disdain for my questioning of her. I didn't sense that  
22 with anyone else. In fact, no one else that I noted as I  
23 spoke to them sat with their hands crossed and, typically,  
24 when someone crosses their hands as I speak to them, I'm  
25 taking that they're closed to what I'm saying to them. Just

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1 from my experience, that's what I took from it.

2 The very first thing I said is, as I sat down, to  
3 Mr. Daskas, is what did you think of her responses, how she  
4 responded to me, because her response was with some disdain as  
5 for any -- for lack of any different word that I can use.

6 THE COURT: Okay. And as I indicated at the bench,  
7 I thought it was a very close question, I overruled it and the  
8 record is clear.

9 MR. FIGLER: Your Honor, so there is a finding that  
10 we had established a prima facie case requiring the State to  
11 articulate their race-neutral reasons, correct?

12 THE COURT: Right.

13 MR. FIGLER: Now which of those reasons are you  
14 determining to be race-neutral and which do you determine to  
15 be pretext so I can respond to them?

16 THE COURT: I don't think any of them were  
17 pretextual and I take them as a whole to be sufficient to meet  
18 their burden.

19 Now the discovery issue, yes.

20 MR. GUYMON: The record should also reflect that  
21 there is another black female on the jury panel. She's seated  
22 in seat number 3. She answered completely different than  
23 that. She was --

24 THE COURT: It will reflect that, but I don't see  
25 what really that has to do with this issue.

1 MR. FIGLER: Well, I need the record to --

2 THE COURT: That you didn't remove every black from  
3 the jury.

4 MR. FIGLER: I need the record to reflect, Your  
5 Honor, that, first of all, I don't believe that the State can  
6 show that there was that type of nitpicking with any non-  
7 minority potential juror, that there is any degree of detail,  
8 of watching, of observing, as there was with any other non-  
9 minority juror in this particular case and that any of these  
10 taken individually would certainly not amount to sustaining  
11 the burden on the prosecutor to show that it wasn't, in fact,  
12 race related with regard to taking her off.

13 And I also need to note, for the record, that there  
14 were no other minorities that were potentially or could  
15 potentially get into the jury pool after that challenge was  
16 issued. And I also need to note for the record that when  
17 we --

18 THE COURT: Well, that part of the record shouldn't  
19 be put in without comment. There was a black American -- a  
20 black juror about eight seats down. We had no way of knowing  
21 at that point whether that person was gonna be reached or not.

22 MR. FIGLER: But ultimately that person wasn't  
23 reached.

24 THE COURT: That's right, but so what?

25 MR. FIGLER: Finally, with regard to the request for



1 extra peremptory challenges, we would have hoped to be able to  
2 get at least to a potential other minority juror. It's not  
3 reflective of the cross-section of the population in Las  
4 Vegas, Clark County, to have only three potentially in a jury  
5 pool of over 80. That does not reflect the numbers in our  
6 society.

7 Additionally, Judge, --

8 THE COURT: And I don't believe that's the standard,  
9 Mr. Figler.

10 MR. FIGLER: I'm just making the record of what  
11 existed in this courtroom so when some Appellate Court is  
12 viewing it they know exactly what existed in this courtroom.  
13 There were three ostensible minority jurors in a pool of over  
14 80.

15 THE COURT: That appeared to be the case.

16 Now the discovery issue that the State has given me  
17 three cases on, do you have any authority, Mr. Sciscento?

18 MR. SCISCENTO: Your Honor, Mr. Guymon's provided me  
19 with the case of --

20 THE COURT: The Virginia case?

21 MR. SCISCENTO: The Virginia case, which  
22 specifically says --

23 THE COURT: Is that what you're gonna stand on?

24 MR. SCISCENTO: Well, Your Honor, I'm also gonna  
25 argue against the California case, if I can have a little

1 leeway on that.

2 THE COURT: Well, let me read them and we'll discuss  
3 that later in the day.

4 You folks ready for trial?

5 MR. GUYMON: Yes, Your Honor.

6 THE COURT: Okay, five minutes.

7 (Court recessed at 9:35 a.m. until 9:45 a.m.)

8 (Jury is not present)

9 MR. FIGLER: Judge, could I make two quick points on  
10 the record? And I think we need to do it before opening.

11 THE COURT: Just another two minutes, Stony.

12 What, Mr. Figler?

13 MR. FIGLER: Number one, and this is the real  
14 reason, before the jury comes in and before we do openings, as  
15 Your Honor is aware, there were two other trials in this  
16 particular case, Sikia Smith and Terrell Young, which took  
17 place in front of Judge Pavlikowski last year. According to  
18 the doctrine of estoppel, the prosecutor can't change position  
19 between one trial and another just to basically give them the  
20 better chance in any particular trial. I've cited that case  
21 law to Your Honor with regard to the issue of our motion to  
22 suppress.

23 To that end, I would ask Your Honor to allow, for  
24 any potential appellate review purposes and objections on the  
25 part of the defense to that type of change of position, to

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1 allow the written transcripts of the Sikia Smith and the  
2 Terrell Young case to be incorporated into this record either  
3 physically as a Court Exhibit A or by reference to my request  
4 right now. In other words, if --

5 THE COURT: I'm sort of puzzled. What are you  
6 asking?

7 MR. FIGLER: Well, to have those records available  
8 to any reviewing court of the Sikia Smith trial and the  
9 Terrell Young trial.

10 THE COURT: I'm sure you can do that by appropriate  
11 --

12 MR. FIGLER: Well, I think I need to do that at the  
13 District Court level. That's the only way they'll let me do  
14 it.

15 MR. SCISCENTO: Your Honor, also, if I may address  
16 an issue very similar to that. There was a motion we had made  
17 for the names of other suspects at that time and I believe it  
18 was Mr. Daskas got up in court and said that in fact Tod  
19 Armstrong was a suspect in the crime and he would be -- the  
20 District Attorney's willing to follow along with that theory,  
21 that there is another suspect, fourth suspect, namely Tod  
22 Armstrong.

23 THE COURT: Anyway, if you can get -- It's fine with  
24 me if that's physically part of this record, if you need my  
25 order. I don't really think you do.

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1 Anything else, Dayvid?

2 MR. FIGLER: The second thing was something that I  
3 could deal with later, Judge.

4 THE COURT: Good.

5 Okay, bring the jury in, please. Thank you.

6 (Jury is present)

7 THE COURT: Okay, the Clerk's going to read the  
8 Information and state the plea of the defendant.

9 THE CLERK: Filed September 15th, 1998, 1:46 p.m.,  
10 Loretta Bowman, Clerk, District Court, Clark County, Nevada,  
11 Case Number C153154 in Department V, The State of Nevada,  
12 Plaintiff, versus Donte Johnson, aka John Lee White,  
13 Defendant, Superseding Indictment, State of Nevada, County of  
14 Clark.

15 The defendant above named, Donte Johnson, aka John  
16 Lee White, accused by the Clark County Grand Jury of the  
17 crimes of burglary while in possession of a firearm, felony,  
18 NRS 205.060, 193.165, conspiracy to commit robbery and/or  
19 kidnapping and/or murder, felony, NRS 199.480, 200.380,  
20 200.310, 200.320, 200.010, 200.030, robbery with use of a  
21 deadly weapon, felony, NRS 200.380, 193.165, first degree  
22 kidnapping with use of a deadly weapon, felony, NRS 200.310,  
23 200.320, 193.165 and murder with use of a deadly weapon, open  
24 murder, felony, NRS 200.010, 200.030, 193.165, committed at or  
25 within the County of Clark, State of Nevada, on or about the

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1 14th day of August 1998 as follows:

2 Count I, Burglary While in Possession of a Firearm.

3 Did together with Terrell Cochise Young and/or Sikia  
4 Lafayette Smith then and there willfully, unlawfully and  
5 feloniously enter, while in possession of a firearm, with  
6 intent to commit larceny and/or robbery and/or murder, that  
7 certain building occupied by Matthew Mowen and Tracey Gorringer  
8 and Jeffrey Biddle located at 4825 Terra Linda Avenue, Las  
9 Vegas, Clark County, Nevada, the defendant aiding or abetting  
10 Terrell Cochise Young and/or Sikia Lafayette Smith, by counsel  
11 and encouragement, and by entering into a course of conduct  
12 whereby the said defendant arrived at 4825 Terra Linda Avenue  
13 with Terrell Cochise Young and/or Sikia Lafayette Smith, the  
14 said defendant entering the residence with Terrell Cochise  
15 Young and/or Sikia Lafayette Smith, while defendant and/or  
16 Terrell Cochise Young and/or Sikia Lafayette Smith were in  
17 possession of a firearm or firearms, defendant and/or Terrell  
18 Cochise Young and/or Sikia Lafayette Smith binding Matthew  
19 Mowen and Tracey Gorringer and Jeffrey Biddle and Peter  
20 Talamantez and placing them on the floor of the residence,  
21 said defendant and/or Terrell Cochise Young and/or Sikia  
22 Lafayette Smith shooting at and into the body of the said  
23 Matthew Mowen and Tracey Gorringer and Jeffrey Biddle and Peter  
24 Talamantez with a firearm.

25 Count II, Conspiracy to Commit Robbery and/or

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1 Kidnapping and/or Murder.

2 Did then and there meet with Terrell Cochise Young,  
3 Sikia Lafayette Smith and/or another unknown individual and  
4 between themselves, and each of them with the other,  
5 willfully, unlawfully and feloniously conspired to commit a  
6 crime, to wit, robbery and/or kidnapping and/or murder and in  
7 furtherance of said conspiracy defendant did commit the acts  
8 as alleged in Counts III through XIV of this Indictment,  
9 together with Terrell Cochise Young and/or Sikia Lafayette  
10 Smith, which acts are incorporated herein by this reference as  
11 fully set forth.

12 Count III, Robbery with Use of a Deadly Weapon.

13 Did together with Terrell Cochise Young and/or Sikia  
14 Lafayette Smith then and there willfully, unlawfully and  
15 feloniously take personal property, to wit, lawful money of  
16 the United States, from the person of Jeffrey Biddle, or in  
17 his presence or company, by means of force or violence, or  
18 fear of injury to, and without the consent and against the  
19 will of the said Jeffrey Biddle, said defendant using a deadly  
20 weapon, to wit, a firearm, during the commission of said  
21 crime, the defendant aiding or abetting Terrell Cochise Young  
22 and/or Sikia Lafayette Smith, by counsel and encouragement,  
23 and by entering into a course of conduct whereby the said  
24 defendant arrived at 4825 Terra Linda Avenue with Terrell  
25 Cochise Young and/or Sikia Smith -- Sikia Lafayette Smith, the

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1 said defendant entering the residence with Terrell Cochise  
2 Young and/or Sikia Lafayette Smith while defendant and/or  
3 Terrell Cochise Young and/or Sikia Lafayette Smith were in  
4 possession of a firearm or firearms, defendant and/or Terrell  
5 Cochise Young and/or Sikia Lafayette Smith binding the said  
6 Jeffrey Biddle and placing him on the floor of the residence,  
7 then defendant and/or Terrell Cochise Young and/or Sikia  
8 Lafayette Smith taking lawful money of the United States from  
9 the person of Jeffrey Biddle and/or other persons in his  
10 presence or company, then defendant and/or Terrell Cochise  
11 Young and/or Sikia Lafayette Smith shooting at and into the  
12 body of the said Jeffrey Biddle with a firearm.

13 Count IV, Robbery with Use of a Deadly Weapon.

14 Did together with Terrell Cochise Young and/or Sikia  
15 Lafayette Smith then and there willfully, unlawfully and  
16 feloniously take personal property, to wit, lawful money of  
17 the United States, from the person of Tracey Gorringer, or in  
18 his presence or company, by means of force or violence, or  
19 fear of injury to, and without the consent and against the  
20 will of the said Tracey Gorringer, said defendant using a  
21 deadly weapon, to wit, a firearm, during the commission of  
22 said crime, the defendant aiding or abetting Terrell Cochise  
23 Young and/or Sikia Lafayette Smith, by counsel and  
24 encouragement, and by entering into a course of conduct  
25 whereby the said defendant arrived at 4825 Terra Linda Avenue

1 with Terrell Cochise Young and/or Sikia Lafayette Smith, the  
2 said defendant entering the residence with Terrell Cochise  
3 Young and/or Sikia Lafayette Smith while defendant and/or  
4 Terrell Cochise Young and/or Sikia Lafayette Smith were in  
5 possession of a firearm or firearms, defendant and/or Terrell  
6 Cochise Young and/or Sikia Lafayette Smith binding the said  
7 Tracey Gorringer and placing him on the floor of the residence,  
8 then defendant and/or Terrell Cochise Young and/or Sikia  
9 Lafayette Smith taking lawful money of the United States from  
10 the person of Tracey Gorringer and/or other persons in his  
11 presence or company, then defendant and/or Terrell Cochise  
12 Young and/or Sikia Lafayette Smith shooting at and into the  
13 body of the said Tracey Gorringer with a firearm.

14 Count V, Robbery with Use of a Deadly Weapon.

15 Did together with Terrell Cochise Young and/or Sikia  
16 Lafayette Smith then and there willfully, unlawfully and  
17 feloniously take personal property, to wit, lawful money of  
18 the United States, from the person of Matthew Mowen, or in his  
19 presence or company, by means of force or violence, or fear of  
20 injury to, and without the consent and against the will of the  
21 said Matthew Mowen, said defendant using a deadly weapon, to  
22 wit, a firearm, during the commission of said crime, the  
23 defendant aiding or abetting Terrell Cochise Young and/or  
24 Sikia Lafayette Smith, by counsel and encouragement, and by  
25 entering into a course of conduct whereby the said defendant



1 arrived at 4825 Terra Linda Avenue with Terrell Cochise Young  
2 and/or Sikia Lafayette Smith, the said defendant entering the  
3 residence with Terrell Cochise Young and/or Sikia Lafayette  
4 Smith while defendant and/or Terrell Cochise Young and/or  
5 Sikia Lafayette Smith were in possession of a firearm or  
6 firearms, defendant and/or Terrell Cochise Young and/or Sikia  
7 Lafayette Smith binding the said Matthew Mowen and placing him  
8 on the floor of the residence, then defendant and/or Terrell  
9 Cochise Young and/or Sikia Lafayette Smith taking lawful money  
10 of the United States from the person of Matthew Mowen, and/or  
11 other persons in his presence or company, then defendant  
12 and/or Terrell Cochise Young and/or Sikia Lafayette Smith  
13 shooting at and into the body of the said Matthew Mowen with a  
14 firearm.

15 Count VI, Robbery with Use of a Deadly Weapon.

16 Did together with Terrell Cochise Young and/or Sikia  
17 Lafayette Smith then and there willfully, unlawfully and  
18 feloniously take personal property, to wit, lawful money of  
19 the United States, from the person of Peter Talamantez, or in  
20 his presence or company, by means of force or violence, or  
21 fear of injury to, and without the consent and against the  
22 will of the said Peter Talamantez, said defendant using a  
23 deadly weapon, to wit, a firearm, during the commission of  
24 said crime, the defendant aiding or abetting Terrell Cochise  
25 Young and/or Sikia Lafayette Smith, by counsel and

1 encouragement, and by entering into a course of conduct  
2 whereby the said defendant arrived at 4825 Terra Linda Avenue  
3 with Terrell Cochise Young and/or Sikia Lafayette Smith, the  
4 said defendant entering the residence with Terrell Cochise  
5 Young and/or Sikia Lafayette Smith while defendant and/or  
6 Terrell Cochise Young and/or Sikia Lafayette Smith were in  
7 possession of a firearm or firearms, defendant and/or Terrell  
8 Cochise Young and/or Sikia Lafayette Smith binding the said  
9 Peter Talamantez and placing him on the floor of the  
10 residence, then defendant and/or Terrell Cochise Young and/or  
11 Sikia Lafayette Smith taking lawful money of the United States  
12 from the person of Peter Talamantez, and/or other persons in  
13 his presence or company, then defendant and/or Terrell Cochise  
14 Young and/or Sikia Lafayette Smith shooting at and into the  
15 body of the said Peter Talamantez with a firearm.

16 Count VII, First Degree Kidnapping with Use of a  
17 Deadly Weapon.

18 Did together with Terrell Cochise Young and/or Sikia  
19 Lafayette Smith willfully, unlawfully, feloniously and without  
20 authority of law seize, confine, inveigle, entice, decoy,  
21 abduct, conceal, kidnap or carry away Jeffrey Biddle, a human  
22 being, with the intent to hold or detain the said Jeffrey  
23 Biddle against his will and without his consent for the  
24 purpose of committing robbery and/or murder, said defendant  
25 and/or Terrell Cochise Young and/or Sikia Lafayette Smith

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1 using a deadly weapon, to wit, a firearm, during the  
2 commission of said crime, the defendant aiding or abetting  
3 Terrell Cochise Young and/or Sikia Lafayette Smith, by counsel  
4 and encouragement, and by entering into a course of conduct  
5 whereby the said defendant arrived at 4825 Terra Linda Avenue  
6 with Terrell Cochise Young and/or Sikia Lafayette Smith, the  
7 said defendant entering the residence with Terrell Cochise  
8 Young and/or Sikia Lafayette Smith while defendant and/or  
9 Terrell Cochise Young and/or Sikia Lafayette Smith were in  
10 possession of a firearm or firearms, defendant and/or Terrell  
11 Cochise Young and/or Sikia Lafayette Smith binding the said  
12 Jeffrey Biddle and placing him on the floor of the residence  
13 for the purpose of committing robbery and/or murder, then  
14 defendant and/or Terrell Cochise Young and/or Sikia Lafayette  
15 Smith shooting at and into the body of the said Jeffrey Biddle  
16 with a firearm.

17 Count VIII, First Degree Kidnapping with Use of a  
18 Deadly Weapon.

19 Did together with Terrell Cochise Young and/or Sikia  
20 Lafayette Smith willfully, unlawfully, feloniously and without  
21 authority of law seize, confine, inveigle, entice, decoy,  
22 abduct, conceal, kidnap or carry away Matthew Mowen, a human  
23 being, with the intent to hold or detain the said Matthew  
24 Mowen against his will and without his consent for the purpose  
25 of committing robbery and/or murder, said defendant and/or

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1 Terrell Cochise Young and/or Sikia Lafayette Smith using a  
2 deadly weapon, to wit, a firearm, during the commission of  
3 said crime, the defendant aiding or abetting Terrell Cochise  
4 Young and/or Sikia Lafayette Smith, by counsel and  
5 encouragement, and by entering into a course of conduct  
6 whereby the said defendant arrived at 4825 Terra Linda Avenue  
7 with Terrell Cochise Young and/or Sikia Lafayette Smith, the  
8 said defendant entering the residence with Terrell Cochise  
9 Young and/or Sikia Lafayette Smith while defendant and/or  
10 Terrell Cochise Young and/or Sikia Lafayette Smith were in  
11 possession of a firearm or firearms, defendant and/or Terrell  
12 Cochise Young and/or Sikia Lafayette Smith binding the said  
13 Matthew Mowen and placing him on the floor of the residence  
14 for the purpose of committing robbery and/or murder, then  
15 defendant and/or Terrell Cochise Young and/or Sikia Lafayette  
16 Smith shooting at and into the body of the said Matthew Mowen  
17 with a firearm.

18 Count IX, First Degree Kidnapping with Use of a  
19 Deadly Weapon.

20 Did together with Terrell Cochise Young and/or Sikia  
21 Lafayette Smith willfully, unlawfully, feloniously and without  
22 authority of law seize, confine, inveigle, entice, decoy,  
23 abduct, conceal, kidnap or carry away Tracey Gorringer, a human  
24 being, with the intent to hold or detain the said Tracey  
25 Gorringer against his will and without his consent for the

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1 purpose of committing robbery and/or murder, said defendant  
2 and/or Terrell Cochise Young and/or Sikia Lafayette Smith  
3 using a deadly weapon, to wit, a firearm, during the  
4 commission of said crime, the defendant aiding or abetting  
5 Terrell Cochise Young and/or Sikia Lafayette Smith, by counsel  
6 and encouragement, and by entering into a course of conduct  
7 whereby the said defendant arrived at 4825 Terra Linda Avenue  
8 with Terrell Cochise Young and/or Sikia Lafayette Smith, the  
9 said defendant entering the residence with Terrell Cochise  
10 Young and/or Sikia Lafayette Smith while defendant and/or  
11 Terrell Cochise Young and/or Sikia Lafayette Smith were in  
12 possession of a firearm or firearms, defendant and/or Terrell  
13 Cochise Young and/or Sikia Lafayette Smith binding the said  
14 Tracey Gorringer and placing him on the floor of the residence  
15 for the purpose of committing robbery and/or murder, then  
16 defendant and/or Terrell Cochise Young and/or Sikia Lafayette  
17 Smith shooting at and into the body of the said Tracey  
18 Gorringer with a firearm.

19 Count X, First Degree Kidnapping with Use of a  
20 Deadly Weapon.

21 Did together with Terrell Cochise Young and/or Sikia  
22 Lafayette Smith willfully, unlawfully, feloniously and without  
23 authority of law seize, confine, inveigle, entice, decoy,  
24 abduct, conceal, kidnap or carry away Peter Talamantez, a  
25 human being, with the intent to hold or detain the said Peter

1 Talamantez against his will and without his consent for the  
2 purpose of committing robbery and/or murder, said defendant  
3 and/or Terrell Cochise Young and/or Sikia Lafayette Smith  
4 using a deadly weapon, to wit, a firearm, during the  
5 commission of said crime, the defendant aiding or abetting  
6 Terrell Cochise Young and/or Sikia Lafayette Smith, by counsel  
7 and encouragement, and by entering into a course of conduct  
8 whereby the said defendant arrived at 4825 Terra Linda Avenue  
9 with Terrell Cochise Young and/or Sikia Lafayette Smith, the  
10 said defendant entering the residence with Terrell Cochise  
11 Young and/or Sikia Lafayette Smith while defendant and/or  
12 Terrell Cochise Young and/or Sikia Lafayette Smith were in  
13 possession of a firearm or firearms, defendant and/or Terrell  
14 Cochise Young and/or Sikia Lafayette Smith binding the said  
15 Peter Talamantez and placing him on the floor of the residence  
16 for the purpose of committing robbery and/or murder, then  
17 defendant and/or Terrell Cochise Young and/or Sikia Lafayette  
18 Smith shooting at and into the body of the said Peter  
19 Talamantez with a firearm.

20 Count XI, Murder with Use of a Deadly Weapon (Open  
21 Murder).

22 Did together with Terrell Cochise Young and/or Sikia  
23 Lafayette Smith then and there wilfully, feloniously, without  
24 authority of law and with premeditation and deliberation and  
25 with malice aforethought kill Jeffrey Biddle, a human being,

1 by shooting at and into the body of said Jeffrey Biddle with a  
2 deadly weapon, to wit, a firearm, the said defendants being  
3 responsible under the following theories of criminal  
4 liability, to wit, (1), premeditation and deliberation, (2),  
5 felony murder, defendant and/or Terrell Cochise Young and/or  
6 Sikia Lafayette Smith committing the murder in the  
7 perpetration or attempted perpetration of kidnapping and/or  
8 robbery, (3), aiding or abetting, the defendant aiding or  
9 abetting Terrell Cochise Young and/or Sikia Lafayette Smith,  
10 by counsel and encouragement, and by entering into a course of  
11 conduct whereby the said defendant arrived at 4825 Terra Linda  
12 Avenue with Terrell Cochise Young and/or Sikia Lafayette  
13 Smith, the said defendant entering the residence with Terrell  
14 Cochise Young and/or Sikia Lafayette Smith while defendant  
15 and/or Terrell Cochise Young and/or Sikia Lafayette Smith were  
16 in possession of a firearm, defendant and/or Terrell Cochise  
17 Young and/or Sikia Lafayette Smith binding the victim and  
18 placing him on the floor of the residence, defendant and/or  
19 Terrell Cochise Young and/or Sikia Lafayette Smith shooting at  
20 and into the body of the said Jeffrey Biddle with a firearm,  
21 (4), conspiracy by the said defendant acting pursuant to a  
22 conspiracy to commit robbery and/or kidnapping and/or murder  
23 with Terrell Cochise Young and/or Sikia Lafayette Smith  
24 whereby the said defendant entered the residence with Terrell  
25 Cochise Young and/or Sikia Lafayette Smith while defendant

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1 and/or Terrell Cochise Young and/or Sikia Lafayette Smith were  
2 in possession of a firearm or firearms, defendant and/or  
3 Terrell Cochise Young and/or Sikia Lafayette Smith binding the  
4 said Jeffrey Biddle and placing him on the floor of the  
5 residence, then defendant and/or Terrell Cochise Young and/or  
6 Sikia Lafayette Smith shooting at and into the body of the  
7 said Jeffrey Biddle with a firearm or firearms.

8 Count XII, Murder with Use of a Deadly Weapon (Open  
9 Murder).

10 Did together with Terrell Cochise Young and/or Sikia  
11 Lafayette Smith then and there willfully, feloniously, without  
12 authority of law and with premeditation and deliberation and  
13 with malice aforethought kill Tracey Gorringer, a human being,  
14 by shooting at and into the body of said Tracey Gorringer with  
15 a deadly weapon, to wit, a firearm, the said defendants being  
16 responsible under the following theories of criminal  
17 liability, to wit, (1), premeditation and deliberation, (2),  
18 felony murder, defendant and/or Terrell Cochise Young and/or  
19 Sikia Lafayette Smith committing the murder in the  
20 perpetration or attempted perpetration of robbery and/or  
21 kidnapping, (3), aiding or abetting, the defendant aiding or  
22 abetting Terrell Cochise Young and/or Sikia Lafayette Smith,  
23 by counsel and encouragement, and by entering into a course of  
24 conduct whereby the said defendant arrived at 4825 Terra Linda  
25 Avenue with Terrell Cochise Young and/or Sikia Lafayette

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1 Smith, the said defendant entering the residence with Terrell  
2 Cochise Young and/or Sikia Lafayette Smith while defendant  
3 and/or Terrell Cochise Young and/or Sikia Lafayette Smith were  
4 in possession of a firearm, defendant and/or Terrell Cochise  
5 Young and/or Sikia Lafayette Smith binding the victim and  
6 placing him on the floor of the residence, defendant and/or  
7 Terrell Cochise Young and/or Sikia Lafayette Smith shooting at  
8 and into the body of the said Tracey Gorringer with a firearm,  
9 (4), conspiracy by the said defendant acting pursuant to a  
10 conspiracy to commit robbery and/or kidnapping and/or murder  
11 with Terrell Cochise Young and/or Sikia Lafayette Smith  
12 whereby the said defendant entered the residence with Terrell  
13 Cochise Young and/or Sikia Lafayette Smith while defendant  
14 and/or Terrell Cochise Young and/or Sikia Lafayette Smith were  
15 in possession of a firearm or firearms, defendant and/or  
16 Terrell Cochise Young and/or Sikia Lafayette Smith binding the  
17 said Tracey Gorringer and placing him on the floor of the  
18 residence, then defendant and/or Terrell Cochise Young and/or  
19 Sikia Lafayette Smith shooting at and into the body of the  
20 said Tracy Gorringer with a firearm or firearms.

21 Count XIII, Murder with Use of a Deadly Weapon (Open  
22 Murder).

23 Did together with Terrell Cochise Young and/or Sikia  
24 Lafayette Smith then and there wilfully, feloniously, without  
25 authority of law and with premeditation and deliberation and

1 with malice aforethought kill Matthew Mowen, a human being, by  
2 shooting at and into the body of said Matthew Mowen with a  
3 deadly weapon, to wit, a firearm, the said defendants being  
4 responsible under the following theories of criminal  
5 liability, to wit, (1), premeditation and deliberation, (2),  
6 felony murder, defendant and/or Terrell Cochise Young and/or  
7 Sikia Lafayette Smith committing the murder in the  
8 perpetration or attempted perpetration of kidnapping and/or  
9 robbery, (3), aiding or abetting, the defendant aiding or  
10 abetting Terrell Cochise Young and/or Sikia Lafayette Smith,  
11 by counsel and encouragement, and by entering into a course of  
12 conduct whereby the said defendant arrived at 4825 Terra Linda  
13 Avenue with Terrell Cochise Young and/or Sikia Lafayette  
14 Smith, the said defendant entering the residence with Terrell  
15 Cochise Young and/or Sikia Lafayette Smith while defendant  
16 and/or Terrell Cochise Young and/or Sikia Lafayette Smith were  
17 in possession of a firearm, defendant and/or Terrell Cochise  
18 Young and/or Sikia Lafayette Smith binding the victim and  
19 placing him on the floor of the residence, defendant and/or  
20 Terrell Cochise Young and/or Sikia Lafayette Smith shooting at  
21 and into the body of the said Matthew Mowen with a firearm,  
22 (4), conspiracy by the said defendant acting pursuant to a  
23 conspiracy to commit robbery and/or kidnapping and/or murder  
24 with Terrell Cochise Young and/or Sikia Lafayette Smith  
25 whereby the said defendant entered the residence with Terrell

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1 Cochise Young and/or Sikia Lafayette Smith while defendant  
2 and/or Terrell Cochise Young and/or Sikia Lafayette Smith were  
3 in possession of a firearm or firearms, defendant and/or  
4 Terrell Cochise Young and/or Sikia Lafayette Smith binding the  
5 said Matthew Mowen and placing him on the floor of the  
6 residence, then defendant and/or Terrell Cochise Young and/or  
7 Sikia Lafayette Smith shooting at and into the body of the  
8 said Matthew Mowen with a firearm or firearms.

9 Count XIV, Murder with Use of a Deadly Weapon (Open  
10 Murder).

11 Did together with Terrell Cochise Young and/or Sikia  
12 Lafayette Smith then and there willfully, feloniously, without  
13 authority of law and with premeditation and deliberation and  
14 with malice aforethought kill Peter Talamantez, a human being,  
15 by shooting at and into the body of said Peter Talamantez with  
16 a deadly weapon, to wit, a firearm, the said defendants being  
17 responsible under the following theories of criminal  
18 liability, to wit, (1), premeditation and deliberation, (2),  
19 felony murder, defendant and/or Terrell Cochise Young and/or  
20 Sikia Lafayette Smith committing the murder in the  
21 perpetration or attempted perpetration of robbery and/or  
22 kidnapping, (3), aiding or abetting, the defendant aiding or  
23 abetting Terrell Cochise Young and/or Sikia Lafayette Smith,  
24 by counsel and encouragement, and by entering into a course of  
25 conduct whereby the said defendant arrived at 4825 Terra Linda

1 Avenue with Terrell Cochise Young and/or Sikia Lafayette.  
2 Smith, the said defendant entering the residence with Terrell  
3 Cochise Young and/or Sikia Lafayette Smith while defendant  
4 and/or Terrell Cochise Young and/or Sikia Lafayette Smith were  
5 in possession of a firearm, defendant and/or Terrell Cochise  
6 Young and/or Sikia Lafayette Smith binding the victim and  
7 placing him on the floor of the residence, defendant and/or  
8 Terrell Cochise Young and/or Sikia Lafayette Smith shooting at  
9 and into the body of the said Peter Talamantez with a firearm,  
10 (4), conspiracy by the said defendant acting pursuant to a  
11 conspiracy to commit robbery and/or kidnapping and/or murder  
12 with Terrell Cochise Young and/or Sikia Lafayette Smith  
13 whereby the said defendant entered the residence with Terrell  
14 Cochise Young and/or Sikia Lafayette Smith while defendant  
15 and/or Terrell Cochise Young and/or Sikia Lafayette Smith were  
16 in possession of a firearm or firearms, defendant and/or  
17 Terrell Cochise Young and/or Sikia Lafayette Smith binding the  
18 said Peter Talamantez and placing him on the floor of the  
19 residence, then defendant and/or Terrell Cochise Young and/or  
20 Sikia Lafayette Smith shooting at and into the body of the  
21 said Peter Talamantez with a firearm or firearms.

22 Dated this 15th day of September 1998, Stewart L.  
23 Bell, District Attorney, by Gary L. Guymon, Deputy District  
24 Attorney, Nevada Bar 003726, to which the defendant has  
25 entered pleas of not guilty.

1           THE COURT: This is an indictment and, as I told you  
2 earlier when we were having all of you sit out there in the  
3 audience, an indictment or an information is just a piece of  
4 paper containing in this case, at great length, the various  
5 counts against Mr. Johnson. Once the defendant or any  
6 defendant pleads not guilty, then it's the burden of the State  
7 to prove each element of each count and, if they fail to do  
8 so, then it's your duty to find him not guilty and the purpose  
9 of the trial is to establish whether or not the State can meet  
10 that burden.

11           Just a few housekeeping things and then we're gonna  
12 get on to opening statements. If at any point in this trial  
13 you realize you knew something that you didn't tell us about  
14 about this case or if you have anything else that you want to  
15 communicate to the Court, just put it in a note, make sure  
16 your juror seat number and your name are on it, give it to  
17 Stony and he'll get it to me and, if it's a matter that  
18 everybody deems significant, we'll get back to you on that.

19           It would seem obvious, but I'll tell you this  
20 anyway, because some jurors, even after they're told it,  
21 ignore this admonishment. And it's not an admonishment like  
22 this one that I've got to read to you every time you leave the  
23 room, that is, you can't go out and investigate and you can't  
24 do any legal research. You are bound to rely on what you hear  
25 from the witness stand and in this courtroom. We have

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1 actually had people go out and make measurements and sound  
2 checks and blow up the trial not only in here, but in other  
3 departments over the last ten or 15 years, so just please  
4 don't do those things.

5           If you haven't noticed yet, this courtroom is kept  
6 fairly cold. I just happen to be, from the fan and everything  
7 else, you can tell, real hot. I cannot simply wear any less  
8 clothes than I am already wearing. We're gonna be together  
9 for several days. If you are cool, please dress a little more  
10 warmly. Shirlee, actually, sometimes has an electric blanket  
11 down there.

12           Who's going to make the opening statement for the  
13 State?

14           MR. GUYMON: I am, Your Honor.

15           THE COURT: Thank you.

16                       PLAINTIFF'S OPENING STATEMENT

17           MR. GUYMON: Good morning.

18           Nearly 22 months ago, October 14th, 1998 at 6:00  
19 p.m., Justin Perkins, a witness that will come forward in this  
20 case, a young man approximately --

21           MR. FIGLER: Your Honor, we object to the use of  
22 this exhibit here, especially since it's gonna be used in  
23 conjunction with another exhibit.

24           THE COURT: Can I see it?

25           MR. GUYMON: Certainly, Judge.

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1 MR. FIGLER: Before it's just shown to the jury. I  
2 think that was improper too, Your Honor.

3 MR. GUYMON: And the record should reflect that all  
4 of the exhibits that I'm going to use in opening have been  
5 shown to counsel previously.

6 MR. FIGLER: And we have an objection to them.  
7 Neither --

8 THE COURT: Would you approach the bench, please?

9 (Off-record bench conference)

10 THE COURT: All right, objection overruled.

11 MR. GUYMON: If I said October 14th, I meant August  
12 14th, nearly 22 months ago, 1998, my mistake, at 6:00 p.m.  
13 Justin Perkins went to the house at 4825 Terra Linda. It is a  
14 single-family residence where three of Justin Perkins' friends  
15 resided, where they lived. It's a three-bedroom home at 4825  
16 Terra Linda. His three friends were Tracey Gorringer, age 21,  
17 Matthew Mowen, age 19, and Jeffrey Biddle, age 19. You'll  
18 also know or learn that Justin Perkins knew Peter Talamantez,  
19 age 17. Peter Talamantez did not live at the Terra Linda  
20 residence, but Peter Talamantez, like Justin Perkins, would go  
21 to the Terra Linda residence from time to time.

22 You will learn that the Terra Linda residence was a  
23 party place for many kids. Young men and young women would  
24 get together over at the Terra Linda house and they would  
25 recreate, they would drink beer and, yes, they in fact would

1 use drugs on occasion at that residence.

2           You will learn that Justin Perkins went to the Terra  
3 Linda house with some regularity. Justin Perkins had been at  
4 the Terra Linda house the very day before, August 13th, and on  
5 August 13th when he left there that night he said goodbye to  
6 his friends. He didn't realize he'd never speak to them again  
7 when he left. Justin Perkins will tell you that at about the  
8 time that he was leaving that night the roommates of the Terra  
9 Linda residence were getting ready to clean up their  
10 apartment, to gather up their things, to clean up the  
11 apartment and begin yet another day as August 14th rolled  
12 around.

13           Well, Justin Perkins began his day on August 14th.  
14 At about 6:00 p.m. Justin Perkins was now ready to return to  
15 his friends at Terra Linda. Justin Perkins drove his vehicle  
16 up to the residence and as he got there he realized that the  
17 gate was ajar. There is a fence, a chain fence, that outlines  
18 the property, the parameters of the Terra Linda residence.  
19 And Justin Perkins said to himself, "This is unusual, the  
20 gate's never open, I know the boys have dogs and I know they  
21 care about their dogs and they wouldn't leave their gate  
22 open," but Justin Perkins didn't think a lot about it.

23           Justin Perkins continued to walk up to the door of  
24 the Terra Linda residence. And he got to the door and he  
25 realized that the door was slightly ajar. Again, Justin

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1 Perkins thought that strange, but didn't think anything of it.  
2 Justin Perkins pushes open the door and is greeted by a  
3 horrific surprise, because as he looks into the front living  
4 room area of that residence, where the TV center is, where the  
5 console is, where the stereo is, where there's a sofa and a  
6 chair and there's the carpet on the ground, he sees his three  
7 friends, Tracey, Matthew and Jeffrey, lying on the ground,  
8 their hands interlocked -- or their fingers interlocked, hands  
9 behind their back and duct tape from their fingers nearly to  
10 their elbows.

11 He looks to their legs and sees that their feet or  
12 their ankles are bound together tightly, as is their hands,  
13 with gray duct tape. He realizes that they're face down in  
14 the ground and that there's blood everywhere and he begins to  
15 look at them and reality begins to set in. He doesn't want to  
16 believe what he's seeing. Their color is nearly blue, the  
17 color of the three boys that he sees lying there, nearly  
18 shoulder to shoulder, blood everywhere.

19 He quickly calls out their names, "Tracey, Matt,  
20 Jeffrey." There's no answer. As he calls out their names,  
21 puppies begin to come towards Justin Perkins and he looks down  
22 at the puppies and the puppies paws are covered in blood. He  
23 immediately runs to the neighbor's house, "Please help.  
24 Please help. My friends have been robbed. Call 911. I need  
25 help."

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1           It's Nick De Lucia who lives at that house right  
2 next door and Nick De Lucia immediately realizes that  
3 something awful has happened and he calls 911 -- or his  
4 girlfriend calls 911 and paramedics are dispatched immediately  
5 to the Terra Linda residence. Police are dispatched  
6 immediately. And Justin Perkins runs back to the house  
7 thinking there's got to be something he can do to help his  
8 friends. And as he gets back to the house he now realizes  
9 there's nothing he can do. He attempts to gather up the  
10 puppies, because the puppies now are running as though they're  
11 gonna run outside and as he attempts to gather up the puppies  
12 he stops himself and says, "You know, it just doesn't matter,"  
13 and he gets silent.

14           Justin Perkins stands there as the paramedics  
15 arrive. The paramedics immediately walk into the living room  
16 and they assess that there's three boys lying face down in the  
17 ground duct taped and the paramedics know immediately what  
18 Justin Perkins didn't want to have to believe and that is that  
19 these boys are dead. The paramedics leave almost as quickly  
20 as they got there as Justin stands by.

21           About the time that the paramedics arrive and  
22 pronounce the boys dead, the police get there. Sergeant Randy  
23 Sutton is also a witness. Randy Sutton will come into this  
24 courtroom and he will testify. Sergeant Sutton will give his  
25 observations as he got -- first got there, as will Justin

1 Perkins. And Justin Perkins will try to remember what he's  
2 tried to forget as he stood by and watched now the police take  
3 over the crime scene.

4 Sergeant Randy Sutton will tell you that he arrived  
5 nearly first, as did Detective West, from the Las Vegas  
6 Metropolitan Police Department and that the two of them had  
7 the responsibility of taking over the crime scene and securing  
8 the scene. And what I mean by securing the scene is Sergeant  
9 Sutton has no idea whether or not there are -- there is a  
10 gunman in the house or if there is a suspect in the house and  
11 it's Sergeant Sutton's job and Detective West's job to make  
12 sure that the villains or the bad guys aren't in the house.

13 And so they do that, room by room, with their guns  
14 drawn, to make sure that no one else is going to be harmed  
15 and, as they go through the living room, they do so carefully  
16 so they don't disturb any of the evidence, because Sergeant  
17 Sutton's been with the police department for a long time and  
18 he realizes that an investigation is going to be done and that  
19 it's important not to disturb any evidence.

20 And Sergeant Sutton realizes what the paramedics  
21 didn't realize and what Justin Perkins didn't realize,  
22 because, you see, Sergeant Sutton is the first person to go  
23 into yet the next room and in the very next room a fourth body  
24 is found, the body of Peter Talamantez, similarly positioned,  
25 face down, hands interlocked -- or fingers interlocked, hands

1 behind the back and duct taped both at the hands and at the  
2 feet and blood lying about the head of Peter Talamantez, just  
3 like the other boys, a gunshot wound, a hole in the back of  
4 Peter Talamantez' head, just like the other three.

5           Quickly, Sergeant Sutton and carefully Sergeant  
6 Sutton and Detective West assess that there's no one else in  
7 the house, four dead bodies, no living suspects at the  
8 residence and they begin to tape off the crime scene and wait  
9 for the other detectives, homicide detectives, and crime scene  
10 analysts to arrive.

11           Justin Perkins, again waiting there at the door in  
12 complete disbelief and Justin Perkins is left with the  
13 responsibility of having to tell David Mowen, the father of  
14 Matt, that his son is dead.

15           Justin Perkins will do the best he can to describe  
16 to you what he saw firsthand. You people will see in  
17 photographs what Justin Perkins saw, those bodies on the floor  
18 and the total destruction of this residence and of those boys.  
19 And while I am sorry that you have to see photographs like  
20 that, I will not apologize for the evidence in this courtroom.  
21 I will not apologize for that evidence, because it is the  
22 defendants who caused that evidence.

23           You will learn that Detective Buczek and Detective  
24 Thowsen arrive at the crime scene, as does Sergeant Hefner.  
25 Sergeant Hefner is the supervisor of Detective Buczek and

1 Detective Thowsen. And immediately Detective Buczek and  
2 Detective Thowsen divide up their respective responsibilities  
3 and they begin to look for clues to solve this crime. And  
4 Justin Perkins has no idea who caused this crime, Sergeant  
5 Randy Sutton had no idea when he got there, the paramedics  
6 didn't know, they couldn't solve it, Detective West couldn't  
7 solve it and it becomes the detective -- homicide detective's  
8 investigation to attempt to solve this crime and to do a  
9 complete investigation.

10 Crime scene analysts, in excess of five, six crime  
11 scene analysts, begin to come to the residence and it's the  
12 crime scene analyst's job to collect evidence to see if there  
13 isn't clues left at the house that might develop a suspect.  
14 You will learn that Crime Scene Analyst David Horn, Bradley  
15 Grover and Shawn Fletcher are three of the five or six crime  
16 scene analysts that come to the house on the very first night.  
17 You will learn that in excess of 80 hours were spent by crime  
18 scene analysts processing this particular crime scene in order  
19 to gather up all of the evidence and make sure the  
20 investigation is complete and thorough.

21 And right away the crime scene analysts realize the  
22 first clue and the first clue is that there's no forced entry  
23 into the home. None of the doors have been locked. This  
24 isn't a case where the door was kicked in. It's not a case  
25 where windows were broken in order for the wrongdoers to get

1 into the house. The back door's secure, locks intact, the  
2 front door and the windows, no forced entry, and that becomes  
3 perhaps important to the crime scene analysts.

4           The crime scene analysts also realize right away, as  
5 they look at the house, that the house has been completely  
6 ransacked, every room thoroughly searched, every drawer  
7 opened, every bed turned over or looked under, every cabinet  
8 and cupboard opened up and searched and, more importantly, or  
9 as importantly, each boy's wallet removed from his body and  
10 emptied. You will see photographs of the boys lying next to  
11 each one of their wallets, their wallets opened up and  
12 emptied. The crime scene analysts will tell you that not a  
13 single dollar bill was found or was left in that residence,  
14 every single piece of paper currency missing now from that  
15 house.

16           You will learn that the crime scene analysts looked  
17 at the entertainment center right there in the front room  
18 where the boys lie and the destruction is and they realize  
19 that there's -- the TV's turned, askew, stereo shifted and  
20 there's cords, patch cords, if you will, that go to something,  
21 but the something is gone. There's not a VCR left in the  
22 entertainment center and a Play Station. Cords and  
23 miscellaneous items for a Play Station are there, but the Play  
24 Station is gone and there's a place in that entertainment  
25 center that you will see has nothing in it, a place for a VCR.

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1           The crime scene analysts attempt to look for  
2 fingerprints, because fingerprint evidence is something that  
3 they are trained to look for, and so during the course of  
4 those 80 hours they begin to lift fingerprints off of  
5 everything they possibly can find and at the feet of Tracey  
6 Gorringer, one of the dead boys that lie in the first room, is  
7 a Black and Mild cigar box. It is a cigar box that's  
8 approximately three inches by maybe five inches or six inches  
9 in size, fairly narrow in its dimension. It holds about five  
10 cigarette-size cigars, if you will.

11           It is Bradley Grover, a crime scene analyst, who  
12 takes that cigarette -- or cigar box and attempts to lift a  
13 print from it. He sees a print after putting black  
14 fingerprint powder on the box itself. And with that black  
15 dust powder and with a piece of tape, a procedure that's  
16 commonly used in lifting prints, Bradley Grover is able to  
17 lift a fingerprint from that Black and Mild box. Bradley  
18 Grover at that moment has no idea whose fingerprint that is.  
19 He simply recognizes it as a fingerprint and it's his job to  
20 lift the print. And Bradley Grover has no interest at that  
21 moment as to whose print that is. His job is simply to  
22 collect the evidence and he believes that that may be  
23 evidence.

24           Other fingerprints are collected throughout the  
25 house, again, no one knowing whose fingerprints they are at

1 that point in time, but they're collected and they're  
2 preserved. Cigarette butts that are found lying near the  
3 deceased are collected and preserved with the belief that  
4 perhaps some saliva, some DNA, will still be left on the  
5 cigarette butts and that somehow this investigation can reveal  
6 who smoked those cigarette butts and did a suspect possibly  
7 smoke one.

8           The crime scene analysts also find four cartridge  
9 cases. You will learn that a cartridge case, for lack --  
10 making it simple, is what a bullet is made of. There is a  
11 cartridge case that the projectile and the gunpowder go down  
12 inside and when the gun is fired on automatic -- a semi--  
13 automatic the cartridge case is shot from the side of the gun.  
14 It's what we call spent, empty, the bullet going out the  
15 barrel of the gun, and the cartridge cases are left behind  
16 when fired by a semi-automatic and there are four empty  
17 cartridge cases at this crime scene and they are positioned  
18 near the bodies of each one of those four dead boys, three of  
19 them in one room and a fourth cartridge case in yet the other  
20 room where Peter Talamantez is.

21           There's also some projectile, some actual fragment,  
22 bullet fragment, that is also there at the crime scene that's  
23 gathered up. And you will learn that those four cartridge  
24 cases were all .380 cartridge cases. That's the size.  
25 They're all the same make. Well, they're also gathered up and

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1 put into evidence.

2 As the crime scene analysts are doing their job,  
3 Detective Buczek and Detective Thowsen begin their  
4 investigation and they go next door to Nick De Lucia and they  
5 say, "Nick, can you tell us anything about the neighbors? Can  
6 you tell us anything at all that will give us some clues?"  
7 And Nick De Lucia will tell you, as he comes into this  
8 courtroom, what he told the detectives on the night in  
9 question.

10 He will tell you that on August 13th, into the early  
11 morning hours of the 14th, he was -- he woke up, 'cause he  
12 goes to work very, very early in the morning, after midnight,  
13 some time between, I don't know, I'm gonna say 2:00 o'clock, I  
14 may be off on the time, he wakes up to go to work. And on  
15 this particular occasion, the 13th into the 14th, his dogs  
16 bark, which caused him to wake up. And, ultimately, after he  
17 was awake, he looked outside and he saw one individual, and I  
18 believe he'll describe that person as a white male adult, I'm  
19 not certain, but I believe that's what he'll tell you, was out  
20 watering his lawn in the front yard and Nick De Lucia sees a  
21 second person at the side of the house. He can't tell you a  
22 whole lot more about that, but he can tell you that his dogs  
23 woke him up and that that's what he saw and that's what he  
24 remembers.

25 Still no real suspects developed. The investigation

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1 is continuing. Evidence has now been gathered and the crime  
2 scene analysts go back to the house. You should know that  
3 they're there on the 14th. After they worked a full day, they  
4 seal up the residence with tape so that they can come back the  
5 next day and continue to work at that residence trying to  
6 gather fingerprint evidence and other clues. They seal it up  
7 the second day and they come back a third day and again  
8 continue to work so that they are assured that everything has  
9 been looked at. The bodies are removed from the home on the  
10 first night.

11           The investigation continues. On the first day still  
12 no suspects, evidence gathered, no suspects. Second day, no  
13 suspects. And what the investigation begins to reveal is  
14 something that the detectives didn't know on the first night,  
15 something that Justin Perkins didn't know, no one knew, and  
16 that was that there is a house at 4812 Everman Drive. At that  
17 house -- And please distinguish, we have Everman at the 4800  
18 block and we have Terra Linda, Terra Linda being the scene of  
19 the crime, and now the Everman residence, a second residence.

20           You will learn that those two residences are within  
21 blocks of one another. They are very near to one another,  
22 both in the 4800 block, streets away. It may take someone  
23 only a couple of minutes to drive or walk from one residence  
24 to the other.

25           And at that residence, 4815 [sic] Everman Drive, Tod

1 Armstrong lived. Tod Armstrong's mother owned that house.  
2 Living there with Tod Armstrong was Ace Hart, a witness in  
3 this case, and Bryan Johnson, also a witness in this case.  
4 Those three boys are about the age of the boys here, Tracey,  
5 Matt and Jeffrey. They're approximately 21, 22 years old now.  
6 They were approximately 20 then.

7           You will learn that in late July, early August,  
8 Donte Johnson, Terrell Young and Charla Severs contact Ace  
9 Hart and say to Ace, "Hey, we need a place to stay. We need a  
10 place to live. Can we come and stay with you at Tod  
11 Armstrong's house?" And it is Ace Hart who says yes and it is  
12 Ace Hart who brings Donte Johnson, Terrell Young and Charla  
13 Severs over to the Everman house.

14           MR. FIGLER: I'm gonna object again, Your Honor.

15           THE COURT: Overruled.

16           MR. FIGLER: The record will reflect that another  
17 poster's been placed in front of the jury.

18           THE COURT: Correct.

19           MR. GUYMON: So you have a picture to go with the  
20 names, as I've provided a picture with each one of the names  
21 I've given you earlier. This is Terrell Young. This is Donte  
22 Johnson. Those two, coupled with Charla Severs, the  
23 girlfriend of Donte Johnson, come to stay at the Everman  
24 residence and it's Tod Armstrong's understanding that Donte,  
25 Terrell and Charla will only be there for a little while; a

1 couple of days. A couple of days turns into far more than  
2 just a couple of days.

3           You will learn that Tod Armstrong, Ace Hart and  
4 Bryan Johnson also use drugs. Many of the witnesses in this  
5 case will tell you that they, in fact, use drugs. You will  
6 learn that Ace Hart purchased rock cocaine or cocaine from  
7 Donte Johnson, as did the other kids, Tod Armstrong and Bryan  
8 Johnson. You will learn that on -- about one week earlier,  
9 one week prior to August 14th, Matthew Mowen had come over to  
10 the Everman house, again, having two houses, Terra Linda and  
11 Everman, Matthew Mowen comes over to the Everman house and  
12 attempts to buy drugs from Donte Johnson.

13           While there at the house, Matthew Mowen begins to  
14 talk to Donte Johnson and Tod Armstrong and Terrell Young and  
15 Ace Hart and it's Matthew Mowen who says, "You know, I was on  
16 tour with the Phish rock group, me and some of my friends, and  
17 we would sell drugs and pizzas and burritos and things like  
18 that in order to make a living so we could travel with the  
19 band, tour with the band," similarly, perhaps, to the Grateful  
20 Dead or those people that follow various rock groups. And  
21 it's Matthew Mowen who says, "We made a lot of money," and  
22 based on that conversation it is believed by Donte Johnson and  
23 Terrell Young, and the others who listen in, that Matthew  
24 Mowen has a lot of money. And at that moment the seed is  
25 planted, young, unsuspecting kids would lose their lives

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1 within days of that conversation. They would be executed.

2 You will hear from Charla Severs in this case.

3 Charla Severs is the girlfriend of Donte Johnson. She will  
4 testify that she knew Donte, she knew Terrell Young and she  
5 knew Sikia Smith. She will testify that the three of them  
6 were friends and they knew each other. She will indicate that  
7 Donte Johnson, Terrell Young and herself had come to stay at  
8 the Everman residence, that they stayed there from time to  
9 time. She'll tell you that she didn't have all her clothing  
10 there, she didn't have all her belongings there, but she  
11 visited the place and she stayed there, as did the other two.  
12 And she will tell you that the things -- the items she did  
13 have and the items that Donte had and Terrell had they tended  
14 to keep in the living room and in the back bedroom of the  
15 Everman residence, some clothing and some other items.

16 She will tell you that the defendant, Donte Johnson,  
17 and Terrell Young brought with them to the Everman residence a  
18 duffel bag and in that duffel bag were guns, handguns and  
19 rifles. She will describe the handguns and the rifles for you  
20 and she will tell you that the guns were commonly kept in the  
21 duffel bag. And in that duffel bag was also some duct tape  
22 and some gloves, some brown gloves. She will tell you that on  
23 the night in question, that being August 13th, late night  
24 hours, and into the 14th, it is Donte Johnson and Terrell  
25 Young who leave the Everman residence with the bag in hand,

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1 the very bag that has those guns in it.

2 She'll tell you on the night in question Donte  
3 Johnson was wearing some black Calvin Klein jeans and he left  
4 with the bag that had the duct tape and the guns and he left  
5 with some gloves, the brown gloves. She will tell you that  
6 her boyfriend, Donte Johnson, was gone for hours and that when  
7 Donte Johnson returned Charla Severs was in the back bedroom  
8 asleep. And Donte Johnson walks into the bedroom and kisses  
9 his girlfriend, Terrell Young [sic], on the cheek and wakes  
10 her up.

11 She will tell you when she's awoken she walks out  
12 into the living room. She will tell you that at the time that  
13 Donte Johnson and Terrell Young left that residence there at  
14 Everman that Tod Armstrong stayed back at the house. Tod  
15 Armstrong remained at the Everman residence and was there  
16 throughout the night, according to Charla Severs. She will  
17 tell you that when Donte Johnson returns with the bag -- And  
18 she'll tell you that there's things in that bag. She can tell  
19 that the bag is again full, not empty, by the way the bag lies  
20 on the ground.

21 She will tell you that the defendants have now a VCR  
22 and a Play Station with them and the defendant has some money  
23 with him. I think it's approximately two hundred dollars  
24 (\$200) was the net gain, a VCR, a Nintendo and a pager. She  
25 will tell you that that very night Donte tells her that he

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1 killed somebody, a confession in this case, an admission by  
2 the killer.

3           She will tell you that Donte Johnson says that  
4 you're supposed to go to sleep when you kill someone and that  
5 night she lays down with a killer and she goes to bed. She  
6 will tell you that the very next day she wakes up and the  
7 story continues, the defendant's admission, his confession to  
8 her continues as the defendant begins to tell her about how  
9 when he and Terrell Young went over to the house that there  
10 was a boy out watering the lawn in the front yard, similarly  
11 to Nick De Lucia's observations when he was awoken that night.  
12 And Charla Severs doesn't know Nick De Lucia and has no idea  
13 what Nick De Lucia saw, but Charla Severs will tell you that  
14 Donte Johnson tells her that a boy was out watering the lawn  
15 and immediately Donte Johnson tells him to get his ass in the  
16 house, or something like that. And I apologize for some of  
17 the profanity you may hear in this case, but it is the  
18 evidence.

19           And it is Donte Johnson who orders that boy who's  
20 watering the lawn into the house at gunpoint and lays him down  
21 on the ground and that there's a second boy at the house who's  
22 also proned out and guns drawn by the defendant and by Terrell  
23 Young. And it's those two who tape up these boys, laying them  
24 face down on the ground. Donte Johnson tells Charla Severs  
25 that the Mexican boy, the fourth boy, and he'll tell you --

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1 she'll tell you that Donte says after two people are laid down  
2 on the ground a third person shows up. He too is ordered to  
3 the ground at gunpoint and taped up. And a fourth person  
4 comes to the house.

5           And I told you at the start that the Terra Linda  
6 house is a place where many kids go, it's a party place, and  
7 kids were coming there throughout the night on this occasion.  
8 Peter Talamantez walked into something he had no idea he was  
9 walking into, but it is Donte Johnson who tells Charla Sévers  
10 that Peter Talamantez, the Mexican boy, began to smart off to  
11 Donte Johnson, acting as though this was a joke and that makes  
12 Donte Johnson mad, so it's Donte Johnson who takes Peter  
13 Talamantez into the other room and hits him with the weapon,  
14 the gun, and shoots him in the back of the head. And Donte  
15 Johnson tells her that very nonchalant and very cold, as just  
16 a simple fact.

17           Charla Severs will tell you that Donte Johnson  
18 described the bloodshed as being, quote, "Like Niagara Falls."  
19 You will learn that Charla Severs has evolved quite a bit in  
20 this case. You will learn that she's spoken to by the police  
21 at the very, very outset of this case and she tells the police  
22 she knows nothing. She will tell you she wanted to help Donte  
23 Johnson. She will tell you that she lied to the police  
24 because of her love for Donte Johnson. She will tell you that  
25 she wrote letters to the prosecution and to the news saying

II-49



1 that Donte Johnson was not the person that did this. In fact,  
2 she will tell you that Belo Duce was the one that did this.  
3 She'll tell you who Belo Duce is and she'll tell you why she  
4 said that. In an effort to get her boyfriend out of jail, in  
5 an effort to help him, she's willing to tell the police a lie.

6 She will tell you that in fact she wrote Channel 8 a  
7 letter and this says Donte Johnson didn't do it, she did. She  
8 wants to help Donte Johnson. You will learn, in her efforts  
9 to help Donte Johnson, she learns that the prosecution is not  
10 going to accept the letter that says Belo Duce did it and  
11 release Donte Johnson and say, "We're not going to prosecute  
12 you." That's not good enough. And Channel 8's not going to  
13 say, "We're not going to prosecute Donte Johnson." And Charla  
14 Severs then says, "Then I'll leave so the prosecution can't  
15 find me so I don't have to be a witness in this case."

16 And you will learn that it is the prosecution that  
17 issued -- or asked for the Court to sign a material witness  
18 warrant to bring Charla Severs back here in order to make her  
19 tell you the truth. She's brought back from New York, she's  
20 arrested, brought back and she sat in custody for a long  
21 period of time, at which time she gave a statement and she was  
22 released from custody. You will learn that she has been told  
23 again and again what perjury is and that she must tell the  
24 truth when she comes to this courtroom.

25 MR. FIGLER: Your Honor, I'm gonna object and ask

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1 that that be stricken. It's vouching and it's making a  
2 statement that goes beyond the opening statement. It's  
3 argument.

4 THE COURT: Overruled.

5 MR. GUYMON: You will learn that she has changed her  
6 story in this case from not knowing Donte Johnson at all to  
7 now telling that Donte Johnson was, in fact, a part of it.  
8 She will tell you that Donte Johnson was wearing black jeans,  
9 as I told you, and she will tell you that the very pair of  
10 black jeans that Donte Johnson wore home that night were put  
11 in the master bedroom of the Everman house. And I'll get back  
12 to those jeans because they become important.

13 You will learn that Tod Armstrong was a suspect in  
14 this case and Tod Armstrong still could be prosecuted some  
15 day. You will learn that Tod Armstrong is aware of the fact  
16 that he is a suspect. Tod Armstrong will tell you that Donte  
17 Johnson and Terrell Young came to stay with him with the  
18 understanding they'd only be there a couple of days and then a  
19 couple of days went -- was much longer than that. And you  
20 will learn that on the night of the murder Tod Armstrong  
21 stayed home at the Everman residence. Tod Armstrong did not  
22 go with these two young men. He stayed home. He slept on the  
23 sofa in the living room there at his house. Tod Armstrong  
24 will tell you that when Donte returned Tod -- that Donte told  
25 Tod Armstrong about committing the murders. And like Charla

II-51

1 Severs, Tod Armstrong saw the VCR that was stolen from the  
2 Terra Linda residence, saw the Play Station and saw a blue  
3 pager and he learns that that blue pager was one of the  
4 victim's in the case.

5           You will learn that, as I indicated, Tod Armstrong  
6 was a suspect, without question he was a suspect. Until this  
7 case was solved, everyone was a suspect, but Tod Armstrong in  
8 particular was a suspect and you will learn why, but you will  
9 learn that as Tod Armstrong was a suspect his fingerprints,  
10 his known prints, were obtained by the police department so  
11 they could attempt to match them up to the fingerprints found  
12 at the Terra Linda residence and you will learn that Tod  
13 Armstrong's fingerprints are not found at the Terra Linda  
14 residence.

15           You will learn that it is Tod Armstrong who says  
16 that days earlier, perhaps a week earlier, Matthew Mowen had  
17 come over to the house and had the very conversation that I  
18 told you about, the conversation where Matt Mowen says he was  
19 selling drugs and had money and had made money. And at that  
20 point in time Donte Johnson and Terrell Young have a decision  
21 and their decision is that they're gonna go steal that money  
22 out of the house or not. And you will learn, reluctantly,  
23 that Tod Armstrong was the one who showed Donte Johnson and  
24 Terrell Young where that house was, where the Terra Linda  
25 house was. Tod Armstrong will tell you why he did that.

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1           Perhaps reluctantly and with reservation, Tod  
2 Armstrong will tell you that Ace Hart, Tod Armstrong, Donte  
3 Johnson and Terrell Young were in a white Ford Taurus or Tempo  
4 and that Donte Johnson drove the car and that it was Ace Hart  
5 and Tod Armstrong who actually pointed out the house and Tod  
6 Armstrong will tell you that he believed that Donte and  
7 Terrell were gonna go burglarize that house. Tod Armstrong  
8 did not believe that anyone would be killed during that  
9 burglary.

10           Bryan Johnson and Ace Hart, two other witnesses in  
11 this case, will tell you that on -- one of the two of them or  
12 both of them will testify and tell you that on the 15th, the  
13 next day, they had an interview at the Stallion Mountain Golf  
14 Club and Tod Armstrong -- excuse me, Bryan Johnson and Ace  
15 Hart came over to the Everman house to get ready for that  
16 interview. And you'll learn that Ace Hart was no longer  
17 living at the Everman residence, he was staying at Bryan  
18 Johnson's house, but he kept his clothes there.

19           So he and Bryan go over to the Everman address that  
20 morning on the 15th to get ready and they too hear a  
21 confession by Donte Johnson. And Donte Johnson tells those  
22 two about how he went over to the house that night and how he  
23 robbed the house and the boys and taped them up and stole  
24 approximately two hundred and forty dollars (\$240), a VCR and  
25 a Play Station. And Bryan Johnson and Ace Hart will tell you

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1 that they believed the defendant as he said it, that they knew  
2 it was true. More importantly, Bryan Johnson and Ace Hart  
3 will tell you that they saw the news that very morning. As  
4 they walked through the house, the news was on and Donte  
5 Johnson watching the news and Terrell Young watching it and  
6 that quickly Ace Hart realizes that this is the house that his  
7 friends, in fact, lived at.

8           They will tell you the conversation about a pager  
9 that was taken from one of the boys, how Donte Johnson told  
10 him he took a pager and that -- how Donte Johnson and Terrell  
11 Young buried the pager in the backyard of the Everman  
12 residence.

13           You will hear from LaShawnya Wright. LaShawnya  
14 Wright is the girlfriend of Sikia Smith. LaShawnya Wright  
15 will tell you she'd been dating Sikia Smith for approximately  
16 three months. They lived together at the Fremont Plaza Hotel,  
17 not far from here. And LaShawnya Wright will tell you she  
18 knew Donte Johnson and Terrell Young. She will tell you that  
19 she was released from jail on August 12th, 1998, before she  
20 ever knew the prosecutors in this case, before she'd ever been  
21 spoken to, before anyone knew that there would be any reason  
22 to speak to her, and that she went home to her boyfriend there  
23 at Fremont Plaza, Sikia Smith, and stayed with him that day,  
24 that on August 13th, 1998 Terrell Young and Donte Johnson came  
25 over to the Fremont Plaza Hotel and visited with Sikia Smith

1 and at that point in time they had a duffel bag with them that  
2 was full of guns and that at about 5:00 o'clock, I think  
3 she'll tell you, Donte Johnson and Terrell Young leave the  
4 Fremont Plaza and they're gone for about two hours and they  
5 come back and they visit again with Sikia Smith. And they  
6 visit for a long period of time and then the three of them  
7 leave together.

8 And you will learn in this case that the act of one  
9 is the act of all as they form a conspiracy --

10 MR. FIGLER: Objection, Your Honor. You can't  
11 discuss law in opening statements in such a fashion.

12 THE COURT: Sustained.

13 MR. GUYMON: At that point in time you will learn  
14 that the three of them joined together as they leave to engage  
15 in the endeavors that I've talked about.

16 Just before Sikia Smith leaves with these two, it is  
17 LaShawnya Wright who gives her pager to her boyfriend, Sikia  
18 Smith, and says, "I'll page you if I need you tonight." And  
19 LaShawnya Wright begins to page Sikia Smith throughout the  
20 course of the night and Sikia Smith doesn't return the phone  
21 call, doesn't return the page. It is 14 hours later when  
22 Sikia Smith returns home to his girlfriend, LaShawnya Wright,  
23 and he comes up the stairs and, when he does, it is Donte  
24 Johnson and Terrell Young who remain at the bottom of those  
25 stairs. And Sikia Smith is carrying now the VCR and the Play

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1 Station. And, of course, it's LaShawnya Wright who's madder  
2 than hops at Sikia Smith for being out all night and for not  
3 returning her page and she will reluctantly tell you what she  
4 knows in this case.

5 She will tell you that she overhears the three of  
6 them, that being these three, Sikia, Donte and Terrell, who  
7 are talking now about what they had done and it is Donte  
8 Johnson who's saying, "I want the VCR," and Donte Johnson pays  
9 Sikia Smith twenty dollars (\$20) for that VCR. And it is  
10 Terrell Young who says, "I want the Play Station," but Sikia  
11 Smith won't give up the Play Station and there's an argument  
12 about that. And these two, Donte and Terrell, leave and Sikia  
13 stays around to deal with his angry girlfriend.

14 You will learn that the very next day, into the  
15 15th, still no suspects have been identified. The newspaper  
16 comes out, the RJ, and on the very front page, 1A, is a  
17 picture of the Terra Linda house and it is Donte Johnson who  
18 sees that picture. He's standing there with Sikia Smith and  
19 with LaShawnya Wright and Donte Johnson says, "There we go, we  
20 made the front page." No suspects have been identified, but  
21 Donte Johnson identifies himself, "We made the front page,"  
22 gleefully. And you'll see that front page, the picture of  
23 that home.

24 It is LaShawnya Wright who will reluctantly come in  
25 and tell you, like the others, of how the defendant is

1 police what had happened, but they do, perhaps being forced  
2 to.

3           What happens is Bryan Johnson gets in an argument  
4 with his mother that day and his mother's madder than hops at  
5 him and the other two are standing around and Bryan starts to  
6 tell his mother about how he has these pressures and the  
7 stress and he knows about a murder and quickly mom says, "You  
8 got to tell the police." And so they find themselves in the  
9 jamb of having now to tell the police what happened and they  
10 do.

11           And so the police receive that information in the  
12 late night hours of the 17th and into the 18th as Tod  
13 Armstrong, Ace and B.J. tell what they know. And immediately  
14 the police say, "We must arrest Donte Johnson and Terrell  
15 Young," because they haven't learned yet about Sikia Smith  
16 until Sikia Smith's girlfriend comes forward. They don't know  
17 that there's a third suspect to arrest. They know of two.  
18 And they learn from Tod Armstrong that Donte Johnson has been  
19 staying over at Tod's house and maybe at the house even as  
20 they speak and so it is the police who quickly go over to the  
21 Everman residence and they arrest Donte Johnson as they go  
22 into the house and they place him in handcuffs and arrest him.

23           And they begin to search the Everman house. They  
24 receive consent from Tod Armstrong to search the house. You  
25 will learn that it is Sergeant Hefner who asks Donte Johnson,

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1 "Do you live at this house," and Donte Johnson says, "No."  
2 And it is the belief by the detectives that Tod Armstrong owns  
3 the house and has given consent to search that house. There  
4 is one key to that house and Tod Armstrong is the one that  
5 owns that key and so the police begin to search that house.  
6 They walk into the front room and they see a VCR and  
7 a Play Station and they impound those items, very carefully,  
8 using rubber gloves so they don't disturb any of the evidence  
9 perhaps on those pieces of evidence and they preserve those.  
10 And you'll see the VCR in this case and the Play Station.  
11 And they look around and they see Black and Mild  
12 cigar boxes in a box that contains Donte Johnson's belongings.  
13 And Sergeant Hefner, having been now at both scenes, the Terra  
14 Linda scene and the Everman scene, says, "That Black and Mild  
15 box or boxes may become evidence in the case and may be  
16 important."  
17 And you will learn that in the back master bedroom  
18 Sergeant Hefner goes with Mark Washington, the crime scene  
19 analyst, and finds some black jeans and finds a duffel bag and  
20 some guns and some duct tape. And all of the guns and the  
21 duct tape and the duffel bag, the very bag that's described by  
22 each one of the witnesses, is gathered up as corroboration and  
23 the black jeans are gathered up. And on a black pair of  
24 Calvin Klein jeans, on the back leg of those jeans, the lower  
25 portion, are eight blood droplets that Sergeant Hefner sees.

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1 And Sergeant Hefner believes that they're important -- that  
2 blood is important. He has no idea whose blood that is, but  
3 those pants are preserved so that they can be analyzed, as is  
4 the guns and everything else. You'll see those pants in  
5 photographs and perhaps in person.

6           You'll learn that that evidence is gathered up and  
7 Mark Washington goes out into the backyard to see if any other  
8 evidence exists in the backyard, the pager having been buried.  
9 And Mark Washington sees an area that's been recently  
10 disturbed, where the ground's moved about and he digs up a  
11 little bit and he finds two keys from the Thunderbird Hotel, a  
12 hotel that Ace Hart had rented for Donte Johnson, a hotel room  
13 and a blue pager. You will learn, through investigations,  
14 that that pager belongs to Peter Talamantez, that he was the  
15 one that carried and used that blue pager that was found in  
16 the backyard. The very blue pager that was seen by Tod  
17 Armstrong when Donte Johnson came home.

18           You will learn that on the bottom of the VCR, are  
19 some fingerprints. Ed Guenther, a fingerprint expert, a  
20 person that's been trained to compare fingerprints, turns that  
21 VCR over, having wearing gloves, and he sees a fingerprint on  
22 it, so he puts black powder and tape on that fingerprint so  
23 that he can preserve that fingerprint. You will learn in this  
24 case that the defendant's fingerprints were obtained by the  
25 police so that they could be compared. The boys' fingerprints

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1 were gathered by the police. Tod Armstrong's fingerprints  
2 were gathered by the police, and other people's fingerprints  
3 were gathered by the police.

4 And Ed Guenther, having the known prints of Sikia  
5 Smith, lifts the print off the bottom of the VCR and he  
6 realizes that print belongs to Sikia Smith. You'll learn that  
7 Sikia Smith was ultimately arrested for his involvement in  
8 this case as well.

9 You will learn -- and I should tell you that  
10 virtually all of the witnesses that come in this courtroom  
11 that knew the defendant will tell you that the defendant  
12 smoked Black and Mild cigars, that he also smoked cigarettes  
13 on occasion. And you will learn that the fingerprints that  
14 was on the Black and Mild cigar box that laid at the feet of  
15 Tracey Gorringer, that fingerprint is the fingerprint of Donte  
16 Johnson.

17 You'll learn an autopsy was conducted by Dr.  
18 Bucklin. And I'm nearly finished. That Dr. Bucklin did the  
19 autopsy on, I believe it's the 15th, it may be the 16th of  
20 August 1998, and that he concluded that each one of these four  
21 boys died from a single gunshot wound to the back of the head.  
22 He will tell you that that gunshot wound was similar in size  
23 for each one of those boys, that that gunshot wound was from  
24 close range, each one of them nearly being a contact wound  
25 from inches away. He will tell you that injuries like that

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1 would bleed and that a person would lose consciousness quite  
2 quickly, each person with the exception of Tracey Gorringe,  
3 because Tracey Gorringe's autopsy bears out something  
4 interesting and that is some bruising on the eyelids of Tracey  
5 Gorringe, indicating that he may have lived up to ten minutes,  
6 after having been shot in the back of the head.

7           You will learn that Dr. Bucklin removes projectile  
8 pieces from each one of these boys' skulls, their head. And  
9 that the projectiles are preserved as were the cartridge  
10 cases. The cartridge cases that were found over here at the  
11 Terra Linda house, they were preserved so that an expert can  
12 look at those, because again, this investigation must be  
13 thorough and it is Richard Good who looks at the cartridge  
14 cases and the projectiles and it is Richard Good's opinion,  
15 who's an expert in firearms examination, he concludes that  
16 those .380 cartridge cases, all four of them, were fired by  
17 the same gun. That the projectiles were also fired by the  
18 same gun.

19           You will learn that the .380 handgun was never found  
20 in this case. You will not see the murder weapon. LaShawnya  
21 Wright may tell you what happened to that weapon.

22           You will learn that -- I told you a little bit about  
23 the pants. You will learn that Tom Wall, a DNA expert with  
24 the Las Vegas Metropolitan Police Department, received those  
25 black pants, those Calvin Klein pants I told you about that

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1 were found in the master bedroom, that Charla Severs says were  
2 Donte Johnson's, you will learn that Tom Wall looked at the  
3 blood on the back of those pants and he concluded those eight  
4 blood droplets were human blood.

5 Tom Wall will tell you that he had the known DNA of  
6 each one of these boys and he had the known DNA of each one of  
7 the dead boys and he began to analyze their known DNA and he  
8 analyzed the eight blood droplets on the back of the pants and  
9 it should be no surprise that the blood is one of these boys.  
10 It is the blood of Tracey Gorringer, leading one to believe  
11 that those pants were at the blood -- at the crime scene.

12 Thomas Wall looks at the pants yet again, a second  
13 time, at the request of the detectives and he looks at the  
14 front of those pants and in the zipper area -- and again, I  
15 don't mean to embarrass anyone, there is some semen, some  
16 crusty white substance on those pants around the zipper. And  
17 so Tom Wall analyzes the semen on the front of those pants, he  
18 will tell you that it is the semen of Donte Johnson. The  
19 evidence will show that those pants were Donte Johnson's, that  
20 Donte Johnson wore those pants to that very house at Terra  
21 Linda and that the blood of Tracey Gorringer was spilled on  
22 that pair of pants.

23 You will learn that the DNA was analyzed from the  
24 cigarette butts by crime scene analysts -- or excuse me, by  
25 expert Thomas Wall. You'll also learn by an agreement between

1 the prosecution and the defense, that part of that DNA was  
2 sent out to an independent lab, so an independent opinion  
3 could be given. The independent lab is Cellmark. They're  
4 Cellmark Diagnostic, it's a DNA lab that's accredited in  
5 Maryland and that they tested the DNA on that cigarette butt.  
6 It should be no surprise that the DNA on the cigarette butt is  
7 Donte Johnson's.

8 Ladies and gentlemen, the evidence in this case will  
9 show you that Donte Johnson was at that crime scene. That  
10 Donte Johnson shot and killed each one of these boys. That  
11 Donte Johnson bragged about it, confessed about it, admitted  
12 it. The evidence will be overwhelming, as we produce  
13 fingerprint evidence, DNA evidence, and the admissions of  
14 Donte Johnson by a number of witnesses.

15 You will also learn that the other two were arrested  
16 in this case. Terrell Young was arrested on September 2nd,  
17 1998; Sikia Smith arrested on September 8th, 1998. And I ask  
18 you not to be concerned about the guilt or innocence of these  
19 two, because they're not on trial today and you will not hear  
20 all of the evidence as it relates to them. We will be  
21 focusing on evidence that relates to Donte Johnson, because  
22 this is his case and his day in Court. And I ask you to  
23 return guilty verdicts. Verdicts that will be just and fair.  
24 Verdicts that hold the person who did this destruction  
25 accountable for his involvement that night. The evidence will

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1 be overwhelming and it'll strip Donte Johnson of the  
2 presumption of innocence and prove his guilt.

3 Thank you.

4 THE COURT: Thank you. Will counsel approach the  
5 bench, please.

6 (Off-record bench conference)

7 THE COURT: All right, folks. We're gonna take our  
8 morning recess now and so that you know what the schedule is  
9 for the rest of the morning and early afternoon, we're gonna  
10 take a break, gonna come back, we're gonna hear Mr.  
11 Sciscento's opening statement and then we're gonna get to  
12 witnesses. So that we break up the morning and the afternoon  
13 fairly equally, we're gonna go 'til 1:00 and then take the  
14 lunch recess. And by the way, as on all other days,  
15 typically, we will not go past 5:30, but we won't know 'til  
16 later in the day whether we're going to go to 5:30.

17 During this recess you're admonished not to talk and  
18 converse among yourselves or anyone else on any subject  
19 connected with this trial, or read, watch, or listen to any  
20 report of or commentary on the trial or any person connected  
21 with it by any medium of information, including, without  
22 limitation, newspaper, television, radio, or to form or  
23 express any opinion on any subject connected with this matter  
24 until it's finally submitted to you.

25 In case you're curious, I had started to tell you

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1 yesterday what the schedule is for Wednesday, we're going to  
2 start at 8:00 a.m. tomorrow morning, but I'll remind you of  
3 that when it gets later in the day.

4 We'll be in recess 'til 11:25.

5 (Court recessed until 11:25 a.m.)

6 (Jury is present)

7 THE COURT: Go ahead, Mr. Sciscento.

8 DEFENDANT'S OPENING STATEMENT

9 MR. SCISCENTO: Ladies and gentlemen of the jury,  
10 I've got to admit that when I stand in front of a crowd and  
11 speak to 'em, no matter how many times I do it, I'm always  
12 nervous. I'm gonna make some mistakes. I'm only human. I'm  
13 gonna say some things that are wrong, make misstatements,  
14 mispronounce some words, but you'll understand, and I'm gonna  
15 leave some things out and I'll try to get back to them, so I'd  
16 ask you to bear with me on that.

17 The statement -- the opening statement that Mr.  
18 Guymon gave, if you listen to that, there's no reason for us  
19 to be here today, because according to him the case is open  
20 and shut. But remember I said in the beginning, there are  
21 always two sides to every story. There's multiple sides at  
22 times. The District Attorney is gonna present their side.  
23 They're gonna show you what's in this hand. They want you to  
24 look at that. Our job is to show you what's in the other  
25 hand. And when you get both sides and it both collates

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1 together, that is the evidence you rely upon. That's the  
2 determination you make before you determine guilt.

3 Let's talk about our side. The things we want you  
4 to see. Ace Hart is going to get up there on that stand. Ace  
5 Hart is gonna testify, according to what Mr. Guymon said, his  
6 side, but we're gonna show you the other side. The first  
7 thing that Ace Hart gives is I don't know anything about this  
8 case, only what Tod Armstrong told me. He didn't say Mr.  
9 White said anything. His first statement was he never said  
10 anything. But then Ace Hart changes his story a second time  
11 and he says, well, he told me -- Mr. White told me a little  
12 about it, but that's all. Later on things developed as to why  
13 Ace Hart changes his story for the third time to finally say  
14 everything the State wants him to say which is, oh, Mr. White  
15 told me everything.

16 Incidentally, let me introduce you to Mr. White right  
17 here, sometimes called Donte Johnson. He's the man I'm going  
18 to defend, that Dayvid Figler and I are defending.

19 Ace Hart, through testimony, is gonna show that he  
20 knew about these murders. Testimony and the State's witness  
21 is gonna show that Ace Hart had done previous licks. Licks  
22 are robberies. Ace Hart was involved with this. Ace Hart  
23 moved out of Las Vegas. He'd been here for years. His name  
24 fits it, Ace Hart, being from Vegas. He moves to another  
25 state, but doesn't talk to the defense. That evidence is

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1 gonna come out as to why Ace Hart is suddenly giving a  
2 different story.

3           Let's talk about Charla Severs. Mr. Guymon mentions  
4 her. She's the one who's gonna get up here and say, oh, Mr.  
5 White told me we gotta go to sleep after you kill somebody.  
6 Charla Severs gives not one, not two, not three, not four, but  
7 five different statements. Five completely different  
8 statements as to what happened that night. The first one  
9 completely says Mr. White over here had nothing to do with it.  
10 A little pressure's applied by the State and suddenly her  
11 story changes a little. But she leaves out -- but she brings  
12 in an important factor here. Mr. White wasn't wearing black  
13 pants. He was wearing shorts, so that doesn't fit the case,  
14 and she says that under oath, promising to tell the truth  
15 while she's sitting up here on the witness stand.

16           Evidence is gonna come out that Charla Severs, who  
17 has not one, not two, not three, not seven, but eleven  
18 different aliases. Charla Severs is gonna get up there and  
19 tell us finally, oh, now I'm gonna tell you the complete  
20 truth. Now why are you doing this now, Charla? She is gonna  
21 testify the reason why. The reason why is she was in  
22 handcuffs. She was arrested by the State, brought back here,  
23 and promised to be released, a felony dismissed, if she  
24 testifies. Her statement's gonna be the black pants. Who  
25 told you about the black pants? Her statement's gonna be the

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1 District Attorney. Who told you there was blood on the black  
2 pants? Her statement, the District Attorney. Her motivation  
3 is gonna be shown when she takes that stand. Her motivation  
4 is to get released, because unbeknownst to us at the time she  
5 had a little child. Her testimony's gonna be that she wanted  
6 to take care of that two-year-old -- one-year-old child,  
7 Deneshia. That's her motivation. And on that stand, that's  
8 where that information's gonna come out.

9 Charla Severs is gonna tell us that Tod Armstrong  
10 was involved in this. Well, one of her statements is gonna  
11 say that. The other statements may not. Five separate  
12 statements are gonna show you a completely different story  
13 that was said by the District Attorney. She lied numerous  
14 times and we're gonna get her on the stand and she's gonna  
15 tell you that five separate times.

16 She's gonna testify that Terrell Young, the picture  
17 you saw, also known as Red, he's the one who the next day had  
18 had all this money. He's the one that bought her shoes the  
19 next day. He's the one that bought her clothes and food the  
20 next day with this money. She's gonna say that Mr. White  
21 didn't have any money on him. That's the other side.

22 All of this other stuff is going to come out. All  
23 of these things are her motivation, the real reason, the real  
24 truth will come out.

25 Mr. Guymon talked to you about the pants, coup'd

1 grace, very important, the black pants that showed the DNA  
2 stain John White's, it showed the blood stain of one of the  
3 victims. Very damaging, so it seems. He's showing you what  
4 he wants you to see. The reality is the DNA stain that was  
5 found was found on the outside of the pants on the inside part  
6 of the zipper. Not on the inside of the pants. On a part  
7 that is -- that is hard to access, a part that the semen is  
8 tough to get if you're a male.

9 Now, Tom Wall is gonna get up there and testify that  
10 he looked at a DNA stain, but he's also gonna testify that he  
11 checked that DNA stain, that semen stain twice before. He ran  
12 a test called acetate phosphate, and Tom Wall, who's the  
13 State's expert witness is gonna testify. Acetate phosphate is  
14 something that you look at when you look to determine if  
15 there's any semen. Twice before he ran those tests and twice  
16 before it came back negative. Their expert witness is gonna  
17 say that. He is finally gonna say he looked a third time, and  
18 that's when we detected the semen.

19 The semen was at a level of a one. That's  
20 significant. Tom Wall is gonna state that. Why is it  
21 significant? A four is very high; a one is very low. Both  
22 stains, between a one to a one and a half semen, meaning it is  
23 a low amount of semen. Further that means that it was placed  
24 there possibly, the evidence is gonna show, by somebody else.

25 Their expert witness is going to testify that there

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1 was a high amount of epithelial and I know I'm making a  
2 mistake on that. He'll -- Tom Wall will say it better.  
3 Epithelium is female semen. That female semen was never  
4 determined to be [inaudible] it was not -- evidence is gonna  
5 show it was not compared against Charla Severs. But that it  
6 has a [inaudible] on both stains on the inside of these pants,  
7 the epithelial is whole, which means it's a high level of  
8 concentration of female semen, so to speak. The most likely  
9 scenario, Tom Wall's gonna say is that it was deposited by a  
10 female onto those pants.

11           The blood stains that are found, see the evidence  
12 has to collate. It has to fit the fit. The blood stains that  
13 they talk about that match the victim are found on the back of  
14 the pants and that's significant, because the theory that the  
15 State is putting forward is that Mr. White walked up and shot  
16 them in the back of the head. There will be expert testimony  
17 out here that's going to testify that is not consistent with  
18 blood stained -- blood stained spatters, that if you shoot  
19 somebody in the back and you're standing in front or behind  
20 them, that the blood is gonna come at you or away from you,  
21 but it cannot go in the back of the pants, and that's where  
22 the blood is found. How it gets in, we don't know. The  
23 problem we have is it doesn't fit the theory. Their experts  
24 are gonna testify to that. Any experts we need to bring in to  
25 testify will testify to that.

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1           There will be no disagreement that the blood stains  
2 are found in the back and it's not consistent with gunshot  
3 wounds when you shoot in the front.

4           There will be no testimony that any other shoes were  
5 found there with blood stains on it, that there was no blood  
6 spatter thrown on -- that that blood could be brought up by  
7 any other reason; contact, by somebody touching. So those  
8 black pants, that the District Attorney talks about, is  
9 questionable and the witnesses are gonna bear that out.

10           The fingerprints on the Black and Mild, Mr. Guymon  
11 alluded to the fact but didn't complete the sentence. Matt  
12 Mowen purchased drugs from John White.

13           Charla Severs is gonna tell you whenever John White  
14 sold drugs to Matt Mowen placed 'em Black and Mild box, he  
15 handed to him. The only fingerprint that is found in that  
16 house that matches John White's is to the Black and Mild box,  
17 a cigar box that he uses to deliver his drugs to Matt Mowen  
18 when Matt Mowen comes over to his house or he goes over to his  
19 house to drop off the drugs for Matt Mowen. That's how that  
20 fingerprint got there. Testimony's gonna bear that out.

21           The DNA on the cigarette. The State said John White  
22 smokes Black and Milds, which is a form of cigars, but on a  
23 cigarette 20 different cigarettes are there, one of them  
24 contains the DNA with a mixture, a mixture of John White, a  
25 mixture of somebody else. It's not completely exclusive, but

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1 inclusive of John White that that was his DNA. Regardless, 20  
2 separate cigarettes, prior contact with Matt Mowen, the  
3 evidence is gonna show that that alone is not sufficient  
4 enough to determine that Mr. White was there on that night in  
5 question.

6           The loci on the DNA. Tom Wall is gonna get up and  
7 explain what loci are. There's two separate tests that they  
8 run, the PCR and the short ten repeat STRs. STRs are usually  
9 more inclusive or more exclusive. But the exclusivity is  
10 based on factors of numbering, that the general population and  
11 community experts do not agree on. Tom Wall will get up there  
12 and testify.

13           The guns that Mr. Guymon talks, about  
14 [unintelligible] black bag. There is no evidence, no witness  
15 will testify that they saw them in the possession of Mr. White  
16 in the night in question. Charla Severs will testify she  
17 didn't know what was inside of the -- in the bag. She never  
18 saw what was inside the bag on that night or the night after.

19           There's some testimony about the fingerprints there  
20 at the scene. The expert witnesses are gonna testify that no  
21 fingerprints were found at the scene, not just of Tod  
22 Armstrong and no fingerprints of John White, but no  
23 fingerprints of Sikia Smith or Terrell Young, also known as  
24 Red. There are no other fingerprints there.

25           Sergeant Hefner will testify and the State has.

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1 admitted this, that Tod Armstrong is a suspect in this case.  
2 Sergeant Hefner will testify that Armstrong, who is a very  
3 close friend of Ace Hart, Ace Hart will tell you that, very  
4 close. Sergeant Hefner will testify that Tod Armstrong left  
5 to go to Hawaii where his mother lives. They went out and  
6 interviewed him out in Hawaii. The State has admitted that  
7 Tod Armstrong was a suspect, although his picture doesn't  
8 appear with the rest of these suspects. Nice and red, the  
9 6'1" white man, Tod Armstrong, does not appear in red as a  
10 suspect, because it doesn't fit the theory. Tod Armstrong,  
11 you will find out, expected drugs, had motivation to be there.  
12 Charla Severs will tell us that he's the one that talked about  
13 this murder.

14 Charla Severs will tell us that Tod Armstrong has  
15 committed licks, which are robberies, before. Tod Armstrong  
16 was in possession of guns. So was Ace Hart. Charla Severs  
17 will tell us that, that she saw them with guns. They're not  
18 on trial here, but the evidence is gonna show the motivation  
19 that they have tell a different story.

20 Sergeant Hefner will further testify that he made a  
21 request to the expert witness who was doing the fingerprints,  
22 do not run fingerprints on Tod Armstrong. Initially he said  
23 do not run those fingerprint comparisons except for one piece  
24 and that was it.

25 The evidence is gonna show that the State focused in



1 on one person and is trying to get the evidence to fit around  
2 it. The evidence is gonna show, beyond any doubt, Mr. White  
3 was not there. That all of these witnesses that they talk  
4 about have motivations and reasons to lie. The evidence is  
5 gonna show that all of the forensic evidence, the hard  
6 evidence, the evidence that we have does not fit the theory.  
7 There's nothing there to show Mr. White was there that night  
8 or that he pulled the trigger. Nothing. The evidence is  
9 gonna bear that out, and all I'm asking is to wait until the  
10 end to make that decision. Please wait. When you hear the  
11 one side, the other side is coming. All I'm asking you is to  
12 wait for both sides to make the determination of the guilt or  
13 innocence, because after all of the evidence is in, after all  
14 the evidence about the drug house -- it wasn't a party house  
15 at Terra Linda, it was a drug house.

16 Their expert's are gonna get up there and testify  
17 there were mushrooms found. There was methamphetamines found  
18 there. There was methamphetamine being manufactured at the  
19 house where the victims were killed. There's motivations for  
20 other people to come in and rob them. After all of this  
21 evidence comes in and after we look at both sides of it, there  
22 will be one conclusion and one conclusion only, it has to flow  
23 that Mr. White did not commit these murders. I ask you to  
24 withhold judgment until you see both sides.

25 Thank you.

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PERKINS - DIRECT

1 THE COURT: Thank you.

2 Call your first witness, please.

3 MR. DASKAS: The State calls Justin Perkins.

4 JUSTIN ULRICH PERKINS, PLAINTIFF'S WITNESS, IS SWORN

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

7 THE WITNESS: Justin Perkins, P-E-R-K-I-N-S.

8 MR. DASKAS: May I proceed, Judge?

9 THE COURT: Sure.

10 DIRECT EXAMINATION

11 BY MR. DASKAS:

12 Q Justin, how old are you?

13 A I'm 22.

14 Q Let me direct your attention back to August of 1998.  
15 Were you living here in the Las Vegas area?

16 A Yes, I was.

17 Q And did you have some friends who lived at a home on  
18 4825 Terra Linda, here in Las Vegas, Nevada?

19 A Yes. Yes, I did.

20 Q Would you occasionally visit your friends at that  
21 household?

22 A Yes, I would.

23 Q Tell me the names of the friends that you had in  
24 August '98 who lived at Terra Linda?

25 A Matt Mowen, Tracey Gorringer, Jeff Biddle, and Nick

II-76

PERKINS - DIRECT

1 Gorringe.

2 Q Of the four names you just mentioned, were you  
3 better friends with one of them in particular?

4 A Yeah, Tracey Gorringe.

5 Q The name of Peter Talamantez, does that sound  
6 familiar to you?

7 A Yes, it does.

8 Q And who is Peter Talamantez?

9 A He was friend that went over as frequently as I did,  
10 if not more.

11 Q You say that you went over where, to the Terra Linda  
12 home?

13 A Yes.

14 Q Is that how you met Peter?

15 A Yes, I met him there at the house.

16 Q Can you tell me how old Peter was back in August of  
17 1998, if you know?

18 A I believe he was 18.

19 Q Was he somewhat younger than the other people who  
20 lived there?

21 A By a year, two years maybe. Not much, but he was  
22 younger, yes.

23 Q One of the names you mentioned, I think, was a Nick  
24 Gorringe?

25 A Yes.

II-77

PERKINS - DIRECT

1 Q Now, did Nick also live at the household?

2 A Yes, he did.

3 Q Let me show you a board with some photographs.

4 MR. DASKAS: For the record, Judge, I'm showing  
5 defense counsel what's been marked as State's proposed Exhibit  
6 180. May I approach the witness, Judge?

7 THE COURT: Sure.

8 BY MR. DASKAS:

9 Q Justin, let me show you, before I show the jury,  
10 what's been marked as State's Proposed Exhibit 180 and let me  
11 ask you, do you recognize the four individuals that are  
12 depicted in this exhibit?

13 A Yes, I do.

14 Q Let me start with the person in the upper left-hand  
15 corner. Who is that?

16 A That's Tracey Gorringer.

17 Q Right. The bottom left corner, who is that?

18 A Jeff Biddle.

19 Q Upper right-hand corner?

20 A Matt Mowen.

21 Q And the bottom right-hand corner?

22 A Pete Talamantez.

23 Q Does State's Exhibit 180 fairly and accurately  
24 depict the way your friends appeared, say sometime around  
25 August 1998? Is that how they looked back then?

II-78

PERKINS - DIRECT

1 A Yes.

2 MR. DASKAS: Judge, I'd move for the admission of  
3 180.

4 MR. FIGLER: We'd ask that any superfluous text on  
5 there be stricken, but beyond that, no objection.

6 THE COURT: It'll be received on that basis. There  
7 are things on there that haven't been testified to.

8 (Plaintiff's Exhibit No. 180 admitted)

9 BY MR. DASKAS:

10 Q Justin, let me ask you specifically about  
11 August 13th of 1998. Do you recall if you visited your  
12 friends at the Everman home -- I'm sorry, the Terra Linda home  
13 on that date?

14 A Yes, I did.

15 Q And when you arrived at the Terra Linda home, were  
16 you by yourself or with other people?

17 A I was with two friends.

18 Q What are the names of those two friends?

19 A Joe Heff and Eric Kruger.

20 Q You say Joe Hess?

21 A Heffs.

22 Q And Eric Kruger?

23 A Yes.

24 Q Are they about your same age?

25 A Yes, they are.

II-79

PERKINS - DIRECT

1 Q Can you tell me, if you know, what time you arrived  
2 at the Terra Linda home on August 13?

3 A It was close to 8:00, around 7:30, close to 8:00.

4 Q In the evening hours?

5 A Yes.

6 Q Was there any reason in particular that you went to  
7 the Terra Linda home on that evening?

8 A Yeah, I had just gotten a tatoo and I wanted to show  
9 it off to my friends.

10 Q And you said you arrived about 7:30 or 8:00 that  
11 evening?

12 A Around there, yes.

13 Q Who was home at the Terra Linda address when you  
14 arrived?

15 A Tracey Gorringer, Matt Mowen, and Jeff Biddle.

16 Q Tracey, Matt, and Jeff, is that right?

17 A Yes.

18 Q Was Peter Talamantez at the home on August 13?

19 A No, he was not.

20 Q How about Nick Gorringer?

21 A No, he was not.

22 Q I assume, by the last name that Nick is Tracey's --  
23 or was Tracey's brother?

24 A Yes.

25 Q You recall what the three of your friends were doing

II-80

PERKINS - DIRECT

1 when you arrived at the home on August 13?

2 A Yes, they were just relaxing, playing Play Station,  
3 nothing special.

4 Q And what did you and your friends do once you  
5 arrived?

6 A We came over and I showed them the tatoo and they  
7 just told me how much they liked it and just hung out  
8 together.

9 Q You had been at the Terra Linda home prior to that  
10 day, correct?

11 A Yes.

12 Q Tell me, did they have a television and a stereo in  
13 the house?

14 A Yes, they did.

15 Q And where in the house were those things located?

16 A In the living room on their entertainment center.

17 Q You say an entertainment center?

18 A Yes.

19 Q Do you recall what color that entertainment center  
20 was?

21 A I believe it was black, but I'm not positive.

22 Q And the stereo and television were housed within the  
23 entertainment center?

24 A Yeah, everything was there.

25 Q Perhaps you mentioned this. I apologize. Did they

II-81

PERKINS - DIRECT

1 have a VCR?

2 A Yes, they did.

3 Q And was it also housed normally in the entertainment  
4 center?

5 A I didn't look for it, but I'm sure it was there.

6 Q Well, and I'm not asking specifically about the 13th  
7 of August, but any time prior to that, had you seen it in the  
8 entertainment center?

9 A Yes, I have.

10 Q All right. You see any video games at any time at  
11 the Terra Linda home?

12 A Yes. As a matter of fact, they were playing NFL  
13 Blitz, a new video game they had just gotten.

14 Q Do you know the type of video game that was at the  
15 Terra Linda house?

16 A Just Play Station.

17 Q All right. On the 13th of August, was everything in  
18 its place in the entertainment center?

19 A Yeah, everything was fine.

20 Q What did the interior, the inside of the home look  
21 like on the 13th?

22 A Just a regular bachelor house. You know, maybe a  
23 couple beer cans here and there, but I mean, nothing  
24 disgusting or nothing bad.

25 Q Were all of the drawers in the kitchen pulled out

II-82



PERKINS - DIRECT

1 and turned upside down?

2 A No.

3 Q Did you ever walk into the back bedrooms of the  
4 Terra Linda home on the 13th?

5 A No, I did not.

6 Q How about the living room? They had a sofa in the  
7 living room?

8 A Yes, they did.

9 Q Was the sofa cushions turned upside down on thrown  
10 off the couch?

11 A Everything's fine. I sat on 'em myself.

12 Q Other than playing video games on the 13th, what  
13 else did you and your buddies do that night?

14 A We just -- we just were hanging out together,  
15 relaxing.

16 Q Did you see any -- any drugs, any controlled  
17 substances in the home that evening?

18 A Yeah. Muscle relaxers were there.

19 Q You say muscle relaxers. Do you know what kind they  
20 were?

21 A No, I don't. I don't remember.

22 Q Do you know what they looked like?

23 A They were just little white pills.

24 Q Did you see how they were packaged?

25 A In a ziploc. A ziploc bag.

II-83

PERKINS - DIRECT

1 Q Did you take any of those muscle relaxers the 13th?

2 A Yes, I did.

3 Q How many did you take?

4 A Well, I recall two.

5 Q How long did you stay at the Terra Linda home on the  
6 13th?

7 A Not long. I wasn't feeling good. I -- I don't  
8 know. I think I was just sick after my tatoo, so not long,  
9 maybe a half an hour, maybe.

10 Q When you left the Terra Linda home, did the two  
11 friends that you mentioned, Eric and Joe, leave with you?

12 A Yes, they did.

13 Q All right. Did you go home?

14 A Yes, I did. On our way home, they asked to be  
15 dropped off at a friend's house, and the friend couldn't have  
16 people over past 9:00, so I remember looking at my pager and  
17 it being about 8:00, 8:30 at night when we left.

18 Q All right. Do you recall what Tracey, Matt, and  
19 Jeff said they were going to do as you left the Terra Linda  
20 home around 8:00 on the 13th?

21 A Yeah. They were gonna clean. Straighten up.

22 Q You returned to the home the following day on the  
23 14th?

24 A Yes, I did.

25 Q Tell me, if you know, what time it was that you

II-84

PERKINS - DIRECT

1 returned on the 14th?

2 A I know I returned at about 6 o'clock.

3 Q And why is it that you know it was about 6 o'clock?

4 A 'Cause I had a bank that was down the road and I  
5 know that they closed at 6:00 and I'm a late sleeper, so I  
6 just, as usual, I got there at the last minute, so --

7 Q Obviously we're talking about 6:00 in the evening on  
8 the 14th?

9 A Right, in the evening, so I got there at about 5:00,  
10 5:30, and I ended up staying there to get a new ATM card and I  
11 know I left at about 5:50 that night, the bank. I left about  
12 5:50.

13 Q Was there any reason in particular that you stopped  
14 at the bank before you went to the Terra Linda home on the  
15 14th?

16 A Yeah. I owed Matt Mowen twenty bucks (\$20) from --

17 Q So you owed Matt twenty dollars (\$20)?

18 A Yes.

19 Q Why did you owe him money?

20 A I owed him money on beer.

21 Q All right. I take it, when you would visit the  
22 home, you'd drink beer occasionally but not have money to pay  
23 for it?

24 A Occasionally. It'd go back and forth. Sometimes I  
25 get it. Sometimes he'd get it. We'd just reimburse each other.

II-85

PERKINS - DIRECT

1 Q Buddies would spot each other for beer money?

2 A Right.

3 Q When you arrived on the 14th, were you by yourself?

4 A Yes, I was.

5 Q And tell me, when you pulled up to the residence at  
6 Terra Linda on the 14th, where did you park?

7 A I parked across the street from the house.

8 Q Tell me what the outside of the Terra Linda home  
9 looks like.

10 A The front yard is gated off and there's also a gate  
11 that you can pull in front of the driveway and keep cars from  
12 coming in or out, so it was all gated off.

13 Q When you pulled up to the Terra Linda home on the  
14 14th, did you notice anything unusual about the gate?

15 A Yes, I did. I noticed that the gate was open.

16 Q And why was that unusual?

17 A Well, because the front door was also cracked open  
18 that I had noticed, and they had puppies, pit bull puppies,  
19 and I know they didn't want 'em to get out. I mean, they  
20 loved them dogs. So there's just no way they'd leave both  
21 doors open.

22 Q Did you see any vehicles at the Terra Linda home on  
23 the 14th?

24 A Yeah, Tracey's truck was there.

25 Q Was there anything unusual about the location of

PERKINS - DIRECT

1 Tracey's truck?

2 A Yeah. It was pulled underneath the carport and  
3 usually he parks closer to the door. He doesn't pull all the  
4 way in. Just easier for him to walk inside.

5 Q Let me show you, Justin, what I've already shown  
6 defense counsel, that is, State's Proposed Exhibits 9 and 10.  
7 Let me ask you first about State's Proposed Exhibit 10 and ask  
8 you if you recognize what's in that photograph?

9 A That's Tracey's truck.

10 Q Okay. What about the -- what's depicted in the --  
11 in the bottom of the photograph? What is that? In other  
12 words, this thing here?

13 A That's the gate.

14 Q All right. Is that the gate that surrounds Terra  
15 Linda?

16 A Yes. It surrounds their home, yes.

17 Q State's Proposed Exhibit 9. Do you recognize what's  
18 in that photograph?

19 A Yes, I do.

20 Q Tell me what's in that photograph.

21 A It's Tracey's truck again.

22 Q Is that the 4825 Terra Linda residence?

23 A Yes, it is.

24 Q Do State's Proposed Exhibits 9 and 10 fairly and  
25 accurately depict both the condition of the gate, the home at

PERKINS - DIRECT

1 Terra Linda and Tracey's truck, as you observed them, on  
2 August 14th, 1998?

3 A Everything looks right except the front door is a  
4 little bit more closed.

5 Q You say when you arrived on the 14th, the front door  
6 was a little more closed?

7 A Yes.

8 Q All right. With that exception, that is how it  
9 appeared?

10 A It appeared just like that.

11 MR. DASKAS: Judge, I'd move for the admission of  
12 State's Proposed 9 and 10.

13 MR. FIGLER: No objection.

14 THE COURT: Received.

15 (Plaintiff's Exhibit Nos. 9 and 10 admitted)

16 MR. DASKAS: May I publish them, Judge.

17 MR. FIGLER: Yeah. Can we approach for a moment?

18 THE COURT: Yeah.

19 (Off-record bench conference)

20 MR. DASKAS: May I continue, Judge?

21 THE COURT: Sure.

22 BY MR. DASKAS:

23 Q Justin, you mentioned that in the photographs that  
24 was covered --

25 THE COURT: Let's just cover what we've just

PERKINS - DIRECT

1 discussed at the bench now, because you might be publishing  
2 things. You notice, he just used 9 and 10. There have been  
3 other proceedings that we're not as Mr. Guymon indicated,  
4 concerned about here involving other folks. All we're  
5 concerned about here today is this defendant in this trial.  
6 So if you're wondering why there's multiple identification  
7 stickers, there are other proceedings that don't concern us  
8 here where they've also been marked. Go ahead, Mr. Daskas.

9 MR. DASKAS: Thank you, Judge.

10 BY MR. DASKAS:

11 Q Justin, you mentioned in one of the photographs, we  
12 see the front door to the Terra Linda home, is that right?

13 A Yes.

14 Q And you say in the photograph, the door is opened  
15 wider than it was when you returned on the 14th?

16 A Yes.

17 Q How wide was the front door to the residence opened  
18 on the 14th when you arrived about 6:00 p.m.?

19 A It was fairly cracked, very cracked open. I could  
20 tell it was open, but it really wasn't opened enough to see  
21 inside.

22 Q You mentioned a few things caused you concern; the  
23 gate around the home was open, the truck was under the  
24 carport, and the door was slightly open, is that true?

25 A Yes.

II-89

PERKINS - DIRECT

1 Q Despite the concern you had, did you nevertheless  
2 walk to the front door?

3 A I didn't think anything of it, really. I mean, I  
4 thought they might've been chasing their dogs. I don't know.  
5 I just -- I didn't think anything of it. I just kept going.

6 Q Tell me what you saw when you walked to the front  
7 door.

8 A When I walked in, the first person I saw was Jeff  
9 Biddle, and he was laying on the floor face down duct taped.  
10 And then I saw Tracey Gorringer was also laying down face first  
11 and he was also duct taped, and then I saw Matt Mowen and he  
12 was laying on the floor also duct taped and I knew it was him  
13 because of his tatoo on his back, it says Mowen. And the  
14 puppies were still in there.

15 MR. SCISCENTO: Your Honor, I'd object to any --  
16 regarding any puppies or anything like that. I don't see the  
17 relevance of that [inaudible].

18 THE COURT: Just ask another question.

19 BY MR. DASKAS:

20 Q Tell me -- describe the appearance of each of your  
21 friends as you saw them laying face down on the floor of the  
22 residence?

23 A Yeah, they're kinda beat up.

24 Q At that point, did you notice any blood?

25 A Yeah. I had -- I just really noticed them. I don't



PERKINS - DIRECT

1 know it was really -- it was really confusing.

2 Q What --

3 A I didn't know what to think.

4 Q What did you think had happened to them as you stood  
5 at the doorway?

6 A I had thought they had been robbed.

7 Q Was there anything in particular that you saw that  
8 made you believe your friends had been robbed?

9 A Not only the fact that they had been taped up. The  
10 fact that the house was just trashed. Everything was thrown  
11 everywhere.

12 Q And that was different than it was the day before on  
13 the 13th when you left?

14 A Extremely different.

15 Q Did you notice anything about the condition or color  
16 of the skin of your three friends?

17 A They looked bruised, like they had been beaten.

18 Q After seeing what you saw, did you make any effort  
19 to call out to your friends?

20 A Not the first time.

21 Q You say not the first time. Did you leave the  
22 residence?

23 A Yes, I did.

24 Q Where'd you go?

25 A I went first to the neighbor's house on the left and

II-91

PERKINS - DIRECT

1 nobody was home and then I ran to the house on the other side  
2 and I knocked on the door and a lady answered and I told her  
3 to call the police, that my friends had been robbed.

4 Q What happened after you told the lady to call the  
5 police?

6 A I went back to the house.

7 Q And why did you go back to the house?

8 A Just wanted to help.

9 Q Tell me what you did when you returned to the Terra  
10 Linda house after you asked the neighbor to call the police.

11 A I'd gone back and I'd -- I tried to get the puppies  
12 out and -- and I had just called their names, to see if they'd  
13 answer or move, and --

14 Q You say you called their names. Do you mean you  
15 called out your friends' names --

16 A Yes.

17 Q -- who were on the floor?

18 A Yes.

19 Q Did you call each one of their names?

20 A Yeah.

21 Q Did anybody respond?

22 A Nobody said anything. Nobody moved.

23 Q Justin, let me show you what's been shown to defense  
24 counsel and what's been marked as State's Proposed Exhibit 63  
25 and ask you if you recognize what's depicted in this

II-92

PERKINS - DIRECT

1 photograph? Tell me what that is.

2 A It's my friends.

3 Q Is that how they appeared on the 14th of August  
4 around 6:00 p.m. when you returned to the Terra Linda home?

5 A Yes.

6 MR. DASKAS: Judge, I move for the admission of  
7 State's Proposed 63.

8 MR. SCISCENTO: No objection.

9 MR. FIGLER: Objection, Your Honor. There is an  
10 objection with regard to the prejudicial --

11 THE COURT: Would you approach the bench, please.

12 (Off-record bench conference)

13 THE COURT: All right. The objection overruled.  
14 It'll be received.

15 (Plaintiff's Exhibit No. 63 admitted)

16 MR. DASKAS: Judge, may I published State's Proposed  
17 63?

18 THE COURT: Yes.

19 MR. SCISCENTO: For the record, Your Honor, we'd  
20 object to the publishing --

21 THE COURT: Thank you.

22 MR. SCISCENTO: -- at this time.

23 THE COURT: Overruled.

24 BY MR. DASKAS:

25 Q Justin, when you called out to your friends and

PERKINS - DIRECT

1 there was no response, what did you do next?

2 A Just watched for breathing, to see if, you know,  
3 they're unconscious or what.

4 Q And did you see any of them breathing?

5 A No, they didn't move, they didn't breathe.

6 Q Did you ever go into the Terra Linda home on the  
7 14th?

8 A The first time I'd gone to the door, that is when I  
9 taken a stepped inside, not farther than two -- two or three  
10 steps, no more than that.

11 Q And why wouldn't you go inside to help your friends  
12 if you saw what you had seen on the 14th?

13 A Honestly I was scared. I didn't know if somebody  
14 was still there.

15 Q You say you took one or two steps inside the Terra  
16 Linda home. Did you disturb anything inside the house?

17 A I touched nothing.

18 Q When you realized that nobody was breathing and  
19 nobody was responding, where'd you go?

20 A I stood there. I don't know why. I just stood  
21 there and -- and at the same time, the lady had come out of  
22 the house that I asked to call the police, and I had told her  
23 to call an ambulance. I think my friends are dead.

24 Q Did you then wait outside the Terra Linda home?

25 A I just stood there.

II-94

PERKINS - DIRECT

1 Q Did the paramedics arrive?

2 A Yeah, the paramedics showed up first and I waived  
3 them down and they came and they walked inside and they walked  
4 right back out, and they helped me down to the sidewalk and  
5 I'd asked them what was going on, why aren't they helping  
6 them, and they had told me that they were dead.

7 Q Did the police arrive?

8 A Yes.

9 Q When the police arrived, did you speak with them?

10 A Briefly, yeah.

11 Q At some point, did they handcuff you?

12 A No.

13 Q Did you fill out a statement, write out a voluntary  
14 statement about --

15 A Yes. Yes.

16 Q -- about what you knew?

17 A Yes, I did.

18 Q You had mentioned you saw your three friends in the  
19 living room. At any point on the 14th, while you were outside  
20 the residence, did you see a fourth person removed from the  
21 house?

22 A No. No, they -- they had let me know that there was  
23 a fourth person in there and asked me if I knew who it was?

24 Q What time were you allowed to leave the Terra Linda  
25 home on the 14th?

II-95

PERKINS - CROSS

1 A I was allowed to leave at 9:00.

2 Q At 9 o'clock you say?

3 A 9 o'clock at night, yes.

4 Q It was dark outside, I take it?

5 A Yes.

6 Q Where'd you go?

7 A I went to my car and Matt Mowen's dad had stopped me  
8 and he asked me if his son was in there, and I had to tell  
9 him, yeah. And then right after that, I got in my car and I  
10 went home to see my mom, I learned how much I loved her.

11 MR. DASKAS: I'll pass the witness, Judge.

12 THE COURT: Any cross?

13 CROSS-EXAMINATION

14 BY MR. SCISCENTO:

15 Q Mr. Perkins? Mr. Perkins?

16 A Yes.

17 Q Did you know a person depicted in this picture as  
18 Matt Mowen?

19 A Yes.

20 Q How long have you known Matt Mowen?

21 A Junior high.

22 Q A year and a half?

23 A Junior high.

24 Q Since, junior high. I'm sorry. Did you know the  
25 other people involved, the other victims there?

II-96

PERKINS - CROSS

1 A Yes, I did.

2 Q How many times a week would you go over to the house  
3 on Terra Linda?

4 A Just weekends. Just weekends. I worked all week,  
5 so I liked to go there on weekends and cut loose.

6 Q On August 13th, you were there that night?

7 A Yes.

8 Q Up until what time?

9 A About -- about 7:00, 7:30.

10 Q Okay. Do you remember you gave a previous  
11 statement --

12 A Yes.

13 Q -- on the 14th of August?

14 A Yes.

15 Q Do you remember what time you told them you left the  
16 house that time?

17 Q I don't remember, no. I don't recall.

18 MR. SCISCENTO: If I may approach?

19 THE COURT: Both sides can approach without asking.

20 Go ahead.

21 MR. SCISCENTO: Thanks.

22 BY MR. SCISCENTO:

23 Q Mr. Perkins, can you -- have you ever seen a copy of  
24 your voluntary statement that you gave?

25 A Yes.

II-97

PERKINS - CROSS

1 Q Okay. I'm gonna direct you -- I just want you to  
2 look at it. I don't want you to say anything right now. Just  
3 review that. Okay? Upon reading this, does it refresh your  
4 recollection as to what you said on August 14th at what time  
5 you left the house? Do you want to read the rest of it?

6 A I'm sure that's what I said.

7 Q Okay. And what time did you say you left the house  
8 on August 14th when you talked to the police?

9 A About 9 o'clock.

10 Q Okay. Your statement says something different, am I  
11 right?

12 A In that statement, yes.

13 Q Yes. What time does it say?

14 A I believe it said 11:00 or 12:00.

15 Q So on the 14th you told the officers you left there  
16 about 11:00 or 12 o'clock at night.

17 A On the --

18 Q On the statements that you gave.

19 A On what date? The 13th or the 14th?

20 Q On the 14th, when you gave the statement, is what  
21 I'm saying.

22 A The day before, I had told them that I left around  
23 11:00 or 12:00.

24 Q 12:00 at night.

25 A At night.

II-98



PERKINS - CROSS

1 Q Okay. Now, you're telling us you left at 9 o'clock,  
2 earlier?

3 A Yes -- well, not on the 13th. On the 14th, I left  
4 at 9:00. On the 13th, I left at about 8:00, 8:30 -- no, about  
5 8:00.

6 Q I'm a little confused. What time did you leave on  
7 the 13th?

8 A About 8:00.

9 Q Your statement says, I would guess approximately  
10 around 11:00 and 12 o'clock at night. Then the question was,  
11 what time did you leave?

12 A On the 13th?

13 Q Let me approach again. Tell me what day that is,  
14 that you're talking about?

15 A Okay.

16 Q So upon reading that, what time did you tell them  
17 that you left that night?

18 A I told them that night on the 13th, at 11:00 or  
19 12:00.

20 Q And that was the next morning when you came over.  
21 The next day you came over at 6:00 in the afternoon.

22 A Yes.

23 Q That's when you discovered the bodies?

24 A Yes.

25 Q Further, on the same date, on August 14th, you gave



IN THE SUPREME COURT OF NEVADA

DONTE JOHNSON,

CASE NO. 65168

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

OPENING BRIEF APPENDIX

| <u>VOLUME</u> | <u>PLEADING</u>   | <u>PAGE NO</u> |
|---------------|---|----------------|
| 7             | ADDENDUM TO NOTICE OF EVIDENCE IN<br>SUPPORT OF AGGRAVATING CIRCUMSTANCES<br>(FILED 04/26/2000)                                 | 1733-1734      |
| 6             | AFFIDAVIT OF JOSEPH S. SCISCENTO IN SUPPORT<br>OF THE MOTION TO CONTINUE<br>(FILED 12/14/1999)                                  | 1428-1433      |
| 19            | AMENDED EX PARTE ORDER ALLOWING<br>WITHDRAWAL OF ATTORNEY OF RECORD FOR<br>MATERIAL WITNESS CHARLA SEVERS<br>(FILED 08/24/2000) | 4585           |
| 7             | AMENDED JURY LIST<br>(FILED 06/06/2000)   | 1823           |
| 8             | AMENDED JURY LIST<br>(FILED 06/08/2000)   | 2131           |
| 3             | AMENDED NOTICE OF MOTION AND MOTION<br>TO VIDEOTAPE THE DEPOSITION OF<br>CHARLA SEVERS<br>(FILED 10/08/1999)                    | 659-681        |
| 31            | APPELLANT'S OPENING BRIEF<br>(FILED 02/03/2006)   | 7174-7225      |
| 19            | CASE APPEAL STATEMENT<br>(FILED 11/08/2000)   | 4651-4653      |
| 42            | CASE APPEAL STATEMENT<br>(FILED 03/06/2014)   | 8200-8202      |
| 31            | APPELLANT'S REPLY BRIEF<br>(FILED 05/25/2006)   | 7254-7283      |

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| 1  | 3  | CERTIFICATE FOR ATTENDANCE OF OUT<br>OF STATE WITNESS CHARLA CHENIQUA SEVERS<br>AKA KASHAWN HIVES<br>(FILED 09/21/1999)   | 585-606   |
| 2  |    |   |           |
| 3  | 7  | CERTIFICATE OF MAILING OF EXHIBITS<br>(FILED 04/17/2000)  | 1722      |
| 4  |    |   |           |
| 5  | 19 | CERTIFICATION OF COPY   |           |
| 6  | 7  | DECISION AND ORDER<br>(FILED 04/18/2000)  | 1723-1726 |
| 7  | 2  | DEFENDANT JOHNSON'S MOTION TO SET BAIL<br>(FILED 10/05/1998)  | 294-297   |
| 8  | 6  | DEFENDANT'S MOTION AND NOTICE OF MOTION<br>TO SUPPRESS EVIDENCE ILLEGALLY SEIZED<br>(FILED 12/03/1999)  | 1340-1346 |
| 9  |    |   |           |
| 10 | 5  | DEFENDANT'S MOTION FOR CHANGE OF VENUE<br>(FILED 11-29-1999)  | 1186-1310 |
| 11 |    |   |           |
| 12 | 5  | DEFENDANT'S MOTION FOR DISCLOSURE OF ANY<br>POSSIBLE BASIS FOR DISQUALIFICATION OF<br>DISTRICT ATTORNEY<br>(FILED 11/29/1999)   | 1102-1110 |
| 13 |    |   |           |
| 14 | 5  | DEFENDANT'S MOTION FOR DISCLOSURE OF<br>EXCULPATORY EVIDENCE PERTAINING TO THE<br>IMPACT OF THE DEFENDANT'S EXECUTION UPON<br>VICTIM'S FAMILY MEMBERS<br>(FILED 11/29/1999)   | 1077-1080 |
| 15 |    |   |           |
| 16 |    |   |           |
| 17 | 5  | DEFENDANT'S MOTION FOR DISQUALIFICATION<br>FROM THE JURY VENUE OF ALL POTENTIAL JURORS<br>WHO WOULD AUTOMATICALLY VOTE FOR THE DEATH<br>PENALTY IF THEY FOUND MR. JOHNSON GUILTY OF<br>CAPITAL MURDER<br>(FILED 11/29/1999) | 1073-1076 |
| 18 |    |   |           |
| 19 |    |   |           |
| 20 |    |   |           |
| 21 | 5  | DEFENDANT'S MOTION FOR INSPECTION OF<br>POLICE OFFICER'S PERSONNEL FILES<br>(FILED 11/29/1999)  | 1070-1072 |
| 22 |    |   |           |
| 23 | 5  | DEFENDANT'S MOTION FOR JURY QUESTIONNAIRE<br>(FILED 11/29/1999)   | 1146-1172 |
| 24 | 15 | DEFENDANT'S MOTION FOR NEW TRIAL<br>(FILED 06/23/2000)  | 3570-3597 |
| 25 |    |   |           |
| 26 | 5  | DEFENDANT'S MOTION FOR PERMISSION TO<br>FILED OTHER MOTIONS<br>(FILED 11/29/1999)   | 1066-1069 |
| 27 |    |   |           |
| 28 | 4  | DEFENDANT'S MOTION IN LIMINE FOR ORDER<br>PROHIBITING PROSECUTION MISCONDUCT IN<br>ARGUMENT<br>(FILED 11/29/1999)   | 967-1057  |

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| 1  | 4  | DEFENDANT'S MOTION IN LIMINE REGARDING<br>CO-DEFENDANT'S SENTENCES<br>(FILED 11/29/1999)  | 964-966   |
| 2  |    |   |           |
| 3  | 4  | DEFENDANT'S MOTION IN LIMINE TO PRECLUDE<br>EVIDENCE OF WITNESS INTIMIDATION<br>(FILED 10/27/1999)  | 776-780   |
| 4  |    |   |           |
| 5  | 5  | DEFENDANT'S MOTION IN LIMINE TO PROHIBIT<br>ANY REFERENCES TO THE FIRST PHASE A THE<br>"GUILT PHASE"<br>(FILED 11/29/1999)  | 1063-1065 |
| 6  |    |   |           |
| 7  | 5  | DEFENDANT'S MOTION TO ALLOW THE DEFENSE<br>TO ARGUE LAST AT THE PENALTY PHASE<br>(FILED 11/29/1999)   | 1058-1062 |
| 8  |    |   |           |
| 9  | 5  | DEFENDANT'S MOTION TO AUTHENTICATE AND<br>FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS<br>AND OTHER APPLICATIONS AND ISSUES RAISED IN<br>THE PROCEEDINGS IN THE ABOVE ENTITLED CASE<br>(FILED 11/29/1999) | 1081-1083 |
| 10 |    |   |           |
| 11 |    |   |           |
| 12 | 5  | DEFENDANT'S MOTION TO BIFURCATE PENALTY<br>PHASE<br>(FILED 11/29/1999)  | 1142-1145 |
| 13 |    |   |           |
| 14 | 5  | DEFENDANT'S MOTION TO DISMISS STATE'S NOTICE<br>OF INTENT TO SEEK DEATH PENALTY BECAUSE<br>NEVADA'S DEATH PENALTY STATUTE IS<br>UNCONSTITUTIONAL<br>(FILED 11/29/1999)                                    | 1115-1136 |
| 15 |    |   |           |
| 16 |    |   |           |
| 17 | 5  | DEFENDANT'S MOTION TO EXCLUDE AUTOPSY<br>PHOTOGRAPHS<br>(FILED 11/29/1999)  | 1098-1101 |
| 18 |    |   |           |
| 19 | 5  | DEFENDANT'S MOTION TO PRECLUDE EVIDENCE<br>OF ALLEGED CO-CONSPIRATORS STATEMENTS<br>(FILED 11/29/1999)  | 1091-1097 |
| 20 |    |   |           |
| 21 | 5  | DEFENDANT'S MOTION TO PROHIBIT THE USE OF<br>PEREMPTORY CHALLENGES TO EXCLUDE JURORS<br>WHO EXPRESS CONCERNS ABOUT CAPITAL<br>PUNISHMENT<br>(FILED 11/29/1999)  | 1084-1090 |
| 22 |    |   |           |
| 23 |    |   |           |
| 24 | 5  | DEFENDANT'S MOTION TO REQUIRE PROSECUTOR<br>TO STATE REASONS FOR EXERCISING PEREMPTORY<br>CHALLENGES<br>(FILED 11/29/1999)  | 1137-1141 |
| 25 |    |   |           |
| 26 |    |   |           |
| 27 | 19 | DEFENDANT'S MOTION TO SET ASIDE DEATH<br>SENTENCE OR IN THE ALTERNATIVE MOTION<br>TO SETTLE RECORD<br>(FILED 09/05/2000)  | 4586-4592 |
| 28 |    |   |           |

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| 1  | 3  | DEFENDANT'S OPPOSITION TO STATE'S MOTION TO<br>VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS<br>(FILED 10/06/1999)  | 650-658    |
| 2  |    |   |            |
| 3  | 3  | DEFENDANT'S OPPOSITION TO WITNESS SEVER'S<br>MOTION TO VIDEOTAPE THE DEPOSITION OF<br>CHARLA SEVERS<br>(FILED 10/12/1999)   | 686-694    |
| 4  |    |   |            |
| 5  | 43 | COURT MINUTES   | 8285 -8536 |
| 6  | 5  | DONTE JOHNSON'S MOTION IN LIMINE TO<br>PRECLUDE THE INTRODUCTION OF VICTIM<br>IMPACT EVIDENCE<br>(FILED 11/29/1999)   | 1111-1114  |
| 7  |    |   |            |
| 8  |    |   |            |
| 9  | 2  | EX PARTE APPLICATION AND ORDER TO<br>PRODUCE<br>(FILED 05/21/1999)  | 453-456    |
| 10 |    |   |            |
| 11 | 2  | EX PARTE APPLICATION AND ORDER TO<br>PRODUCE JUVENILE RECORDS<br>(FILED 05/14/1999)   | 444-447    |
| 12 |    |   |            |
| 13 | 2  | EX PARTE APPLICATION AND ORDER TO<br>PRODUCE JUVENILE RECORDS<br>(FILED 05/14/1999)   | 448-452    |
| 14 |    |   |            |
| 15 | 2  | EX PARTE APPLICATION FOR ORDER REQUIRING<br>MATERIAL WITNESS TO POST BAIL<br>(FILED 04/30/1999)   | 419-422    |
| 16 |    |   |            |
| 17 | 2  | EX PARTE APPLICATION TO APPOINT DR. JAMES<br>JOHNSON AS EXPERT AND FOR FEES IN EXCESS<br>OF STATUTORY MAXIMUM<br>(FILED 06/18/1999)                                 | 493-498    |
| 18 |    |   |            |
| 19 | 19 | EX PARTE MOTION FOR RELEASE OF EVIDENCE<br>(FILED 10/05/2000)   | 4629       |
| 20 |    |   |            |
| 21 | 15 | EX PARTE MOTION TO ALLOW FEES IN EXCESS<br>OF STATUTORY MAXIMUM FOR ATTORNEY ON<br>COURT APPOINTED CASE FOR MATERIAL WITNESS<br>CHARLA SEVERS<br>(FILED 06/28/2000) | 3599-3601  |
| 22 |    |   |            |
| 23 |    |   |            |
| 24 | 15 | EX PARTE MOTION TO WITHDRAWAL AS<br>ATTORNEY OF RECORD FOR MATERIAL WITNESS<br>CHARLA SEVERS<br>(FILED 06/20/2000)  | 3557-3558  |
| 25 |    |   |            |
| 26 | 15 | EX PARTE ORDER ALLOWING FEES IN EXCESS OF<br>STATUTORY MAXIMUM FOR ATTORNEY ON<br>COURT APPOINTED CASE FOR MATERIAL WITNESS<br>CHARLA SEVERS<br>(FILED 06/28/2000)  | 3602       |
| 27 |    |   |            |
| 28 |    |   |            |

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|----|----|---|-----------|
| 1  | 15 | EX PARTE ORDER ALLOWING WITHDRAWAL OF<br>ATTORNEY OF RECORD FOR MATERIAL WITNESS<br>CHARLA SEVERS<br>(FILED 06/20/2000) | 3559      |
| 2  |    |   |           |
| 3  | 42 | FINDINGS OF FACT, CONCLUSIONS OF LAW AND<br>ORDER<br>(FILED 03/17/2014)   | 8185-8191 |
| 4  |    |   |           |
| 5  | 42 | FINDINGS OF FACT, CONCLUSIONS OF LAW AND<br>ORDER<br>(FILED 03/17/2014)   | 8192-8199 |
| 6  |    |   |           |
| 7  | 1  | INDICTMENT<br>(FILED 09/02/1998)  | 1-10      |
| 8  |    |   |           |
| 9  | 10 | INSTRUCTIONS TO THE JURY<br>(FILED 06/09/2000)  | 2529-2594 |
| 10 | 15 | INSTRUCTIONS TO THE JURY<br>(FILED 06/16/2000)  | 3538-3556 |
| 11 | 26 | INSTRUCTIONS TO THE JURY  | 6152-6168 |
| 12 | 19 | JUDGMENT OF CONVICTION<br>(FILED 10/03/2000)  | 4619-4623 |
| 13 |    |   |           |
| 14 | 30 | JUDGMENT OF CONVICTION<br>(FILED 06/06/2005)  | 7142-7145 |
| 15 | 19 | JUDGMENT OF CONVICTION<br>(FILED 10/09/2000)  | 4631-4635 |
| 16 |    |   |           |
| 17 | 7  | JURY LIST<br>(FILED 06/06/2000)   | 1822      |
| 18 | 2  | MEDIA REQUEST<br>(FILED 09/15/1998)   | 274       |
| 19 |    |   |           |
| 20 | 2  | MEDIA REQUEST<br>(FILED 09/15/1998)   | 276       |
| 21 | 2  | MEDIA REQUEST<br>(09/28/1998)   | 292       |
| 22 |    |   |           |
| 23 | 2  | MEMORANDUM FOR PRODUCTION OF<br>EXCULPATORY EVIDENCE<br>(FILED 05/12/1999)  | 432-439   |
| 24 |    |   |           |
| 25 | 3  | MEMORANDUM FOR PRODUCTION OF<br>EXCULPATORY EVIDENCE<br>(FILED 09/20/1999)  | 577-584   |
| 26 |    |   |           |
| 27 | 3  | MEMORANDUM IN PURSUANT FOR A CHANGE<br>OF VENUE<br>(FILED 09/07/1999)   | 570-574   |
| 28 |    |   |           |

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| 1  | 4  | MEMORANDUM IN PURSUANT FOR A MOTION<br>TO DISMISS INDICTMENT<br>(FILED 11/02/1999)   | 783-786   |
| 2  |    |  |           |
| 3  | 17 | MEMORANDUM IN SUPPORT OF GRANTING STAY<br>(FILED 07/18/2000)   | 4149-4152 |
| 4  | 17 | MEMORANDUM REGARDING A STAY OF THE<br>PENALTY PROCEEDINGS<br>(FILED 07/19/2000)  | 4160-4168 |
| 5  |    |  |           |
| 6  | 17 | MEMORANDUM REGARDING THE THREE JUDGE<br>PANEL<br>(FILED 07/12/2000)  | 4102-4110 |
| 7  |    |  |           |
| 8  | 2  | MEMORANDUM TO THE COURT<br>(FILED 03/23/1999)  | 394-399   |
| 9  |    |  |           |
| 10 | 2  | MEMORANDUM TO THE COURT<br>(FILED 06/28/1999)  | 499-504   |
| 11 | 6  | MEMORANDUM TO THE COURT<br>(FILED 12/22/1999)  | 1457-1458 |
| 12 |    |  |           |
| 13 | 6  | MEMORANDUM TO THE COURT<br>(FILED 12/29/1999)  | 1492-1495 |
| 14 | 7  | MEMORANDUM TO THE COURT<br>(FILED 02/02/2000)  | 1625-1631 |
| 15 |    |  |           |
| 16 | 7  | MEMORANDUM TO THE COURT<br>(FILED 04/04/2000)  | 1693-1711 |
| 17 | 7  | MEMORANDUM TO THE COURT<br>(FILED 04/11/2000)  | 1715-1721 |
| 18 |    |  |           |
| 19 | 7  | MEMORANDUM TO THE COURT FOR REQUEST<br>OF MOTION TO BE FILED<br>(FILED 02/24/2000)   | 1652-1653 |
| 20 |    |  |           |
| 21 | 4  | MEMORANDUM TO THE COURT FOR REQUESTED<br>MOTION TO BE FILED BY COUNSELS<br>(FILED 11/15/1999)  | 956-960   |
| 22 |    |  |           |
| 23 | 7  | MOTION AND NOTICE OF MOTION FOR DISCOVERY<br>OF PROSECUTION FILES, RECORDS, AND INFORMATION<br>NECESSARY TO A FAIR TRIAL<br>(FILED 04/26/2000) | 1727-1732 |
| 24 |    |  |           |
| 25 | 3  | MOTION AND NOTICE OF MOTION IN LIMINE TO<br>PRECLUDE ANY MEDIA COVERAGE OF VIDEO<br>DEPOSITION OF CHARLA SEVERS<br>(FILED 10/26/1999)          | 769-775   |
| 26 |    |  |           |
| 27 |    |  |           |
| 28 | 3  | MOTION AND NOTICE OF MOTION IN LIMINE<br>TO PRECLUDE EVIDENCE OF OTHER CRIMES OR<br>BAD ACTS<br>(FILED 10/18/1999)                             | 699-704   |



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| 1  | 3  | MOTION AND NOTICE OF MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS WEAPONS AND AMMUNITION NOT USED IN THE CRIME (FILED 10/19/1999)   | 743-756   |
| 2  |    |  |           |
| 3  | 2  | MOTION FOR DISCOVERY (FILED 05/13/1999)  | 440-443   |
| 4  |    |  |           |
| 5  | 5  | MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL SOUGHT (FILED 11/29/1999)   | 1181-1185 |
| 6  |    |  |           |
| 7  |    |  |           |
| 8  | 17 | MOTION FOR IMPOSITION OF LIFE WITHOUT THE POSSIBILITY OF PAROLE SENTENCE; OR IN THE ALTERNATIVE, MOTION TO EMPANEL JURY FOR SENTENCING HEARING AND/OR FOR DISCLOSURE OF EVIDENCE MATERIAL TO CONSTITUTIONALITY OF THREE JUDGE PANEL PROCEDURE (FILED 07/10/2000) | 4019-4095 |
| 9  |    |  |           |
| 10 |    |  |           |
| 11 |    |  |           |
| 12 | 6  | MOTION FOR OWN RECOGNIZANCE RELEASE OF MATERIAL WITNESS CHARLA SEVERS (FILED 01/11/2000)   | 1496-1500 |
| 13 |    |  |           |
| 14 | 5  | MOTION TO APPLY HEIGHTENED STANDARD OF REVIEW AND CARE IN THIS CASE BECAUSE THE STATE IS SEEKING THE DEATH PENALTY (FILED 11/29/1999)  | 1173-1180 |
| 15 |    |  |           |
| 16 | 2  | MOTION TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATE COUNSEL (FILED 04/01/1999)  | 403-408   |
| 17 |    |  |           |
| 18 | 2  | MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION (FILED 06/29/1999)  | 511-515   |
| 19 |    |  |           |
| 20 |    |  |           |
| 21 | 3  | MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION (10/19/1999)  | 738-742   |
| 22 |    |  |           |
| 23 |    |  |           |
| 24 | 2  | MOTION TO COMPEL THE PRODUCTION OF ANY AND ALL STATEMENTS OF THE DEFENDANT (FILED 06/29/1999)  | 516-520   |
| 25 |    |  |           |
| 26 | 3  | MOTION TO COMPEL THE PRODUCTION OF ANY AND ALL STATEMENTS OF THE DEFENDANT (FILED 10/19/1999)  | 727-731   |
| 27 |    |  |           |
| 28 | 2  | MOTION TO CONTINUE TRIAL (FILED 06/16/1999)  | 481-484   |

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| 1  | 6  | MOTION TO CONTINUE TRIAL<br>(FILED 12/16/1999)   | 1441-1451 |
| 2  | 2  | MOTION TO PROCEED PRO PER WITH CO-COUNSEL<br>AND INVESTIGATOR<br>(FILED 05/06/1999)  | 429-431   |
| 3  |    |  |           |
| 4  | 2  | MOTION TO REVEAL THE IDENTITY OF INFORMANTS<br>AND REVEAL ANY BENEFITS, DEALS, PROMISES OR<br>INDUCEMENTS<br>(FILED 06/29/1999)  | 505-510   |
| 5  |    |  |           |
| 6  |    |  |           |
| 7  | 3  | MOTION TO REVEAL THE IDENTITY OF INFORMANTS<br>AND REVEAL ANY BENEFITS, DEALS, PROMISES OR<br>INDUCEMENTS<br>(FILED 10/19/1999)  | 732-737   |
| 8  |    |  |           |
| 9  | 19 | MOTION TO SET ASIDE DEATH SENTENCE OR IN THE<br>ALTERNATIVE MOTION TO SETTLE RECORD<br>(FILED 09/05/2000)  | 4593-4599 |
| 10 |    |  |           |
| 11 | 2  | MOTION TO WITHDRAW COUNSEL AND APPOINT<br>OUTSIDE COUNSEL<br>(02/10/1999)  | 380-384   |
| 12 |    |  |           |
| 13 | 19 | NOTICE OF APPEAL<br>(FILED 11/08/2000)   | 4647-4650 |
| 14 |    |  |           |
| 15 | 42 | NOTICE OF APPEAL<br>(FILED 03/06/2014)   | 8203-8204 |
| 16 | 7  | NOTICE OF DEFENDANT'S EXPERT WITNESSES<br>(FILED 05/15/2000)   | 1753-1765 |
| 17 |    |  |           |
| 18 | 42 | NOTICE OF ENTRY OF FINDINGS OF FACT,<br>CONCLUSIONS OF LAW AND ORDER<br>(FILED 03/21/2014)   | 8184      |
| 19 |    |  |           |
| 20 | 2  | NOTICE OF EVIDENCE IN SUPPORT OF<br>AGGRAVATING CIRCUMSTANCES<br>(FILED 06/11/1999)  | 460-466   |
| 21 |    |  |           |
| 22 | 4  | NOTICE OF EXPERT WITNESSES<br>(FILED 11/17/1999)   | 961-963   |
| 23 |    |  |           |
| 24 | 2  | NOTICE OF INTENT TO SEEK DEATH PENALTY<br>(09/15/1998)   | 271-273   |
| 25 |    |  |           |
| 26 | 3  | NOTICE OF MOTION AND MOTION TO PERMIT DNA<br>TESTING OF THE CIGARETTE BUTT FOUND AT THE<br>CRIME SCENE BY THE LAS VEGAS METROPOLITAN<br>POLICE DEPARTMENT FORENSIC LABORATORY OR<br>BY AN INDEPENDENT LABORATORY WITH THE<br>RESULTS OF THE TEST TO BE SUPPLIED TO BOTH THE<br>DEFENSE AND THE PROSECUTION<br>(FILED 08/19/1999) | 552-561   |
| 27 |    |  |           |
| 28 |    |  |           |

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|----|----|--|-----------|
| 1  | 3  | NOTICE OF MOTION AND MOTION TO VIDEOTAPE<br>THE DEPOSITION OF CHARLA SEVERS<br>(FILED 09/29/1999)  | 622-644   |
| 2  |    |  |           |
| 3  | 3  | NOTICE OF MOTION AND MOTION TO VIDEOTAPE<br>THE DEPOSITION OF MYSELF CHARLA SEVERS<br>(10/11/1999)   | 682-685   |
| 4  |    |  |           |
| 5  | 17 | NOTICE OF MOTION AND STATE'S MOTION IN LIMINE<br>SUMMARIZING THE FACTS ESTABLISHED DURING THE<br>GUILT PHASE OF THE DONTE JOHNSON TRIAL<br>(FILED 07/14/2000)  | 4111-4131 |
| 6  |    |  |           |
| 7  | 3  | NOTICE OF WITNESSES<br>(FILED 08/24/1999)  | 562-564   |
| 8  |    |  |           |
| 9  | 6  | NOTICE OF WITNESSES<br>(FILED 12/08/1999)  | 1425-1427 |
| 10 | 4  | NOTICE OF WITNESSES AND OF EXPERT WITNESSES<br>PURSUANT TO NRS 174.234<br>(FILED 11/09/1999)   | 835-838   |
| 11 |    |  |           |
| 12 | 19 | NOTICE TO TRANSPORT FOR EXECUTION<br>(FILED 10/03/2000)  | 4628      |
| 13 |    |  |           |
| 14 | 31 | OPINION<br>(FILED 12/28/2006)  | 7284-7307 |
| 15 | 6  | OPPOSITION TO DEFENDANT'S MOTION FOR<br>DISCLOSURE OF ANY POSSIBLE BASIS FOR<br>DISQUALIFICATION OF DISTRICT ATTORNEY<br>(FILED 12/06/1999)  | 1366-1369 |
| 16 |    |  |           |
| 17 |    |  |           |
| 18 | 6  | OPPOSITION TO DEFENDANT'S MOTION FOR<br>DISCLOSURE OF EXCULPATORY EVIDENCE<br>PERTAINING TO THE IMPACT OF THE DEFENDANT'S<br>EXECUTION UPON VICTIM'S FAMILY MEMBERS<br>(FILED 12/06/1999)  | 1409-1411 |
| 19 |    |  |           |
| 20 |    |  |           |
| 21 | 6  | OPPOSITION TO DEFENDANT'S MOTION FOR<br>DISCOVERY AND EVIDENTIARY HEARING<br>REGARDING THE MANNER AND METHOD OF<br>DETERMINING IN WHICH MURDER CASES THE<br>DEATH PENALTY WILL BE SOUGHT<br>(FILED 12/06/1999)                             | 1383-1385 |
| 22 |    |  |           |
| 23 |    |  |           |
| 24 | 6  | OPPOSITION TO DEFENDANT'S MOTION FOR<br>DISQUALIFICATION FROM THE JURY VENIRE OF<br>ALL POTENTIAL JURORS WHO WOULD AUTOMATICALLY<br>VOTE FOR THE DEATH PENALTY IF THEY FOUND<br>MR. JOHNSON GUILTY OF CAPITAL MURDER<br>(FILED 12/06/1999) | 1380-1382 |
| 25 |    |  |           |
| 26 |    |  |           |
| 27 |    |  |           |
| 28 | 6  | OPPOSITION TO DEFENDANT'S MOTION FOR<br>INSPECTION OF POLICE OFFICERS' PERSONNEL FILES<br>(FILED 12/06/1999)   | 1362-1365 |

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| 1  | 6 | OPPOSITION TO DEFENDANT’S MOTION FOR PERMISSION<br>TO FILE OTHER MOTIONS<br>(FILED 12/06/1999)   | 1356-1358 |
| 2  |   |  |           |
| 3  | 6 | OPPOSITION TO DEFENDANT’S MOTION IN LIMINE<br>FOR ORDER PROHIBITING PROSECUTION<br>MISCONDUCT IN ARGUMENT<br>(FILED 12/06/1999)  | 1397-1399 |
| 4  |   |  |           |
| 5  | 6 | OPPOSITION TO DEFENDANT’S MOTION IN LIMINE<br>TO PRECLUDE THE INTRODUCTION OF VICTIM<br>IMPACT EVIDENCE<br>(FILED 12/06/1999)  | 1400-1402 |
| 6  |   |  |           |
| 7  |   |  |           |
| 8  | 6 | OPPOSITION TO DEFENDANT’S MOTION IN LIMINE<br>TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE<br>AS THE “GUILTY PHASE”<br>(FILED 12/06/1999)   | 1392-1393 |
| 9  |   |  |           |
| 10 | 6 | OPPOSITION TO DEFENDANT’S MOTION TO ALLOW<br>THE DEFENSE TO ARGUE LAST AT THE PENALTY<br>PHASE<br>(FILED 12/06/1999)   | 1386-1388 |
| 11 |   |  |           |
| 12 |   |  |           |
| 13 | 6 | OPPOSITION TO DEFENDANT’S MOTION TO APPLY<br>HEIGHTENED STANDARD OF REVIEW AND CARE<br>IN THIS CASE BECAUSE THE STATE IS SEEKING<br>THE DEATH PENALTY<br>(FILED 12/06/1999)  | 1370-1373 |
| 14 |   |  |           |
| 15 |   |  |           |
| 16 | 6 | OPPOSITION TO DEFENDANT’S MOTION TO<br>AUTHENTICATE AND FEDERALIZE ALL MOTIONS<br>OBJECTIONS REQUESTS AND OTHER APPLICATIONS<br>AND ISSUES RAISED IN THE PROCEEDINGS IN THE<br>ABOVE ENTITLED CASE<br>(FILED 12/06/1999) | 1394-1396 |
| 17 |   |  |           |
| 18 |   |  |           |
| 19 | 6 | OPPOSITION TO DEFENDANT’S MOTION TO BIFURCATE<br>PENALTY PHASE<br>(FILED 12/06/1999)   | 1359-1361 |
| 20 |   |  |           |
| 21 | 6 | OPPOSITION TO DEFENDANT’S MOTION TO DISMISS<br>STATE’S NOTICE OF INTENT TO SEEK DEATH PENALTY<br>BECAUSE NEVADA’S DEATH PENALTY STATUTE IS<br>UNCONSTITUTIONAL<br>(FILED 12/06/1999)                                     | 1403-1408 |
| 22 |   |  |           |
| 23 |   |  |           |
| 24 | 6 | OPPOSITION TO DEFENDANT’S MOTION TO EXCLUDE<br>AUTOPSY PHOTOGRAPHS<br>(FILED 12/06/1999)   | 1377-1379 |
| 25 |   |  |           |
| 26 | 6 | OPPOSITION TO DEFENDANT’S MOTION TO PRECLUDE<br>EVIDENCE OF ALLEGED CO-CONSPIRATORS<br>STATEMENTS<br>(FILED 12/06/1999)  | 1374-1376 |
| 27 |   |  |           |
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| 1  | 6  | OPPOSITION TO DEFENDANT’S MOTION TO PROHIBIT<br>THE USE OF PEREMPTORY CHALLENGES TO EXCLUDE<br>JURORS WHO EXPRESS CONCERNS ABOUT CAPITAL<br>PUNISHMENT<br>(FILED 12/06/1999) | 1389-1391  |
| 2  |    |  |            |
| 3  |    |  |            |
| 4  | 6  | OPPOSITION TO DEFENDANT’S MOTION TO REQUIRE<br>PROSECUTOR TO STATE REASONS FOR EXERCISING<br>PEREMPTORY CHALLENGES<br>(FILED 12/06/1999)                                     | 1415-1417  |
| 5  |    |  |            |
| 6  | 3  | OPPOSITION TO MOTION IN LIMINE TO PERMIT THE<br>STATE TO PRESENT “THE COMPLETE STORY OF THE<br>CRIME”<br>(FILED 07/02/1999)  | 524-528    |
| 7  |    |  |            |
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| 9  | 4  | OPPOSITION TO MOTION INN LIMINE TO PRECLUDE<br>EVIDENCE OF OTHER GUNS, WEAPONS AND<br>AMMUNITION NOT USED IN THE CRIME<br>(FILED 11/04/1999)                                 | 791-800    |
| 10 |    |  |            |
| 11 | 6  | OPPOSITION TO MOTION TO CONTINUE TRIAL<br>(FILED 12/16/1999)   | 1434-14440 |
| 12 |    |  |            |
| 13 | 6  | ORDER<br>(FILED 12/02/1999)  | 1338-1339  |
| 14 | 15 | ORDER<br>(FILED 06/22/2000)  | 3568       |
| 15 |    |  |            |
| 16 | 17 | ORDER<br>(FILED 07/20/2000)  | 4169-4170  |
| 17 | 6  | ORDER APPOINTING COUNSEL FOR MATERIAL<br>WITNESS CHARLA SEVERS<br>(FILED 12/02/1998)   | 1337       |
| 18 |    |  |            |
| 19 | 2  | ORDER DENYING DEFENDANT’S MOTION TO SET<br>BAIL<br>(FILED 10/20/1998)  | 378-379    |
| 20 |    |  |            |
| 21 | 10 | ORDER FOR CONTACT VISIT<br>(FILED 06/12/2000)  | 2601-2602  |
| 22 | 17 | ORDER FOR CONTACT VISIT<br>(FILED 07/20/2000)  | 4173-4174  |
| 23 |    |  |            |
| 24 | 7  | ORDER FOR PRODUCTION OF INMATE MELVIN<br>ROYAL<br>(FILED 05/19/2000)   | 1801-1802  |
| 25 |    |  |            |
| 26 | 7  | ORDER FOR PRODUCTION OF INMATE SIKIA SMITH<br>(FILED 05/08/2000)   | 1743-1744  |
| 27 | 7  | ORDER FOR PRODUCTION OF INMATE TERRELL<br>YOUNG<br>(FILED 05/12/2000)  | 1751-1752  |
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| 1  | 19 | ORDER FOR RELEASE OF EVIDENCE<br>(FILED 10/05/2000)                         | 4630      |
| 2  | 19 | ORDER TO STAY OF EXECUTION<br>(10/26/2000)                                  | 4646      |
| 3  |    |   |           |
| 4  | 3  | ORDER FOR TRANSCRIPT<br>(FILED 09/09/1999)                                  | 575-576   |
| 5  | 2  | ORDER FOR TRANSCRIPTS<br>(FILED 06/16/1999)                                 | 486-487   |
| 6  |    |   |           |
| 7  | 2  | ORDER GRANTING PERMISSION OF MEDIA ENTRY<br>(FILED 09/15/1998)              | 275       |
| 8  | 2  | ORDER GRANTING PERMISSION OF MEDIA ENTRY<br>(FILED 09/15/1998)              | 277       |
| 9  |    |   |           |
| 10 | 2  | ORDER GRANTING PERMISSION OF MEDIA ENTRY<br>(FILED 09/28/1998)              | 293       |
| 11 | 7  | ORDER GRANTING PERMISSION OF MEDIA ENTRY<br>(FILED 01/13/2000)              | 1610-1611 |
| 12 |    |   |           |
| 13 | 19 | ORDER OF EXECUTION<br>(FILED 10/03/2000)                                    | 4627      |
| 14 | 2  | ORDER REQUIRING MATERIAL WITNESS TO POST<br>BAIL OR BE COMMITTED TO CUSTODY |           |
| 15 |    | (FILED 04/30/1999)  | 423-424   |
| 16 | 7  | ORDER TO PRODUCE JUVENILE RECORDS<br>(FILED 05/31/2000)                     | 1805-1806 |
| 17 | 2  | ORDER TO TRANSPORT<br>(FILED 03/16/1999)                                    | 392-393   |
| 18 |    |   |           |
| 19 | 2  | ORDER TO TRANSPORT<br>(FILED 03/25/1999)                                    | 400-401   |
| 20 | 3  | ORDER TO TRANSPORT<br>(FILED 07/27/1999)                                    | 549-550   |
| 21 |    |   |           |
| 22 | 3  | ORDER TO TRANSPORT<br>(FILED 08/31/1999)                                    | 567-568   |
| 23 | 3  | ORDER TO TRANSPORT<br>(FILED 10/18/1999)                                    | 708-709   |
| 24 |    |   |           |
| 25 | 15 | PAGE VERIFICATION SHEET<br>(FILED 06/22/2000)                               | 3569      |
| 26 | 2  | RECEIPT OF COPY<br>(FILED 03/29/1999)                                       | 402       |
| 27 |    |   |           |
| 28 | 2  | RECEIPT OF COPY<br>(06/16/1999)   | 485       |

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| 1  | 3 | RECEIPT OF COPY<br>(FILED 06/29/1999) | 521       |
| 2  | 3 | RECEIPT OF COPY<br>(FILED 06/29/1999) | 522       |
| 3  |   |                                       |           |
| 4  | 3 | RECEIPT OF COPY<br>(FILED 06/29/1999) | 523       |
| 5  | 3 | RECEIPT OF COPY<br>(FILED 07/02/1999) | 529       |
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| 7  | 3 | RECEIPT OF COPY<br>(FILED 07/28/1999) | 551       |
| 8  | 3 | RECEIPT OF COPY<br>(FILED 09/01/1999) | 569       |
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| 10 | 3 | RECEIPT OF COPY<br>(FILED 10/18/1999) | 710       |
| 11 | 3 | RECEIPT OF COPY<br>(FILED 10/18/1999) | 711       |
| 12 |   |                                       |           |
| 13 | 3 | RECEIPT OF COPY<br>(FILED 10/19/1999) | 757       |
| 14 | 3 | RECEIPT OF COPY<br>(FILED 10/19/1999) | 758       |
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| 16 | 3 | RECEIPT OF COPY<br>(FILED 10/19/1999) | 759       |
| 17 | 3 | RECEIPT OF COPY<br>(FILED 10/19/1999) | 760       |
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| 19 | 3 | RECEIPT OF COPY<br>(FILED 10/19/1999) | 761       |
| 20 | 4 | RECEIPT OF COPY<br>(FILED 10/27/1999) | 781       |
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| 22 | 6 | RECEIPT OF COPY<br>(FILED 11/30/1999) | 1311-1313 |
| 23 | 6 | RECEIPT OF COPY<br>(FILED 12/06/1999) | 1418-1420 |
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| 25 | 6 | RECEIPT OF COPY<br>(FILED 01/11/2000) | 1501      |
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| 27 | 6 | RECEIPT OF COPY<br>(FILED 01/12/2000) | 1502      |
| 28 | 7 | RECEIPT OF COPY<br>(FILED 03/31/2000) | 1692      |

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| 1  | 7  | RECEIPT OF COPY<br>(FILED 04/27/2000)  | 1735      |
| 2  | 14 | RECEIPT OF COPY<br>(FILED 06/14/2000)  | 3248      |
| 3  | 15 | RECEIPT OF COPY<br>(FILED 06/23/2000)  | 3598      |
| 4  | 17 | RECEIPT OF COPY<br>(FILED 07/10/2000)  | 4101      |
| 5  | 17 | RECEIPT OF COPY<br>(FILED 07/20/2000)  | 4171      |
| 6  | 17 | RECEIPT OF COPY<br>(FILED 07/20/2000)  | 4172      |
| 7  | 19 | RECEIPT OF COPY<br>(FILED 09/06/2000)  | 4600      |
| 8  | 19 | RECEIPT OF EXHIBITS<br>(FILED 10/18/2000)  | 4645      |
| 9  | 40 | RECORDER'S TRANSCRIPT OF EVIDENTIARY<br>HEARING<br>(FILED 04/11/2013)  | 7972-8075 |
| 10 | 41 | RECORDER'S TRANSCRIPT OF EVIDENTIARY<br>HEARING<br>(FILED 04/11/2013)  | 8076-8179 |
| 11 | 41 | RECORDER'S TRANSCRIPT OF EVIDENTIARY<br>HEARING<br>(FILED 04/11/2013)  | 8180-8183 |
| 12 | 42 | RECORDER'S TRANSCRIPT OF HEARING<br>EVIDENTIARY HEARING<br>(FILED 09/18/2013)  | 8207-8209 |
| 13 | 42 | RECORDER'S TRANSCRIPT OF HEARING STATUS<br>CHECK<br>(FILED 01/15/2014)   | 8205-8206 |
| 14 | 37 | RECORDER'S TRANSCRIPT OF PROCEEDINGS<br>DEFENDANT'S MOTION TO PLACE ON CALENDAR TO<br>RESCHEDULE EVIDENTIARY HEARING<br>(FILED 10/29/2012) | 7782-7785 |
| 15 | 42 | RECORDER'S TRANSCRIPT OF PROCEEDINGS<br>DEFENDANT'S MOTION TO PLACE ON CALENDAR<br>TO RESCHEDULE EVIDENTIARY HEARING<br>(FILED 04/29/2013) | 8281-8284 |
| 16 | 42 | RECORDER'S TRANSCRIPT OF PROCEEDINGS<br>EVIDENTIARY HEARING<br>(FILED 06/26/2013)  | 8210-8280 |



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| 1  | 37 | RECORDER'S TRANSCRIPT OF PROCEEDINGS STATUS<br>CHECK: EVIDENTIARY HEARING<br>(FILED 10/01/2012)   | 7786-7788 |
| 2  |    |   |           |
| 3  | 37 | RECORDER'S TRANSCRIPT OF PROCEEDINGS STATUS<br>CHECK: EVIDENTIARY HEARING<br>(FILED 07/12/2012)   | 7789-7793 |
| 4  |    |   |           |
| 5  | 37 | RECORDER'S TRANSCRIPT OF PROCEEDINGS STATUS<br>CHECK: EVIDENTIARY HEARING PETITION FOR WRIT<br>OF HABEAS CORPUS<br>(FILED 03/21/2012)   | 7794-7797 |
| 6  |    |   |           |
| 7  | 37 | REPLY BRIEF ON MR. JOHNSON'S INITIAL TRIAL<br>ISSUES<br>(FILED 08/22/2011)  | 7709-7781 |
| 8  |    |   |           |
| 9  | 4  | REPLY TO OPPOSITION TO MOTION IN LIMINE<br>TO PRECLUDE EVIDENCE OF OTHER GUNS,<br>WEAPONS AND AMMUNITION NOT USED IN THE<br>CRIME<br>(FILED 11/15/1999)   | 950-955   |
| 10 |    |   |           |
| 11 |    |   |           |
| 12 | 17 | REPLY TO RESPONSE TO MOTION FOR NEW TRIAL<br>(FILED 07/10/2000)   | 4096-4100 |
| 13 |    |   |           |
| 14 | 36 | REPLY TO THE STATE'S RESPONSE TO DEFENDANT'S<br>PETITION FOR WRIT OF HABEAS CORPUS<br>POST-CONVICTION, DEFENDANT'S SUPPLEMENTAL BRIEF,<br>AND SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF<br>DEFENDANT'S WRIT OF HABEAS CORPUS POST<br>CONVICTION<br>(FILED 06/01/2011)   | 7672-7706 |
| 15 |    |   |           |
| 16 |    |   |           |
| 17 |    |   |           |
| 18 | 15 | REPLY TO STATE'S OPPOSITION REGARDING THREE<br>JUDGE PANEL<br>(FILED 07/18/2000)  | 4153-4159 |
| 19 |    |   |           |
| 20 | 7  | REPLY TO STATE'S OPPOSITION TO MOTION TO<br>SUPPRESS<br>(FILED 02/16/2000)  | 1632-1651 |
| 21 |    |   |           |
| 22 | 19 | REPLY TO STATE'S RESPONSE TO MOTION TO SET<br>ASIDE DEATH SENTENCE OR IN THE ALTERNATIVE<br>MOTION TO SETTLE RECORD<br>(FILED 10/02/2000)   | 4615-4618 |
| 23 |    |   |           |
| 24 | 7  | REPLY TO STATE'S SUPPLEMENTAL OPPOSITION TO<br>MOTION TO SUPPRESS<br>(FILED 03/30/2000)   | 1683-1691 |
| 25 |    |   |           |
| 26 | 35 | REPLY TO THE STATE'S RESPONSE TO DEFENDANT'S<br>PETITION FOR WRIT OF HABEAS CORPUS<br>(POST-CONVICTION), DEFENDANT'S SUPPLEMENTAL<br>BRIEF, AND SECOND SUPPLEMENTAL BRIEF IN SUPPORT<br>OF DEFENDANT'S WRIT OF HABEAS CORPUS<br>POST CONVICTION<br>(FILED 06/01/2011) | 7579-7613 |
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| 28 |    |   |           |

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| 1  | 1 | REPORTER'S TRANSCRIPT OF SEPTEMBER 1, 1998<br>PROCEEDINGS<br>(FILED 09/14/1998)  | 11-267  |
| 2  | 2 | REPORTER'S TRANSCRIPT OF SEPTEMBER 2, 1998<br>RE: GRAND JURY INDICTMENTS RETURNED IN<br>OPEN COURT<br>(FILED 10/06/1998)   | 299-301 |
| 3  | 2 | REPORTER'S TRANSCRIPT OF SEPTEMBER 8, 1998<br>ARRAIGNMENT<br>(FILED 09/14/1998)  | 268-270 |
| 4  | 2 | REPORTER'S TRANSCRIPT OF SEPTEMBER 15, 1998<br>SUPERSEDING INDICTMENT<br>(FILED 10/20/1998)  | 309-377 |
| 5  | 2 | REPORTER'S TRANSCRIPT OF PROCEEDINGS OF<br>APRIL 12, 1999 PROCEEDINGS<br>(FILED 05/03/1999)  | 425-428 |
| 6  | 2 | REPORTER'S TRANSCRIPT OF APRIL 15, 1999<br>DEFENDANT'S PRO PER MOTION TO DISMISS<br>COUNSEL AND APPOINTMENT OF ALTERNATE<br>COUNSEL (FILED AND UNDER SEALED)<br>(FILED 04/22/1999) | 409-418 |
| 7  | 2 | REPORTER'S TRANSCRIPT OF JUNE 8, 1999<br>PROCEEDINGS<br>(FILED 06/17/1999)   | 491-492 |
| 8  | 3 | REPORTER'S TRANSCRIPT OF JUNE 29, 1999<br>PROCEEDINGS<br>(FILED 07/15/1999)  | 541-548 |
| 9  | 3 | REPORTER'S TRANSCRIPT OF JULY 8, 1999<br>PROCEEDINGS<br>(FILED 07/15/1999)   | 530-537 |
| 10 | 3 | REPORTER'S TRANSCRIPT OF JULY 13, 1999<br>PROCEEDINGS<br>(FILED 07/15/1999)  | 538-540 |
| 11 | 3 | REPORTER'S TRANSCRIPT OF AUGUST 10, 1999<br>STATE'S MOTION TO PERMIT DNA TESTING<br>(FILED 08/31/1999)   | 565-566 |
| 12 | 3 | REPORTER'S TRANSCRIPT OF SEPTEMBER 2, 1999<br>STATE'S MOTION TO PERMIT DNA TESTING<br>(FILED 10/01/1999)   | 647-649 |
| 13 | 3 | REPORTER'S TRANSCRIPT OF SEPTEMBER 30, 1999<br>STATE'S REQUEST FOR MATERIAL L WITNESS<br>CHARLA SEVERS<br>(FILED 10/01/1999)   | 645-646 |
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| 1  | 3 | REPORTER'S TRANSCRIPT OF OCTOBER 11, 1999<br>STATE'S MOTION TO VIDEOTAPE THE DEPOSITION<br>OF CHARLA SEVERS<br>(FILED 10/18/1999) | 712-716   |
| 2  |   |   |           |
| 3  | 3 | REPORTER'S TRANSCRIPT OF OCTOBER 14, 1999<br>STATE'S MOTION TO VIDEOTAPE THE DEPOSITION<br>OF CHARLA SEVERS<br>(FILED 10/18/1999) | 717-726   |
| 4  |   |   |           |
| 5  |   |   |           |
| 6  | 4 | REPORTER'S TRANSCRIPT OF OCTOBER 21, 1999<br>STATUS CHECK: FILING OF ALL MOTIONS<br>(FILED 11/09/1999)                            | 821-829   |
| 7  |   |   |           |
| 8  | 4 | REPORTER'S TRANSCRIPT OF OCTOBER 26, 1999<br>VIDEO DEPOSITION OF CHARLA SEVERS<br>(FILED UNDER SEAL)<br>(FILED 11/09/1999)        | 839-949   |
| 9  |   |   |           |
| 10 | 4 | REPORTER'S TRANSCRIPT OF OCTOBER 28, 1999<br>DECISION: WITNESS RELEASE<br>(FILED 11/09/1999)                                      | 830-831   |
| 11 |   |   |           |
| 12 | 4 | REPORTER'S TRANSCRIPT OF NOVEMBER 8, 1999<br>PROCEEDINGS<br>(FILED 11/09/1999)  | 832-834   |
| 13 |   |   |           |
| 14 | 6 | REPORTER'S TRANSCRIPT OF NOVEMBER 18, 1999<br>DEFENDANT'S MOTIONS<br>(FILED 12/06/1999)   | 1347-1355 |
| 15 |   |   |           |
| 16 | 6 | REPORTER'S TRANSCRIPT OF DECEMBER 16, 1999<br>AT REQUEST OF COURT RE: MOTIONS<br>(FILED 12/20/1999)                               | 1452-1453 |
| 17 |   |   |           |
| 18 | 7 | REPORTER'S TRANSCRIPT OF DECEMBER 20, 1999<br>AT REQUEST OF COURT<br>(FILED 12/29/1999)   | 1459-1491 |
| 19 |   |   |           |
| 20 | 6 | REPORTER'S TRANSCRIPT OF JANUARY 6, 2000<br>RE: DEFENDANT'S MOTIONS<br>(FILED 01/13/2000)   | 1503-1609 |
| 21 |   |   |           |
| 22 | 7 | REPORTER'S TRANSCRIPT OF JANUARY 18, 2000<br>PROCEEDINGS<br>(FILED 01/25/2000)  | 1623-1624 |
| 23 |   |   |           |
| 24 | 7 | REPORTER'S TRANSCRIPT OF FEBRUARY 17, 2000<br>PROCEEDINGS<br>(FILED 03/06/2000)   | 1654-1656 |
| 25 |   |   |           |
| 26 | 7 | REPORTER'S TRANSCRIPT OF MARCH 2, 2000<br>PROCEEDINGS<br>(FILED 03/16/2000)   | 1668-1682 |
| 27 |   |   |           |
| 28 | 7 | REPORTER'S TRANSCRIPT OF APRIL 24, 2000<br>PROCEEDINGS<br>(FILED 05/09/2000)  | 1745-1747 |

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| 1  | 7     | REPORTER'S TRANSCRIPT OF MAY 8, 2000<br>PROCEEDINGS<br>(05/09/2000)                                      | 1748-1750 |
| 2  |       |  |           |
| 3  | 7     | REPORTER'S TRANSCRIPT OF MAY 18, 2000<br>PROCEEDINGS<br>(FILED 05/30/2000)                               | 1803-1804 |
| 4  |       |  |           |
| 5  | 7     | REPORTER'S TRANSCRIPT OF MAY 23, 2000<br>PROCEEDINGS<br>(FILED 06/01/2000)                               | 1807-1812 |
| 6  |       |  |           |
| 7  | 7     | REPORTER'S TRANSCRIPT OF JUNE 1, 2000<br>PROCEEDINGS<br>(FILED 06/02/2000)                               | 1813-1821 |
| 8  |       |  |           |
| 9  | 11&12 | REPORTER'S TRANSCRIPT OF JUNE 5, 2000<br>JURY TRIAL-DAY-1- VOLUME I<br>(FILED 06/12/2000)                | 2603-2981 |
| 10 |       |  |           |
| 11 | 8     | REPORTER'S TRANSCRIPT OF JUNE 6, 2000<br>JURY TRIAL- DAY 2- VOLUME II<br>(FILED 06/07/2000)              | 1824-2130 |
| 12 |       |  |           |
| 13 | 9&10  | REPORTER'S TRANSCRIPT OF JUNE 7, 2000<br>JURY TRIAL-DAY 3- VOLUME III<br>(FILED 06/08/2000)              | 2132-2528 |
| 14 |       |  |           |
| 15 | 15    | REPORTER'S TRANSCRIPT OF JUNE 8, 2000<br>JURY TRIAL- DAY 4- VOLUME IV<br>(FILED 06/12/2000)              | 2982-3238 |
| 16 |       |  |           |
| 17 | 14    | REPORTER'S TRANSCRIPT OF JUNE 9, 2000<br>JURY TRIAL (VERDICT)- DAY 5- VOLUME V<br>(FILED 06/12/2000)     | 3239-3247 |
| 18 |       |  |           |
| 19 | 14    | REPORTER'S TRANSCRIPT OF JUNE 13, 2000<br>JURY TRIAL PENALTY PHASE- DAY 1 VOL. I<br>(FILED 06/14/2000)   | 3249-3377 |
| 20 |       |  |           |
| 21 | 15    | REPORTER'S TRANSCRIPT OF JUNE 13, 2000<br>JURY TRIAL PENALTY PHASE- DAY 1 VOL. II<br>(FILED 06/14/2000)  | 3378-3537 |
| 22 |       |  |           |
| 23 | 16    | REPORTER'S TRANSCRIPT OF JUNE 14, 2000<br>JURY TRIAL PENALTY PHASE- DAY 2 VOL. III<br>(FILED 07/06/2000) | 3617-3927 |
| 24 |       |  |           |
| 25 | 17    | REPORTER'S TRANSCRIPT OF JUNE 16, 2000<br>JURY TRIAL PENALTY PHASE DAY 3 VOL. IV<br>(FILED 07/06/2000)   | 3928-4018 |
| 26 |       |  |           |
| 27 | 15    | REPORTER'S TRANSCRIPT OF JUNE 20, 2000<br>STATUS CHECK: THREE JUDGE PANEL<br>(FILED 06/21/2000)          | 3560-3567 |
| 28 |       |  |           |

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| 1  | 17      | REPORTER'S TRANSCRIPT OF JULY 13, 2000<br>DEFENDANT'S MOTION FOR A NEW TRIAL<br>(FILED 07/21/2000)                 | 4175-4179 |
| 2  |         |  |           |
| 3  | 17      | REPORTER'S TRANSCRIPT OF JULY 20, 2000<br>PROCEEDINGS<br>(FILED 07/21/2000)  | 4180-4190 |
| 4  |         |  |           |
| 5  | 18      | REPORTER'S TRANSCRIPT OF JULY 24, 2000<br>THREE JUDGE PANEL- PENALTY PHASE- DAY 1<br>(FILED 07/25/2000)            | 4191-4428 |
| 6  |         |  |           |
| 7  | 19      | REPORTER'S TRANSCRIPT OF JULY 16, 2000<br>THREE JUDGE PANEL- PENALTY PHASE- DAY 2<br>VOL. II<br>(FILED 07/28/2000) | 4445-4584 |
| 8  |         |  |           |
| 9  | 19      | REPORTER'S TRANSCRIPT OF SEPTEMBER 7, 2000<br>PROCEEDINGS<br>(FILED 09/29/2000)                                    | 4612-4614 |
| 10 |         |  |           |
| 11 | 19      | REPORTER'S TRANSCRIPT OF OCTOBER 3, 2000<br>SENTENCING<br>(FILED 10/13/2000)                                       | 4636-4644 |
| 12 |         |  |           |
| 13 | 20      | REPORTER'S TRANSCRIPT OF APRIL 19, 2005<br>TRIAL BY JURY- VOLUME I- A.M.<br>(FILED 04/20/2005)                     | 4654-4679 |
| 14 |         |  |           |
| 15 | 20      | REPORTER'S TRANSCRIPT OF APRIL 19, 2005<br>TRIAL BY JURY- VOLUME I- P.M.<br>(FILED 04/20/2005)                     | 4680-4837 |
| 16 |         |  |           |
| 17 | 21      | REPORTER'S TRANSCRIPT OF APRIL 20, 2005<br>TRIAL BY JURY- VOLUME I-A.M.<br>(FILED 04/21/2005)                      | 4838-4862 |
| 18 |         |  |           |
| 19 | 21      | REPORTER'S TRANSCRIPT OF APRIL 20, 2005<br>TRIAL BY JURY- VOLUME II- P.M.<br>(FILED 04/21/2005)                    | 4864-4943 |
| 20 |         |  |           |
| 21 | 21 & 22 | REPORTER'S TRANSCRIPT OF APRIL 21, 2005<br>TRIAL BY JURY- VOLUME III-P.M.<br>(FILED 04/22/2005)                    | 4947-5271 |
| 22 |         |  |           |
| 23 | 22      | REPORTER'S TRANSCRIPT OF APRIL 21, 200<br>PENALTY PHASE- VOLUME IV- P.M.<br>(FILED 04/22/2005)                     | 5273-5339 |
| 24 |         |  |           |
| 25 | 23      | REPORTER'S TRANSCRIPT OF APRIL 22, 2005<br>TRIAL BY JURY- VOLUME IV- P.M.<br>(FILED 04/25/2005)                    | 5340-5455 |
| 26 |         |  |           |
| 27 | 23      | REPORTER'S TRANSCRIPT OF APRIL 22, 2005<br>PENALTY PHASE- VOLUME IV- B<br>(FILED 04/25/2005)                       | 5457-5483 |
| 28 |         |  |           |

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| 1  | 23      | REPORTER'S TRANSCRIPT OF APRIL 25, 2005<br>TRIAL BY JURY- VOLUME V- P.M.<br>(FILED 04/26/2005)                    | 5484-5606 |
| 2  |         |   |           |
| 3  | 24      | REPORTER'S TRANSCRIPT OF APRIL 25, 2005<br>PENALTY PHASE- VOLUME V-A<br>(FILED 04/26/2005)                        | 5607-5646 |
| 4  |         |   |           |
| 5  | 24      | REPORTER'S TRANSCRIPT OF APRIL 26, 2005<br>TRIAL BY JURY- VOLUME VI- P.M.<br>(FILED 04/27/2005)                   | 5649-5850 |
| 6  |         |   |           |
| 7  | 25      | REPORTER'S TRANSCRIPT OF APRIL 26, 2005<br>PENALTY PHASE- VOLUME VI-A<br>(FILED 04/26/2005)                       | 5950-6070 |
| 8  |         |   |           |
| 9  | 25      | REPORTER'S TRANSCRIPT OF APRIL 27, 2005<br>TRIAL BY JURY- VOLUME VII-P.M.<br>(FILED 04/28/2005)                   | 5854-5949 |
| 10 |         |   |           |
| 11 | 26      | SPECIAL VERDICT   | 6149-6151 |
| 12 | 26      | REPORTER'S TRANSCRIPT OF APRIL 27, 2005<br>PENALTY PHASE - VOLUME VII- A.M.<br>(FILED 04/28/2005)                 | 6071-6147 |
| 13 |         |   |           |
| 14 | 26      | REPORTER'S TRANSCRIPT OF APRIL 28, 2005<br>PENALTY PHASE - VOLUME VIII-C<br>(04/29/2005)                          | 6181-6246 |
| 15 |         |   |           |
| 16 | 26 & 27 | REPORTER'S TRANSCRIPT OF APRIL 29, 2005<br>TRIAL BY JURY- VOLUME IX<br>(FILED 05/02/2005)                         | 6249-6495 |
| 17 |         |   |           |
| 18 | 27 & 28 | REPORTER'S TRANSCRIPT OF MAY 2, 2005<br>TRIAL BY JURY- VOLUME X<br>(FILED 05/03/2005)                             | 6497-6772 |
| 19 |         |   |           |
| 20 | 30      | REPORTER'S TRANSCRIPT OF MAY 2, 2005<br>TRIAL BY JURY (EXHIBITS)- VOLUME X<br>(FILED 05/06/2005)                  | 7104-7107 |
| 21 |         |   |           |
| 22 | 29      | REPORTER'S TRANSCRIPT OF MAY 3, 2005<br>TRIAL BY JURY- VOLUME XI<br>(FILED 05/04/2005)                            | 6776-6972 |
| 23 |         |   |           |
| 24 | 29      | REPORTER'S TRANSCRIPT OF MAY 4, 2005<br>TRIAL BY JURY- VOLUME XII<br>(FILED 05/05/2005)                           | 6974-7087 |
| 25 |         |   |           |
| 26 | 30      | REPORTER'S AMENDED TRANSCRIPT OF<br>MAY 4, 2005 TRIAL BY JURY (DELIBERATIONS)<br>VOLUME XII<br>(FILED 05/06/2005) | 7109-7112 |
| 27 |         |   |           |
| 28 | 30      | REPORTER'S TRANSCRIPT OF MAY 5, 2005<br>TRIAL BY JURY- VOLUME XIII<br>(FILED 05/06/2005)                          | 7113-7124 |

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| 1  | 31 | RESPONDENT'S ANSWERING BRIEF<br>(FILED 04/05/2006)  | 7226-7253 |
| 2  | 3  | REQUEST FOR ATTENDANCE OF OUT-OF-STATE<br>WITNESS CHARLA CHENIQUA SEVERS AKA<br>KASHAWN HIVES<br>(FILED 09/21/1999)   | 607-621   |
| 3  |    |   |           |
| 4  | 4  | SEALED ORDER FOR RLEASE TO HOUSE ARREST<br>OF MATERIAL WITNESS CHARLA SEVERS<br>(FILED 10/29/1999)  | 782       |
| 5  |    |   |           |
| 6  | 33 | SECOND SUPPLEMENTAL BRIEF IN SUPPORT<br>OF DEFENDANT'S WRIT OF HABEAS CORPUS<br>(FILED 07/14/2010)  | 7373-7429 |
| 7  |    |   |           |
| 8  | 19 | SPECIAL VERDICT (COUNT XI)<br>(FILED 07/26/2000)  | 4433-4434 |
| 9  |    |   |           |
| 10 | 19 | SPECIAL VERDICT (COUNT XI)<br>(FILED 07/26/2000)  | 4439      |
| 11 |    |   |           |
| 12 | 19 | SPECIAL VERDICT (COUNT XII)<br>(FILED 07/26/2000)   | 4435      |
| 13 |    |   |           |
| 14 | 19 | SPECIAL VERDICT (COUNT XII)<br>(FILED 07/26/2000)   | 4440-4441 |
| 15 |    |   |           |
| 16 | 19 | SPECIAL VERDICT (COUNT XIII)<br>(FILED 07/26/2000)  | 4436      |
| 17 |    |   |           |
| 18 | 19 | SPECIAL VERDICT (COUNT XIII)<br>(FILED 07/26/2000)  | 4442-4443 |
| 19 |    |   |           |
| 20 | 19 | SPECIAL VERDICT (COUNT XII)<br>(FILED 07/26/2000)   | 4437-4438 |
| 21 |    |   |           |
| 22 | 19 | SPECIAL VERDICT (COUNT XIV)<br>(FILED 07/26/2000)   | 4444      |
| 23 |    |   |           |
| 24 | 2  | STATE'S MOTION IN LIMINE TO PERMIT THE STATE<br>TO PRESENT " THE COMPLETE STORY OF THE CRIME"<br>(FILED 06/14/1999)   | 467-480   |
| 25 |    |   |           |
| 26 | 17 | STATE'S OPPOSITION FOR IMPOSITION OF LIFE<br>WITHOUT AND OPPOSITION TO EMPANEL JURY<br>AND/OR DISCLOSURE OF EVIDENCE MATERIAL TO<br>CONSTITUTIONALITY OF THE THREE JUDGE PANEL<br>PROCEDURE<br>(FILED 07/17/2000) | 4132-4148 |
| 27 |    |   |           |
| 28 | 6  | STATE'S OPPOSITION TO DEFENDANT'S MOTION<br>FOR CHANGE OF VENUE<br>(FILED 12/07/1999)   | 1421-1424 |
|    |    |   |           |
|    | 6  | STATE'S OPPOSITION TO DEFENDANT'S MOTION IN<br>LIMINE REGARDING CO-DEFENDANT'S SENTENCES<br>(FILED 12/06/1999)  | 1412-1414 |

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| 1  | 4  | STATE'S OPPOSITION TO DEFENDANT'S MOTION<br>TO COMPEL THE PRODUCTION OF ANY AND ALL<br>STATEMENTS OF THE DEFENDANT<br>(FILED 11/04/1999)   | 787-790   |
| 2  |    |  |           |
| 3  | 4  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO<br>REVEAL THE IDENTITY OF THE INFORMANTS AND<br>REVEAL ANY DEALS PROMISES OR INDUCEMENTS<br>(FILED 11/04/1999)   | 816-820   |
| 4  |    |  |           |
| 5  |    |  |           |
| 6  | 2  | STATE'S OPPOSITION TO DEFENDANT'S MOTION<br>TO SET BAIL<br>(FILED 10/07/1998)  | 302-308   |
| 7  |    |  |           |
| 8  | 2  | STATE'S OPPOSITION TO DEFENDANT'S PRO PER<br>MOTION TO WITHDRAW COUNSEL AND APPOINT<br>OUTSIDE COUNSEL<br>(FILED 02/19/1999)   | 385-387   |
| 9  |    |  |           |
| 10 | 7  | STATE'S OPPOSITION TO MOTION TO SUPPRESS<br>EVIDENCE ILLEGALLY SEIZED<br>(FILED 01/21/2000)  | 1612-1622 |
| 11 |    |  |           |
| 12 | 4  | STATE'S RESPONSE TO DEFENDANT'S MOTION<br>TO COMPEL DISCLOSURE OF EXISTENCE AND<br>SUBSTANCE OF EXPECTATIONS, OR ACTUAL<br>RECEIPT OF BENEFITS OR PREFERENTIAL<br>TREATMENT FOR COOPERATION WITH PROSECUTION<br>(FILED 11/04/1999)                   | 801-815   |
| 13 |    |  |           |
| 14 |    |  |           |
| 15 | 34 | STATE'S RESPONSE TO DEFENDANT'S PETITION FOR<br>WRIT OF HABEAS CORPUS (POST-CONVICTION)<br>AND DEFENDANT'S SUPPLEMENTAL BRIEF AND SECOND<br>SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S<br>WRIT OF HABEAS CORPUS (POST-CONVICTION)<br>ON 04/13/2011 | 7436-7530 |
| 16 |    |  |           |
| 17 |    |  |           |
| 18 |    |  |           |
| 19 | 19 | STATE'S RESPONSE TO DEFENDANT'S MOTION<br>TO SET ASIDE SENTENCE OR IN THE ALTERNATIVE<br>MOTION TO SETTLE RECORD<br>(FILED 09/15/2000)   | 4601-4611 |
| 20 |    |  |           |
| 21 | 3  | STATE'S RESPONSE TO DEFENDANT'S OPPOSITION<br>TO STATE'S MOTION TO VIDEOTAPE THE DEPOSITION<br>OF CHARLA SEVERS  | 762-768   |
| 22 |    |  |           |
| 23 | 15 | STATE'S RESPONSE TO MOTION FOR NEW TRIAL<br>(FILED 06/30/2000)   | 3603-3616 |
| 24 |    |  |           |
| 25 | 2  | STIPULATION AND ORDER<br>(FILED 06/08/1999)  | 457-459   |
| 26 |    |  |           |
| 27 | 2  | STIPULATION AND ORDER<br>(FILED 06/17/1999)  | 488-490   |
| 28 |    |  |           |
|    | 3  | STIPULATION AND ORDER<br>(FILED 10/14/1999)  | 695-698   |



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|----|----|---|-----------|
| 1  | 6  | STIPULATION AND ORDER<br>(FILED 12/22/1999)   | 1454-1456 |
| 2  | 7  | STIPULATION AND ORDER<br>(FILED 04/10/2000)   | 1712-1714 |
| 3  | 7  | STIPULATION AND ORDER<br>(FILED 05/19/2000)   | 1798-1800 |
| 4  | 2  | SUPERSEDING INDICTMENT<br>(FILED 09/16/1998)  | 278-291   |
| 5  | 32 | SUPPLEMENTAL BRIEF IN SUPPORT OF<br>DEFENDANT'S WRIT OF HABEAS CORPUS<br>(FILED 10/12/2009)   | 7308-7372 |
| 6  | 39 | SUPPLEMENTAL EXHIBITS<br>(FILED 04/05/2013)   | 7880-7971 |
| 7  | 3  | SUPPLEMENTAL MOTION TO VIDEOTAPE<br>DEPOSITION OF CHARLA SEVERS<br>(FILED 10/18/1999)   | 705-707   |
| 8  | 7  | SUPPLEMENTAL NOTICE OF EXPERT WITNESSES<br>(FILED 05/17/2000)   | 1766-1797 |
| 9  | 2  | SUPPLEMENTAL NOTICE OF INTENT TO SEEK<br>DEATH PENALTY PURSUANT TO AMENDED<br>SUPREME COURT RULE 250<br>(FILED 02/26/1999)  | 388-391   |
| 10 | 6  | SUPPLEMENTAL OPPOSITION TO DEFENDANT'S<br>MOTION IN LIMINE TO PRECLUDE EVIDENCE OF<br>OTHER GUNS, WEAPONS AND AMMUNITION NOT<br>USED IN THE CRIME<br>(FILED 12/02/1999) | 1314-1336 |
| 11 | 7  | SUPPLEMENTAL OPPOSITION TO DEFENDANT'S<br>MOTION IN LIMINE TO PRECLUDE EVIDENCE OF<br>OTHER GUNS, WEAPONS AND AMMUNITION NOT<br>USED IN THE CRIME<br>(FILED 05/02/2000) | 1736-1742 |
| 12 | 7  | SUPPLEMENTAL POINTS AND AUTHORITIES IN<br>OPPOSITION TO MOTION TO SUPPRESS<br>(FILED 03/16/2000)  | 1657-1667 |
| 13 | 38 | TRANSCRIPT OF PROCEEDINGS STATUS CHECK:<br>EVIDENTIARY HEARING AND PETITION FOR WRIT<br>OF HABEAS CORPUS<br>(FILED 01/19/2012)  | 7798-7804 |
| 14 | 38 | TRANSCRIPT OF PROCEEDINGS STATUS CHECK:<br>EVIDENTIARY HEARING AND PETITION FOR WRIT<br>OF HABEAS CORPUS<br>(FILED 1/01/2012)   | 7805-7807 |

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| 1  | 38 | TRANSCRIPT OF PROCEEDINGS ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS ALL ISSUES RAISED IN THE PETITION AND SUPPLEMENT (FILED 12/07/2011)   | 7808-7879 |
| 2  |    |  |           |
| 3  | 35 | TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE A REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (FILED 04/12/2011)  | 7614-7615 |
| 4  |    |  |           |
| 5  |    |  |           |
| 6  | 35 | TRANSCRIPT OF PROCEEDINGS: HEARING (FILED 10/20/2010)  | 7616-7623 |
| 7  |    |  |           |
| 8  | 36 | TRANSCRIPT OF PROCEEDINGS DECISION: PROCEDURAL BAR AND ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS (FILED 07/21/2011)   | 7624-7629 |
| 9  |    |  |           |
| 10 | 36 | TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS/HEARING AND ARGUMENT: DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (FILED 07/06/2011) | 7630-7667 |
| 11 |    |  |           |
| 12 |    |  |           |
| 13 | 36 | TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE A REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (FILED 04/12/2011)  | 7707-7708 |
| 14 |    |  |           |
| 15 |    |  |           |
| 16 |    |  |           |
| 17 | 36 | TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE A REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (FILED 06/07/2011)  | 7668-7671 |
| 18 |    |  |           |
| 19 |    |  |           |
| 20 | 33 | TRANSCRIPT OF PROCEEDINGS STATUS CHECK: BRIEFING/FURTHER PROCEEDINGS (FILED 06/22/2010)  | 7430-7432 |
| 21 |    |  |           |
| 22 | 33 | TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME FOR THE FILING OF A SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS AND TO PERMIT AN INVESTIGATOR AND EXPERT (FILED 10/20/2009)   | 7433-7435 |
| 23 |    |  |           |
| 24 |    |  |           |
| 25 | 35 | TRANSCRIPT OF PROCEEDINGS DECISION: PROCEDURAL BAR AND ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS (FILED 07/21/2011)   | 7531-7536 |
| 26 |    |  |           |
| 27 |    |  |           |
| 28 |    |  |           |

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| 1  | 35 | TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION<br>TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE<br>REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF<br>HABEAS CORPUS/HEARING AND ARGUMENT:<br>DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS<br>(FILED 07/06/2011) | 7537-7574 |
| 2  |    |   |           |
| 3  |    |   |           |
| 4  | 35 | TRANSCRIPT OF PROCEEDINGS DEFENDANT'S<br>MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME<br>TO FILE A REPLY BRIEF IN SUPPORT OF DEFENDANT'S<br>WRIT OF HABEAS CORPUS<br>(FILED 06/07/2011)   | 7575-7578 |
| 5  |    |   |           |
| 6  |    |   |           |
| 7  | 10 | VERDICT<br>(FILED 06/09/2000)   | 2595-2600 |
| 8  |    |   |           |
| 9  | 19 | VERDICT (COUNT XI)<br>(FILED 07/26/2000)  | 2595-2600 |
| 10 | 19 | VERDICT (COUNT XII)<br>(FILED 07/26/2000)   | 4429      |
| 11 |    |   |           |
| 12 | 19 | VERDICT (COUNT XIII)<br>(FILED 07/26/2000)  | 4430      |
| 13 | 19 | VERDICT (COUNT XIV)<br>(FILED 07/26/2000)   | 4432      |
| 14 |    |   |           |
| 15 | 19 | WARRANT OF EXECUTION<br>(FILED 10/03/2000)  | 4624      |
| 16 |    |   |           |
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**CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on the 9<sup>th</sup> day of January, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ-MASTO  
Nevada Attorney General

STEVE OWENS  
Chief Deputy District Attorney

CHRISTOPHER R. ORAM, ESQ.

BY:

/s/ Jessie Vargas  
An Employee of Christopher R. Oram, Esq.

CHRISTOPHER R. ORAM, LTD.  
520 SOUTH 4<sup>TH</sup> STREET | SECOND FLOOR  
LAS VEGAS, NEVADA 89101  
TEL. 702.384-5563 | FAX. 702.974-0623