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1 A DeLuca, yeah.

2 Q He is the individual who had received
3 urgent knocking on his door at 6:00 p.m.; is that
4 correct?

5 A That's correct.

6 Q He and his girlfriend are the individuals
7 that called 911?

8 A Yes.

9 Q He was asked questions during the trial as
10 to general information with regard to that particular
11 home, correct?

12 A Yes.

13 Q That home, that was 4825 Terra Linda?

14 A Yes.

15 Q He said he only lived in that particular
16 house for about two months?

17 A After reading so many people's transcripts,
18 I would have to see a page.

19 Q There is no reason for you to disagree with
20 that?

21 A No, there is not.

22 Q He didn't know the individuals that lived
23 next door, personally?

24 A Correct.

25 Q He knew there were numerous parties that

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1 went on during the time he lived there?

2 A Again, I --

3 Q Let me get the transcript. It's volume
4 two. Turn to page 120. It will quickly summarized it.

5 A Yes, that's correct.

6 Q And I think it goes into the next page, as
7 well. This is the last question with regard to Nicholas.
8 People tend to come and go to the next door house at
9 different hours. Actually, it's the bottom of page 128?

10 A Okay. There was --

11 MR. STANTON: Twenty-three through
12 twenty-five.

13 BY MR. WHIPPLE:

14 Q You would see some people come at different
15 hours of the night. He answered, yes?

16 A Yes.

17 Q That's in the transcript?

18 A Yes, on that page, yes.

19 Q You next spoke of Officer Sutton. Do you
20 remember his testimony? He was the person that came and
21 secured the residence?

22 A That was Sergeant Sutton.

23 Q He explained he went from room to room to
24 make sure no perpetrators were in the location?

25 A Yes.

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1 Q He was the individual that discovered the
2 fourth individual, Peter?

3 A Talamentez.

4 Q Peter Talamentez had a weapon on his
5 person?

6 A Yes.

7 Q It was a loaded handgun on his person?

8 A Yes, that's correct.

9 Q If I can -- Court's indulgence. I will
10 grab the Exhibit with the location. This is Exhibit 246.
11 Why don't we set it here, if I can. What State's 246
12 does is show location of the perpetrators and victims?

13 A Yes.

14 Q They are in close proximity?

15 A Yes.

16 Q They are .6 of a mile away?

17 A They are 8-10ths.

18 Q You did an investigation. You had
19 opportunity to be at both locations?

20 A Were.

21 Q You became somewhat familiar with
22 individuals residing in both locations?

23 A Yes.

24 Q With regard to the -- start with the
25 victim's location, first. That's 4825 Terra Linda.

1 Who was primary resident of the
2 house?
3 A Matthew Mowen.
4 Q That was owned by his family?
5 A Yes.
6 Q He had living with him, Tracey Gorringer and
7 also Jeffrey Biddle and Peter Talamantez?
8 A Yes.
9 Q Jeffrey Biddle was staying there, as well?
10 A Yes.
11 Q Peter Talamantez visited that location from
12 time to time?
13 A Yes.
14 Q The other location, 4825 Terra Linda,
15 primary resident was Tod Armstrong?
16 A Yes.
17 Q His mother was owner of the house?
18 A Yes.
19 Q She resided in Hawaii?
20 A That's correct.
21 Q He had different roommates living with him
22 in the preceding year?
23 A Yes.
24 Q Ace Hart lived in the house up until the
25 month prior to the incident? I don't want to put words

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1 in your mouth.

2 A Yes.

3 Q Then Brian Johnson?

4 A Yes.

5 Q He had lived in that house on 4825 Everman
6 with Ace Hart and Brian Johnson?

7 A Yes.

8 Q It was within a month or two when the
9 homicides took place?

10 A Yes.

11 Q You spoke with all three individuals?

12 A Correct.

13 Q At some point within a month or so prior to
14 the homicides, Ace Hart, Brian Johnson moved out, and
15 Donte Johnson moved in?

16 A Correct.

17 Q I don't want to put words in your mouth.

18 A Yes, in general terms.

19 Q Again, with Donte, his girlfriend moved in
20 with him, Charla Severs?

21 A Yes.

22 Q Also known as La-La?

23 A Yes.

24 Q And Red, known as Terrell Young?

25 A Yes.

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1 Q Now, we have learned through your testimony
2 what was the connection between the people at Terra Linda
3 and the individuals at Everman Drive?

4 A The person that knew everyone?

5 Q Correct.

6 A It was Ace Hart.

7 Q It was Donte Johnson didn't know where 4825
8 Terra Linda was from anywhere else, correct?

9 A Depending on the date. Originally?

10 Q When he first moved in.

11 A Yes.

12 Q He was there a couple weeks?

13 A Yes.

14 Q He had no idea who was at 4825 Terra Linda
15 when he first moved in?

16 A Correct.

17 Q He learned that through the previous
18 residents at Evermana Drive?

19 A Yes.

20 Q Ace Hart had gone over there, and Matthew
21 Mowen has come over to Everman Drive?

22 A Yes.

23 Q And Matthew Mowen lived at 4825 Terra Linda
24 Drive?

25 A Yes.

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1 Q Reason Matt came over there was to buy
2 drugs?

3 A That's correct.

4 Q Ace knew Matt because of the drug culture
5 they were involved with?

6 A I don't know if they knew each other for
7 some other reason or just for that reason.

8 Q Okay. Now, you went through a number of
9 pictures. These jumped out at me, going through them.
10 These are photos taken from the victims's house?

11 MR. STANTON: I object to the form of the
12 question and Counsel's commentary and Counsel's reactions
13 to the Exhibits.

14 MR. WHIPPLE: I will rephrase it, your
15 Honor.

16 THE COURT: All right.

17 BY MR. WHIPPLE:

18 Q I have in my hand, State's Exhibit 53, and
19 52, if I may approach, your Honor. Detective, I show you
20 State's Exhibit 52 and 53 admitted in evidence. There is
21 white baggies there. What was located in the white
22 baggies, what was it?

23 A This, I believe was methamphetamine.

24 Q That was located in the victims's house?

25 A Correct.

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1 Q And is it methamphetamine in both baggies?

2 A I believe so.

3 Q I notice there is a butane burner there, as
4 well?

5 A Yes.

6 Q That's the type of butane burner similar to
7 the type a plumber would use when soldering copper pipes
8 together?

9 A Yes.

10 Q Okay.

11 A They call it a torch.

12 Q Tell me your understanding of that
13 particular item?

14 A In the photograph here, this tall item you
15 are referring to, is commonly referred to as a butane
16 torch that Sears or Walmart would have that many people
17 would have for soldering copper pipe, things like that.

18 Q Did you see any indication in the victims's
19 house that they had been soldering pipes together?

20 A I did not.

21 Q Is a butane torch something known in the
22 drug trade or drug culture?

23 A It can be.

24 Q Tell the folks how it can be used in the
25 drug culture?

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1 A Butane torch can be used in a drug culture
2 in order to heat or burn illicit drugs to ingest them.

3 Q Is it used in the potential creation
4 process of methamphetamine?

5 MR. STANTON: May Counsel approach?

6 (DISCUSSION AT BENCH.)

7 (DISCUSSION HELD IN CAMERA

8 OFF THE RECORD.)

9 BY MR. WHIPPLE:

10 Q Last question I asked you, we pointed out
11 the butane torch. I asked, could it be used in the drug
12 culture. I think your answer was: It could be used with
13 cocaine.

14 A I believe I said, illicit drugs. Cocaine
15 is one of the drugs.

16 Q I asked, could it be used in the creation
17 of methamphetamine, if you know?

18 A I really don't know, to tell you the truth,
19 if it would be used in the manufacture of
20 methamphetamine.

21 Q You are familiar with the testimony of, I
22 guess it was, Mr. Fletcher or --

23 A Shawn Fletcher, the crime scene analyst.

24 Q You had the opportunity to read his
25 transcript?

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1 A It's her, actually.

2 Q At some point, I don't know if you recall,
3 I will direct your attention to it. It's volume three,
4 page 232, just when you get there, just look up. I don't
5 want to talk while you are searching.

6 A Thank you. 232.

7 Q Read from lines one through six. "In this
8 situation --" You will answer as Mr. Fletcher did that
9 day.

10 "Do you have any idea why there
11 would be numerous bottles of antifreeze.

12 Answer was: "Well there could be
13 several reasons.

14 Next was: "What's the most common
15 reason."

16 What's the answer?

17 A "Methamphetamine labs."

18 Q Detective Thowsen, you have had an
19 opportunity to summarize a number of witnesses that came
20 before the original jury, and those included Tod
21 Armstrong?

22 A Yes.

23 Q And Brian Johnson?

24 A Yes.

25 Q Now, we have not touched on Charla Severs

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1 yet?

2 A Correct.

3 Q That is Leila?

4 A La-La.

5 Q I will get it before we are done. You

6 didn't summarize Charla Savers's testimony, right?

7 A No.

8 Q You did interview her?

9 A Yes.

10 Q You spoke of LaShawna Wright?

11 A Yes.

12 Q LaShawna Wright is the girlfriend of Sikia

13 Smith?

14 A Yes.

15 Q That's the guy that goes by Tiny Bug?

16 A That's his nickname.

17 Q We know a horrible thing happened out there

18 at 4825 Terra Linda because we --

19 MR. STANTON: Objection. That's not a

20 question. Counsel is testifying.

21 MR. WHIPPLE: No. It's a question.

22 MR. STANTON: May we approach?

23 THE COURT: I don't know. Get out the

24 question.

25 MR. WHIPPLE: -- because we found four

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1 bodies?

2 THE COURT: What's the question?

3 MR. WHIPPLE: That's the crime scene, your
4 Honor. I want to know how they knew what happened.
5 Clearly, there is four bodies.

6 THE COURT: Ask the question. Stop all the
7 other.

8 BY MR. WHIPPLE:

9 Q The victims were found at 4825 Terra Linda,
10 correct?

11 A Yes.

12 Q We had a lot of circumstantial evidence
13 found there, as well, you have summarized?

14 A Yes.

15 Q Like, fingerprints?

16 A Yes.

17 Q And the fingerprint found on the cigarette
18 box?

19 A The Black & Mild cigar box.

20 Q That was my client's fingerprint?

21 A Correct.

22 Q We found four gun shell casings?

23 A Yes.

24 Q Those were all .380 gun shell casings?

25 A That's correct.

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1 Q And you also found DNA?

2 A Yes.

3 Q DNA on the back of my client's pants?

4 A Are you talking at Terra Linda or in the

5 investigation?

6 Q In the investigation.

7 A In the investigation, yes.

8 Q Now, that circumstantial evidence was found

9 at the two scenes, correct?

10 A Yes.

11 Q For what happened with the victims, that

12 information came through Tod Armstrong, Charla Severs and

13 the witnesses you summarized?

14 A I don't follow your question.

15 Q There is no videotape of what happened out

16 at Terra Linda?

17 A There is no videotape, no.

18 Q There are no pictures of what happened out

19 at Terra Linda?

20 A No.

21 Q There are no eyewitnesses of what happened

22 out at Terra Linda?

23 MR. DASKAS: Judge, we need to approach on

24 the matter.

25 (DISCUSSION AT BENCH.)

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1 BY MR. WHIPPLE:

2 Q There is no movie going on out there; the
3 information we have is from the witnesses you summarized?

4 A Yes.

5 Q Tod Armstrong, Brian Johnson, La-La, these
6 are the witnesses you summarized?

7 A Yes.

8 Q Reason I am taking so long is there is
9 quite a bit of differences between what the individuals
10 stated, correct? Let me ask you, more specifically. You
11 had information as to how many perpetrators went out to
12 4825 Terra Linda, correct?

13 A Yes.

14 Q In fact, Tod Armstrong says there were two
15 perpetrators; is that correct?

16 A Be specific as to what you refer to.

17 Q Volume two, pages 183, line 12.

18 A What is the question again, please?

19 Q I will put it in context. These were
20 individuals that heard statements from my client?

21 A Correct.

22 Q This is like, secondhand statements you are
23 gaining information from them, as to what they allegedly
24 heard my client say?

25 A Yes.

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1 Q There is two steps there, if you get the
2 information?

3 A Your client told them something they are
4 telling me now.

5 Q Two steps, right?

6 MR. STANTON: Objection. Asked and
7 answered.

8 THE COURT: Overruled. Go on.

9 BY MR. WHIPPLE:

10 Q The source of all the information is my
11 client, correct?

12 A Much of the information.

13 Q Tod Armstrong said there were two
14 perpetrators that entered the house and were involved at
15 4825 Terra Linda?

16 A No. That's not what it says here.

17 Q Tell me --

18 A May I read the question above it?

19 Q Please.

20 A "Who is it that says they went to Matt's."

21 He answered "It was Deco and Matt
22 and Red." From that I gleaned that's who individually
23 told him he went there, not who was present.

24 Q He is giving you what he was told?

25 A By which people told him?

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1 Q By Donte Johnson.

2 A Yes, and Red.

3 Q He said, "There is two people," that's what

4 he told you?

5 A No. He is telling me or saying in this

6 answer, two people told him they went there.

7 Q Now Brian Johnson, go to volume three, page

8 143. Are you there?

9 A I am.

10 Q Line two, I believe. Now, is it fair to

11 say, Brian Johnson says he was told there were two

12 perpetrators?

13 A All I glean from looking at line two are

14 two names.

15 Q What are they?

16 A Deco and Red. It doesn't mention what

17 context they were mentioned in.

18 Q There were three individuals arrested for

19 the crime, correct?

20 A Correct.

21 Q Now, there was also statements as to how

22 the victims came to 4825 Terra Linda, if there were four

23 already there, or if two were there, and other people

24 showed up.

25 A Yes.

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1 Q There was inconsistencies as to whether
2 there were four people located at the house, with regard
3 to the testimony of Tod Armstrong, Brian Johnson, and
4 Charla Severs?

5 There were inconsistencies as to how
6 the victims found themselves at 4825 Terra Linda. Would
7 you agree to that?

8 A As far as how many initially were there and
9 how many came later?

10 Q Correct.

11 A I would agree with that, yes.

12 Q In fact, Tod Armstrong said he was told
13 there were two people there, originally, and that those
14 two people called for two other people to show up?

15 A I believe that is correct, yes.

16 Q And, in fact, Brian Johnson was told there
17 were three people at the house, and one came over,
18 accidentally?

19 A Do you know what page that would be on?

20 Q Volume three, page 144.

21 A What was the question again, please?

22 Q We are on Brian Johnson?

23 A Yes.

24 Q His testimony was, he was told there were
25 three people at the house, and one person happened to

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1 come by, essentially?

2 A Yes.

3 Q There is different variations as to what
4 information they heard and passed on to you?

5 A As to how the four people ultimately got
6 there? Yes.

7 Q It's fair to say there is also
8 inconsistencies as to Tod Armstrong's level of
9 involvement; is that fair to say?

10 A Yes.

11 Q In fact, Tod Armstrong was in the car when
12 they traveled from Terra Linda over to Everman, or the
13 other way around, he was in the residence at Everman and
14 drove over to Terra Linda with Donte Johnson?

15 A Which particular occasion are you referring
16 to?

17 Q You tell me, was he part of the individuals
18 that showed Donte Johnson where the Terra Linda residence
19 was?

20 A Tod Armstrong was in the vehicle driven by
21 Donte Johnson, when Ace Hart pointed out the house on a
22 previous occasion.

23 Q In fact, Tod Armstrong was asked if he was
24 expecting any money or benefit from the robbery that
25 occurred over on Terra Linda. He was asked that,

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1 specifically. Do you recall reading that?

2 A Yes.

3 Q What was his answer?

4 A Give me a specific page to be accurate.

5 Q Volume two, page 237?

6 A Okay.

7 Q I believe, line 5.

8 A Thank you. Page 237.

9 Q I believe so. Top of page 237, volume two?

10 A I am not sure how it relates to your

11 question. Page 237, volume two?

12 Q He was asked if he gave them any

13 information about the house?

14 A You are referring to line three.

15 Q Yes.

16 A He was asked that. That's correct.

17 Q He said he didn't give them any

18 information?

19 A Correct.

20 Q And do you remember his testimony was, he

21 didn't expect anything; he was not involved with this

22 crime?

23 A I would have to see specifically after

24 reading so many.

25 Q Was Mr. Armstrong arrested for being

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1 involved?

2 A He was not arrested, no.

3 Q It was fair to say you had information he
4 was involved?

5 A There was some indication he was involved.

6 Q If, in fact, you also testified he was the
7 one that during the two weeks Donte Johnson lived with
8 him, he was scared of Mr. Johnson; is that correct?

9 A That would be accurate, yes.

10 Q You had information from Charla Severs that
11 he encouraged Donte Johnson to go over to Terra Linda and
12 rob and burglarize them?

13 A Can you be specific?

14 Q Sure. Volume three, page 35. Should be
15 page 35, line 21.

16 A What was the question, please?

17 Q That Tod was expecting, he essentially made
18 Donte Johnson aware that the money and drugs were there;
19 he should go rob them. It was his insinuation or
20 suggestion?

21 A I am not seeing the question. I am sorry.

22 Q Let me find it.

23 I will approach, your Honor.

24 Here you go?

25 A I guess I misspoke. I am not understanding

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1 your question, as it relates.

2 Q Just Mr. Armstrong's level of potential
3 involvement. He said he was not involved. Is there
4 information to suggest he was involved, that he
5 encouraged Donte Johnson?

6 A There is information he told Donte Johnson
7 there could be money and mushrooms at the house, yes.

8 Q Okay.

9 A Thank you.

10 Q What I am trying to get out with the plan
11 or details, there is some inconsistency from different
12 sources of information you have?

13 A Yes, there always is.

14 Q Turn to volume two, page 225. Bottom
15 question. Answer on the bottom, page 255, and question
16 on the top of 226.

17 A Bottom question.

18 Q I will ask you read the question.

19 A "Do you know a person named Sikia Smith?"

20 Answer is: "Yes."

21 Q That's Tiny Bug?

22 A Yes.

23 Q Was Sikia Smith with them that night?

24 A Answer is, no.

25 Q Mr. Armstrong also stated he had asked my

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1 client to steal tire rims for him; is that correct?

2 A That's correct.

3 Q We know his bedrooms was one of the
4 bedrooms with a waterbed in it?

5 A By he, you are referring --

6 Q To Tod Armstrong.

7 A Yes.

8 Q That particular night this occurred, he was
9 out sleeping on the couch?

10 A Yes.

11 Q Now, you spoke also of, and I mentioned
12 this earlier, about LaShawna Wright; do you recall that?

13 A Yes, I do.

14 Q In fact, LaShawna Wright gave us
15 information with regard to the .380 handgun?

16 A Correct. Yes.

17 Q It's the casings found at the crime scene,
18 one for each body?

19 A Yes.

20 Q You testified the .380 was consistent with
21 the gun that took the lives of those four individuals?

22 A Yes.

23 Q LaShawna Wright arrived, the girlfriend of
24 Sikia Smith?

25 A Yes.

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1 Q And she saw the particular weapon, the next
2 day after the homicide occurred?

3 A I believe so, yes.

4 Q Sometime shortly after the homicide, she
5 stated she had seen the .380?

6 A Yes.

7 Q She stated she had seen it?

8 A Yes.

9 Q She stated she saw it in the possession of
10 Sikia Smith, Tiny Bug?

11 A Yes.

12 Q She also said she knew where the gun went,
13 knew somehow, knew it was sold?

14 A Yes. She saw somebody sell it..

15 Q She had seen Sikia Smith sell the handgun?

16 A She had seen Sikia Smith sell the handgun
17 but didn't know its location from that point on.

18 MR. WHIPPLE: Court's indulgence.

19 Detective Thowsen, I know this is
20 unusually difficult. I thank you for your time.

21 I have no further questions.

22

23 REDIRECT EXAMINATION

24 BY MR. STANTON:

25 Q Detective, I want to go to a couple things

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1 that Mr. Whipple brought up. First of all, he showed you
2 a couple of photographs regarding a butane torch and some
3 testimony of Shawn Fletcher, regarding presence of
4 antifreeze at the home; it is consistent with the
5 manufacture of methamphetamine.

6 Do you remember those questions?

7 A Yes.

8 Q Based upon the totality of your
9 investigation found out from witnesses up until today's
10 date, do you have any witnesses that saw any of the
11 individuals manufacturing methamphetamine?

12 MR. WHIPPLE: Judge, I object.

13 MR. STANTON: Counsel asked the question --

14 THE COURT: Overruled.

15 THE WITNESS: No.

16 BY MR. STANTON:

17 Q There was a question about whether or not
18 there were inconsistencies between various of the primary
19 witnesses in the case, as far as what they heard the
20 Defendant say about the murders.

21 Specifically, Counsel cited you to
22 a portion of Tod Armstrong's testimony about how many
23 people left the residence or went over to the Terra Linda
24 home; do you recall that?

25 A Yes, I do.

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1 Q Counsel then asked a question. This is Tod
2 Armstrong sleeping on the couch, correct, at the time
3 Deco and Red leave the Everman home?

4 A I believe he was on the couch. Whether or
5 not he was sleeping there, he was on the couch.

6 Q From your recollection of the testimony and
7 the events, indeed, it was true when Defendant and
8 Terrell left the home, they left, went back, picked up
9 Tiny Bug and went to the Terra Linda address?

10 A That's correct.

11 Q When Tod Armstrong says two people left the
12 Everman home, that's not inconsistent with the number of
13 people that ultimately arrived at the Terra Linda home?

14 A That's correct.

15 MR. STANTON: Nothing further.

16 MR. WHIPPLE: Nothing further.

17 THE COURT: All right. You are excused.

18 Thank you.

19 THE WITNESS: Thank you, your Honor.

20 MR. DASKAS: With the Court's permission
21 we will call a representative from our office to read the
22 testimony of Charla Severs from the Defendant's trial.
23 This is Pam Weckerly from our office.

24 PAM WECKERLY,

25 having been called to read the Deposition testimony of

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1 CHARLA SEVERS,
2 was sworn to accurately read the answers on behalf of the
3 absent witness, CHARLA SEVERS, as follows:
4

5 DIRECT EXAMINATION

6 BY MR. DASKAS:

7 Q Ms. Weckerly, what I will do is read the
8 questions posed to the witness at the trial, June 7,
9 2000, and I will ask you to read the answers she gave.

10 A Okay.

11 Q Charla, do you go by any other names?

12 A Yeah.

13 Q And what other names do you use?

14 A La La.

15 Q La La, L-a L-a?

16 A Yeah.

17 Q Is that yes?

18 A Yes.

19 Q Okay. I need you to speak real loudly
20 because the air conditioner is loud and we've been
21 told that we're not being heard on the tapes. Okay?

22 I take it Charla Severs is your birth
23 name then. It's the name your mother gave you?

24 A Yes.

25 Q Who calls you La La?

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1 A My friends and my family.

2 Q Have you ever used any other names other

3 than -- or gone by any other names other than Charla

4 Severs or La-La?

5 A No. Only sometimes, when I get arrested,

6 maybe.

7 Q Okay. You say, when you have been

8 arrested, you use a different name --

9 A Yeah.

10 Q -- than your own?

11 A Yeah.

12 Q Why?

13 A Just so they wouldn't have my real name.

14 Q Okay. Now, then, do you live here in Las

15 Vegas, Nevada, now?

16 A Yes.

17 Q And who do you live with?

18 A My mother.

19 Q Directing your attention to the summer of

20 1998, do you remember that summer?

21 A Yes.

22 Q Okay. I want to talk a little bit about

23 that summer. Okay. Did you have a boyfriend in 1998?

24 A Yes.

25 Q Who was your boyfriend?

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1 A Deco.

2 Q And who is Deco?

3 A Donte Johnson.

4 Q Is Donte Johnson in the room today?

5 A Yeah.

6 Q Can you point to him and describe a article

7 of clothing that he's wearing in court?

8 A You want me to point at him?

9 Q Will you, please.

10 MR. DASKAS: May the record reflect the

11 identification of the Defendant, your Honor?

12 THE COURT: Yes.

13 BY MR. DASKAS:

14 Q Now, you say -- what did you call him,

15 Deco, or Donte?

16 A Deco.

17 Q All right. And did Deco go by any other

18 names, other than Deco or Donte Johnson?

19 A Yeah, yes.

20 Q What name -- what other name do you know

21 Deco by?

22 A John White.

23 Q Okay. Now, do you know what Deco's mother

24 calls him?

25 A No.

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1 Q All right. Tell me, when did you first
2 start dating Donte Johnson or Deco?
3 A Like, in July of '98.
4 Q July '98. And tell me a little bit about
5 your relationship with Donte Johnson in July. Did you
6 live together or did you see -- just see each other once
7 in a while?
8 A We lived together.
9 Q Okay. And where were you staying at?
10 A At the Thunderbird Motel.
11 Q Okay. Can you tell me about how long you
12 stayed at the Thunderbird Motel with Deco?
13 A For, like, maybe three weeks or something.
14 Q Okay. And before -- is that when you first
15 met Deco and started staying with him, was at the
16 Thunderbird, or did you stay with him somewhere else
17 before that?
18 A That's when I first met him and started
19 staying with him.
20 Q Okay. So how soon after you met him, did
21 you start staying with him?
22 A Like, maybe a week or two weeks.
23 Q Okay. And once you started staying with
24 him, did you stay with him continuously?
25 A Yeah.

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1 Q How often? Would that be every day?

2 A Yeah.

3 Q Okay. Now, when you were staying at the
4 Thunderbird Motel, did anyone else stay with you, other
5 than you and Deco?

6 A Yeah.

7 Q And who stayed at the motel with you?

8 A Red, and this guy named Ace.

9 Q Okay. Now, describe Red for us, if you
10 would.

11 A He's like 5 feet 8 inches and like 250
12 pounds, or something like that, and he got braids --
13 he had braids in his hair.

14 Q Okay. Would you recognize Red if you saw
15 him again?

16 A Yeah.

17 Q Does Red go by any other names?

18 A Terrell Young.

19 Q And you mentioned a guy named -- by the
20 name of Ace. Describe Ace for us.

21 A He's like tall and skinny, and he had curly
22 hair.

23 Q Okay. White guy or black guy?

24 A Black.

25 Q Okay. And do you also know a guy by the

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1 name of Ace Hart?

2 A Yes.

3 Q Is that a different Ace than the Ace that
4 stayed with you at the Thunderbird?

5 A Yes.

6 Q Okay. How long did Ace stay with you and
7 Donte over there at the Thunderbird?

8 A I don't remember -- until we moved out of
9 the Thunderbird, like a couple of days before we moved
10 out.

11 Q And did Terrell Young stay the entire time
12 at the Thunderbird, or did he move out before you moved
13 out?

14 A He stayed the whole time.

15 Q All right. Now, tell me, do you know what
16 room or what name the room at the Thunderbird was rented
17 under?

18 A Ace, Ace Hart.

19 Q Ace Hart?

20 A Yeah.

21 Q And that's a different Ace than the one
22 that stayed over at the room?

23 A Yeah.

24 Q Do you know how the room was paid or who
25 paid the room?

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1 A No.

2 Q Okay. Tell me, how would you get in and

3 out of the room at the Thunderbird? Was there a look on

4 the door?

5 A Yeah.

6 Q And who had keys to the room -- or the room

7 at the Thunderbird?

8 A Deco.

9 Q Okay. Anyone else have a key to the room?

10 A Red.

11 Q Okay. And did you have your own key to the

12 room, the Thunderbird room?

13 A No.

14 Q Okay. And how long do you think you stayed

15 at the Thunderbird approximately?

16 A Like, three weeks, or something like that.

17 Q Now, once you left the Thunderbird, who did

18 you leave the Thunderbird with?

19 A Deco.

20 Q Anyone else go with you?

21 A Yeah, Red.

22 Q And where did you go to?

23 A To Tod's house.

24 Q Okay. And can you describe Tod for us,

25 just so we know who you're talking about?

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1 A A tall, skinny white guy.

2 Q Okay. Now, do you recall about what month

3 it was when you moved or went over to Tod's house?

4 A August.

5 Q The start of August, the end of August, or

6 middle?

7 A Like, the start.

8 Q Okay. And you indicated that you would

9 recognize Terrell Young, if you saw a picture of him. Do

10 you know a person by the name of Sikia Smith?

11 A Yes.

12 Q And how do you know Sikia Smith?

13 A I met him at Tod's house.

14 Q Okay. And do you know who Sikia Smith was

15 friends with?

16 A Yeah.

17 Q Who was Sikia Smith friends with?

18 A Deco.

19 Q And if you saw Sikia Smith's picture again,

20 would you recognize it?

21 A Yeah.

22 Q I'm showing you what has been marked as

23 State's proposed Exhibit 180. Do you recognize the

24 person that I am pointing to right here on the far right

25 side of the board?

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1 A Yes.

2 Q Who is that?

3 A Tiny Bug.

4 Q Okay. Did Sikia Smith use the name, Tiny

5 Bug?

6 A Yeah.

7 Q And is -- on the other far end, is that

8 picture, approximately, named and labeled?

9 A Yes.

10 Q And who is it?

11 A Red.

12 Q Okay. Is this how those three looked to

13 you in August of 1998?

14 A Yes.

15 Q Okay. And in the center is your boyfriend

16 Deeco; is that right?

17 A Yeah.

18 MR. DASKAS: I'd move admission of State's

19 proposed Exhibit 180. Court says. All right. It will

20 be admitted subject to perhaps to some alteration and

21 subject to your earlier question.

22 BY MR. DASKAS:

23 Q Charla, I am showing you what has been

24 previously admitted as two calendars and the months are

25 August and July of 1998.

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1 Do you recognize those months?

2 A Yes.

3 Q Will it assist you to refer to the

4 calendar, if I ask you about dates?

5 A Yes.

6 Q Okay. And those exhibits --

7 Sorry, Judge, are numbered 158 and

8 159, for the record.

9 BY MR. DASKAS:

10 Q Now, then, is this the month you lived at

11 the Thunderbird?

12 A Yes.

13 Q Can you tell me about when you would have

14 moved or gone over to Tod's house?

15 A Like August 4, around that time.

16 Q Right around here?

17 A Yeah.

18 Q All right. Now, tell me when you went over

19 to Tod's house, how is it that you all knew Tod, you,

20 Deco, and Red? Did you know Tod?

21 A No.

22 Q Was this the first time you met Tod?

23 A Yeah.

24 Q Okay. Did you have, like, a mutual friend,

25 somebody in the middle of the two of you?

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1 A Yeah.

2 Q Who was in the middle?

3 A Deco.

4 Q Okay. Did Deco know Tod?

5 A Yeah.

6 Q Okay. When you went to Tod's, how long did

7 you think you were gonna stay there?

8 A I didn't know. I didn't know.

9 Q Did you have, like, a lot of clothing and

10 stuff, when you went to Tod's house?

11 A No.

12 Q And what I mean by that is, did you take

13 all your clothes over to Tod's house?

14 A No.

15 Q Did you take any of your stuff to Tod's

16 house, when you first went there?

17 A No.

18 Q Why?

19 A Cause I didn't have no clothes where I was

20 at.

21 Q Okay. You just had the clothes that were

22 on your back?

23 A Yeah.

24 Q Okay. And did you later start taking

25 clothes and things to Tod's house?

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1 A Yeah.

2 Q All right. We will talk about that. Tell
3 me, before we talk about the Everman residence, let me
4 ask you a couple of things.

5 During the month of July, did Deco
6 have a job?

7 A No.

8 Q Did Terrell have a job?

9 A No.

10 Q And do you know if Sikia Smith had a job?

11 A No.

12 Q Okay. Did you have a job?

13 A No.

14 Q In the month of July 1998, did you smoke
15 cigarettes?

16 A Yeah.

17 Q What kind of cigarettes?

18 A Newports.

19 Q Do you know if Deco or Donte Johnson smoked
20 cigarettes?

21 A No. He smoked Black & Mild cigars.

22 Q Okay. He smoked Black & Mild cigars?

23 A Yeah.

24 Q Did he ever smoke cigarettes?

25 A Maybe, if he ran out of cigars, once in a

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1 while.

2 Q Okay. Did he ever ask you for a Newport,
3 for instance?

4 A Not that I remember.

5 Q Okay. Did you see him smoke cigarettes
6 though, when he ran out of cigars?

7 A Yeah.

8 Q Okay. And how about Terrell Young, did he
9 smoke cigarettes?

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

11 Q Let's talk a little bit about the Everman
12 residence now. Tell me, when you got there, can you
13 describe the Everman residence for these people? How
14 many bedrooms --

15 A Three.

16 Q Okay. One-story house or two-story house?

17 A One story.

18 Q Okay. And whose house was it?

19 A Tod's mother's.

20 Q Okay. Was Tod's mother living there?

21 A No.

22 Q Was Tod living there?

23 A Yeah.

24 Q Was anybody else living there with Tod in
25 the month of August?

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1 A I think -- I think, Ace and B.J.

2 Q Okay.

3 A I mean, Ace.

4 Q Ace?

5 A Yeah.

6 Q Now, when we talk Ace, is this the same Ace

7 from the -- that stayed at the Thunderbird, or is this

8 the different Ace?

9 A This is the white guy.

10 Q Okay. Describe Ace Hart for us.

11 A He's, like, short. He's white, and he got

12 blond hair. He's skinny.

13 Q Okay. And how -- you say, short?

14 A Yeah.

15 Q How short?

16 A Like, maybe 5 foot 6.

17 Q Now, do you know in the month of August, if

18 Tod had a job?

19 A No, he didn't.

20 Q Did Ace have a job?

21 A No.

22 Q You mentioned one other person, I think you

23 said, B.J.

24 A Yes.

25 Q Does B.J. have any other name, other than

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1 B.J.

2 A Brian.

3 Q Okay. Is that -- let's talk about Brian.

4 Did Brian actually live at the house on Everman, or did
5 Brian visit the house on Everman?

6 A He visit the house.

7 Q Okay. He did or didn't live there?

8 A He didn't live there.

9 Q Okay. Do you know if Brian had a job?

10 A No, he didn't.

11 Q Okay. Now, had you ever met Tod, Ace or

12 B.J. Before August?

13 A Yeah. I met B.J. and Ace before August.

14 Q Okay. And about what month would you have
15 met B.J. and Ace?

16 A In July.

17 Q Okay. And do you know if B.J. smoked crack
18 cocaine in July?

19 A Yeah, he did.

20 Q How about Ace?

21 A Yeah.

22 Q And tell me, how about Tod Armstrong, in
23 August, once you met him, did he smoke crack cocaine?

24 A Yes.

25 Q Did you know these three to smoke it by

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1 themselves, with each other, or how would they -- when
2 would you see them, or -- or how would they use crack
3 cocaine?

4 A When they was all together at the house,
5 they would smoke it.

6 Q Okay. How often were Ace, Tod and B.J.,
7 together, at the Everman house?

8 A Like, every other day, like every other day
9 they were there.

10 Q Okay. So how often would you say Tod
11 Armstrong smoked crack cocaine?

12 A Like every other day, when B.J. would come
13 over.

14 Q Okay. And tell me, how would Tod, or Ace,
15 or B.J. get their crack cocaine, if you know?

16 A They would sometimes buy it from Deco.

17 Q And who would be the one that actually buys
18 it, if you know?

19 A B.J.

20 Q And why would B.J. be the one that buys it?

21 A Because his mom gave him money all the
22 time.

23 Q Okay. Of those three, who was the one with
24 money?

25 A B.J.

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1 Q Okay. Who would they buy their drugs from?

2 You said, Deco?

3 A Yes.

4 Q All right. Okay. Now, did you actually
5 see Deco sell them drugs before?

6 A Yeah.

7 Q When Deco would sell drugs to B.J., who
8 would he give the drugs to B.J.

9 A I'm not sure. One time I seen him give it
10 to him in a Black & Mild box.

11 Q Okay. You say, "One time."?

12 A Yeah.

13 Q Did you ever see him give it to him without
14 a Black & Mild box?

15 A Yeah.

16 Q And how about -- how many times did you see
17 him do it without a Black & Mild box?

18 A Maybe, maybe like once or twice.

19 Q Okay. Have you ever seen Donta sell crack
20 cocaine to anyone else, other than these three?

21 A No.

22 Q Okay. You never seen him sell it to
23 anybody else?

24 A No.

25 Q Okay. Now, then, when you went to the

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1 Everman house, how long did you think you were going to
2 stay there?

3 A Until we, like, got enough money to leave
4 town or something.

5 Q And when you say, "We got enough money to
6 leave town," who was planning on leaving town?

7 A Deco, and Red, and me.

8 Q Okay. Why were you going -- I mean, did
9 you want to leave town with Deco?

10 A Yeah.

11 Q If your mother lived here, why wouldn't you
12 want to stay here with your mother?

13 A Because I was with Deco.

14 Q Okay. Can you tell me what your
15 relationship was like with Deco in, say, August, what
16 your feelings were for him?

17 A I loved him.

18 Q Is that something you felt strongly about
19 in August?

20 A Yeah.

21 Q How strongly?

22 A Real strong.

23 Q Okay. Had you been in love before?

24 A No.

25 Q Had you had a boyfriend before Deco?

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1 A No, not a boyfriend.

2 Q I take it you dated other boys before?

3 A Yeah.

4 Q And had you ever felt this strongly about a

5 boy or a man before?

6 A No.

7 Q Now, then, once the three of you went to

8 the Everman residence, who had a key to that house?

9 A I am not sure. I'm not sure.

10 Q Okay. Did you have a key?

11 A No.

12 Q Did Deco have a key?

13 A No.

14 Q Did Terrell have a key?

15 A No.

16 Q Was there a lock on the door?

17 A Yes.

18 Q Was there more than one door, meaning, a

19 front door and perhaps a back door, or a side door?

20 A Yeah, all three of those.

21 Q How would you, Deco, and Rad come into the

22 house?

23 A Well, I know most of the time I came

24 through the window, because nobody was there, and by the

25 time they'd get there, Tod would be there. So they'd

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1 just knock on the door --

2 Q Okay.

3 A -- or just come through the door.

4 Q So if no one was there, you'd go through
5 the window?

6 A Yeah.

7 Q And what window are we talking about?

8 A The bathroom window.

9 Q And if someone was there, you'd go through
10 the front door?

11 A Mostly the side door.

12 Q Okay. And who would let -- would Tod let
13 you in?

14 A Yeah.

15 Q Ace or B.J., if they were there?

16 A Yeah.

17 Q Now, how often did -- well, you say B.J.
18 actually came over about every other day?

19 A Yeah.

20 Q Okay. And did I ask you if you knew if
21 Tod, Ace or B.J. had a job?

22 A Yeah, you asked me that.

23 Q I am sorry. Now, what bedroom did you stay
24 in at the Everman house?

25 A The master bedroom.

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1 Q And what bedroom did Deco stay in?

2 A The master bedroom.

3 Q And how about Terrell?

4 A The master bedroom.

5 Q Okay. Now, did -- the longer you stayed

6 there, you started to get some things for yourself; is

7 that right, some clothing?

8 A Yes.

9 Q More than just the clothes you came with?

10 A Yeah.

11 Q And where would you keep your clothing

12 items?

13 A In the master bedroom.

14 Q How about Deco; did he have more than one

15 change of clothes?

16 A Yes.

17 Q And where would he keep his items?

18 A In the master bedroom.

19 Q And how about Terrell Young?

20 A In the master bedroom.

21 Q Okay. And did anyone else, other than the

22 three of you, keep anything in the master bedroom?

23 A Well, when we got there, there was clothes

24 of Tod's in there, and Ace's clothes were in the master

25 bedroom.

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1 Q Okay. And did Tod and Ace keep their
2 clothes in any other room, other than the master bedroom?

3 A In the laundry room.

4 Q Okay. So there is a laundry room in the
5 house. There is a master bedroom, and two other
6 bedrooms?

7 A Yeah.

8 Q Is there a living room in this house?

9 A Yeah.

10 Q Can you describe the living room?

11 A It's like -- it's kind of small, and it had
12 a big window in the front, and it had -- the couch was in
13 front of the window, and there was another couch across
14 from that couch.

15 Q Other than clothing items that you had,
16 Deco and Terrell had, did Deco or Terrell bring any other
17 items to the house at Evarman?

18 A Yes.

19 Q Okay. Let me talk about that. Had you
20 ever seen a duffle bag at the Everman house?

21 A Yes.

22 Q And whose duffel bag was it?

23 A Deco's.

24 Q Can you describe the duffel bag?

25 A It was, like, green and tan, I think.

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1 Q I need you to speak up.

2 A It was like green and tan.

3 Q And can you show the jury about how large

4 the duffel bag was, with your hands?

5 A Like -- maybe, like, this big.

6 Q How many feet or inches is that?

7 A I'm not sure. Like, maybe four feet.

8 Q Okay. And how tall was the bag?

9 A Like, this tall.

10 Q And how many inches or feet is that?

11 A I'm not sure.

12 Q Okay. Do you know what was in the bag?

13 A Guns.

14 Q Okay. Now, how do you know there were guns

15 in that bag?

16 A Because that was always what was in the

17 bag.

18 Q Okay. Who brought the guns, or the bag

19 with the guns to the house?

20 A Deco.

21 Q Now, had you ever seen these guns that were

22 in the bag?

23 A A couple of them.

24 Q Okay. Let's talk about the couple of guns

25 in the bag you've seen. How many guns have you seen in

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1 the bag?

2 A Like, two of them.

3 Q Okay. Describe the two you'd seen?

4 A One was like a revolver, and the other one
5 was, like, a -- like a sawed-off looking gun.

6 Q Okay. You say a sawed-off looking gun?

7 A Yes.

8 Q I am going to try to have you explain that
9 to me. Was there a part of the gun that you held onto a
10 handle?

11 A Yeah.

12 Q What did the handle look like?

13 A Like a banana. I don't know. The whole
14 thing kind of looked like a gun.

15 Q Okay. You've done a shape that curved; is
16 that right? You did a curving shape with your finger
17 just now?

18 A Yes.

19 Q What part of it curved?

20 A The handle part.

21 Q Okay. And did it curve a long ways down or
22 a short ways down?

23 A Short ways down.

24 Q And what color was this handle part that
25 curved down?

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1 A Brown.

2 Q And how long was the handle part? If you

3 can, show me.

4 A Like, maybe, maybe, like, this long.

5 Q And how long was the barrel part? You

6 said, it was sawed off?

7 A Yeah. It was like, this long, but it was

8 like short at the end right here.

9 Q How many inches was the handle part?

10 A I'm not good at math, so I don't know.

11 Q Can you --

12 A It was like --

13 Q Can you show us with your fingers?

14 A The handle part?

15 Q Yeah.

16 A Like this maybe, like six inches.

17 Q Okay. And how long was the barrel part,

18 the whole barrel, first of all?

19 A Like, 12 or 13 inches.

20 Q And how long was the part that stood off

21 the handle?

22 A It was -- it was kind of little, like maybe

23 three or four inches.

24 Q Okay. Other than the revolver and the gun

25 you just described, did you see any other guns at the

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1 house at Everman that were in that bag?

2 A Yeah.

3 Q Describe the other guns?

4 A There was a black one with a clear clip on
5 it, shaped like a banana.

6 Q Okay. You say, it was a black gun with a
7 clear clip?

8 A Uh-huh.

9 Q What color was the clip?

10 A It was like black, clear black.

11 Q And can you tell me how many bullets, for
12 lack of a better word, went in the clip?

13 A Maybe, like 24 or something like that.

14 Q How long was the clip? If you will, show
15 me with your hands?

16 A Like 8 or 9 inches, and it curved like
17 that.

18 Q And you say, "It curved."

19 A Yeah.

20 Q Okay. The witness has held up her hands
21 and estimated 8 or 9 inches.

22 How long was this gun total? In
23 other words, the total length, can you show me with your
24 hands?

25 A It was, like, this long.

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1 Q Okay. And about how long is that?

2 A Maybe, like, 19 inches, 20 inches.

3 Q Okay.

4 A It was 19 or 20.

5 Q Was it -- it was broader than your

6 shoulders, right?

7 A Yes.

8 Q You have held your hands out, beyond your

9 shoulders?

10 A Yeah.

11 Q Okay. Now, how often did those guns stay

12 in the bags, or how often were they out of the bags?

13 A They stayed in the bag most of the time,

14 mostly all the time, not unless they was handling them or

15 whatever.

16 Q Okay. So I guess by that, if they were

17 handling them, they were out of the bag?

18 A Yes.

19 Q And if they weren't handling the bags, or

20 the guns, where would the guns go?

21 A Inside the bag.

22 Q Was there anything else kept in the bag?

23 A No.

24 Q Okay. Did you ever see any gloves in the

25 Everman house?

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1 A Yes.

2 Q Can you describe the gloves you saw?

3 A It was, like, brown all over, and in the
4 palm part, it was like a black knit, a black knit part.

5 Q And how many pairs of gloves did you see at
6 the Everman house?

7 A Like, three or four.

8 Q Whose gloves were they?

9 A Deco's, and Red's, and Tiny Bug's.

10 Q And do you know how Deco, Red, and Tiny Bug
11 got the gloves?

12 A No.

13 Q Do you know where they got them from?

14 A No.

15 Q How many times did you see the gloves at
16 the house?

17 A All the time.

18 Q How often did Tiny Bug come over to the
19 house?

20 A Not that often. It only seemed like,
21 maybe, two times.

22 Q Okay. Did you ever see any duct tape at
23 the house?

24 A Yes.

25 Q Where was the duct tape that you saw?

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1 A Under the coffee table in a box, in, like,
2 a shoe box.

3 Q And do you know where the duct tape came
4 from?

5 A No.

6 Q And how many rolls of duct tape?

7 A One.

8 Q Okay. Now, other than the guns you've
9 described -- or of the guns you have described, did you
10 ever see Tod Armstrong, Ace or B.J. handle those guns?

11 A Yes.

12 Q Okay. And how often would Tod, Ace, or
13 B.J. handle those guns?

14 A Whenever they would pull them out and was
15 just looking at them and holding them.

16 Q Whenever who would pull them out?

17 A Like Deco would pull them out, and the
18 guys, they'd just pull them out and be holding them.

19 Q And how often did Deco pull the guns out?

20 A Just once -- I am not sure, just once in a
21 while.

22 Q Okay. And did Ace, Tod or B.J. ever just
23 pull the guns out, themselves?

24 A No.

25 Q And did you ever see Tod with a gun, not

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1 the kind of guns you are talking about from the bag, but
2 another gun?

3 A Yes.

4 Q Okay. And that was a shotgun?

5 A Yes.

6 Q And did Tod keep that shotgun at the house?

7 A I am not sure.

8 Q How many times did you see the shotgun at
9 the house?

10 A One time.

11 Q Do you know what happened to the shotgun
12 after you saw it the one time?

13 A No.

14 Q And did you ever meet a person or know a
15 person by the name of Matthew Mowen?

16 A Yeah.

17 Q How did you meet Matthew Mowen?

18 A He came to the house one day.

19 Q In what month?

20 A August.

21 Q And where were you staying when Matt came
22 to the house?

23 A I was staying at Everman.

24 Q Okay. Still at the Armstrong residence or
25 house?

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1 A Yes. Yes.

2 Q And using August '98, can you tell me about
3 what day Matt would have come to the house, if you can
4 tell me, or if you know?

5 A Like, the 14th.

6 Q Okay. You say, "Like, the 14th."?

7 A Yeah, August 14.

8 Q Now, you've given previous statements; is
9 that correct?

10 A Yes.

11 Q About a homicide that occurred?

12 A Yes.

13 Q What day did the homicide occur on?

14 A The 17th.

15 Q Okay. Let me, if I could, if you saw a
16 statement that was dated, would that refresh your
17 recollection as to the date?

18 A If I what?

19 Q If you see a statement that you gave in
20 this case, about --

21 A Uh-huh.

22 Q -- what day we're talking about, would that
23 refresh your recollection?

24 A Yes.

25 Q Okay. I want to show you, August 18th,

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1 1998, is the date on this voluntary statement. Whose
2 name appears at the top?

3 A Mine.

4 Q Okay. And at the end, I believe, it's
5 dated the same day, and gives the time, August 18th. Do
6 you see what day on the calendar, August 18th is?

7 A Yes.

8 Q And do you know when the police first came
9 to the house and arrested Deco?

10 A Yeah.

11 Q What day was that?

12 A The 18th.

13 Q Okay. And how many days after the murder
14 did the police come and arrest Deco?

15 A Okay. Like, three -- three or four days
16 later.

17 Q Okay. And what day did the murder happen?

18 A And it was like maybe the 13th, the 13th.

19 Q Okay. And if the murders happened -- if
20 the police arrested Deco on the -- you said the 18th,
21 right?

22 A Yes.

23 Q The night you gave a statement?

24 A Yes.

25 Q And if the murders happen on the 13th, what

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1 day would Matt have come to the house?

2 A Like, the 11th.

3 Q About the 11th?

4 A Yeah, the 10th or the 11th, yeah.

5 Q Okay. Now, let me talk about that. When

6 Matt came to the house, who was home?

7 A Tod, and Deco, and Red, and myself.

8 Q Tod, Deco, Red, and yourself?

9 A Yeah.

10 Q Ace was not there?

11 A No, not that I remember.

12 Q Okay. How about Sikia Smith?

13 A No.

14 Q About what is it that Matt was doing at the

15 house?

16 A He was coming to look for some crack.

17 Q Now, had you ever seen Matt before?

18 A No.

19 Q Had Matt, based on what you'd seen, had

20 Matt ever purchased cocaine with Deco before or from

21 Deco?

22 A No.

23 Q How often were you with Deco in July and

24 August?

25 A Every day.

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1 Q Would Deco go places without you?

2 A Yeah.

3 Q How often?

4 A Every day.

5 Q Okay. And how long would he be gone for?

6 A Maybe, like, three, four hours.

7 Q When you were with Deco, each day in July

8 and August, had you ever seen Deco sell any cocaine to

9 Matthew Mowen?

10 A No.

11 Q Did Matt buy cocaine from Deco that day?

12 A No.

13 Q Why?

14 A Because he didn't have any.

15 Q Who didn't have any?

16 A Deco didn't have any crack.

17 Q Okay. And did Matt say anything to Deco or

18 talk with all of you?

19 A Yeah.

20 Q And what did Matt talk about?

21 A He was just showing us these -- like these

22 Valium he had. They was some pills that make you relax.

23 Q And what color were the pills?

24 A I think they were white. They were little

25 and, and they were white.

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1 Q About how many pills did he have?

2 A Well, he just handed -- he handed me one,
3 and he handed Red one.

4 Q And did he have more than two, or do you
5 know?

6 A I am not sure.

7 Q Okay. Did he talk about those pills at
8 all?

9 A Yeah. He said they'd make you feel good.

10 Q Other than talking about the pills that he
11 gave you, did he say anything else?

12 A No.

13 Q Okay.

14 A Not that I remember.

15 Q Did Matt talk at all about selling drugs
16 himself?

17 A No.

18 Q Did Matt talk at all about any money that
19 Matt had?

20 A Did Matt say about any money he had? No.

21 Q Okay. Did Matt talk about a music group, a
22 Phish concert?

23 A No, not that I remember.

24 Q Okay. Were you part of the conversation?

25 A No.

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1 Q Okay. Who was part of the conversation?

2 A Deco, and Red, and Tod.

3 Q And where were you?

4 A I was sitting right in the living room,

5 right in the same room with them, on the floor.

6 Q Were you paying attention to the

7 conversation?

8 A Just parts of it.

9 Q Why only parts of it?

10 A Because I was -- I was -- I don't know. I

11 just wasn't. I was watching TV, and I wasn't paying

12 attention.

13 Q Okay. How long was Matt there at the

14 house?

15 A Maybe like 5 or ten minutes.

16 Q Now, when Matt left, was there any

17 conversation that you heard between Tod, Deco, and Red?

18 A Yes.

19 Q What did they talk about?

20 A Tod said that Matt had -- stockholders like

21 \$10,000 at the house and a lot of mushrooms and that they

22 can get some money at the house if they went and robbed

23 him.

24 Q And that's what you say Tod said?

25 A Yeah.

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1 Q What can did Deco say about it?

2 A I can't remember. I don't remember what he

3 said about it.

4 Q And how about -- well, did he say anything?

5 A I don't remember.

6 Q Okay. And how about Terrell, did you know

7 if Terrell said anything about it?

8 A No.

9 Q Did the conversation ever come up again

10 about Matt having money after Matt left?

11 A Not around me, no.

12 Q Okay. Now, then, I want to take you to

13 August 13th of 1998. Were you at the Everman residence?

14 A Yes.

15 Q When you came to the Everman residence on

16 the fourth, did you think you were going to stay there

17 until the 13th?

18 A No.

19 Q And who else was home that the night?

20 A On what day.

21 Q On the 13th, before the murders happen?

22 A Red, and Deco, and -- Red, Deco, and Tod

23 and Ace.

24 Q Red, Deco, Tod, and Ace?

25 A Yeah.

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1 Q Anyone else?

2 A Tod, Red, Deco, and Tiny Bug.

3 Q Okay. And who all left the day of the

4 murder?

5 A Tiny Bug, Red, and Deco.

6 Q Okay. And was it light outside or dark

7 outside when they left?

8 A It was -- it was dark.

9 Q What time was it, if you know?

10 A I am not sure.

11 Q Okay. When the three of them left, did you

12 go with them?

13 A No.

14 Q Did you watch them leave?

15 A Yeah.

16 Q Are you sure they left together?

17 A Yeah.

18 Q Was Tod still in the house when the three

19 left together?

20 A Yeah.

21 Q Are you sure of that?

22 A Yeah.

23 Q Where was Tod at when they left? What room

24 was Tod in?

25 A The living room.

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1 Q And what room were you in when they left?

2 A The master room. After they left I went to
3 the bedroom.

4 Q Okay. When you went to the bedroom after
5 they left, did you come out into the living room at all?

6 A Maybe once.

7 Q And did you see Tod when you came out?

8 A Yeah.

9 Q Did Tod stay at the Everman house that
10 night?

11 A Yes.

12 Q Are you sure of that?

13 A Yes.

14 Q Did you stay at the Everman house that
15 night?

16 A Yes.

17 Q Now, when the three left, can you tell me
18 what Deco was wearing?

19 A Some black jeans and Alaska black shirt,
20 and some Red few buy shoes.

21 Q And you say, black jeans?

22 A Yeah.

23 Q And do you know what style they were?

24 A No.

25 Q What brand?

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1 A No.

2 Q And a black shirt. Being long sleeves or al

3 short sleeves?

4 A Short sleeve.

5 Q And do you recall what Terrell wore?

6 A The same thing that Deco had on. He had

7 black jeans on and a black shirt.

8 Q Now, did Deco have his own clothes, and

9 Terrell have his own close?

10 A Yes.

11 Q Would they wear each other's clothes?

12 Wear?

13 A No.

14 Q They didn't share clothes?

15 A No.

16 Q How did Deco wear his pants?

17 A Like, sagging off his but the.

18 Q Did you say, sagging?

19 A Uh-huh.

20 Q All right. Would they be tight on his

21 waist?

22 A No.

23 Q How would they be on his waist?

24 A They wouldn't be on his waist. Shade be

25 like under his but the, like when people sag, and they

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1 will wear there pants under there but the.

2 Q Okay. And how, if they're wearing them
3 under there but the, how would Deco keep his pants on?

4 A With a belt.

5 Q Now, when -- and how did Terrell wear his
6 pants?

7 A The same way.

8 Q Sagging?

9 A Yeah.

10 Q How about Sikia Smith? What was he wearing
11 when he left that night?

12 A Some brown, like, Deco I pants, and a black
13 hood I.

14 Q Brown pants and a black hood I?

15 A Yeah.

16 Q I guess that's a shirt with a hood?

17 A Yeah.

18 Q Okay. Now, when the three of them left,
19 did any of them take anything with them?

20 A Yeah.

21 Q What was taken out of the house when they
22 left?

23 A The duffel bag.

24 Q And who took the duffel bag?

25 A Red was carrying it.

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1 Q And where were the guns when they left?

2 A Inside the bag.

3 Q Now, are you sure of that?

4 A Yeah.

5 Q Did you actually see Red carry the bag?

6 A Yeah.

7 Q Could you tell, as you watched Red with the

8 bag, about if the bag was full or not?

9 A Yes.

10 Q Was it full?

11 A Yeah, it was heavy looking.

12 Q Were any of the guns left at the house?

13 A No.

14 Q Did you see any guns at the house that

15 night?

16 A No.

17 Q Now, can you tell me where the gloves were

18 that night when the three boys leave?

19 A Red had his on, and I think Deco's is

20 hanging out his back pocket, and I don't know where Tiny

21 Bug's was at.

22 Q Was the duct tape still in the shoe box

23 that you described?

24 A I don't remember.

25 Q Okay. Did you see the duct tape, one way

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1 or another?

2 A No.

3 Q Okay. Can you tell me how long you were --
4 that Deco was gone from the house?

5 A Like, 6 hours, maybe.

6 Q Okay. And what did you do for those 6
7 hours?

8 A I was asleep.

9 Q What room did you sleep in?

10 A The master bedroom.

11 Q And can you tell me where Ted was when you
12 went to she?

13 A On the couch in the living room.

14 Q And what was Tod doing before you actually
15 went to sleep? What's the last what's the last thing you
16 saw Tod doing?

17 A He was a asleep in the living room.

18 Q Okay. How did you wake up after sleeping
19 for at while?

20 A Yeah.

21 Q Can you tell me about how long you'd been
22 sleep for, before you woke up?

23 A I don't know.

24 Q Do you know what time it was when you woke
25 up?

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1 A No.

2 Q Okay. Tell me what woke you up?

3 A When Deco came home, he kissed me on the

4 cheek.

5 Q Okay. Was it still dark outside?

6 A Yeah.

7 Q Could you see outside to see if it was

8 dark?

9 A Yeah.

10 Q Was there a window in the master bedroom?

11 A Yes.

12 Q Okay. Deco kissed you on the cheek?

13 A Yeah.

14 Q And you woke up?

15 A Yeah.

16 Q And what happens from there?

17 A Then we went into the living room.

18 Q And who is in the living room at that time?

19 A Red, and Tod, and I don't remember who

20 else. I can't remember who else.

21 Q Okay. Red and Tod?

22 A Yeah.

23 Q Are you sure Tod's in the living room?

24 A Yeah.

25 Q Are you sure Red's in the living room?

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1 A Yeah.

2 Q And what happens now in the living room?

3 A Oh, they was just talking. Everybody was
4 all -- they was all talking, kind of behind up, talking
5 and everything.

6 Q Behind up? Who was behind up?

7 A Deco.

8 Q Anyone else behind up?

9 A Not really.

10 Q What do you mean by, "Behind up?,"

11 A They was like talking, just like -- like
12 they just -- like they just was having fun or something.

13 Q And who was talking the most?

14 A Deco.

15 Q What is it that Deco was saying, and who
16 was he talking to?

17 A I don't know what he was saying, but he
18 just told me that we have to go to sleep, because you
19 have to go to sleep after you kill somebody.

20 Q All right. And who said that to you?

21 A Deco.

22 Q Okay. When Deco said, "You have to go to
23 sleep after you kill somebody," what did you do?

24 A Nothing.

25 Q What?

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1 A Nothing.

2 Q Why wouldn't you do anything if Deco told
3 you he'd just killed somebody?

4 A I don't know. Because I didn't think
5 nothing of it.

6 Q Okay. When Deco says that, and Europe in
7 the living room, where is the duffel bag?

8 A On the Mr. Moore next to the couch.

9 Q Can you see if the duffel bag is full, or
10 is it empty?

11 A It was full.

12 Q Did you see any other item in the -- well,
13 was the duffel bag ever opened?

14 A No.

15 Q Was there any other items in the living
16 room that will hadn't been there earlier?

17 A No, not that I seen at that time, no.

18 Q Okay. Now, be how long was everyone in the
19 living room for after you walked out of the master
20 bedroom?

21 A Maybe like an hour so.

22 Q Okay. And during that period of time, what
23 is it that Deco said about when he'd been?

24 A All I remember is he just said he had to go
25 get some money. He went to go get some money.

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1 Q He told you he'd gone to get some money?

2 A Yeah.

3 Q And did he get money while he was gone?

4 A Not like -- not the amount of money that he
5 wanted.

6 Q Okay. How much money did he tell you he
7 got?

8 A Only like a couple of a hundred bucks.

9 Q And did he tell you if he got anything
10 else?

11 A No.

12 Q And did he tell you how he got the money?

13 A No.

14 Q And do you know when the three boys left
15 that night, what they left in? In other words, did they
16 walk? Did they drive? How did they get around?

17 A They drove.

18 Q And what kind of car did they drive?

19 A Like a white tempo.

20 Q Okay. And did Deco tell you what he did
21 once he got to his destination, once he got to the place
22 he was going to get money at?

23 A .

24 Q The question was, did Deco tell you what he
25 did once he got to where he was going to get the money?

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1 A No, I don't remember. I don't
2 understand -- I don't quite understand what you're saying
3 but --

4 Q Okay, during the conversation in the living
5 room --

6 A Uh-huh.

7 Q -- Did Deac tell you how he got the money,
8 or where he got the money from?

9 A He didn't tell me where, but he told me
10 stockholders to kill somebody.

11 Q He told you stockholders to kill somebody?

12 A Yeah.

13 Q And did he tell you why he killed somebody?

14 A Because they wouldn't know who he was, and
15 he didn't get no money.

16 Q Okay. And did he tell you if more than one
17 person was killed?

18 A No, not at that time.

19 Q Okay. Did he tell you will who killed the
20 person?

21 A I know he told me he killed the Mexican, a
22 Mexican dude.

23 Q Did he tell you why he killed the Mexican
24 dude?

25 A Because he don't like Mexicans and he was

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1 talking -- talking mess.

2 Q Talking mess?

3 A Yeah.

4 Q And did he tell you what he did before he
5 actually killed the Mexican dude for talking mess?

6 A He was just cussing him out and he pulled
7 him -- he had kicked him and stuff. He kicked him, and
8 that's it.

9 Q And did he tell you how will he killed him?

10 A He shot him in the back of the head.

11 Q And did he tell you what happened when he
12 shot the person in the back of the head?

13 A Yeah, because I asked him.

14 Q What did you ask him?

15 A I asked him what kind of noise did they
16 make when he shot them.

17 Q And what did he tell you?

18 A He said they said -- they made a uh noise.

19 Q And did he tell you whether or not there
20 was any blood?

21 A Yeah.

22 Q And what did he tell you about blood?

23 A That it just -- it just squirted up, that
24 it squirted up, up like in the air.

25 Q Did he tell you, during this first

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1 conversation that we're talking about in the living room,
2 if -- or how many people were killed?

3 A No, not that I remember.

4 Q Okay. Were there other conversations where
5 he told you more about what happened?

6 A Yeah, pause I asked him how did he -- how
7 the people didn't hear the gunshots, and he said, because
8 he turned --

9 Q Let me -- I'll get to the other
10 conversations in just a minute. Before I get there, let
11 me ask you this:

12 Did he tell you -- well, let's talk about
13 the other conversations then.

14 At the end of this conversation, where did
15 you go.

16 A In the room, in the bedroom.

17 Q And who went with you?

18 A Deco.

19 Q And did the two of you sleep together that
20 night?

21 A Yeah.

22 Q And how about Terrall Young; where degree?

23 A He stayed in the living room.

24 Q And do you know if Tod went anywhere that
25 night?

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1 A No, no.

2 Q Okay. Now, were there other conversations

3 about what had happened that night when he was gone for 6

4 hours?

5 A Well, yeah.

6 Q All right. When did the other

7 conversations happen?

8 A In the room.

9 Q Which room?

10 A The master bedroom.

11 Q Okay. Tell me, was this the next day?

12 A No. This is still the same day, I believe.

13 Q Okay. The same day before you go to sleep?

14 A Yeah.

15 Q And tell me what you asked him in the

16 master bedroom?

17 A How did he -- how did people not here the

18 gunshots.

19 Q ?

20 A How did he -- "How did people not hear the

21 gunshots."

22 Q And what did Deco tell you?

23 A Because he turned the music up real loud.

24 Q And who did he say turned up the music?

25 A He did.

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1 Q Deco?

2 A Yeah.

3 Q And where is Terrell when you -- deco says

4 that to you?

5 A In the living room.

6 Q Did you ask him anything else --

7 A No.

8 Q -- That night?

9 A No.

10 Q Okay. Did you go to sleep after that?

11 A Yeah.

12 Q Okay. Now, did you talk again about the

13 murders?

14 A The next day.

15 Q Okay. And did you learn more about from

16 Deco about the murders the next day?

17 A Yeah.

18 Q And tell me where you're at when you talk

19 to Deco the next day and learn more?

20 A In the living room.

21 Q And who is there for that talk?

22 A Red.

23 Q Anyone else?

24 A No.

25 Q Okay. And who is telling you now about the

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1 murders?

2 A Deco.

3 Q And what does Deco now tell you?

4 A He told me to watch the introduce.

5 Q Okay. And did you watch the introduce?

6 A I can't recall.

7 Q And what did you see?

8 A I seen alike a problem picture of Matt on
9 the introduce, and then they was pulling bodies out of
10 this house.

11 Q Had you ever been to mats house before?

12 A No.

13 Q Did you know where Matt lived?

14 A No.

15 Q Did you recognize Matt when you saw him in
16 that problem picture on the introduce?

17 A Yeah.

18 Q What did -- did that mean anything to you
19 when you saw it?

20 A No.

21 Q Okay. Did you recognize it?

22 A Yeah.

23 Q Did you say anything about the fact that
24 you recognized Matt?

25 A And I was like he -- I said, "He was just

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1 over here the other day." and then I said like, "I know
2 you didn't," and then he said, "Yeah," and then I said,
3 "That's fucked up."

4 Q Okay. You said to Deco, "I know you
5 didn't," ?

6 A Uh-huh.

7 Q Is that Yes.

8 A Yes.

9 Q And what did Deco say?

10 A He said, yeah, he did.

11 Q And you told him that was fucked up; is
12 that what you said?

13 A Yeah.

14 Q Is that what you thought?

15 A Yeah.

16 Q And did you talk about what you thought and
17 what had happened?

18 A No, that was -- that's all I can remember I
19 said.

20 Q Okay. Did Deco tell you anything more?

21 A He told me, "Don't worry about it."

22 Q Anything else?

23 A No, not that I remember.

24 Q And did the conversation come up again
25 between you and Deco about what happened?

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1 A No.

2 Q Did you learn anything more about -- from
3 Deco about how many people were killed total?

4 A Yeah.

5 Q Okay. And who told you, total, how many
6 people were killed?

7 A Deco.

8 Q And how many people did Deco tell you,
9 total, were killed?

10 A For people.

11 Q Did he say how the other three decide?

12 A He said he shot them in the back of the
13 head.

14 Q And did he tell you anything about whether
15 or not those people bled when they were shot in the back
16 of the head?

17 A Uh-huh. Well, when I asked him how the
18 blood looked, he said it squirted out. So I figured he
19 was talking about all of them.

20 Q Did he tell you that each was shot in the
21 back of the head?

22 A Yes.

23 Q Now, did Deco ever tell you will how many
24 people were at the house when you when he first got there
25 that night?

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1 A Uh-huh, yeah.

2 Q What did Deco tell you about how many
3 people were at the house?

4 A There was just like two people at the
5 house.

6 Q And what did he tell you those people were
7 doing when Deco, and the other two drive up?

8 A I think one of them was mowing the lawn --
9 I mean, watering the grass.

10 Q Did he say which one was watering the
11 grass?

12 A No.

13 Q Okay. And what was the other one doing?

14 A I don't remember.

15 Q Okay. What did Deco tell you he did or
16 said to the guy that was watering the grass?

17 A To get his fucking ass in the house.

18 Q Were those Deco's words?

19 A Yeah.

20 Q Tell me what Deco told -- did Deco tell
21 what the guy did?

22 A He went in the house.

23 Q Did Deco tell you what Deco or the others
24 to the other guy, once the guy went in the house?

25 A No, not that I remember.

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1 Q Okay. There were two, you say, at the
2 house?

3 A Yes.

4 Q Did Deco tell you how this Thunderbird one
5 got to the house?

6 A They didn't have no money and they didn't
7 want to die, so they said that they've got friends that
8 got money, so they called them to come over.

9 Q Okay. And how many more came over other
10 than the two?

11 A Just two more came over.

12 Q Did Deco tell you if anything else was
13 taken?

14 A No.

15 Q Did Deco tell you if anything else was
16 taken?

17 A No, huh-uh, he --

18 Q From the house?

19 A No.

20 Q Okay. Now, in August, same August 13th of
21 1998, was there a VCR before the murders in the living
22 room of the Everman house?

23 A No.

24 Q Before the murders, before the 13th of
25 August, 1998, was there a VCR in the living room of the

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1 Everman house?

2 A No.

3 Q Was there a VCR in the living room of the
4 Everman house after the murders?

5 A Yes.

6 Q And did you see that VCR?

7 A Yes.

8 Q Did you find out where the VCR came from?

9 A Tod told me it was his girlfriend's.

10 Q Without telling me what Tod tells you --

11 A Uh-huh.

12 Q -- How about a play station? Was there a
13 play station --

14 A Yes.

15 Q -- At the house before the murders?

16 A No.

17 Q How about after the murders?

18 A Yes.

19 Q Did you ever see a blow pager at the house
20 at Everman?

21 A No.

22 Q Never?

23 A No, never.

24 Q Okay. And based on your knowledge --

25 okay -- what you saw, did you ever see or here Deco talk

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1 to Tod about what had happened, the killings?

2 A No, no.

3 Q Okay. How about to B.J. or Ace?

4 A No.

5 Q And did you see -- did B.J. or Ace come
6 over to the house after the killings at all, the next
7 day, or the day after?

8 A Yes, one time.

9 Q Okay. And do you remember what day that
10 would have been that will B.J. and Ace came to the house?

11 A The day after the murder.

12 Q Okay. And was Deco home then?

13 A No.

14 Q Was Terrell home?

15 A No.

16 Q Okay. Now, then, what day was Deco
17 arrested?

18 A On August 18th.

19 Q All right. Let me talk about that, but was
20 it during the daytime or the nighttime?

21 A It was like early in the morning, like Don.

22 Q Okay. And who was home when Deco got
23 arrested?

24 A Me, and Scale, and Deco.

25 Q You, Scale, and Deco? Now, who is Scale?

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1 A Deco's home boy.

2 Q And home boy is a what?

3 A His friend.

4 Q Okay. Had Scale been involved in the for

5 boys murders?

6 A No.

7 Q Had you seen -- did Scale leave with the

8 with the others on the night of the 13th?

9 A No.

10 Q When the police came to the house, did they

11 bring all three of you out of the house?

12 A Not at one time.

13 Q Okay at different times?

14 A Yeah.

15 Q Now, request when the police came to the

16 house, just before they got there, where were the guns?

17 A In the bag.

18 Q And did anyone try to move the guns before

19 the police got there?

20 A Yeah.

21 Q Who?

22 A Deco and Scale. They hid them.

23 Q You say Deco and Scale hid them?

24 A Yeah.

25 Q Did you watch them homicide them?

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1 A No, I was looking out the window and just
2 watching. I heard them say they had to hide the guns.

3 Q And who said that?

4 A Deco said, "Homicide the guns."

5 Q Okay. And where was the bag at when Deco
6 says homicide the guns?

7 A On the side of the couch.

8 Q All three of you are taken out of the
9 house?

10
11 Q And did anyone try to move the guns before
12 the police got there?

13 A Yeah.

14 Q Who?

15 A Deco and Scale, they hid them.

16 Q You say Deco and Scale hid them?

17 A Yeah.

18 Q Did you watch them hide them?

19 A No, I was looking out the window and just
20 watching

21 Q And who said that?

22 A Deco said, "Hide the guns."

23 Q Okay. And where was the bag at when Deco
24 said, "Hide the guns."?

25 A On the side of the couch, on the side of

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1 the couch.

2 Q All three of you are taken out of the
3 house?

4 A Yeah.

5 Q And where are you placed?

6 A On the sidewalk.

7 Q Now, did Deco say anything to you while you
8 were on the sidewalk or as the police were arresting him?

9 A Yeah.

10 Q What did he tell you?

11 A To tell them that I just met him, to say
12 that I just met him.

13 Q Okay. Tell me this. Right before Deco's
14 getting arrested, what are your feelings for Deco?

15 A I love him.

16 Q Were you sure of that?

17 A Yeah.

18 Q Did you want to get Deco in trouble?

19 A No.

20 Q What did you want to do for Deco at that
21 moment?

22 A I wanted to help him.

23 Q Were you willing to help him?

24 A Yeah.

25 Q And did you try to help him?

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1 A Yeah.

2 Q Okay. Now, that night on the 18th, I think

3 I showed you this statement, right?

4 A Yeah.

5 Q Did you talk to the police?

6 A Yeah.

7 Q Did you try to help Deco that night?

8 A Yeah.

9 Q What did you do in order to try to help

10 Deco that night when you talked to the police?

11 A I told them I had just met him.

12 Q Was that true?

13 A No.

14 Q And why did you tell them that?

15 A Because he told me to tell them that.

16 Q Did you tell them if you knew Deco's name?

17 A Yeah, I told them I knew his name.

18 Q And what did you say his name was?

19 A John Lee White.

20 Q Okay. And did the police ask you whether

21 or not you knew anything about four boys that were

22 killed?

23 A Yeah.

24 Q What did you tell them?

25 A I didn't know what he was talking about.

THE STATE OF NEVADA v. JOHNSON

1 Q Now, did you, in fact, know what the police
2 were talking about?

3 A Yeah.

4 Q Why would you lie to the police then?

5 A Because I was trying to help Deco.

6 Q Despite what you told the police, was Deco
7 arrested?

8 A Yes.

9 Q Now, after Deco's arrested, did you still
10 keep in contact with Deco?

11 A Yeah.

12 Q Why?

13 A Because he was my boyfriend, and that's
14 what people do. They visit them and keep contact if
15 they're in jail.

16 Q Okay. And how regularly would you visit or
17 talk to Deco after his arrest?

18 A Like, every visit, and I talked to him
19 every day.

20 Q Okay. On the phone?

21 A Yeah.

22 Q Okay. Would you talk to him about helping
23 him?

24 A Yeah.

25 Q And did you, in fact, tell him you'd help

THE STATE OF NEVADA v. JOHNSON

1 him?

2 A Yeah.

3 Q Now, between the day of his arrest, August
4 18, and September 1st -- September 1st was the day of the
5 Grand Jury.

6 Do you remember that?

7 A Yeah.

8 Q Did you get a subpoena?

9 A Yeah.

10 Q Had you ever met me, or did you know me
11 before September 1st?

12 A No.

13 Q When is the first time you and I met?

14 A At the Grand Jury on September 1st.

15 Q And when you came to the Grand Jury, tell
16 me, did you want to get Deco in trouble?

17 A No.

18 Q What did you want to do for Deco at the
19 Grand Jury?

20 A Get him out of jail.

21 Q You came into the Grand Jury, and you swore
22 to tell the truth; is that correct?

23 A Yeah.

24 Q You took a oath?

25 A Yeah.

THE STATE OF NEVADA v. JOHNSON

1 Q And did you tell the truth to the Grand
2 Jurors?
3 A No.
4 Q Why?
5 A Because I was trying to help Deco.
6 Q Did I ask you questions about whether or
7 not you knew about the murder?
8 A Yeah.
9 Q And did you tell the truth about what you
10 knew?
11 A No.
12 Q Did I ask you any questions about a pair of
13 black pants?
14 A Yeah.
15 Q What did I ask you about the black pants?
16 A Whose were they.
17 Q Now, had you ever seen a picture of the
18 black pants before that time?
19 A No.
20 Q So this would have been the first time you
21 saw a picture of the back pants?
22 A Yes.
23 Q Okay. Ms. Severs, directing your attention
24 to State's Exhibit 98. Do you recognize number 98?
25 A Yes.

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1 Q What's number 98?

2 A The Everman house.

3 Q It's a picture -- it's a picture of the

4 Everman house?

5 A Yes.

6 Q And in 99 -- can I have you hold that for

7 me? Where is that picture from?

8 A The living room at the Everman house.

9 Q And what do you see there in the living

10 room?

11 A The TV and the VCR and the Play Station and

12 a Nintendo.

13 Q Okay. Now, was the VCR -- is this have

14 been VCR that wasn't there before the murders?

15 A Yes?

16 Q All right. When is the next -- after the

17 night that you were woke up, when is the next time that

18 you see, or the first time that you see, the VCR and the

19 Nintendo, or the Play Station?

20 A I don't remember. I just know it was

21 there.

22 Q Okay. Keep those in order. Can you tell

23 me -- that's number 102 -- what that's a picture of?

24 A The living room, the coffee table.

25 Q And whose things are on the coffee table?

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1 A Everybody's.

2 Q Okay. Everybody, meaning, the people that

3 were staying at the house?

4 A Yes.

5 Q Deco's things?

6 A Yes.

7 Q Terrell's things?

8 A Maybe the cup, yeah.

9 Q Okay. And how about anything of Tod

10 Armstrong's?

11 A Yes.

12 Q Okay. You'd previously talked about a box

13 in the living room; is that right?

14 A Yes.

15 Q Number 103, is there a box in the living

16 room?

17 A Yes.

18 Q Whose box is that?

19 A Deco's.

20 Q And can you tell me what's in that box?

21 A Some Garcia Vega cigars or some Black &

22 Mild cigars.

23 Q And what's a -- I think you said, a Garcia

24 and Vega cigar?

25 A Yeah.

THE STATE OF NEVADA v. JOHNSON

1 Q And is that a -- that's a type of cigar?

2 A Yes.

3 Q And the Black & Milds?

4 A Yes.

5 Q Is there more than one Black & Mild box in

6 that shoe box?

7 A Yes.

8 Q And whose shoe box was that?

9 A Deco's.

10 Q Number 104, do you recognize that?

11 A Yes.

12 Q How do you recognize 104?

13 A That's the living room with the duffel bag

14 and the radio.

15 Q Okay. And that duffel bag, is that the

16 duffel bag you described earlier?

17 A Yes.

18 Q And what was kept in that duffel bag?

19 A Guns.

20 Q Is that the same duffel bag that Deco said,

21 "We got to get the guns and homicide them," when the

22 police came?

23 A Yeah.

24 Q Is that where the guns were at, right

25 before the police got there?

THE STATE OF NEVADA v. JOHNSON

1 A Yeah.

2 Q Number 107, do you recognize 107?

3 A Yes.

4 Q And what's in 107?

5 A The master bedroom with the gun and the

6 back jeans.

7 Q All right. Which gun is shown there?

8 A The black gun with the banana clip on it.

9 Q And is that the one you were talking about

10 earlier?

11 A Yeah.

12 Q Now, tell me this, when is the first time

13 that you saw that picture?

14 A When I went to the Grand Jury on September

15 1st.

16 Q And how was it that you saw that picture?

17 Where were you at when you saw it?

18 A In front of the Grand jury.

19 Q Were people sitting this listening to you?

20 A Yes.

21 Q Andy show you this?

22 A Yes.

23 Q Okay. And what had you told me in front of

24 the people at the Grand Jury, about black pants at that

25 house?

THE STATE OF NEVADA v. JOHNSON

1 A That Deco didn't have no black pants.

2 Q Was that the truth?

3 A No.

4 Q Tell me the truth about the black pants

5 that are shown here. Whose black pants are they?

6 A Deco's and Red's.

7 Q One pair for Deco and one pair for Red?

8 A Yeah.

9 Q Now, when you were shown this particular

10 picture, did you have any idea that there was blood on

11 the pants?

12 A No.

13 Q When did you learn that there was blood on

14 those pants?

15 A When you showed me the picture at the Grand

16 Jury.

17 Q Okay. Now, if you would have known that

18 there was blood on those pants, either the night the

19 police got there or before the police got there, what

20 would you have done to those pants?

21 A I would have washed them out.

22 Q Why?

23 A So this wouldn't be no evidence, no blood

24 on the pants.

25 Q Did you think evidence of the blood would

THE STATE OF NEVADA v. JOHNSON

1 be important to the prosecution?

2 A Yeah.

3 Q If blood evidence was important, why would
4 you try to wash it out?

5 A Because I wasn't trying to help you.

6 Q You weren't trying to help me?

7 A No.

8 Q Tell me something, you were under oath when
9 you testified in front of the Grand Jury, did that matter
10 to you?

11 A I didn't think nothing of it.

12 Q What did you think more of, you are oath or
13 you are love of Donte?

14 A Donte.

15 Q September 3rd, '98, two days later, after
16 the Grand Jury, --

17 A Yeah.

18 Q -- did detectives meet with you?

19 A Yes.

20 Q Okay. Was that in my office?

21 A Yes.

22 Q Was I present?

23 A Yes.

24 Q And how about Mr. Daskas?

25 A Yes.

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1 Q Now, during that meeting did either myself,
2 Mr. Daskas or the detective threaten you in any way?

3 A No.

4 Q And did anyone make any promises to you at
5 that time?

6 A No.

7 Q Did you did we tell you what to say in any
8 way?

9 A No.

10 Q It we suggest to you what answers to give?

11 A No.

12 Q Okay. And did you tell the same story or
13 the same things on September 3rd, that you told to the
14 Grand Jury?

15 A No.

16 Q All right. What did you change? What did
17 you tell us different?

18 A That Deco wasn't with me, and that he was
19 at the murder.

20 Q Okay. You said -- so to the Grand Jury,
21 what did you tell the Grand Jury where Deco was at?

22 A With me at home.

23 Q Was that true? Was he with you at home?

24 A No.

25 Q And, in fact, let me ask you this. When

THE STATE OF NEVADA v. JOHNSON

1 you told the Grand Jury that Deco was at home with you,
2 is that the first time you and I had met?

3 A Yeah.

4 Q The first time we were talking?

5 A Yeah.

6 Q And when you told me that, did I ask you,
7 "Okay. If he was with you, tell me what night it was."

8 A Yeah.

9 Q And could you tell the Grand Jury what
10 night it was?

11 A No.

12 Q And did you have any idea what day it
13 was --

14 A No.

15 Q -- that you were telling the Grand Jury
16 about? No idea?

17 A No.

18 Q Okay. So on September 3rd, 1998, what is
19 it that you tell the police that's different?

20 A That Deco was at the murder, and he wasn't
21 at home with me.

22 Q And tell me on the 3rd how thank you feel
23 about Deco?

24 A I still loved him.

25 Q Okay, now, if you still loved him, why

THE STATE OF NEVADA v. JOHNSON

1 would you now -- well, did you think that information
2 would help particular?

3 A No.

4 Q Well, did you think it would hurt him?

5 A Yeah.

6 Q If you loved him and that information would
7 hurt, why would you tell the police that then?

8 A I don't know.

9 Q Any reason at all you can think of?

10 A No.

11 Q Did you tell the police anything different
12 now or anything new on the 3rd as the police were talking
13 to you?

14 A I told them Tod had went with him.

15 Q You said Tod had went with him?

16 A Yeah?

17 Q Now, was that true?

18 A No.

19 Q And why would you say that Tod went with
20 him then?

21 A Because he had set up everything, and I
22 thought everybody was being prejudiced and just trying to
23 arrest Donte.

24 Q Okay. You had believed that Tod had set it
25 up; is that right?

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1 A Yeah.

2 Q And you wanted Tod to get in trouble too?

3 A Yeah.

4 Q And did Tod go with the boys that night?

5 A No.

6 Q Did Tod kill the boys?

7 A No.

8 Q Now, then, after September 3rd, on

9 September 15th, 1998, did you come in front of the Grand

10 Jury again, if a second time?

11 A Yes.

12 Q Did you get a subpoena?

13 A Yeah.

14 Q Now, did you want to have to come back for

15 the Grand Jury?

16 A No.

17 Q Why did you do it then?

18 A Because I didn't want to get a warrant for

19 my arrest.

20 Q Okay. Do you remember what you told the

21 Grand Jury on the 15th?

22 A That Deco wasn't at home with me.

23 Q Okay. Now, was this the same people that

24 you'd lied to 15 days earlier?

25 A I think so, yeah.

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1 Q Okay. You told them that, in fact,
2 particular wasn't with you?

3 A Yeah.

4 Q And where did you tell them that Deco he
5 had gone?

6 A To the house where the people got murdered
7 at.

8 Q And do you recall anything else that you
9 told them about Deco's's involvement, the second time now
10 in front of the Grand Jury?

11 A Yeah. I told them stockholders killed
12 them. I told them stockholders killed the people.

13 Q Now, did you think that information was
14 going to help Deco?

15 A No.

16 Q And how will did you feel about Deco on the
17 15th?

18 A I still loved him.

19 Q After telling the Grand Jury about Deco's
20 involvement, did you think Deco would get in more
21 trouble?

22 A Yeah, yes.

23 Q Did you want Deco to the get in more
24 trouble?

25 A No.

THE STATE OF NEVADA v. JOHNSON

1 Q Did you want to still help Deco?
2 A Yeah.
3 Q Did you try to help Deco after testifying
4 the second time?
5 A Yeah.
6 Q Do you remember what you did in order to
7 help him?
8 A I told them that he didn't have no, no --
9 he still didn't have no black pants.
10 Q Okay. So you still wanted to help Deco a
11 little bit?
12 A Yes.
13 Q So you told the Grand Jury that he didn't
14 have black pants?
15 A Yeah.
16 Q Why would you have told the Grand Jury
17 that?
18 A Because I knew that the pants had blood on
19 them, and that they was his pants, and they could
20 probably say that he was there at the murder.
21 Q Did you think that, that would be a
22 important piece of evidence?
23 A Yeah.
24 Q So you told the Grand Jury some things, but
25 not everything?

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1 A Yes.

2 Q Now, you were still under oath though,

3 right?

4 A Yeah.

5 Q Why wouldn't you tell them everything?

6 A Because I was still trying -- I just didn't

7 want them to know that the pants was his.

8 Q Now, then, after the 15th, did you leave

9 the Grand Jury?

10 A Yeah.

11 Q And did you try to help Deco in some way

12 after the 15th?

13 A Yeah.

14 Q And how often would you talk with Deco,

15 say, after the 15th?

16 A Every day.

17 Q Did you want Deco to no that you had told

18 on him?

19 A No.

20 Q Did Deco know if you had told on him by

21 them?

22 A No.

23 Q Okay. Now, what thank you do next in order

24 to Heparin Deco?

25 A I wrote a letter.

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1 Q Okay. Tell me, you the wrote a letter.
 2 Who did you write the letter to?
 3 A To the District Attorneys Office.
 4 Q Now, at that point in time did you know my
 5 name?
 6 A Yeah.
 7 Q Had I threatened you at all in this case in
 8 any way from the time I first met you until even after
 9 the 15th when you left?
 10 A No.
 11 Q Had I persuaded you or tried to tell you
 12 what answers to give?
 13 A No.
 14 Q Had I made any promises to you, whatsoever?
 15 A No.
 16 Q Given you any benefit?
 17 A No.
 18 Q Okay. So you wrote a letter to me. Do you
 19 remember about what day that was?
 20 A No.
 21 Q Okay. I'm showing you what has been parked
 22 in, and a I've shown Counsel, what has been marked now as
 23 Exhibit 85. Do you recognize that letter?
 24 A Yes.
 25 Q And on the other side of that letter, who

THE STATE OF NEVADA v. JOHNSON

1 do you write it to you to?

2 A To whom it may concern.

3 Q Okay. And tell me what you it with that
4 letter?

5 A I put it on you remember door.

6 Q Okay. You put it on my door where?

7 A At the District Attorneys office.

8 Q Okay. Right there at the door, on the
9 fourth floor door?

10 A Yes.

11 Q Did you know that really wasn't my door?

12 A I knew that that's where you would --
13 that's where you'd be at.

14 Q Okay. That's the building, at least the
15 floor I am on?

16 A Yes.

17 Q And tell me what is it that you wrote in
18 the letter?

19 A I said that I lied on Deco, and he really
20 wasn't there and that --

21 Q Okay. I need you -- I can hardly hear you?

22 A I said that I lied on Deco, and he really
23 wasn't there, that somebody else was theirs.

24 Q Now, who did you say was there?

25 A Somebody named Belo.

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1 Q And who was that somebody, named, Belo?

2 A Just somebody that I had -- a name that I
3 had knew of somebody when.

4 Q Okay. Did you want Belo to get in trouble
5 for this?

6 A No.

7 Q And is that the whole letter that you wrote
8 to me?

9 A Yes.

10 Q Now, did you believe this letter would
11 cause me to do?

12 A Believe that Deco didn't do it.

13 Q Okay. You thought it would make me believe
14 Donte didn't do it?

15 A Yeah.

16 Q What were your feelings for Deco when you
17 wrote the letter?

18 A I loved him.

19 Q Now, then, after you wrote that letter to
20 myself, did Deco get any trial benefit from that letter?

21 A No.

22 Q Did anything change for Deco?

23 A No.

24 Q And how did that make you feel, that the
25 long term didn't help Deco?

THE STATE OF NEVADA v. JOHNSON

1 A I was paid.

2 Q Stop. Did you true to help him a second
3 time or again is?

4 A Yeah.

5 Q And house it that you tried to help him
6 now?

7 A I had wrote a letter to the introduce? You
8 wrote a letter to the introduce.

9 Q Now did you know that this case had been on
10 the introduce a couple of times by now?

11 A Yes.

12 Q Okay. Do you remember what introduce Chan
13 tell you wrote?

14 A Chan Channel 8.

15 Q And where were you at when you wrote that
16 newsletter?

17 A In jail.

18 Q And were you in jail in relation to this
19 case at all?

20 A No.

21 Q Okay. I am showing you what's been marked
22 as State's proposed Exhibit 186 Is that a copy of the
23 letter to the Channel 8 news?

24 A Yes.

25 Q And did you tell me who wrote that letter?

THE STATE OF NEVADA v. JOHNSON

1 A I did.

2 Q Is it signed by yourself?

3 A Yes.

4 Q Okay. Now what is it that you told

5 Chandler 8 news for this murder?

6 A That I was there, and Deco wasn't there.

7 Q Okay. And what date was that letter

8 written on?

9 A December 2nd.

10 Q Okay. And I should have asked you, if I

11 could, what date the first letter was written on. That's

12 my mistake?

13 A August 27.

14 Q Did you say, August 27th?

15 A Yes.

16 Q Okay.

17 A I mean, September 27th.

18 Q September 27th, and this is --

19 A December 2nd.

20 Q So two months later, is that right?

21 A Yeah.

22 Q And what did you tell Channel -- you said,

23 you told Channel 8 that you were there, and he wasn't?

24 A Yeah.

25 Q And what did you think that was going to do

THE STATE OF NEVADA v. JOHNSON

1 for Deco?

2 A Get him out of jail.

3 Q And did it will get him out of jail?

4 A No.

5 Q Did it help him?

6 A No.

7 Q And did you want to help him then?

8 A Yeah.

9 Q Now, did you have a plan when you wrote
10 that letter to Channell 8?

11 A Yeah.

12 Q And who made that plan?

13 A Me and Deco.

14 Q Had you talked to Deco about the plan?

15 A I can't recall.

16 Q And what was the plan?

17 A That I say that I did it, and then he'd get
18 out of jail, and then I say that he threatened me, and
19 that's why I said I did it, and then I get out of jail
20 and up and then I meet him somewhere, wherever he would
21 have went.

22 Q Do you still want to be able to meet up
23 with Deco and --

24 A Yeah.

25 Q -- be with him?

THE STATE OF NEVADA v. JOHNSON

1 A Yes.

2 Q Did that plan work?

3 A No.

4 Q Now, when that plan wouldn't -- didn't
5 work, what did you do?

6 A Nothing, not that I remember.

7 Q And did you believe that sooner or later
8 you'd get subpoenaed on this case?

9 A I didn't think nothing of it.

10 Q Okay. Did you stay in Las Vegas, Nevada?

11 A No.

12 Q Where did you go?

13 A New York.

14 Q And while in New York, did you get
15 arrested?

16 A Yes.

17 Q And what was it a arrest from -- are you
18 familiar with a material witness warrant in this case?

19 A Yes.

20 Q And do you know who issued that material
21 witness warrant or who will drafted it?

22 A You.

23 Q Okay. And who was it for?

24 A For this case.

25 Q Okay. And it was for whose arrest, though?

THE STATE OF NEVADA v. JOHNSON

1 A Oh, my arrest.

2 Q Okay. Were you arrested as a material
3 witness then?

4 A Yes.

5 Q In what state?

6 A New York.

7 Q Okay. When you were arrested in New York
8 for a material witness warrant, did you want me to be
9 able to believe find you?

10 A No.

11 Q Did you want to help me in the case against
12 Donte Johnson?

13 A I didn't think nothing of it.

14 Q Okay. Was that money still in the back?

15 A No.

16 Q But you still have feelings for him,
17 though?

18 A Yeah.

19 Q Did you want to have to come back here and
20 testify against Donte at that time?

21 A No.

22 Q And the material witness warrant forced you
23 to believe brought back in custody, correct?

24 A Yes.

25 Q Didn't you come back and be placed in

THE STATE OF NEVADA v. JOHNSON

1 custody?

2 A Yes.

3 Q And how about how long were you in custody?

4 A Like, two months.

5 Q Okay. Now, while you were in custody, did

6 Mr. Daskas and myself come to the jail?

7 A Yes.

8 Q Andy make any promises to you then?

9 A No.

10 Q Did Mr. Daskas make any promises to you

11 then?

12 A No.

13 Q Did we in any way suggest what to tell us?

14 A No.

15 Q Did you have a understanding of what it was

16 I expected from if you were of what it was I expected

17 from you, if you were to testify again?

18 A To tell the truth.

19 Q And did you -- was there actually a time

20 when you came then back to court during those two months

21 or after those two months, while in custody, and testify?

22 A Yes.

23 Q And on that occasion did you take a oath?

24 A Yes.

25 Q Did you tell the truth?

THE STATE OF NEVADA v. JOHNSON

1 A Yeah.

2 Q Now then, why did you tell the truth then

3 finally?

4 A Because I wanted to get it over with, and I

5 wanted to get out of jail.

6 Q Okay. Did you think that if you testified

7 and told the truth, you'd get out of jail?

8 A Yes.

9 Q And prior to or when you were in jail, did

10 you think that if you testified and told the truth you'd

11 get out of jail?

12 A Yes.

13 Q And prior to -- or when you were in jail,

14 did you get a attorney?

15 A Yeah.

16 Q And who asked for you to be released from

17 jail?

18 A My attorney.

19 Q Okay. And what did the state do when your

20 attorney asked for that?

21 A They was -- they just wanted a deposition,

22 and it was all right.

23 Q Okay. When you were released, was there

24 any conditions of you are your release?

25 A Yeah, I was on house arrest.

THE STATE OF NEVADA v. JOHNSON

1 Q Okay. And did you obey those conditions?

2 A Yes.

3 Q And do you know why you were on house

4 arrest? What was the purpose of house arrest?

5 A So I wouldn't leave town.

6 Q And did you leave town?

7 A No.

8 Q And from being on house arrest, what was

9 that ultimately supposed to make you do?

10 A I don't know.

11 Q What assurance did the State want?

12 A That I would be here for trial.

13 Q Okay. And you've done that?

14 A Yeah.

15 Q Now, when you were arrested for the

16 material witness warrant, you were brought back here, and

17 there was also a warrant for possession of a stolen

18 vehicle?

19 A Yeah.

20 Q Okay. Now, did I make any promises about

21 that case?

22 A You told me that if I granted my subpoena

23 and stayed out of trouble, I would get -- the case would

24 get dropped.

25 Q Okay. So you had to stay out of trouble?

THE STATE OF NEVADA v. JOHNSON

1 A Yeah.

2 Q And you had to make your appearance?

3 A Yes.

4 Q Now, did I tell you that you had to testify

5 a certain way in order to get that case dismissed?

6 A No.

7 Q Did I tell you what answers you'd have to

8 do in order to get that case dismissed?

9 A No.

10 Q At any time, in my meetings with you, have

11 I suggested what answers to give?

12 A No.

13 Q Have you wanted to be here today to

14 testify?

15 A No.

16 Q And why?

17 A Because I am nervous and I don't want to be

18 up here.

19 Q Okay. There is been times that you've

20 cried, or you've looked down and put your hands in your

21 hands. Is there a reason why you would do that?

22 A No, just because I get emotional.

23 MR. DASKAS: That concludes direct

24 examination of Charla Severs.

25 THE COURT: THE COURT: I will call a

THE STATE OF NEVADA v. JOHNSON

1 recess, Jury is admonished not to converse among
2 yourselves or with anyone else on any subject connected
3 with this trial or to read, watch or listen to any report
4 of or commentary on the trial by any person connected
5 with the case or by any medium of information including
6 without limitation newspapers, television, internet or
7 radio.

8 You are directed you are not to form
9 or express an opinion on this case until it is finally
10 submitted to you by the Court.

11 * * * * *

12 (END OF PROCEEDINGS 11:54 A.M.)

13
14 ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF
15 PROCEEDINGS.

16 

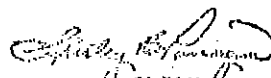
17 KRIS MOORE, CCR 273
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DISTRICT COURT
CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

PLAINTIFF,

VS.

CASE NO.: C153154

DONTE JOHNSON,

DEFENDANT.

REPORTER'S TRANSCRIPT

OF

TRIAL BY JURY

(VOLUME VII - P.M.)

BEFORE THE HONORABLE JUDGE LEE A. GATES
DISTRICT COURT JUDGE
DEPARTMENT VIII

DATED WEDNESDAY, APRIL 27, 2005

FOR THE PLAINTIFF: ROBERT J. DASKAS, ESQ.
DAVID STANTON, ESQ.

FOR THE DEFENDANT: ALZORA B. JACKSON, ESQ.
BRET WHIPPLE, ESQ.

REPORTED BY: SONIA L. RILEY, CCR NO. 727

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P R O C E E D I N G S

* * * * *

(Outside the presence of the jury.)

THE COURT: This is how I have them
numbered.

One is already numbered.

Two: "If, in these instructions"....

Three: "The jury must find"....

Four --

MR. DASKAS: I'm sorry, Judge.

Go ahead.

THE COURT: No. 3 is "The jury must find
the existence of each aggravating circumstance, if
any".... I'm going to put the reasonable doubt
instruction right behind that, because three
references reasonable doubt.

So, four is "Reasonable doubt is one based
on reason."

No. 5: "In the penalty hearing, evidence
may be presented concerning aggravating and
mitigating circumstances relative to the offense."

Six: "During the first portion of the
penalty hearing"....

Seven, "You are instructed that the

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1 following factors or circumstances by which Murder
2 in the First Degree"....

3 Eight: "Mitigating circumstances are
4 those few factors, which, while they do not"....

5 Nine: "In determining whether mitigating
6 circumstances exist, jurors have an obligation to
7 make an independent"....

8 Ten: "Murder of the first degree may be
9 mitigated by any of the following"....

10 Eleven: "The jury is instructed that"....

11 Twelve: "In your deliberation, you may
12 not discuss or consider"....

13 Thirteen: "The credibility or
14 believability"....

15 Fourteen: "Although, you are to consider
16 only the evidence"....

17 Fifteen: "During your deliberation, you
18 will have all the exhibits"....

19 Sixteen: "The Court has submitted three
20 sets of verdicts"....

21 Seventeen: "Now, you will listen to the
22 arguments"....

23 Do you have a copy of those?

24 **MR. DASKAS:** Yes.

25 **THE COURT:** All right.

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1 State, do you object to the Court's
2 proposed one through 17?

3 MR. WHIPPLE: I didn't hear what he said.

4 MR. DASKAS: Judge, we don't object other
5 than our initial opposition of the bifurcation of
6 the hearing. Beyond that, we have no objection. I
7 also would note for the record, Instruction No. 10
8 which lists a number of mitigating circumstances was
9 done at the request of defense counsel, so we
10 complied with their request.

11 THE COURT: All right.

12 Defense Counsel, do you have any
13 objections?

14 MR. WHIPPLE: Your Honor, on the special
15 verdict with regard to the weighing portion of the
16 mitigating and aggravating circumstances --

17 THE COURT: What number?

18 MR. STANTON: Bret, we're on one through
19 17.

20 MR. WHIPPLE: I'm sorry.

21 THE COURT: Do you have any objections to
22 proposed one through 17?

23 MR. WHIPPLE: None, your Honor.

24 THE COURT: The Court will give those.

25 Now, the verdict forms.

1 State, do you have any objections to the
2 proposed special verdict forms?

3 **MR. DASKAS:** No, Judge.

4 **THE COURT:** Defense Counsel?

5 **MR. WHIPPLE:** Your Honor, I do. This was
6 with regard to the third special verdict, which is
7 the weighing portion of the mitigation versus the
8 aggravation. I do not have a proposed one to give
9 you, but I have proposed this in discussions to the
10 District Attorney, and they objected to it and I
11 discussed it with you, and it's been denied. I just
12 wanted to clarify my request with regard to that
13 third special verdict.

14 **THE COURT:** All right. Go on.

15 **MR. WHIPPLE:** Your Honor, I had asked that
16 in the third special verdict that after it said, "We
17 the jury in the above entitled case having found the
18 defendant guilty of murder of the first degree with
19 use of a deadly weapon find the following," the two
20 boxes would be as follows: The first one would be,
21 "The jury unanimously finds that the mitigating
22 circumstances do not outweigh the aggravating
23 circumstances." The second box would be, "One or
24 more jurors find that the mitigating circumstances
25 do outweigh the aggravators." I requested that as

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1 with regard to the law, and I submit it with that.

2 **THE COURT:** State?

3 **MR. DASKAS:** Judge, that concern is
4 alleviated by Instructions No. 6 and 9 which are
5 being given. Those instructions direct the jury
6 that they must find the aggravating circumstance
7 unanimously and beyond a reasonable doubt and they
8 must also find that that circumstance outweighs the
9 mitigators. The instruction further instructs the
10 jury what to do with the mitigators individually,
11 and those are covered in Instructions 6 and 9, and,
12 the defense counsel will argue, as will the State,
13 to clarify it for the jury.

14 **THE COURT:** The Court agrees, and we
15 already gave them instructions on that, plus you can
16 inform them and advise them further as much as you
17 want, and this is the way we normally give them.

18 Do you have any objections to the verdict
19 forms?

20 **MR. WHIPPLE:** None, your Honor. Thank
21 you.

22 **THE COURT:** We'll give these verdict
23 forms.

24 Do we have anything else?

25 **MR. DASKAS:** No, Judge.

1 **MS. JACKSON:** Nothing, your Honor.

2 **THE COURT:** All right.

3 Bring in the jury.

4 (Jury present.)

5 **THE BAILIFF:** Be seated, come to order.

6 Court is again in session.

7 Before we get started, let the record
8 reflect the presence of all the parties, all the
9 attorneys and all members of the jury panel.

10 I've got a question for the jury.

11 Did any of you hear any comments from the
12 gallery? Did anybody make any comments?

13 **JURORS:** No.

14 **THE COURT:** Let the record reflect that
15 all the jurors said they heard no comments.

16 If you folks out in the gallery are making
17 any comments, don't, otherwise, I'm going to put you
18 out, especially relative to anything that's going on
19 in this courtroom. Keep your comments to yourself
20 if anybody is making them.

21

22 JURY INSTRUCTIONS

23 **THE COURT:** Ladies and gentlemen, what I'm
24 going to do now is give you some jury instructions,
25 and after this, the lawyers are going to make an

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1 argument, and then you will have to go back and make
2 your decision.

3 Instruction No. 1: Members of the jury:
4 It is now my duty as Judge to instruct you in the
5 law that applies to this penalty hearing. It is
6 your duty as jurors to follow these instructions and
7 to apply the rules of law to the facts as you find
8 them from the evidence.

9 You must not be concerned with the wisdom
10 of any rule of law stated in these instructions.
11 Regardless of any opinion you may have as to what
12 the law ought to be, it would be a violation of your
13 oath to base a verdict upon any other view of the
14 law than that given in the instructions of the
15 Court.

16 Instruction No. 2: If, in these
17 instructions, any rule, direction or idea is
18 repeated or stated in different ways, no emphasis
19 thereon is intended by me, and none may be inferred
20 by you. For that reason, you are not to single out
21 any certain sentence or any individual point or
22 instruction and ignore the others, but, you are to
23 consider all the instructions as a whole and regard
24 each in the light of all the others.

25 Instruction No. 3: The jury must find the

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1 existence of each aggravating circumstance, if any,
2 unanimously and beyond a reasonable doubt.

3 The jurors need not find mitigating
4 circumstances unanimously.

5 Now, you don't have to write these down
6 verbatim, because you will be able to take them back
7 to the jury room with you.

8 Instruction No. 4: A reasonable doubt is
9 one based on reason. It is not mere possible doubt,
10 but is such a doubt as would govern or control a
11 person in the more weighty affairs of life. If the
12 minds of the jurors, after the entire comparison and
13 consideration of all the evidence, are in such a
14 condition that they can say they feel an abiding
15 conviction of the truth of the charge, there is not
16 a reasonable doubt. Doubt, to be reasonable, must
17 be actual, not mere possibility or speculation.

18 Instruction No. 5: In the penalty
19 hearing, evidence may be presented concerning
20 aggravating and mitigating circumstances relative to
21 the offense.

22 Hearsay is admissible in a penalty
23 hearing.

24 Instruction No. 6: During the first
25 portion of the penalty hearing, you will consider

1 evidence relevant to the existence of aggravating
2 circumstances and evidence relevant to the existence
3 of mitigating circumstances. You must consider each
4 type of evidence for its appropriate purposes.

5 In determining unanimously whether any
6 aggravating circumstance has been proven beyond a
7 reasonable doubt, you are to consider only evidence
8 relevant to that aggravating circumstance.

9 In determining individually whether any
10 mitigating circumstance exists, you are to consider
11 only evidence relevant to that mitigating
12 circumstance.

13 In determining individually whether any
14 mitigating circumstances outweigh any aggravating
15 circumstances, you are to consider only evidence
16 relevant to any mitigating and aggravating
17 circumstances.

18 If you find unanimously and beyond a
19 reasonable doubt that at least one aggravating
20 circumstance exist and each of you determines that
21 any mitigating circumstances do not outweigh --
22 excuse me. I'll read that one over again.

23 If you find unanimously and beyond a
24 reasonable doubt that at least one aggravating
25 circumstance exist and each of you determines that

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1 any mitigating circumstances do not outweigh the
2 aggravating, note this on the special verdict form.

3 If you do not decide unanimously that at
4 least one aggravating circumstance has been proven
5 beyond a reasonable doubt or if at least one of you
6 determines that the mitigating circumstances
7 outweigh the aggravating, note this on the special
8 verdict form.

9 Instruction No. 7: You are instructed
10 that the following factors are circumstances by
11 which Murder of the First Degree may be aggravated:

12 The defendant has, in the immediate
13 proceeding, been convicted of more than one offense
14 of murder in the first or second degree.

15 Instruction No. 8: Mitigating
16 circumstances are those facts which, while they do
17 not constitute a legal justification or excuse for
18 the commission of the offense in question, may be
19 considered, in the estimation of the jury, in
20 fairness and mercy, as extenuating or reducing the
21 degree of the defendant's moral culpability.

22 In balancing aggravating and mitigating
23 circumstances, it is not the mere number of
24 aggravating circumstances or mitigating
25 circumstances that controls.

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1 Instruction No. 9: In determining whether
2 mitigating circumstances exist, jurors have an
3 obligation to make an independent and objective
4 analysis of all the relevant evidence. Arguments of
5 counsel or a party do not relieve jurors of this
6 responsibility. Jurors must consider the totality
7 of the circumstances of the crime and the defendant,
8 as established by the evidence presented in the
9 guilt and penalty phases of the trial. Neither the
10 prosecution's nor the defendant's insistence on the
11 existence or nonexistence of mitigating
12 circumstances is binding upon the jurors.

13 Instruction No. 10: Murder of the first
14 degree may be mitigated by any of the following
15 circumstances, even though the mitigating
16 circumstance is not sufficient to constitute a
17 defense or reduce the degree of the crime:

18 1. The youth of the defendant at the time
19 of the crime.

20 2. The murder was committed while the
21 defendant was under the influence of extreme mental
22 or emotional disturbance.

23 3. At age seven-and-a-half years, the
24 defendant was removed from his mother's custody due
25 to neglect and sent into foster care.

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1 4. At age seven-and-a-half the defendant
2 moved into his grandmother's home where up to ten
3 children and four adults lived.

4 5. After age seven-and-a-half the
5 defendant had no positive or meaningful contact with
6 either parent.

7 6. The defendant never had a positive
8 male role model.

9 7. For all his childhood the defendant
10 resided in neighborhoods where violence was
11 frequent.

12 8. The defendant witnessed many violent
13 acts as a child.

14 9. When the defendant was age nine, his
15 grandmother had custody of as many as 12 children
16 under the age of ten.

17 10. Beginning when he was 13 years old,
18 the defendant attended schools where violence was
19 common.

20 11. Any other mitigating circumstance.

21 Instruction No. 11: The jury is
22 instructed that in determining the existence of
23 aggravating circumstances as well as mitigating
24 circumstances that it may consider all evidence
25 introduced at both the penalty hearing phase of

1 these proceedings and at the trial of this matter.

2 Instruction No. 12: In your deliberation,
3 you may not discuss or consider the subject of guilt
4 or innocence of a defendant, as that issue has
5 already been decided.

6 Instruction No. 13: The credibility or
7 believability of a witness should be determined by
8 his manner upon the stand, his relationship to the
9 parties, his fears, motives, interests or feelings,
10 his opportunity to have observed the matter to which
11 he testified, the reasonableness of his statements
12 and the strength or weakness of his recollections.

13 If you believe that a witness has lied
14 about any material fact in the case, you may
15 disregard the entire testimony of that witness or
16 any portion of his testimony which is not proved by
17 other evidence.

18 Instruction No. 14: Although you are to
19 consider only the evidence in the case in reaching a
20 verdict, you must bring to the consideration of the
21 evidence your everyday common sense and judgment as
22 reasonable men and women. Thus, you are not limited
23 solely to what you see and hear as the witnesses
24 testify. You may draw reasonable inferences from
25 the evidence which you feel are justified in the

1 light of common experience keeping in mind that such
2 inferences should not be based on speculation or
3 guess.

4 A verdict may never be influenced by
5 prejudice or public opinion. Your decision should
6 be the product of sincere judgment and sound
7 discretion in accordance with these rules of law.

8 Instruction No. 15: During your
9 deliberation, you will have all the exhibits which
10 were admitted into evidence, these written
11 instructions and forms of verdict which have been
12 prepared for your convenience.

13 Instruction No. 16: The Court has
14 submitted three sets of verdicts to you. One set is
15 for a determination of the existence of an
16 aggravating circumstance. The second set is for a
17 determination of the existence of mitigating
18 circumstances. The third set is for a determination
19 of weight to be given the aggravating and/or
20 mitigating circumstances.

21 Instruction No. 17. Now, you will listen
22 to the arguments of counsel who will endeavor to aid
23 you to reach a proper verdict by refreshing in your
24 minds the evidence and by showing the application
25 thereof to the law; but whatever counsel may say,

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1 you will bear in mind that it is your duty to be
2 governed in usual deliberation by the evidence as
3 you understand it and remember it to be and by the
4 law as given to you in these instructions with the
5 sole, fixed and steadfast purpose of doing equal and
6 exact justice between the defendant and the State of
7 Nevada.

8 All right. State, you may make your
9 argument.

10 MR. DASKAS: Thank you, Judge.

11

12 STATE'S CLOSING ARGUMENT

13 MR. DASKAS: During jury selection, we
14 discussed with you in painstaking detail the four
15 possible punishments that a first-degree murderer
16 faces. One of those, as you very well know by now,
17 is potentially the death penalty.

18 The decision you are about to make will
19 simply determine whether the death penalty is an
20 option in the next phase of this proceeding.

21 I want to be very clear about this. When
22 you deliberate in this first phase momentarily, you
23 are not selecting the punishment to impose against
24 Donte Johnson. For lack of a better word, this is
25 just what we call the eligibility phase where you

1 have three options of punishment or you will have
2 four options, the fourth being the death penalty.
3 That's all this means, nothing more and nothing
4 less.

5 I hate to use the word "mechanical" in a
6 proceeding like this, but this phase of the
7 proceeding is somewhat mechanical. You heard the
8 Judge talk about aggravating and mitigating
9 circumstances. I want to talk a little bit about
10 those with you today.

11 This is a three-step process, and step
12 number one is for you to determine if an aggravating
13 circumstance is present. The question is, "What is
14 an aggravating circumstance?" Our legislature, the
15 members of Carson City who meet every year, have
16 decided that only certain murderers should face the
17 death penalty. Not every person convicted of murder
18 faces a potential death sentence. In fact, not even
19 every first-degree murderer is eligible for death.
20 Instead, our law makers have decided that there has
21 to be something a little worse about a first-degree
22 murder before we can seek -- before we can even file
23 the paperwork to seek the death penalty, and those
24 are called "aggravators" or "aggravating
25 circumstances." It's simply what makes one murder a

1 little worse than another murder.

2 Understand that your decision about the
3 aggravating circumstance must be unanimous, and it
4 must be beyond a reasonable doubt.

5 What is an "aggravator"? Well, you
6 received an instruction that tells you an aggravator
7 exists if the defendant in this proceeding has been
8 convicted of more than one offense of murder in the
9 first or second degree. That's one of the things
10 our legislature has determined that make one murder
11 a little worse than another.

12 What do you know in this case? I would
13 submit to you that you need look no further than
14 Exhibit No. 247 in this case, the verdict form from
15 the trial in this case in which 12 members of this
16 community like yourselves heard the evidence against
17 Donte Johnson, deliberated and convicted him of four
18 counts of murder in the first degree. That, in and
19 of itself, establishes the existence of an
20 aggravator beyond a reasonable doubt, and that is
21 our only burden in this phase, this first phase of
22 this death penalty proceeding.

23 In fact, keep in mind that we were limited
24 in this phase of the proceeding to presenting
25 evidence of the aggravator and nothing else. You

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1 all told us during jury selection that you would
2 like to know as much as possible about the crime and
3 the defendant before you make this decision you're
4 about to make. We presented to you some evidence of
5 the crime, and we will present in the next phase of
6 the proceeding some evidence about Donte Johnson,
7 that evidence you told us that you wanted to hear.

8 So, what you'll do is you'll take the
9 first special verdict form, and what you'll see is
10 that there's a box to check if you believe that an
11 aggravating circumstance has been found beyond a
12 reasonable doubt. You will select a foreperson, and
13 your foreperson will sign this verdict form and
14 check the box that indicates the defendant has, in
15 fact, been convicted of more than one murder of the
16 first or second degree as illustrated, as I said, in
17 Exhibit 247, and that's really all there is to step
18 one of this proceeding.

19 Keep in mind, again, that this is not the
20 verdict form that sentences Donte Johnson to death.
21 You won't even have that verdict form in the first
22 phase of this deliberation.

23 Keep in mind also that there is a special
24 verdict form that looks exactly like this one
25 (indicating) for all four counts of murder in this

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1 case. We have four victims, so you have to find the
2 existence of an aggravator for each of those four
3 victims. They are labeled as Counts XI, XII, XIII
4 and XIV. If you look closely -- I realize this is
5 small -- you will see this is Count XI for the first
6 victim, and you check the box that he has been
7 convicted of more than one murder, and the
8 foreperson signs that document. That's step one,
9 and that's all there really is to step one of this
10 proceeding.

11 The next step is for you to determine
12 whether any mitigating circumstances exist. The
13 Judge instructed you about the definition of
14 mitigating circumstances. What is a "mitigating
15 circumstance"? Well, in its simplest terms, it's
16 simply things you should consider in culpability, if
17 you will, of the defendant Donte Johnson, reasons,
18 if you will, that perhaps you shouldn't sentence him
19 to death. Understand something very clearly. The
20 mitigators alleged in the instructions that you will
21 have -- and it's Instruction No. 10 -- there are 11
22 of them listed. These are mitigators that the
23 defense has come up with. It doesn't mean that they
24 exist; it doesn't mean they don't exist; it means
25 these are the mitigators defense attorneys believe

1 exist in this case. It can be anything, anything
2 you believe. It can be anything the defense
3 suggest. For example, you've heard the defense
4 attorneys ask many times about the defendant's
5 stature, that he was short, that he was small as a
6 baby. If you believe that's a mitigator, you can
7 write it in the special verdict form, and it exists
8 as a mitigator, if you believe it. Understand
9 something else. Just because these mitigators are
10 alleged in the verdict form by the defense doesn't
11 mean you have to accept it. You can reject the
12 mitigators. That's your decision individually. So,
13 that's step two, and you will have a verdict form to
14 complete checking boxes for the mitigators you find
15 and even lines to write in mitigators that you
16 believe individually exist. That's step two.

17 As I said, this is somewhat of a
18 mechanical process, so I'll talk now about the final
19 step, step three. Step three is for you to weigh,
20 to assign weight to the aggravator in this case and
21 the mitigators alleged by the defense. And
22 ultimately what happens, if you believe the
23 aggravator, the quadruple murder outweighs the
24 mitigator, when you get to the next phase of this
25 proceeding, the death penalty will be an option for

1 your consideration. That's all that means. It does
2 not mean you automatically impose to death penalty;
3 it never means that. It simply means you will have
4 four options for punishment as opposed to three.

5 Let's talk a little bit about this
6 weighing process. As I said, the aggravator exists.
7 The defense will not dispute that more than one
8 murder has been committed.

9 How would you assign weight to that
10 aggravating circumstance? How much weight is that
11 entitled to? As I said, our legislature has
12 determined if a defendant is convicted of more than
13 one murder of the first or second degree, that's an
14 aggravating circumstance. In other words, if you
15 have a double homicide, a defendant is eligible for
16 the death penalty potentially. If you have a
17 first-degree and a second-degree murder, a defendant
18 is eligible potentially for the death penalty. In
19 this case, we have four dead bodies, and I would
20 submit to you that four victims are entitled to much
21 greater weight than two victims or even three
22 victims, so you can take that into consideration
23 when assigning weight to that aggravating
24 circumstance.

25 And keep in mind also, we have four counts

1 of first-degree murder. As I said, if Donte had
2 only committed -- only committed a first-degree and
3 a second-degree murder, he would potentially be
4 eligible for the death penalty. We have four counts
5 of first-degree murder in this case, and I would
6 submit to you that that is entitled to much greater
7 weight than a double or a triple homicide.

8 Common sense -- and I'm sure your
9 experience will tell you that quadruple homicides
10 are unusual. We all watch the news every day and we
11 hear about homicide, unfortunately, in our valley.
12 They're not that uncommon, but double homicides are
13 a bit more unusual than a single homicide, and I
14 would submit to you that based on your common sense
15 and experience, triple homicides are incredibly
16 rare, and quadruple homicides are almost unheard of.
17 That is entitled to great weight when you assign
18 weight to the existence of the aggravator in this
19 case. Quadruple homicides are almost unheard of,
20 and he is, Donte Johnson, a convicted quadruple
21 killer.

22 We talk about assigning weight to
23 aggravators and mitigators. Consider what the
24 defendant did in this case when he's inside the home
25 at 4825 Terra Linda. I submit to you that he

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1 assigned weight. He assigned value, in his mind, to
2 the lives of these four young men, because in Donte
3 Johnson's mind, a VCR and a video game were entitled
4 to more value in his mind than the lives of these
5 four young men. He assigned weight; he assigned
6 value to the lives of these victims in this case.

7 How much weight do you give the mitigation
8 because you have to weigh these things -- the
9 aggravation, the quadruple homicide and mitigation
10 in this case.

11 I'm not suggesting that you shouldn't give
12 some consideration to his childhood. Obviously, it
13 was a difficult childhood, but what I am suggesting
14 is this: We all have obstacles to overcome in our
15 life, we all have crosses to bear. Who among us
16 doesn't have an alcoholic or a drug addicted family
17 member? Who among us didn't come from an
18 impoverished background or childhood? Who among us
19 hasn't endured physical or emotional abuse as a kid
20 or at least know somebody who has? At some point,
21 we're all adults, and we make choices, so how much
22 weight do you give his difficult upbringing? Is
23 that really worth more consideration than the lives
24 of Jeff Biddle, Tracey Gorringer, Matt Mowen and
25 Peter Talamentez? How much mitigation does he get

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1 for his upbringing? I submit to you, nothing in
2 this man's background, nothing could possibly
3 outweigh the destruction that he caused back in
4 August 1998.

5 Consider something else about the
6 witnesses that you heard from presented by the
7 defense. The defendant's sister, the defendant's
8 brother-in-law, both of whom grew up in South
9 Central Los Angeles, both of them were exposed to
10 the same things as Donte Johnson, particularly his
11 sister; yet, here she sits, a respectful law-abiding
12 citizen having witnessed the exact same things Donte
13 Johnson witnessed as a child, yet somehow she made
14 the right choices in life. She has a good job, she,
15 by all appearances, has a nice family. It's about
16 choices at some point. She was in the same foster
17 home as Donte Johnson, she was in the same home with
18 the grandmother and the grandkids as Donte Johnson.
19 She saw the same tragic events across the street
20 that Donte Johnson saw, yet, here she sits,
21 respectful and law abiding.

22 Donte Johnson could have chosen not to
23 visit 4825 Terra Linda in August 25 of 1998. He
24 could have chosen not to take deadly weapons to that
25 house. He could have elected not to duct tape these

1 four young men, and he certainly could have chosen
2 not to execute them systematically and methodically.
3 His childhood couldn't possibly outweigh this
4 quadruple homicide.

5 Consider the comments he made to his
6 friends and his girlfriend after the murders were
7 committed. "The blood was squirting up like Niagara
8 Falls," he said. He explained he had to shoot Peter
9 Talamentez because he was mouthing off, and he
10 doesn't like Mexicans anyway; so, how much
11 mitigation do you assign to his childhood when you
12 consider his cavalier attitude about this crime?

13 I would submit to you that if you find
14 that his upbringing outweighs this quadruple
15 homicide, that is disrespectful to members of South
16 Central L.A. who didn't commit a quadruple homicide.
17 Common sense tells us that many, many, many people
18 in a similar upbringing haven't done what Donte
19 Johnson has done. If you were to find that his
20 childhood is entitled to a greater wait of this
21 quadruple homicide, it's like telling people --

22 **MR. WHIPPLE:** Judge, I'm going to object.
23 It calls -- I'll object -- if we can approach.

24 **THE COURT:** Yes.

25 (Sidebar conference outside the presence

1 of the court reporter.)

2 **MR. DASKAS:** Common sense tells you that
3 not every person raised in a similar upbringing has
4 committed a quadruple homicide, so when you assign
5 mitigation in this case, keep that in mind and
6 consider the testimony of his sister and his
7 brother-in-law, because that's all you really need
8 to know.

9 I mention the defendant's attitude in his
10 quotes. You heard the testimony of Charla Severs,
11 the defendant's girlfriend back in August of 1998 as
12 she described Donte and his partners when they
13 returned from the quadruple murder early on the
14 morning of the 14th. They were just talking. They
15 were all kind of hyped up. The question was, "Who
16 was hyped up?" "Deko." We know Deko is Donte
17 Johnson.

18 "Question: What do you mean by 'hyped
19 up'?

20 "They were just like having fun or
21 something."

22 Donte Johnson, on the heels of having
23 killed four teenaged men, was having fun, explained
24 what he had just done; so, how much weight do you
25 give his upbringing when he told Charla Severs they

1 just had to go to sleep after he killed somebody,
2 when he explained that he killed Peter Talamentez
3 because, quote, he "don't like Mexicans and he was
4 talking mess."

5 What about the following day when he
6 encouraged -- Donte did -- his girlfriend to watch
7 the news and they saw Matt Mowen's picture come up.
8 He described the blood as it squirted up. "It
9 looked like Niagara Falls," Donte Johnson's words.

10 Do you recall the testimony of LaShawnya
11 Wright, his co-defendant's girlfriend? When she was
12 with Donte Johnson and they saw the article in the
13 RJ from August 15th of 1998 and on the front page a
14 story about the crime he had just committed, Donte
15 Johnson's words, "Look, we made the front page."
16 And she was asked about the defendant's demeanor.
17 He was excited, thrilled is how she described.

18 He single handedly ended the lives of four
19 teenaged men, and he was excited about it. He was
20 having fun describing it. So, how much weight do
21 you really assign to his difficult childhood? How
22 can that possibly carry more weight than the
23 aggravator in this case that more than one murder
24 has been committed?

25 What could possibly outweigh the lives of

1 these four young men? How much weight will you
2 assign to his childhood when he laughs?

3 (Disturbance in the courtroom.)

4 **THE COURT:** We're in recess. Everybody
5 remain seated.

6 We're going to take a short recess.

7 (Recess taken.)

8 (Outside the presence of the jury.)

9 **THE COURT:** We're back in session outside
10 the presence of the jury.

11 Miss Jackson, you want to put something on
12 the record?

13 **MS. JACKSON:** I do, your Honor.

14 **MR. DASKAS:** Judge, I apologize. For the
15 record, that Nick Gorringer, the brother of Tracey
16 Gorringer, one of the victim's in the case, was in
17 the courtroom in, I believe, the second row. During
18 my argument when a photo was displayed of the crime
19 scene, what I believe happened was he either passed
20 out or fell over while seated on the bench.

21 **THE COURT:** That's not a photo of the
22 crime scene, was it? Is this the photo that was up
23 (indicating)?

24 **MR. DASKAS:** No. I'll advance the frame,
25 Judge.

1 **THE COURT:** That's the photo (indicating)?

2 **MR. DASKAS:** That's correct, Judge.

3 **THE COURT:** That's exhibit number what?

4 **MR. STANTON:** It's Exhibit 180, your
5 Honor.

6 **THE COURT:** One eighty.

7 **MR. STANTON:** I believe so -- it's either
8 180 or 162.

9 **THE COURT:** Go on, Counsel.

10 **MR. DASKAS:** I heard a commotion. I'll
11 represent to the Court that he, Nick Gorringer, said
12 nothing; he simply made a noise when he fell over
13 and fainted, and when I turned around, I didn't see
14 him seated there until someone pulled him up from
15 the bench on which he was laying. I think, Judge,
16 that reflects accurately what happened, and as I
17 said, most importantly, he didn't say anything. The
18 jury doesn't know who Nick Gorringer is because he
19 hasn't been a witness in this case, and I can assure
20 the Court he will not testify as a victim impact
21 witness when we get to that point.

22 **THE COURT:** Miss Jackson.

23 **MS. JACKSON:** Thank you, your Honor.

24 On behalf of Donte Johnson, as difficult
25 as it is, I have to make this record. With all due

1 respect to the victims' families, we have to defend
2 Mr. Johnson. Mr. Gorringer made a groaning sound as
3 he fell, and he was crying as he left the courtroom,
4 clearly in the presence of the jurors. We had
5 expressed some concern earlier, because we are human
6 beings, and we know that as human beings, we are
7 subject to emotions, and for that reason we have
8 tried to urge the Court to be aware that these,
9 certainly human feelings of people --

10 **THE COURT:** Ma'am, what we're talking
11 about is this guy here. First of all, I don't know
12 what you're talking about -- human feelings and
13 before. You made a statement at the bench that
14 someone -- when you were standing over there, you
15 heard somebody in the audience saying something. I
16 asked the jurors. Each juror said they didn't hear
17 not one thing, and that was on the record; so, we're
18 talking about one guy here who fell over there, and
19 I don't know who he was, but he just told me he
20 was -- who was he?

21 **MR. DASKAS:** His name is Nick Gorringer.
22 He is the younger brother of Tracey Gorringer, one of
23 the victims in this case.

24 **THE COURT:** Anything you want to add to
25 that?

1 **MS. JACKSON:** Yes.

2 **THE COURT:** What is it?

3 **MS. JACKSON:** The record will reflect that
4 he was carried out. On behalf of Mr. Johnson, we
5 have a duty to request that anybody who feel they
6 cannot be here because of the subject matter to wait
7 outside, because the pictures are graphic, but in
8 that type of atmosphere, Mr. Johnson finds it
9 impossible to receive a fair trial. It is similar
10 to what happened in the Holloway case when the stun
11 belt -- the defendant was stunned in front of the
12 jury.

13 **THE COURT:** That's totally different than
14 that.

15 **MS. JACKSON:** I beg to differ, your Honor.

16 **THE COURT:** You can beg to differ all you
17 want to, but that's nothing like the defendant being
18 shown in restraints, and then they're popping him
19 with a belt like he was going to escape. This guy
20 is not even a party to these proceedings, and it's
21 somebody out in the audience that falls down or
22 whatever -- we don't know exactly what happened --
23 and he's carried out. That's a lot different than
24 the defendant being brought in the courtroom in
25 handcuffs and restraints and shocked as if he's

1 escaping; so, I think there's a big difference,
2 ma'am.

3 **MS. JACKSON:** Your Honor, for the record,
4 the courtroom is clearly divided into two sides. To
5 my right you have the victims' side -- the
6 defendant's family which is predominantly black, and
7 to my left you have the victim's family. They have
8 been here since before we began to select the jury.
9 Anybody who has been in this courtroom for any
10 period of time can clearly see which side he is on.
11 The record will so reflect that.

12 **THE COURT:** First of all, Mr. Gorringer --
13 I just saw him in here this afternoon. I haven't
14 seen him in here during the entire trial. I don't
15 know.

16 **MR. DASKAS:** Judge, I'll represent to the
17 Court that this is the first time Nick Gorringer has
18 been present in the courtroom. In fact, I saw him
19 downstairs at our last break for the first time, and
20 today was the first time he was in the courtroom.

21 I would also like to correct the record,
22 Judge. Miss Jackson mentioned that Nick Gorringer
23 was carried out of the courtroom. What happened was
24 he was helped up by, I think, a corrections officer
25 or bailiff and David Mowen, Matt Mowen's father,

1 helped Nick Gorringer walk out of the courtroom; so,
2 he wasn't carried.

3 **MS. JACKSON:** He was certainly assisted.

4 **MR. DASKAS:** I agree.

5 **THE COURT:** True; he was assisted out.

6 **MR. DASKAS:** I agree with that.

7 **MS. JACKSON:** And he was crying and
8 visibly upset because of these pictures and the
9 process.

10 **THE COURT:** He might have been. I
11 couldn't see him crying or visibly upset. All I
12 know is some guy fell off the seat over there and he
13 was picked up by some guards and taken out, but I
14 didn't hear him crying. I'm not back there where
15 you guys are, but we're going to bring in the jury.

16 Your objection is noted.

17 **MS. JACKSON:** Very well, your Honor.

18 **THE COURT:** Bring in the jury.

19 You're at ease. The jury is going to the
20 restroom.

21 **THE BAILIFF:** Be seated, come to order.

22 (Jury present.)

23 **THE COURT:** Ladies and gentlemen -- let
24 the record reflect the presence of all the parties,
25 all the attorneys and all members of the jury.

1 Right before we broke, there was a little
2 commotion over there. Anyway, the jury is ordered
3 to disregard that. As I told you before, you are to
4 base your decision on the evidence adduced here in
5 trial from the witnesses, the stipulation of the
6 attorneys and the exhibits, and it is not to be
7 based on anything you see in or outside the room
8 that's not evidence adduced here from the witnesses
9 or the exhibits or the stipulation of the parties.

10 Proceed.

11 **MR. DASKAS:** May I proceed, Judge?

12 **THE COURT:** Yes.

13 **MR. DASKAS:** Thank you.

14 I don't want any of my comments to be
15 misconstrued about the defendant's upbringing. I'm
16 not suggesting that you shouldn't consider his
17 background; you should. In fact, you should
18 consider everything about the defendant and this
19 crime when you're making the decision you're about
20 to make. What I am saying is that his upbringing
21 couldn't possibly deserve greater weight than the
22 devastation he created on August 14th of 1998.
23 South Central Los Angeles didn't put that gun in
24 Donte Johnson's hand on August 14th; Donte Johnson
25 did.

1 The final step, if you will, in the first
2 phase of this proceeding is for you to select the
3 verdict form, the special verdict form that
4 addresses whether the aggravating circumstance,
5 quadruple homicide, outweighs the mitigators, that
6 is, his upbringing, or whether his upbringing is
7 entitled to greater weight than this quadruple
8 homicide, and you'll have a verdict form, again, one
9 for each victim in this case. This, again, pertains
10 to Count XI. What you'll see is that if you
11 collectively find beyond a reasonable doubt that the
12 quadruple homicide is entitled to greater weight
13 than his childhood, then you'll check the box on
14 top. If, on the other hand, some of you believe
15 individually or otherwise that his upbringing is
16 entitled to greater weight than this quadruple
17 murder, then you'll check the box on the bottom, and
18 that will determine the number of options that you
19 have in the next phase of this proceeding, because
20 understand, if you believe his childhood outweighs
21 this crime, then the death penalty will not be an
22 option in the second phase of this proceeding.
23 That's the only decision you're about to make. Even
24 if you believe the aggravator outweighs the
25 mitigators and you have four options for punishment,

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1 you can still come back in the next phase and give
2 him the most lenient sentence available. Nothing
3 mandates that you impose the death penalty. At this
4 point, it's just about the number of choices you
5 have at the next hearing. All I'm suggesting to you
6 is that you should keep your options open, because
7 no question, the quadruple homicide is entitled to
8 greater weight than anything about this defendant's
9 background, anything.

10 And at this next phase of the proceeding
11 when you eventually select the punishment to impose
12 for all four first-degree murders, we will provide
13 you with the additional information you told us you
14 wanted to know about Donte Johnson. You will hear
15 that no matter what your decision right now in the
16 second phase of this proceeding, and regardless of
17 your decision, there will be a second phase of this
18 proceeding. What I'm suggesting to you is that you
19 should simply keep your options open.

20 Thank you.

21 **MR. WHIPPLE:** Your Honor, with the Court's
22 permission.

23 **THE COURT:** Proceed.

24 **MR. WHIPPLE:** Thank you.

25 /////

1 DEFENSE'S CLOSING ARGUMENT

2 **MR. WHIPPLE:** Ladies and gentlemen, the
3 first thing I want to get out to you is Miss Jackson
4 and I will both have the opportunity to speak with
5 you here over the next few minutes, and she's asked
6 that I speak with you first. My intent is to give
7 you a little information about the law, very similar
8 to the information that I gave you during the
9 opening, and also, I want to touch briefly on the
10 facts and circumstances of the summary -- the trial
11 summary that we heard over the first few days.

12 Also, I think it's very important right
13 now, I want you to know how much we all in the
14 defense -- everybody in the room appreciate your
15 time. This is not an easy job by any means, and
16 during my opening, I had mentioned to you much of
17 the hard work had already been done, and I realize
18 how much is yet in front of you and how difficult it
19 is, and I want you to all know we all appreciate
20 your time and your patience.

21 I also -- in my opening, I think one of
22 the first things I said is we're not here to excuse
23 or to justify. I said to you, "Society is
24 protected." I said to you, "Society is safe." The
25 first jury did their job. We are protected. We

1 don't have to live in fear, and let's get it right
2 out right in front right now. What does the State
3 want? They want death.

4 **MR. DASKAS:** Judge, I apologize. This is
5 inappropriate. We're not even at the portion of the
6 hearing where they determine what punishment to
7 select.

8 **MR. WHIPPLE:** Your Honor, it's argument,
9 and if they wanted to just choose a life sentence,
10 we could have done that. They want to go to the
11 next phase.

12 **THE COURT:** Wait a minute, wait a minute,
13 wait a minute. All right?

14 Go on. This is on whether or not the
15 aggravators --

16 **MR. WHIPPLE:** I understand that, your
17 Honor.

18 **THE COURT:** The mitigators and aggravators
19 but go on.

20 **MR. WHIPPLE:** Thank you.

21 So, anyway, society is protected. We are
22 safe. No one can argue an eye for an eye, a tooth
23 for a tooth, but let's just not hide it. Let's
24 understand why we're here. I believe that a life
25 verdict is appropriate, and I'm going to talk to you

1 about why I think that's appropriate and why it's
2 so.

3 Now, Mr. Daskas explained to you three
4 different stages, and he showed you the verdict
5 forms and the special verdict forms, and in fact, in
6 my opening, I did the same thing. I tried to break
7 it down into rooms one, two and three, a different
8 way of facing the different issues you have here in
9 front of you I fear as you deliberate. Room 1, of
10 course, Mr. Daskas has already mentioned, and I
11 won't even go there.

12 Room 2 is the mitigation, and that's
13 something Miss Jackson will speak to you about it as
14 well, and I do want to speak with you briefly about
15 it, because it does differ from Room 1. Aggravation
16 must be proven beyond a reasonable doubt.
17 Mitigation is any reason to choose life.

18 I have to tell you, I was sitting through
19 this entire summary and one thing kind of jumped out
20 at me and you probably -- I'm not sure if you were
21 aware of it or not or if it jumped out to you like
22 it did me, but that was the individual who testified
23 with regard to DNA. You remember he said
24 everybody's DNA is unique, except for, I guess it's
25 fraternal twins or some twins have the same DNA so

1 that you could distinguish the two of them, and I
2 thought, you know, that's interesting. In fact, I
3 know individuals like that, but what was fascinating
4 to me is every human being is different. No two
5 people are alike. Even these twins that have the
6 same DNA, they're different from you and me. Each
7 one of us is different. Each one of us has a
8 different background, and that's what distinguishes
9 the mitigation portion of this phase from a trial
10 phase where you have to choose all as a group, all
11 unanimous one way or another -- he's guilty; he's
12 innocent. It has to be 12 versus one way, 12 the
13 other way. It's kind of black and white, but hear
14 we're talking about something that's completely
15 separate. You don't have to be unanimous. We're
16 all unique individuals. No two of us are alike, and
17 that's what punishment is. That's what this is
18 facing. We are protected. No matter what is said
19 in this courtroom, Mr. Donte Johnson has been held
20 accountable. We are safe. We have been protected.
21 What is being discussed here is truly an eye for an
22 eye, a tooth for a tooth.

23 What is punishment? It is such an
24 individualized issue for each one of us. Each one
25 of us has a different background; each one of us has

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1 different viewpoints, and something that's so
2 important like punishment, that's why each one of
3 you has your own decision to make. I'm sure there's
4 going to be some of you that said, "Go all the way.
5 We want the death penalty." You know what, because
6 you know what, an eye for an eye, that sounds great,
7 but you know what, no matter what Mr. Daskas says, I
8 can think of many reasons, many mitigations, many
9 issues of mitigation that outweigh aggravation, but
10 that's just me. How about the love of a son for his
11 father? How can you weigh that? How can you weigh
12 the love of a person for his father? Is that
13 two pounds or three pounds? How do you weigh -- how
14 do you weigh these things? That is such an amazing
15 thing we're asking of you. How about the love of a
16 sister for her brother? How do you weigh that?

17 I'm going to submit to you that the love
18 of a son for his father outweighs anything,
19 outweighs anything, but that's just me. I'm also
20 going to submit to you that the love of a sister --
21 a sister who look -- virtually has gone through hell
22 their entire life, survived, survived with her
23 brother and loves her brother, the love of a sister
24 for a brother outweighs anything, and I have no
25 qualms saying that to you, because I believe it. I

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1 believe it. Now, you're going to have an
2 opportunity to weigh some of those things in the
3 next few hours, and I'm glad I'm not in your shoes.

4 What I want to get across is there are no
5 two people that are the same. None of us are the
6 same. No two people are alike, and in a punishment
7 phase, it makes allowance for that. You know, there
8 may be ten of you, 11 of you who says that
9 aggravators outweigh the mitigators and it's an eye
10 for an eye, a tooth for a tooth, by gosh, and I
11 accept that, but I hope you accept that if there's
12 one person that says, you know what, the love a
13 child has for his father outweighs the aggravation.
14 I hope that you can accept that one person, because
15 I can, and I'm asking you to, and you know what,
16 it's the law. It's the absolute law. I'm asking
17 you that you respect each other and you understand
18 that different people come from different
19 backgrounds and different people have different
20 expectations and no two people are alike. That's
21 what I'm asking you.

22 I showed you this during my opening.
23 These are just a blow-up from my opening. Folks,
24 you have a right to choose life, and that's what
25 this is. There are three options on the table. The

1 State wants to go forward to a fourth option. That
2 fourth option is death; that's why we're here.
3 That's why they're arguing. It may be silly to
4 think otherwise. You can stop it here. The love of
5 a child for a father can stop it here. You have a
6 right to choose life in prison. That's your right,
7 each and every one of you.

8 You have a right to be accepted. You have
9 a right to give whatever weight you want for life.
10 You have a right to choose your own reason for life,
11 your own gut feeling.

12 Now, I know -- I know that when you go
13 back into the jury room, there's going to be what we
14 call deliberations, and if this were a
15 guilt/innocence phase, if this were a trial, you
16 know there's such a thing called a "hung jury" when
17 folks can't understand or don't get along. We don't
18 all agree he's guilty, we all don't agree that he's
19 not guilty, that's called a "hung jury" when you can
20 come to it, and there's so much fighting in those
21 situations, it's unfortunate. I've talked to jurors
22 after that situation, and they all start out as
23 friends, and they get in this hung juror situation,
24 and part of the group is over here (indicating) and
25 they refuse to talk to the other group that's over

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1 here (indicating) because they didn't agree with
2 each other; that's not what this situation is.

3 There are no such things as hung juries in
4 a punishment phase. There is no such things as hung
5 juries in a punishment phase, because no two people
6 are alike, because each one of your votes matter.
7 Because any one of you at any time, at any place can
8 give life over death, and that's what your right,
9 that's what your power is right now. You have a
10 right to give mercy.

11 There's an awful lot of pain around here.
12 I'm sorry you have to sit through it. I don't enjoy
13 sitting through it, but you know what, you can stop
14 it now. Society is protected, we're all safe. We
15 can go home. The job has been done. Donte Johnson
16 has been held accountable, and we can stop it now.
17 We don't have to have an eye for an eye. We don't
18 have to have a tooth for a tooth. We can take the
19 high road. You don't have to explain your position.
20 You have a right to have that opinion respected.
21 There's no herd mentality in this situation, folks.
22 You each have a job to do individually.

23 You each had an opportunity to listen to
24 the mitigation, and it's not Mr. Johnson's family.
25 That's part of it. How about the fact that he's a

1 human being? How about the fact that he -- as a
2 human being, he loves and can be loved? Now, he has
3 forfeited the right to ever live free again. That's
4 a terrible, terrible punishment. I can't imagine
5 much more extreme than that. He has forfeited the
6 right to walk in society again. He has forfeited
7 the right to be able to live like you and I. He
8 will never live like you and I. He will never have
9 freedom. He has forfeited that right by his
10 actions. He has committed an extraordinarily severe
11 thing. It's unacceptable but he hasn't forfeited
12 his right to be a human being. He hasn't forfeited
13 his right to love and to have others love him, and
14 that's something that you can take into
15 consideration.

16 Now, I also used this door (indicating),
17 because it's so important to me that you understand
18 that each individual decision matters. If one of
19 you make the decision of choosing life, then you all
20 must accept that.

21 The special verdict form that Mr. Daskas
22 showed you, I just want to clarify it to you because
23 I pencilled in some writing here because it wasn't
24 real clear to me, and I want you to understand my
25 concern. Maybe you read it you will understand. It

1 says in Box 1, "The mitigating circumstances do not
2 outweigh the aggravating circumstances."

3 **MR. DASKAS:** I apologize.

4 **MR. WHIPPLE:** It says, "The aggravating
5 circumstances outweigh mitigating circumstances or
6 any mitigating circumstance or circumstances." It
7 should say, I believe -- and I'm suggesting to you
8 it should say that "The jury unanimously finds that
9 the aggravating circumstances outweigh any
10 mitigating circumstance." In other words, to check
11 Box 2, it has to be unanimous. You all have to
12 agree with that in order to go to the punishment
13 phase. The State is arguing for you all have to
14 agree that the aggravation outweighs the mitigation.
15 The second box reads, "The mitigating circumstance
16 or circumstances outweigh the aggravating
17 circumstance." I'm telling you the law is clear.
18 It should say one or more jurors find that the
19 mitigating circumstance or circumstances outweigh
20 the aggravating circumstances. It's confusing, but
21 in order to check Box 2, it only takes one of you,
22 one person to make the determination that life is
23 preferable, that a life sentence is an option, to
24 choose life.

25 Now, the reason there are 12 keys or 12

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1 locks on that door is because in order to go into
2 that room, you have to have aggravation weigh
3 greater than mitigation. In other words, key of
4 aggravation, but if one of you has a key of
5 mitigation and mitigation weighs greater than
6 aggravation, the key of mitigation or key of life,
7 one key of life will stop you from entering this
8 room where the State is arguing that we should go,
9 and that's just an example that I want to show you
10 how important it is that each one of you vote your
11 conscience, accept other persons' positions.

12 Now, I told Miss Jackson that I'd also
13 touch on a couple of things that I questioned with
14 regard to the facts and circumstances of the summary
15 that the State provided to us.

16 I had asked some questions about the four
17 young adults and the drugs that were found out at
18 their place, and I want you to know right now, I'm
19 not trying to excuse or justify, I'm not pointing
20 fingers; I'm not trying to say they deserved
21 anything, right? That's not why I did that.
22 Mr. Johnson has been held accountable, but I thought
23 it was fair, okay. I thought it was fair and it was
24 important for you to know, because there's two
25 things that kept going through -- there's two common

1 things in this courtroom over the last few days, two
2 common things -- drugs and youth. I can't imagine a
3 more combustible or scary mixture than those two
4 things. You look up at those four young adults and
5 they're all teenagers. My client was a teenager.
6 Do you remember the way we thought when we were
7 teenagers? I mean, it's kind of scary. You think
8 different as you get older.

9 Teenagers and drugs. What do drugs do to
10 us? They're mind altering. They mess with your
11 mind. They make you do choices -- make choices that
12 you wouldn't otherwise be involved with. Todd
13 Armstrong said my client was so high he couldn't
14 even keep track of who was in that house. I'm going
15 to talk about Todd Armstrong's testimony in a
16 minute. Whether that's believable or not, I'm not
17 sure, but what we know about those four young
18 adults, they're all loaded on methamphetamine and
19 cocaine or a mixture. In fact, Mr. Daskas or
20 whoever questioned the medical examiner had to say,
21 "Well, you know what, as high as they are, they're
22 not going to cause death, are they? He said, "Yeah,
23 in some circumstances I've seen people die with this
24 amount of drugs in their system." I'm not saying
25 they deserved anything, I'm just telling you that

1 when drugs and youth are involved, it's a dangerous
2 combination and that they were all placed in that
3 environment voluntarily, and it is an environment
4 that involves risk and that's all. That's all I
5 wanted to get out.

6 The other issue, second issue, and that
7 is -- in fact, Mr. Daskas made several comments that
8 really pertained to this. He says what
9 Mr. Johnson -- what he did inside -- you know,
10 inside that house at Terra Linda, he said comments
11 made by my client, those nasty comments. He
12 executed them. I asked Detective Thowsen some
13 questions because I was concerned about
14 inconsistencies. It was a little messy because, you
15 know, he's reading summaries, and it was a little
16 messy, but I wanted to point out the
17 inconsistencies, because you know what, we don't
18 know what happened in that house. We know for a
19 fact that Donte Johnson was involved in a homicide
20 and he's properly been held accountable for the
21 killing of four people, but we don't know the
22 sequence of events. I mean, all we have are several
23 people who gave different versions that my client
24 said to them, okay. This information that has come
25 to you has been filtered through other people, other

1 people that we didn't even meet, okay, and that's
2 what we're using against my client. Now again, I'm
3 not trying to say that he's any less culpable, that
4 he's any less guilty; that doesn't exist. All I'm
5 trying to point out is that there's levels of
6 culpability, levels of involvement that you can take
7 into consideration.

8 The gun that took the life of those four
9 young adults was a .380 that belonged to another
10 person that was in that house. That person took
11 that gun out of that house, and we have direct
12 evidence, again through his girlfriend, that she saw
13 him sell it. He was in possession and sold it after
14 the fact.

15 **MR. DASKAS:** I apologize to Mr. Whipple,
16 but that mischaracterizes the evidence. There was
17 never any evidence that anybody other than Donte
18 Johnson owned that .380.

19 **MS. JACKSON:** I'll read the transcript
20 with the Court's permission.

21 **THE COURT:** Read the statement back to me,
22 Miss Reporter.

23 (The record was read as follows:

24 "The gun that took the life of those
25 four young adults was a .380 that

1 belonged to another person that was in
2 that house.")

3 (Sidebar conference outside the presence
4 of the court reporter.)

5 **THE COURT:** Sustained. Clarify it.

6 **MR. DASKAS:** Thank you, your Honor.

7 **MR. WHIPPLE:** Thank you, Judge.

8 **BY MR. WHIPPLE:**

9 Q Ladies and gentlemen, again, your memory
10 is what you will use, but the .380 that took the
11 lives of the four young adults was in the possession
12 of Sikia Smith after the homicide. It was his
13 girlfriend that said he was in possession of it and
14 sold it to another person after the homicide
15 occurred, so that's information that you should take
16 into consideration. Who owned the darn gun? It was
17 Sikia Smith, not Donte Johnson.

18 Now, I also asked Detective Thowson
19 about -- I just brought out some inconsistencies.
20 If you recall, there were several different groups,
21 you can set them up in several different areas. It
22 was how many perpetrators, how many victims in the
23 house and what sequence they found themselves there
24 and Todd Armstrong's level of involvement. I think
25 it was Will Rogers who used to say the funny thing

1 about the truth is it always stays the same. These
2 were major details, and the information that the
3 State is using against Mr. Donte Johnson came from
4 these individuals, and yet, they do not -- they
5 conflict. They conflict. So, I'm bringing that to
6 your attention, because you need to recognize that
7 the information that they're using is filtered
8 through other people that we've never even met,
9 people that we know do drugs on a daily basis,
10 people that we know have a motive to lie, and in
11 fact, lie time and time again. That's what you need
12 to be aware of.

13 We know -- is it Carla (sic) Severs -- how
14 many times did they lie under oath and how many
15 times did she lie to detectives and how many times
16 did she send letters to the D.A. that were lies and
17 lies to Channel 8, and yet, that is the information
18 that they're using against Mr. Johnson. You need to
19 be aware of that. That information that you're
20 receiving is being filtered through an individual
21 who has lied multiple times under oath. The other
22 information that you're using, Todd Armstrong, that
23 information is being filtered through a person who
24 very likely could have been involved in this crime.
25 He very likely -- we know that he showed or was

1 involved with showing Donte where these individuals
2 or four young adults were. We also know that Carla
3 (sic) Severs, again, Carla (sic), the person who
4 lies under oath, says he was the one who told him to
5 go get the money and the drugs, and he was waiting
6 for his share when they got back. All I'm saying is
7 you need to realize that all this information, this
8 is what I call prejudicial, I mean, this nasty
9 Niagara Falls and this information to get you in an
10 uproar, get you excited and try to make you think
11 about an eye for an eye and tooth for a tooth, it
12 was filtered through people that I don't know we can
13 trust. That's something to think about.

14 Now, I'm done, but before I go, I want you
15 to know that I do appreciate your time. I know this
16 is not easy. Miss Jackson will have an opportunity
17 to speak to you about mitigation, and I ask when you
18 come back, think about that key of life. Think
19 about an eye for an eye. Think about love for a
20 father and return to me with that key of life.

21 **THE COURT:** Miss Jackson.

22 **MS. JACKSON:** Good evening. If it please
23 the Court, Counsel and ladies and gentlemen of the
24 jury, Mr. Whipple has already extended our thanks
25 for serving. I want to do that personally. These

1 cases are so difficult for everybody involved. I
2 know you're tired, I know it's been a long journey
3 even though we only had a penalty phase. I get one
4 opportunity to talk to you, and I'm going to try to
5 condense that into as short a period of time as I
6 can. However, in a case like this, everything is on
7 the line, and I ask that you will bear with me.
8 Bear with me.

9 At this juncture, you're simply
10 determining has the State established this
11 aggravator? Well, of course it has. We had you
12 come in about a week before it started and fill out
13 a questionnaire in which we told you my client has
14 been convicted of killing four people. That's the
15 easy part, so to speak. In these proceedings I
16 always say this, they will be so simple if there was
17 some mechanism, if you could take Donte Johnson,
18 John White, whatever name you recall calling him,
19 hook him up to some type of device and bring these
20 people their sons and their brothers back, but you
21 can't do that, and that's why society forbids that
22 type of conduct, and that's why John will spend, at
23 least, the rest of his life in an area like this
24 (indicating).

25 My counsel talked about society being

1 protected and us being safe. He did not mention
2 that John has been punished. He has been punished.
3 It's just a waiting period, but you make no mistake
4 about it, make no mistake about it, this visual is a
5 door, and it has 12 keys. At this juncture, you can
6 refuse to enter this room of death, because behind
7 those doors is death. You can call it whatever
8 you'd like or say you can't say that, but if you all
9 put your keys in here at the same time and turn, you
10 go into a room of death.

11 How could somebody -- how does someone do
12 such an unspeakable act? I work in an office where
13 all we do are homicide cases and those crime scene
14 photographs shock and appall me and make me ill --
15 unspeakable violence. What happened that John went
16 from this beautiful baby (indicating) to my client,
17 sitting over here (indicating), who killed four
18 people? These cases are so difficult, because I
19 don't think anybody in their -- no one, period,
20 would ever try to justify or excuse anything like
21 this. It's not what this is about. That is
22 impossible.

23 You indicated during voir dire that you
24 would like to know as much about this crime and as
25 much about this man as you could possibly know, and

1 that was a very good instinct. As it turns out,
2 that's exactly what the law dictates. The law
3 dictates at this juncture that you hear as much
4 about this crime and the circumstances as you can,
5 and that's why even though another jury found him
6 guilty, we had to take a couple of three days and
7 have Detective Thowsen talk to you about what
8 happened. We had to have testimony summarized, and
9 it was kind of awkward, but we were doing what we
10 were mandated to do. You had to have something to
11 work with.

12 The other prong of that law says that you
13 have to know as much as possible about my client.
14 That does not equal, as people would have you to
15 believe, lessening the value of those victims. It
16 doesn't mean that. That's not what this is about.
17 If there were a way where we would restore them to
18 their loved ones, then that would be easy.

19 Mr. Whipple said it, "Just stop this."
20 You can stop this if you find sufficient legal
21 reason, and I would submit to you, ladies and
22 gentlemen, that you have more than enough.

23 Even in the circumstances as something as
24 horrific as this -- before I even talk to you about
25 my client, the man, let me just briefly talk about

1 this crime.

2 We come in here and we talk about
3 mitigation. What is "mitigation"? It's one of the
4 areas that I happen to agree within the law; it's
5 whatever you think it is. You can just say, "It's
6 my gut feeling. I don't want to go through this
7 door today (indicating). I want to stay on this
8 side." That's mitigation.

9 John has been convicted of capital murder
10 times four. You would think that would be all that
11 she wrote. There's a lot more to consider. Let's
12 begin briefly with looking at the circumstances
13 surrounding this horrific crime itself.

14 My co-counsel touched briefly on Todd
15 Armstrong. Todd Armstrong set this whole thing up.
16 If you believe anything about what was told to you
17 about how this whole process started, you have to
18 know that in your heart of hearts, he set this whole
19 thing up. Why don't you go over there and take the
20 \$10,000? His mind gave rise to this robbery plan,
21 and he gets a pass. As a matter of fact, he got to
22 go to Hawaii when this happened. They had to go
23 over there and talk to him. He gets a pass. He
24 doesn't get arrested, he doesn't get a day in jail,
25 and he was involved in this. That is mitigation. I

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1 don't know why that is.

2 Charla Severs had her idea; she thought it
3 was prejudiced because Todd is white. I don't know
4 that. I know that I have studied this case and that
5 Todd Armstrong got a pass. There was a conspiracy
6 here to commit robbery, and our law says -- I'll get
7 to this in a second -- it doesn't matter when you're
8 in the first phase who had that gun. If we sit down
9 and we decide we're going to go and rob 7-11, you
10 and I, and we don't plan to kill anybody, and we get
11 there and something goes wrong, guess what, it
12 doesn't matter whose hand the gun is in, and that's
13 why in the first phase, whoever held that gun, it
14 was in all three hands, but in a penalty phase, that
15 might interest you because you have a co-conspirator
16 and we don't know what his childhood was like, but
17 we do know about this man who hatched up this whole
18 plan, who got a pass. As a matter of fact, he's on
19 his sofa sleeping while people are being killed
20 because of something that he put into action.
21 That's mitigation.

22 There's something else in that. See, you
23 don't know -- counsel suggest to you that they
24 planned a murder. You don't know that. We know
25 that people were murdered, but how many armed

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1 robberies are planned? And people, of course, take
2 guns to armed robberies, that's why they're armed
3 robberies, and people do get killed, and that's why
4 it's first-degree murder, but when you come down to
5 a capital case, if they did not sit down and say,
6 "We're going to tie these people up and we're going
7 to shoot them," you don't have any evidence that
8 those murders were planned. It could have been a
9 robbery that went horribly bad, and that's
10 first-degree murder, and that's why he's going to
11 die in jail -- in prison. That's mitigation that
12 there was no plan to murder. You have no evidence
13 to suggest there was a plan. As a matter of fact,
14 the detective -- strike that.

15 The detective who read the transcripts
16 when someone was questioning Charla Severs about
17 what Todd said and so forth, and she was the one who
18 testified that Todd, in her presence, said you
19 should go over there and get this money and these
20 drugs that this young man has, and under direct, the
21 State said, "Well, did Todd know anybody was going
22 to be murdered?" And she said, "No." That's true.
23 I believe that. You see, that's mitigation in that
24 circumstance. And it seems almost counter intuitive
25 to look at a situation like this and say, well,

1 that's mitigation, but it is, and that's why the law
2 is written in such a fashion that it doesn't say
3 "you should" or "it's a good idea," it says "you
4 must" take a look at these things. You know, we
5 know that Todd was into doing licks. There was
6 testimony about that. He and Ace did licks, and
7 that he wanted to manipulate Donte one more time to
8 go steal some rims for him while he sat back at the
9 house, and Todd gets a pass.

10 Somebody else in this case got a pass as
11 well, another young Caucasian man, but that just may
12 be a coincidence -- Ace Hart, Todd's friend, the one
13 who, according to the State, is riding along in the
14 car with my client and his thug friends, because
15 that's what they are, and he says, "That's where
16 Matt Mowen lives." If there is a conspiracy, and we
17 know that there was, then you certainly have Todd
18 Armstrong and Ace Hart involved in it, and they got
19 a pass. You know, wrong is wrong. That's
20 mitigation.

21 Mr. Whipple talked about all of these
22 young people, unfortunately, being high on drugs.
23 The statute here in this state on mitigation talks
24 about -- see, people oftentimes confuse
25 justification -- how many times you hear somebody

1 say, "I did that because I was drunk" -- well, in
2 this legal community and a civilized society, too
3 bad. That does not justify or excuse your conduct.
4 When you talk about taking the life of a citizen
5 when there are other alternatives, it becomes
6 mitigation.

7 You know, the jury before you has already
8 exacted justice for these four young people. They
9 found him guilty. They have guaranteed three things
10 that Mr. Whipple has said them, and I will say them
11 again. A, society will be safe; B, he has been held
12 accountable; C, he will be punished. Some things --
13 you have an instruction that says you don't have to
14 toss away your common sense. This happened in 1998.
15 Do you think he's been walking around in that time?
16 Do you think he's ever going to go to a movie? Do
17 you think he's ever going to look at his loved ones
18 like he did here in court and not have a guard say,
19 "Turn around. Turn around, Donte." Do you think he
20 will ever have that opportunity? You know, you
21 don't have to go into this room. We can end this.

22 Mr. Whipple talked about the murder
23 weapon. Sikia Smith was there. He's been convicted
24 of this, and let's talk about that. You have three
25 people who were there. You want to hear a huge

1 mitigator? You want to hear a huge mitigator?
2 Those two guys got life. In a case like this,
3 that's mitigation.

4 **MR. DASKAS:** Judge, I apologize.

5 Miss Jackson, we're arguing facts not in
6 evidence now, and that's objection.

7 **MS. JACKSON:** Your Honor, it's mitigation.
8 The co-defendants --

9 **THE COURT:** It has to be in evidence,
10 ma'am.

11 **MS. JACKSON:** It's mitigation if they
12 received life.

13 **THE COURT:** Sustained.

14 **MS. JACKSON:** Very well, your Honor.

15 Those are just a few of the mitigators
16 from this case, and there are many.

17 Now, let's talk about this young man's
18 life. How do you get to a place -- I would imagine
19 sitting on a jury like this, you wonder what
20 happened, not that it justifies or excuses anything,
21 but how do you go from here (indicating) to here
22 (indicating)? How do you do that? How does a human
23 being whose life has any value do that? How do you
24 do that? You know, people ask me all the time -- I
25 work in an office where all we do are capital murder

1 cases, and even my 18-year-old twin daughters say,
2 "How can you do that? How can you defend those
3 people?" Do you know what I tell my children? Do
4 you know what I tell those people? "I'd spend my
5 entire practice doing this, because I represent
6 children, children. That's who I represent --
7 children." Ladies and gentlemen, it has been
8 proven, they learn what they live. That's why I do
9 this -- children -- they learn what they live. Who
10 they see is oftentimes who they will become. That's
11 a fact. And perhaps you will say to me right now
12 that he's not a child. See, I get to work with the
13 remnants of physical and mental abuse, and that's
14 the adult that's left. That's why I do this.

15 Let's start with his mother and father.
16 Do you think he chose them? You want to talk about
17 choices. Do you think he chose them? John White,
18 Sr. and Eunice Cain had a son. His name is John
19 White, Jr., and this is his story.

20 Mom drinks while she is pregnant. That is
21 her legacy to her son. And the reason why mom
22 drinks is because, unlike when they were courting,
23 John Sr. isn't very nice to her. Mom was born with
24 issues and problems. She was mentally retarded when
25 she was born. She had some asthma problems, and she

1 was able to go to school, and she had a speech
2 impediment, and she looked a little bit different,
3 and that made it difficult for her, but you know
4 what, she met John White, Sr., and she thought that
5 he was nice and that perhaps she could have some
6 kind of, you know, decent life. But alas, it was
7 not to be, because he began brutal beatings that
8 started almost immediately after they got married,
9 and so she began to drink, even while she was
10 pregnant with John. And do you think that's
11 mitigation? Do you think, as a society, that
12 there's a reason why we tell pregnant women, "Please
13 don't drink. It's not good for the baby"? That's
14 mitigation. The fact that his mother is born with
15 these defects, and I'm sure she did not choose --
16 that's mitigation.

17 Eunice has all kinds of issues. People
18 call her names. They call her "dummy"; they call
19 her "retarded"; they call her "stupid," and she does
20 the best that she can, and she finds out as she
21 grows up into a young woman that men will take
22 advantage of you. She thought she had found a safe
23 haven with John White and what a nightmare began.

24 John White, Sr., after torturing this poor
25 woman and her children for a time, he's been missing

1 in action. He even raped this woman in front of
2 John. This is the father figure. He beat his wife;
3 he beat his children. Oftentimes, John didn't even
4 know why he was being beaten. He knocked Eunice's
5 teeth out, further disfiguring her face. He simply
6 disappears.

7 I'm going to read something to you, ladies
8 and gentlemen, that kind of sums up this portion of
9 John's life. This is Exhibit M. It's in evidence
10 and you will have it. The words are cut off on the
11 end, but you know, unfortunately, this story about
12 what happens, we all know it, and you can pretty
13 much figure out what the missing words are. It's an
14 assessment prepared by what is the equivalent to our
15 CPS; they call it "DPSS" in California, relevant to
16 Eunice Cain White, married, tenth grade special
17 education, and she's on SSI, and she's on probation
18 as her criminal history. John White, married;
19 education, unknown. He gets SSI as well. Criminal
20 history, unknown. And it states, "Eunice Cain, age
21 25, has dropped out of site. Since the time that
22 her children were detained, her whereabouts and
23 those of Mr. White have been unknown. A week ago it
24 was learned that she was briefly hospitalized at
25 California Hospital for a respiratory problem. And

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1 the worker contacted her there on Friday afternoon,
2 December 21st, to make arrangements to interview her
3 either there or at her mother's house on Monday,
4 December 24th." This is Christmas Eve, and these
5 people -- God bless them -- "went to the hospital
6 when they heard she was there. They were really
7 trying to work with her in reference to these
8 children," and remember, this is Christmas Eve.

9 "By the time the interview was come
10 around, the mother had disappeared. She wasn't at
11 her mother's home on Monday morning, but her
12 mother" -- I'm sorry -- "and family members have no
13 knowledge of her whereabouts. DPSS feels certain
14 that mother is fully aware of the need to have
15 contact with investigator and along with Mr. White
16 is deliberately avoiding DPSS investigation.
17 Mother's family informs that she is the fourth of
18 seven siblings born to Mrs. Jane Edwards. She
19 attended special classes in school and went to the
20 tenth grade. Maternal grandmother, Mrs. Edwards,
21 states that Mrs. White was not a problem during her
22 growing up years. She married John White when she
23 was 17 years old and bore Johnny Lee when she was
24 18. Maternal grandmother states that Mr. White used
25 to beat Mrs. White. They separated for a while

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1 because of this but they are back together now.
2 Grandmother also states that her daughter does not
3 really read and write and has difficulty making
4 appropriate decisions. She asked for help in the
5 Regional Center in handling her affairs over a year
6 ago and then rejected their assistance because she
7 felt she was intruded upon and felt she wanted to
8 handle her own life. And copies of that letter from
9 Regional in regards to that letter to assist mother
10 to stabilize herself in their attempts to are
11 included in this packet. It is also important to
12 note that mother is also under order from the
13 criminal court system to engage in drug abuse
14 counseling. She has not followed through.
15 Miss Edwards has stated that she has had Eunice and
16 the children with her in the past for prolonged
17 periods of time. However, she says that mother
18 refuses to cooperate when there and then withdraws
19 from everything and sabotages grandmother's attempts
20 to work with and care for these children. She also
21 refuses to have anything to do with sending the
22 oldest to school." That's little Johnny. It says
23 here, "Little Johnny, age seven-and-a-half, states
24 he wants to remain with his grandmother, and so does
25 Johnnisha, age five-and-a-half. He likes his mother

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1 but does not want to live with her. He says his
2 mother and father have been, quote, 'mean to me' in
3 the past. They yell at all three of them, and 'they
4 beat me with the belt when they get mad.' They hit
5 the two younger minor ones with their hands when
6 they get mad. Johnny says that his parents hit him
7 on any part of their body they can reach, often the
8 head. He says he does not understand why they get
9 mad all the time. He does not know what he has done
10 wrong most of the time. Johnny is embarrassed by
11 the fact that he has missed nearly the entire first
12 one and a half years of education. He cannot read
13 and write yet. Both Johnny and Johnnisha are
14 bed-wetters. Both say it has been very hard."

15 I got to stop here. The letter that
16 Johnnisha wrote, what was the first thing she
17 said -- "Life has been real hard for me and John,"
18 and certainly it has.

19 "Both said it has been very hard for them
20 in the past, and they are very glad to be with
21 grandmother. The above information has been
22 verified by other maternal family members.
23 Indications are that many attempts have been made in
24 the past by Regional Center and by family members to
25 help the family upgrade the care of themselves and

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1 the minors without success. By the time the minors
2 were detained, the family was living" -- note the
3 word "living -- "in a garage without utilities under
4 the most deprived of circumstances. This is in
5 spite of an extraordinary amount of income coming
6 into the home -- both parents on SSI and AFDC which
7 is aid for dependent children for the minors.
8 Indications are that the monies were spent on drugs,
9 alcohol by the parents." Well, you think.
10 "Problems, causes: Mother has an IQ of 61." In
11 this state, retarded is 70 or below -- "and is given
12 to periods of depression and tantrums. DPSS has not
13 been able to learn why the minors' father receives
14 SSI. He is known to have abused both his wife and
15 his children. Both parents appear unable to assume
16 the responsibility of parenthood. Both seem not to
17 acknowledge their problems."

18 And the most ironic thing about this whole
19 document, they have down here -- and you'll read
20 it -- it says, "Family strengths: The minors appear
21 to be survivors." The minors appear to be
22 survivors.

23 Imagine the hurt, the pain, the trauma of
24 this type of childhood, watching your mother being
25 beaten, and we're not talking about slapping her

1 around, we're talking about beating her to a bloody
2 pulp. Can you imagine how hard you hit someone --
3 an adult -- to knock out their teeth, to disfigure,
4 permanently, their face, to choke someone and hang
5 them over a banister because she's trying to stop
6 her baby from crying? Can you imagine this child
7 being locked in a closet by this man because he says
8 she's not his child? Can you imagine your mother
9 locking you in a closet because she hears ghosts?
10 There's no light, and all you can hear in there is
11 her screams. Go back, two, three, four, five, six
12 years old and ask yourself, how does someone get to
13 be a survivor that this paper talks about? You have
14 to get real hard. You have to get real hard.

15 Do you think that's mitigation? If just
16 one of you think it is, that's enough.

17 These people pulled these children out of
18 that garage with no toilet, no bed -- there's one
19 bed, and they all slept in it -- no air conditioning
20 in the summer, no heat in the winter except for the
21 extension cord that they ran from great grandma's
22 house, and that wasn't enough, because the wiring
23 wasn't sufficient -- running around watching your
24 mother on drug runs; the uncles and the aunts
25 smoking crack, PCP, whatever they could get their

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1 hands on in front of these children, and then the
2 fighting starts. And finally, they're taken out,
3 and they're put in their grandmother's house, and
4 thank God for grandmother. She did a fantastic job.
5 She did a marvelous job. The image of her trying to
6 reach past her children and trying to embrace these
7 grandchildren with four out of seven of her children
8 being on drugs, and up to 12 grandchildren, her arms
9 just were simply not long enough. They slipped
10 through the cracks, some of them, and yes, there are
11 some people who can be exposed to the same things --
12 we all know that -- and turn out differently.
13 Science or no one else has been able to explain
14 that. Johnnisha, Keonna, they are taking care of
15 the family now -- sisters, mothers, cousins,
16 siblings -- all living with them. They are modeling
17 their role model, Miss Edwards. The boys didn't
18 have one. Their uncle, God bless him, is an
19 alcoholic and a drunk. He came in here and told you
20 that himself, and it took tremendous courage.
21 That's mitigation, you know, the environment that we
22 grow up in, and yes, there's evidence of
23 Miss Edwards trying to get John on the right track.
24 The videotape -- we didn't have to show you that.
25 It does not make you go, "Oh, poor John" -- we want

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1 to give you as much information about this young man
2 as we could -- singing in the choir at about four,
3 seven -- he looks smaller, but the report indicates
4 he was seven when he went to grandma, and he had to
5 be at least seven.

6 I was a little bit offended by something
7 Counsel said -- "If you find that he's short, that's
8 mitigation." I don't think anybody finds that to be
9 in mitigation. We were talking about in terms of
10 him trying to defend his mother like any boy would
11 do, and can you imagine this little child running up
12 trying to take on a grown man -- that's mitigation.

13 Grandma took these children to church, and
14 she obviously taught them about Jesus. That's what
15 he's singing, "Does Anybody Here Love My Jesus."
16 They're all in their uniforms, they're involved.
17 She's one to be applauded. They're not hear trying
18 to tell you that he didn't have some good in his
19 life and that grandmother did not try. She put one
20 child in private school at great sacrifice to the
21 rest of them, but you know, her arms were just too
22 short, and some of these children, primarily the
23 boys, wound up sitting over here where my client is
24 sitting. That's mitigation.

25 You had the violence in this neighborhood.

1 Johnnisha talked about walking to the store minding
2 her own business and being approached by a lady who
3 says, "What's your name?" and then stabs her in the
4 head. Can you imagine when grandma got these kids
5 and these kids are so happy -- the picture of John
6 looking up at Kannita -- he's just so happy to be
7 there, can you imagine them sitting down to the
8 dinner when they have food, and there's a drive-by
9 and everybody has to get on the floor? You know,
10 this is the stuff that we see on TV, and it's real.

11 You think about the length that you go to
12 to protect your children. We have laws that say you
13 must put them in school. We have so many laws to
14 protect children from when they're born until they
15 get to a certain age, because we, as a society,
16 recognizes if you don't do those things, if you
17 don't teach your children the values that we hold
18 dear, they have no chance. Even when we do that,
19 they go astray. I don't know, but I would suggest
20 that these young men who were killed in this case
21 probably came from good homes, and they were using
22 drugs. Even when we do our best, things go wrong,
23 even when we do our best.

24 What would you sacrifice for your child?
25 I'd cut off my hand for mine. Imagine if your child

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1 didn't know that in their heart, what it must be
2 like. What does it take to be a survivor in South
3 Central when you have these kind of conditions? We
4 can't even imagine it unless you've lived it. Can
5 you imagine a lady being pulled out of -- a body --
6 a dead body and there's a broom or a pole stuck up
7 the lady's private, and you, as a child, you're
8 exposed to that? Can you imagine a shoot-out right
9 across the street and then they kill the guy and
10 they're knocking out walls and -- this is an
11 everyday thing. This is an everyday thing in my
12 client's life, the trauma, the shock; pretty soon he
13 becomes the survivor that this report talks about,
14 and that's why when Todd Armstrong said, "Let's go;
15 let's ride," he had no choice. That's what he's
16 conditioned to do. This explains how somebody could
17 do that. I don't know why Todd would come up with
18 such a plan. I don't know Todd. I know he got a
19 pass. He has not had to sit in that seat
20 (indicating).

21 I know that criminals are not born, I know
22 this. They're made. They are made, ladies and
23 gentlemen, and as a capital defender, I can give you
24 the formula. You take a fairly bright child, you
25 abuse that child, you neglect that child, you beat

1 that child, and a few years you go by, at the best
2 you get an alcoholic or drug addict, at the very
3 worst, you get my client. That's what happens.

4 Does the mitigation in this case outweigh
5 their one aggravator again? Again, it's not to
6 diminish anything about those young men's lives,
7 that's not what this is about. There's nothing that
8 we can do for them. He's already been punished.
9 He's already been convicted. He's already been held
10 accountable. If only you could make a decision that
11 would bring them back, I wouldn't be standing up
12 here and we wouldn't have been here for the last two
13 weeks. You can't do that. The only thing you're
14 required to do is to stop this. If one of you, one
15 of you, one of you, one of you, one of you find that
16 any -- and we have in Instruction 10, we listed
17 some -- we didn't want to offend you because the law
18 says that whatever you find -- it would be that
19 boy's smile, Allen; it could be wanting to let
20 Miss Edwards know that you're not going to kill him;
21 it could just be a feeling. You can choose not to
22 go into the room of death, and on behalf of
23 Mr. Johnson, that's what we ask you to do.

24 Thank you.

25 **THE COURT:** State.

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1 **MR. STANTON:** Can I have a moment to get
2 some items, your Honor?

3

4 **STATE'S REBUTTAL CLOSING ARGUMENT**

5 **MR. STANTON:** Ladies and gentlemen, one of
6 the things that I'm sure each one of you bring to
7 this process and one of the reasons why you are, in
8 fact, selected as jurors is that you are all law
9 abiding compassionate people.

10 The instructions of law, the oath that you
11 took to follow in this case, this entire packet,
12 nowhere in there is there a legal instruction for
13 your deliberations to try and put the pieces back
14 together in the families that have been affected
15 back in August of 1998. I would assume that each
16 one of you, if you had that power, would do that.
17 The families of the victims certainly would. It
18 can't be done. What this process is about -- and I
19 beg to differ with both counsel -- he hasn't been
20 punished, and he hasn't been held accountable.
21 That's what this process is about.

22 **MR. WHIPPLE:** Judge, I'm going to object.
23 He has been held accountable, your Honor. This is
24 the penalty phase.

25 **THE COURT:** Overruled. This is argument.

1 **MR. STANTON:** Repeatedly they say he's
2 been held accountable, he's been punished.
3 Mr. Whipple, by my count, said four times, "Society
4 is protected." No, not true. That's what this
5 process and your deliberations today and in the
6 future will be about. The life of Donte Johnson is
7 now, at least a portion of it, before you.

8 As Paul Harvey says, the rest of the story
9 deals with the second phase with additional
10 witnesses and additional evidence before you when
11 you consider the final portion of this.

12 **MS. JACKSON:** Your Honor, may we approach?

13 **THE COURT:** No.

14 **MS. JACKSON:** Your Honor, I need to
15 object. They keep suggesting that there's something
16 that the jury hasn't heard, and that is in violation
17 of this Court's order. They've done it twice.
18 Mr. Daskas did it, and now he's doing it.

19 **MR. STANTON:** Your Honor, clearly what was
20 already discussed with the jury in voir dire
21 selection was that there are two phases in this
22 proceeding and that there will be facts in evidence
23 presented in both phases of this proceeding.

24 **THE COURT:** That is true, but if it did
25 not come out, sustained. There's two separate

1 things. We're talking about aggravators and
2 mitigators now.

3 **MR. STANTON:** Correct, your Honor.

4 **THE COURT:** All right.

5 **MR. STANTON:** The facts in evidence before
6 you, and I would submit to you that Jury Instruction
7 No. 12 -- it's one of the shortest ones you have --
8 in your deliberation, you may not discuss or
9 consider the subject of guilt or innocence of a
10 defendant as that issue has already been decided. I
11 sat here and listened to Counsel talk about Todd
12 Armstrong and Ace Hart, quote, "getting a pass."
13 That's not your decision. That's not the issue
14 before you as is the same analysis as it relates to
15 the co-defendants in this case, Sikia Smith and
16 Terrell Young. Those decisions were based on
17 separate juries and separate facts.

18 Your oath, your obligation, your duty, a
19 very solemn and a very significant decision is to
20 base it upon the facts and the law, not emotion. It
21 is the facts and the law that drive your decision by
22 your oath.

23 What are the facts in this case?
24 Repeatedly you've heard, "We make no excuses."
25 Really? What I heard argued just before you is who

1 did what in the underlying murders. It is proven
2 beyond a reasonable doubt that the defendant is
3 guilty of first-degree murder with use of a deadly
4 weapon. The evidence is unequivocal that it is the
5 defendant, Donte Johnson, that fired the fatal
6 rounds into each one of the victims' heads. To
7 argue before you that the evidence is anything else,
8 cite me to the facts.

9 **MR. WHIPPLE:** Judge, I'll object. This is
10 argument. He can argue what he wants, but for him
11 to start delineating what's the truth or not, that's
12 inappropriate.

13 **MR. STANTON:** I'm arguing the facts, your
14 Honor, and I don't understand why Counsel continues
15 to interrupt my argument.

16 **THE COURT:** Read the statement back to me.

17 **MR. WHIPPLE:** Thank you.

18 (The record was read as follows:

19 "The evidence is unequivocal that it
20 is the defendant, Donte Johnson, that
21 fired the fatal rounds into each one
22 of the victims' heads. To argue
23 before you that the evidence is
24 anything else, cite me to the facts.")

25 **THE COURT:** Overruled.

1 **MR. STANTON:** The facts -- what facts are
2 there to suggest to you that anybody but Donte
3 Johnson executed these four young men? It is the
4 defendant's associates, friends and girlfriend that
5 were witnesses to what he said happened. Donte
6 Johnson is not charged with beating his wife or his
7 girlfriend. He's not charged with any of the
8 attended things that he observed as a child growing
9 up. I ask you to think of the logic of what he saw
10 growing up and how that connects to what you see he
11 has done in this case, and I submit, there is none,
12 but what there is is concrete evidence to suggest
13 that something that runs through his veins and
14 between his ears is different, different from the
15 hundreds and thousands of people that have been
16 brought up in the same or similar circumstances.

17 **MR. WHIPPLE:** Judge, I'm going to object.
18 That's inappropriate argument.

19 **MS. JACKSON:** It is inappropriate.

20 **MR. WHIPPLE:** May we approach?

21 **THE COURT:** Yes.

22 (Sidebar conference outside the presence
23 of the court reporter.)

24 **THE COURT:** Sustained as to the
25 characterization.

1 **MR. WHIPPLE:** Thank you, your Honor.

2 **MR. STANTON:** The evidence that suggest,
3 as Counsel does mitigation, that what happened and
4 what he saw in his childhood is simply put to rest
5 regarding his own sisters, Eunisha and Johnnisha
6 White. She went through the same things. Why did
7 they not end up doing what Donte Johnson did? Why
8 didn't they execute four people when they did not
9 get what they wanted or wanted to take something
10 from somebody else? The answer is, the defendant is
11 different than his sisters. Counsel said, "unique
12 as DNA." That, we agree on.

13 Donte Johnson is not a child. Counsel
14 made several comments about who she represents. He
15 is an adult. In the eyes of the law and clearly as
16 you observe him in court, he is an adult.

17 I want to talk about a couple of sets of
18 facts regarding the underlying murders, and the
19 facts that I want to discuss with you go directly to
20 why or who Donte Johnson is and why in your
21 deliberation of the aggravating factors versus the
22 mitigating factors that the death sentence should be
23 a sentencing option in this case. It speaks not so
24 much about the murders and who did it, that's been
25 proven, but it speaks to who the defendant is.

1 A couple of very important facts involving
2 this case. The fatal -- the ultimately fatal
3 conversation when Matt Mowen comes over and in the
4 presence of the defendant and Terrell Young, makes
5 the statement that they have lots of money that they
6 made selling pizzas and drugs following the band
7 Phish.

8 **MS. JACKSON:** Your Honor, I object. The
9 only person I've heard say "pizza" was Mr. Daskas
10 and Mr. Stanton. The detective said "acid." The
11 money was made selling acid. There was no evidence
12 at all that pizzas was sold.

13 **THE COURT:** I don't recall pizza, Counsel.

14 **MR. STANTON:** I'll leave it to the
15 collective memory of you as the jury of what
16 occurred. The braverman (sic) of this felony is
17 that statement that he had money. What happened
18 after that statement? What did Donte Johnson do?
19 He did something interesting that speaks to who he
20 is. Twelve times, ladies and gentlemen, he asked,
21 where does that guy live? Where does Matt Mowen
22 live? Now, what did he want to do? Well, he wanted
23 to rob him. He wanted to rob him of something of
24 value. There are two things of value at that home
25 what he knew, and that is drugs and money.

1 So, what does he do? Things that speak to
2 who he is, he does some very interesting things,
3 ladies and gentlemen, uncontroverted facts. He
4 takes with him to the Terra Linda home himself and
5 two of his friends. Why? Because he's going to rob
6 them. A "lick" is what you heard, but they do much
7 more. Counsel says where is the evidence about they
8 planned a murder, and it's sitting right in front of
9 you?

10 Here is how they planned the murder. What
11 did they take with them to Terra Linda? Three
12 people and a bag full of guns. What kind of guns
13 did they take with them? We saw this evidence --
14 not toy guns; they took real guns. What else did
15 they take with them besides the guns? What makes a
16 gun work? Ammunition. The guns were loaded, ladies
17 and gentlemen. What else did they take with them?
18 Gloves. As you heard Charla Severs' testimony,
19 gloves. Each one had a pair of gloves. Why take
20 the gloves? Because that man sitting right there
21 (indicating) wanted to commit this crime with his
22 friends and get away with it to avoid punishment,
23 avoid responsibility. And what was the last thing
24 that they took with them -- it's not what they took
25 with them; it's what they didn't take with them.

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1 They knew Matt Mowen. You're going to rob these
2 folks, put a gun to their face, get in the fucking
3 house, point them out, duct tape them, rob them with
4 gloves and then walk out? No. They had planned the
5 murder all along. They did not take anything with
6 them to prevent the four boys from identifying them.
7 They had planned the whole thing.

8 What accelerated it is Peter Talamentez
9 talking stuff -- smack to him and the fact that he's
10 Hispanic, which the defendant's then girlfriend who
11 he told and she knew that he did not like Mexicans,
12 Peter Talamentez. There's all kinds of testimony
13 here in mitigation about the defendant's size, what
14 he couldn't do as a young man.

15 Were you struck by the testimony that
16 Mr. Daskas elicited about the autopsies of four of
17 these individuals -- Peter Talamentez, 5'9,
18 105 pounds, duct taped, face down, hands behind his
19 back, feet tied together. Is there an explanation
20 for the defendant's childhood and upbringing in
21 South Central Los Angeles that explains that? I
22 submit to you, there is not.

23 Todd Armstrong set this whole thing up.
24 Really? He may have been the one who said what
25 these boys had and it may have been the triggering

1 event. Are we going to blame Todd Armstrong for
2 this? Did he suggest that they go over and execute
3 these kids, ladies and gentlemen? That came from
4 one person and one person only.

5 **MS. JACKSON:** Your Honor, I'm going to
6 object. Counsel has referred to these decedents as
7 kids and as boys. We made a specific ruling on that
8 before we started.

9 **MR. STANTON:** I will refer to them as
10 "young men," your Honor. All right. Sustained.
11 Was there any evidence, any facts to suggest that
12 Todd Armstrong set this up? I submit to you not,
13 and in addition, as counsel has repeatedly told you,
14 there will be no excuses offered in this case. He
15 was in Hawaii like he was on vacation. I believe
16 the evidence, if you recall, was that's where Todd
17 Armstrong's mom lived. It is uncontroverted from
18 the evidence at the time that these murders occurred
19 when these defendants went over to the Terra Linda
20 home, Todd Armstrong was asleep on the couch.
21 Counsel made a comment about who the .380 belonged
22 to. LaShawnya Wright was the witness that gave
23 testimony regarding the disposition of the gun. We
24 did not talk about ownership; it said who possessed
25 the gun. She possessed the gun -- testified as to

1 Sikia Smith, her boyfriend possessing it after the
2 murders, approximately the 17th or 18th of August,
3 selling it. This is the same person who she said,
4 observing her boyfriend after the murders, as being
5 scared. There is no indication that anybody
6 reasonably can look at the facts in this case that
7 Donte Johnson didn't execute the one-inch-from-the-
8 back-of-each-one-of-these-boys heads, fatal shot.

9 "Drugs and youth" -- I wrote down this
10 quote from Counsel, quote, unquote, "It is a
11 dangerous combination." Really? Really? In
12 certain circumstances it can be. How many young
13 people today in our society or since 1998 have been
14 involved with drugs? Hundreds, thousands, hundreds
15 of thousands. When does it become dangerous? I
16 submit, ladies and gentlemen, it becomes dangerous
17 when drugs represent money and someone like him
18 wants to get it.

19 Donte Johnson fits the dangerous
20 combination, and that's the wild card in this case.
21 He's the one that creates what you saw as the crime
22 scene photographs in this case, not drugs. Drugs is
23 simply money, something to be desired because it has
24 something of value. It's not like this is a Bank of
25 America and when these kids are robbed they can dial

1 911.

2 Eye for an eye. Mr. Whipple said that at
3 least four times. You know through the voir dire
4 selection that eye for an eye is not law in the
5 State of Nevada. There is nothing about the State's
6 presentation in argument or facts that we suggest to
7 you that is an appropriate portion of your
8 deliberations and decision. It's not the law.

9 This (indicating), ladies and gentlemen,
10 is a compilation of a series of items of evidence
11 before you. Crime scene diagram that you see in the
12 background, the four victims in life and in death.
13 What I want to ask you to do when you go back and
14 deliberate and look at the facts of this case is
15 look at these photographs, not for their tremendous
16 sense of loss that you see and tragedy in the
17 photographs but for its evidentiary value, what it
18 means to you in your decision at this stage of the
19 proceedings whether or not death should be an
20 option.

21 If you look at that crime scene photograph
22 as a videotape, it's on pause. You see only one
23 still photograph of what transpired in the Terra
24 Linda home. If you want to find out what the
25 defendant is about as it relates to the four

1 murders, walk that videotape back beyond the four
2 walls of Terra Linda where the young boys or young
3 man is watering his lawn, and you walk it back to
4 the time when Matt Mowen makes the statement about
5 what's over in the house and then the defendant
6 begins to plan.

7 Why does he plan to do what he's doing?
8 Why would you think about committing this crime the
9 way he did? That's who the defendant is.

10 Think about this. Inside the Terra Linda
11 home, you have two men pointing to the evidence,
12 prone down on the floor, completely immobilized and
13 defenseless. What does the defendant do? He asks
14 and demands that the money or drugs be given to him.
15 Somebody has got to have it. So, as one witness
16 testified, the defendant said they called other
17 people over, the victims did. We know that one of
18 those two people was Peter Talamentez. So, think
19 about this as you play this videotape in your mind.
20 Peter Talamentez is prone down on the floor in front
21 of Donte Johnson. He has a loaded .380 in his
22 hands. He is angry, he has pistol whipped him, he's
23 kicked him, and he goes over, bends down one inch
24 from him, bam, in the back of Peter Talamentez's
25 head. Think what went through Donte Johnson's mind,

1 what he was thinking and doing. After doing that,
2 what does he think next? Not sympathy, compassion;
3 he goes over and systematically executes, bending
4 down to each one of these boys. Not only does he
5 shoot them, ladies and gentlemen, but they're
6 groaning, they're grunting that he demonstrates to
7 several people unabashedly soon after the murders.

8 That's who Donte Johnson is. Their heads
9 are spraying like Niagara Falls. What is he
10 thinking about? What does it take for an individual
11 to be able to do that? It is not South Central
12 Los Angeles.

13 Ladies and gentlemen, the mitigation
14 evidence in this case I submit to you makes, as
15 Mr. Daskas says, unequivocally real, but there's one
16 thing I would like to summarize the mitigation
17 evidence and it's one thing that's perfectly clear
18 by each and every witness that took that stand.
19 They know and they love John White. They don't know
20 Donte Johnson.

21 The final thought I'd like to leave you
22 with is Jury Instruction No. 17 and I'd like to
23 quote from that instruction the law in this case,
24 "Your steadfast purpose of doing equal and exact
25 justice between the defendant and the State of

1 Nevada."

2 I respectfully submit to you to accomplish
3 that task, the death penalty must be an option to do
4 equal and exact justice.

5 Thank you for your time and attention.

6 (Bailiff sworn.)

7 **THE BAILIFF:** I do.

8 All rise.

9 Ladies and gentlemen, bring your books at
10 this time and all of your belongings and step this
11 way.

12 (Outside the presence of the jury.)

13 **THE COURT:** This is what the Court is
14 going to do. We're going to have them come back in
15 the morning at 10:00 o'clock to deliberate, so
16 they're not going to do it tonight. They're going
17 to be admonished and released and the alternates
18 will be released also, but they will be here at the
19 courthouse tomorrow. All right? We'll reconvene --
20 what time will you be finished in the morning?

21 **MR. WHIPPLE:** I will be here at
22 1:00 o'clock, your Honor.

23 **THE COURT:** We'll reconvene at
24 1:00 o'clock.

25 **MR. DASKAS:** Judge, I apologize. Can I

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1 bring up one issue? In the instructions and
2 certainly as your Honor knows in penalty hearings,
3 jurors are entitled to the evidence that was
4 admitted in both the guilt phase and the penalty
5 phase. You had made a ruling excluding a certain
6 shotgun that was omitted in the trial. I mention
7 this, Judge, because I think the jury, if they
8 requested, they're entitled to the evidence, and I
9 would ask that that be removed from the evidence if
10 they want to review the evidence.

11 **THE COURT:** Right. That's a good idea.

12 **MR. DASKAS:** And the other point is,
13 Judge, we don't know what this jury is going to do,
14 but we will have witnesses prepared to begin
15 tomorrow.

16 **THE COURT:** At 1:00 o'clock, because
17 that's when you will be ready, so have your
18 witnesses ready for 1:00.

19 **MR. DASKAS:** We will, Judge.

20 **MS. JACKSON:** Your Honor we have one
21 matter to put on this record.

22 **THE COURT:** What's that?

23 **MS. JACKSON:** We have an order by this
24 Court and we made it because we felt that it was in
25 order that the victims not be referred to as "boys"

1 or "kids." The Court admonished Counsel because he
2 did it twice, and after the admonishment, he did it
3 two more times, and the record will so reflect.

4 **THE COURT:** You did not object.

5 **MS. JACKSON:** I didn't want to keep
6 drawing attention to it. That's why you file
7 motions up front so you don't have to keep doing it
8 in front of the jury. Maybe the Supreme Court may
9 think it's inappropriate.

10 **MR. STANTON:** So, is Counsel's arguments
11 about personalizing things talking about her
12 feelings about what she would do --

13 **THE COURT:** If you don't object and give
14 the Court time to rule on it, it's all academic
15 after that. You know you're supposed to object
16 contemporaneously after that. The Supreme Court has
17 repeatedly stated that unless it's plain error --
18 and I don't think any of it is plain error at this
19 point, so you guys just have to live with it.

20 (Evening recess taken at 5:07 p.m.)

21 * * * * *

22

23

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1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA)

:SS

3 COUNTY OF CLARK)

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I, SONIA L. RILEY, CERTIFIED COURT

REPORTER, DO HEREBY CERTIFY THAT I TOOK DOWN IN

STENOTYPE ALL OF THE PROCEEDINGS HAD IN THE

BEFORE-ENTITLED MATTER AT THE TIME AND PLACE

INDICATED, AND THAT THEREAFTER SAID STENOTYPE NOTES

WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY

DIRECTION AND SUPERVISION AND THE FOREGOING

TRANSCRIPT CONSTITUTES A FULL, TRUE AND ACCURATE

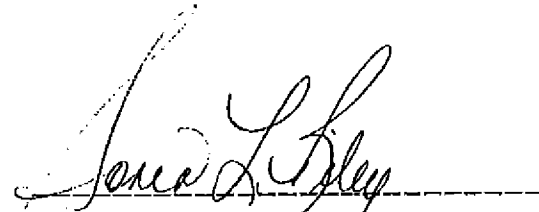
RECORD TO THE BEST OF MY ABILITY OF THE PROCEEDINGS

HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO

SUBSCRIBED MY NAME IN MY OFFICE IN THE COUNTY OF

CLARK, STATE OF NEVADA.



SONIA L. RILEY, CCR 727

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

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THE STATE OF NEVADA v. JOHNSON

FILED

DISTRICT COURT .
CLARK COUNTY, NEVADA

ORIGINAL 9:03

Spencer R. Hargrave
CLERK

THE STATE OF NEVADA,)

Plaintiff,)

-vs-)

DONTÉ JOHNSON,)

Defendant.)

Case No. C153154

Dept No. VIII

Docket H

VOLUME VI-A

PENALTY PHASE

BEFORE THE HONORABLE LEE A. GATES

TUESDAY, APRIL 26, 2005, 10:15 A.M.

APPEARANCES:

For the State:

ROBERT J. DASKAS, ESQ.

DAVID STANTON, ESQ.

Deputies District Attorney

For the Defendant:

ALZORA JACKSON, ESQ.

Deputy Public Defender

BRETT WHIPPLE, ESQ.

REPORTER: KRISTINE MOORE, CCR 273

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THE STATE OF NEVADA v. JOHNSON

1 LAS VEGAS, NEVADA, TUESDAY, APRIL 26, 2005, 10:15 A.M.

2 * * * * *

3 THE BAILIFF: Be seated. Come to order.
4 Court is again in session.

5 THE COURT: All right. Record show
6 presence of the parties, attorneys, all the
7 members of the jury. Where is the witness?

8 MR. STANTON: Out in the hall, your Honor.
9 State would briefly recall Detective Tom Thowsen.

10
11 DIRECT EXAMINATION (Resumed)

12 BY MR. STANTON:

13 Q Detective, I want to now progress to the
14 date of August 18, 1998, as it relates to homicides,
15 detectives, and SWAT. Going to 4815 Everman,
16 approximately what time did police and SWAT units
17 actually make entry into the Everman home?

18 A Sometime after three o'clock in the
19 morning.

20 Q Who was found inside the Everman home when
21 SWAT and homicide detectives, made entry?

22 A Charla Shevers, Donte Johnson, and Dwayne
23 Anderson, goes by the name of Scale.

24 Q Scale was a friend of the Defendant, yes?

25 A Yes.

THE STATE OF NEVADA v. JOHNSON

1 Q Pursuant to the totality of your
2 examination of this case, Scale had no involvement in the
3 underlying quadruple murders?

4 A That's correct.

5 Q My final question to you is: When the
6 Defendant was asked immediately after he came out of the
7 Everman home, whether or not he lived there, what was his
8 response?

9 A That he did not.

10 MR. STANTON: I pass the witness at this
11 time.

12 MR. WHIPPLE: Thank you, your Honor. With
13 the Court's permission, I will bring the podium over.

14 THE COURT: That's fine.

15

16 CROSS-EXAMINATION

17 BY MR. WHIPPLE:

18 Q Detective Thowsen, this is an unusual type
19 of testimony from you. It's fair to say?

20 A Yes, that's correct.

21 Q You are not testifying from your own
22 knowledge, but because of information provided through
23 trial transcripts?

24 A That's correct.

25 Q At the same time you are one of the lead

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1 detectives in the case; although, it's in the transcript;
2 it's information you are aware of, as well?

3 A Some of it, yes.

4 Q Is there information you are aware of in
5 the trial transcript, you were unaware of, you learned
6 for the first time?

7 A Yes.

8 Q There is a mix then?

9 A That's true.

10 Q You are lead detective, learned lots of
11 information at the crime scene?

12 A Yes.

13 Q Then asked to read the trial transcript by
14 prosecutors in the case?

15 A Correct.

16 Q You have basically done that, and you are
17 testifying to that today?

18 A That's correct.

19 Q You have summarized a number of potential
20 witnesses?

21 A Yes.

22 Q One of the first witnesses you summarized
23 was the next door neighbor?

24 A Yes.

25 Q That was Nicholas?

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IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

DONTE JOHNSON,

S.C. CASE NO. 65168

Appellant,

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Tracie K. Lindeman
Clerk of Supreme Court

vs.

THE STATE OF NEVADA,

Respondent.

APPEAL FROM DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION)
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE ELISSA CADISH, PRESIDING

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APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME XXV  
~~~~~

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IN THE SUPREME COURT OF NEVADA

DONTE JOHNSON,

CASE NO. 65168

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

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4	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 06/07/2011)	7575-7578
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7	10	VERDICT (FILED 06/09/2000)	2595-2600
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9	19	VERDICT (COUNT XI) (FILED 07/26/2000)	2595-2600
10	19	VERDICT (COUNT XII) (FILED 07/26/2000)	4429
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12	19	VERDICT (COUNT XIII) (FILED 07/26/2000)	4430
13	19	VERDICT (COUNT XIV) (FILED 07/26/2000)	4432
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15	19	WARRANT OF EXECUTION (FILED 10/03/2000)	4624
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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 9th day of January, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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