

1 Q Who else was present at your home prior to you
2 going to sleep?

3 A My two little brothers, my sister, I'm sure
4 Laki was there, and Pe.

5 Q Was Sateki Taukiuvea there?

6 A He had left to go take our cousin home.

7 Q Pardon me?

8 A He had left to go take our cousin home.

9 Q Which cousin was that?

10 A Namoa Tupou.

11 Q Do you remember him coming back?

12 A Yes.

13 Q What time did Teki come back?

14 A I can't tell you because I was asleep.

15 Q What time do you remember seeing Teki there?

16 A I woke up at about five minutes to 12:00, and
17 Teki was in the room sleeping. My brother's room.

18 Q Was Priscilla Endemann there?

19 A No, she wasn't.

20 Q And was the defendant, Mr. Vanisi, there?

21 A When I woke up, no.

22 Q You saw Teki there, and I believe you have
23 mentioned that there are a couple brothers that were also
24 living at that residence with you?

25 A Yes.

1 Q Were they there as well?

2 A Yes.

3 Q That would be Masi?

4 A And Bill.

5 Q And Bill. When did you next see Mr. Vanisi
6 either that night or the early hour morning of the next day?

7 A I saw him -- after 1:00 on Tuesday morning,
8 a.m.

9 Q And do you remember giving the precise time to
10 the police and what that time is?

11 A Yeah. I told them between 1:00 and 1:15.

12 Q How is it that you know it was that time?

13 A Because I was on the computer, and when he
14 walked in, I glanced at the clock on the computer.

15 Q Now, when you last saw Mr. Vanisi on Monday,
16 the 12th, he looked like that; correct?

17 A Yes.

18 Q Now, when he walked into your apartment Tuesday
19 morning around 1:00 o'clock, as you have testified, did his
20 appearance look different from that composite drawing,
21 Exhibit No. 6?

22 A Yes.

23 Q What was different about his appearance when he
24 walked into your house Tuesday morning around 1:00 a.m.?

25 A He just didn't have the wig nor the beanie on.

1 Q Was he carrying anything?

2 A A plastic bag, shopping, grocery bag.

3 Q What color was that shopping bag?

4 A White.

5 Q Did you know what was inside it?

6 A No, I couldn't see what was inside it.

7 Q What did he do when he walked in with the bag
8 at 1:00 o'clock?

9 A He just walked in, and he asked Sateki for his
10 keys.

11 Q Exhibit 22, does that look like the bag that he
12 carried in?

13 A That looks like the bag, but that stuff was not
14 in there.

15 Q The stuff that was inside?

16 A Yes.

17 Q How do you know that stuff wasn't inside?

18 A Because the bag looked light.

19 Q And when he came in with the bag, he asked for
20 Teki's keys?

21 A Yes.

22 Q So Teki is there?

23 A Yes.

24 Q What was Teki doing?

25 A He was sleeping. He was laying on the couch.

1 Q And he asked for Teki's keys. What did Teki
2 do?

3 A Just threw him the keys.

4 Q What did Mr. Vanisi do after he got the keys?

5 A He went back outside.

6 Q And how long was he gone?

7 A Not that long because he kept going in and out.

8 Q In and out of your apartment?

9 A Yes.

10 Q Did he come back in -- the next time he came
11 back into your house, did he come in with the bag?

12 A No.

13 Q Did the defendant, Mr. Vanisi, tell you how he
14 got to your address at Rock Boulevard?

15 A When he walked in, we asked him how he got
16 there. He told us he walked.

17 Q Did he have on the leather jacket you have
18 previously identified?

19 A Yes.

20 Q The red burgundy one?

21 A Yes.

22 Q Was he wearing any gloves?

23 A Yes.

24 Q What kind of gloves was he wearing?

25 A I think they were cream.

1 Q Showing you Exhibit 25, do those look similar
2 in both appearance, color and size?

3 A Yes.

4 Q Did he have those gloves on?

5 A Yes, he did.

6 Q I'm sorry. Which did he have, on or off?

7 A He had them on.

8 Q What kind of pants did he have on?

9 A Black jeans.

10 Q Do you remember how they looked on him?

11 A Baggy.

12 Q Showing you Exhibit 29-A, do you see those
13 black pants in the middle there?

14 A Yes.

15 Q Do those appear to be consistent in color and
16 size as the pants that he wore when he came back into your
17 apartment at 1:15?

18 A Yes.

19 Q How was Mr. Vanisi acting when he came back and
20 was going in and out of your apartment?

21 A He was quiet. He wasn't talking. He was heavy
22 breathing.

23 Q Was Mr. Vanisi a quiet person normally?

24 A No.

25 Q What was he normally like?

1 A He talked a lot.

2 Q Always talking?

3 A Yes.

4 Q When he comes back in at 1:00 o'clock, the
5 thing that you notice is different is he's quiet?

6 A He's quiet.

7 Q Anything else?

8 A His heavy breathing.

9 Q Did he ask you for a T-shirt?

10 A Yes, he did, but that was the next day.

11 Q After you went back to sleep?

12 A Yeah.

13 Q Now, there came a time where you were asked on
14 January 13th to come down to the police station; correct?

15 A Yes.

16 Q That was in the evening?

17 A Repeat your question, please.

18 Q Yes. At the time that you first came down to
19 the police department to give a statement about what you
20 knew in this case, was it in the evening?

21 A Yes, it was.

22 Q Exhibit 27, you have seen this photograph on
23 January 13th at the police station?

24 A Yes.

25 Q I'll represent to you that is a photograph from

1 Jackson's Mini-mart. Did you identify the person that is in
2 the middle of that photograph with his left hand to his
3 chin?

4 A Yes.

5 Q Who is that?

6 A Pe.

7 Q The defendant, Siaosi Vanisi?

8 A Yes.

9 Q You told the police that night, didn't you?

10 A Yes.

11 Q The police asked you several times whether or
12 not you were certain this was Siaosi Vanisi in this
13 photograph; correct?

14 A Yes.

15 Q What was your response?

16 A I said yes, it was.

17 Q In fact, you said you were positive; correct?

18 A Yes.

19 Q You're positive today that's Mr. Vanisi in that
20 photograph?

21 A Yes.

22 Q In the morning hours of January 13th when he
23 comes back to your apartment, you say he's quiet. Did you
24 ask him if anything was wrong?

25 A Yeah. I asked him what was wrong? He said,

1 "Nothing."

2 Q The police on January 13th came to your
3 apartment on Rock Boulevard; correct?

4 A Yes.

5 Q Did they ask for consent to search your home?

6 A They asked me that downtown.

7 Q And you gave them consent?

8 A Yes.

9 Q Now, I'd like to talk about the events that
10 occurred once again on the 13th of January, 1998, but a
11 little further along in the morning, not the 1:00 o'clock
12 time frame but the next morning when everybody gets up at
13 your apartment.

14 Do you remember a time where Mr. Vanisi asked
15 to have his appearance changed?

16 A Yes, he did.

17 Q What time of day on Tuesday, the 13th, did that
18 occur?

19 A 10:00 o'clock. Around 10:00.

20 Q Where did Mr. Vanisi sleep that night?

21 A He slept in the house, in my apartment.

22 Q Whereabouts in your apartment?

23 A Living room.

24 Q Can you describe to the jury what kind of
25 apartment, how many rooms?

1 A Two bedroom.

2 Q So he slept in one of the bedrooms?

3 A In the living room.

4 Q In the living room. And how did Mr. Vanisi's
5 appearance change that morning?

6 A He just had his beard shaved.

7 Q And he did that in your apartment?

8 A Yes.

9 Q And who cut his beard?

10 A Shamari Roberts.

11 Q Is he a friend of yours?

12 A Yes.

13 Q I'd like to show you Exhibit 24-B. Do you
14 recognize that photograph?

15 A Yes.

16 Q Does that photograph accurately reflect the
17 condition of Mr. Vanisi's facial hair after being shaved by
18 Mr. Roberts on that morning?

19 A Yes.

20 MR. STANTON: Move for 24-B into evidence, Your
21 Honor.

22 THE COURT: Mr. Specchio?

23 MR. SPECCHIO: I thought it was in, Judge.

24 THE COURT: 24-B I think was admitted but let
25 me make sure. Yes, it has been previously.

1 MR. SPECCHIO: I'll do it again if it will make
2 everybody happy.

3 MR. STANTON: No, I didn't have it marked.

4 THE COURT: 24-A and B were admitted yesterday.

5 BY MR. STANTON:

6 Q Who asked on that morning to have his beard
7 shaved?

8 A Pe did.

9 Q When was the last time that you saw Mr. Vanisi?

10 A At church.

11 Q That would be on Tuesday?

12 A Tuesday.

13 Q Once again that would be the 13th of January?

14 A Yes.

15 Q What time of day was it? When was the last
16 time you saw him?

17 A I would say after 8:00.

18 Q In the evening?

19 A In the evening.

20 Q Did you accompany Mr. Vanisi to the Mormon
21 church Tuesday morning with Sateki Taukiuvea?

22 A No, I didn't.

23 Q The photographs that I showed you of the
24 plastic bags in your home, do you remember when you found
25 those?

1 A I found them Thursday, the 22nd.

2 Q Could it possibly have been Thursday, the 15th?

3 A Oh, yeah, it was.

4 Q Does that seem more like it, the 15th?

5 A Yes.

6 Q Prior to your discovery of the plastic bag and
7 the items that were in that plastic bag, let me just ask you
8 a couple questions. Were you aware that the police were
9 actively searching for personal items of Sergeant George
10 Sullivan?

11 A Yes.

12 Q How did you know that?

13 A I saw it on the news.

14 Q What did you see on the news?

15 A I saw Gammick.

16 Q The District Attorney?

17 A Yes. Holding up the belt. They were looking
18 for it.

19 Q And how did you come about finding those bags?
20 What were you doing?

21 A I went to my toaster cabinet to grab my toaster
22 out, and the antenna just stuck out.

23 Q The antenna?

24 A Of the walkie-talkie.

25 Q Of the radio?

1 A Uh-huh.

2 Q Now, did you see some other items in the bag?

3 A No. That was it.

4 Q What did you do after you saw those items?

5 A I called the cops.

6 Q And did they come out and pick it up?

7 A Yes.

8 Q And you were interviewed by the police a second
9 time?

10 A Yes.

11 Q Did you look any closer at any of the items
12 inside the bag besides the radio?

13 A No.

14 Q Did you touch the bag in any way?

15 A No.

16 Q Do you have any idea as you sit here today,
17 ma'am, how that bag got into your apartment?

18 A No, I don't.

19 Q And was that the bag or be the same bag that
20 Mr. Vanisi brought into your apartment on the early morning
21 hours of January 13th?

22 A Not with the stuff in there.

23 Q It didn't appear to be as full as what it did
24 when you found it?

25 A Yes.

1 Q Other than that, it's the same color, the same
2 style?

3 A Same color bag.

4 MR. STANTON: Court's indulgence for one
5 moment.

6 THE COURT: Yes.

7 BY MR. STANTON:

8 Q Do you have any idea, ma'am, what Siaosi means
9 in English?

10 A George.

11 Q What time of evening were you at the Starlite
12 Bowl?

13 A I would say it was after midnight.

14 Q And I'd like to show you a couple photographs
15 of a hatchet that was found in your residence. 20-B and
16 20-A. I ask you to look at these two photographs. That's
17 20-A. That's 20-B. Do you recognize what's in those
18 photographs?

19 A Yes.

20 Q Is that inside your apartment?

21 A Yes.

22 Q Whereabouts inside your apartment are those
23 photographs taken?

24 A Front door.

25 Q Did you see these, what's in these photographs,

1 in the same condition on Tuesday? I'll rephrase the
2 question. It was poorly worded.

3 What's depicted in these photographs, did you
4 see it in the same or similar condition as to what is
5 inside -- that was poorly worded, too.

6 These photographs, do they accurately depict
7 the condition inside your front door as you saw it Tuesday
8 morning?

9 A Yes.

10 Q And how do you know or do you know how that
11 hatchet got there?

12 A My little brother had threw it out of his room.

13 Q What little brother threw it out?

14 A William Louis.

15 Q Pardon me?

16 A William Louis.

17 Q When did he throw it out of his room?

18 A I would say before we left for church.

19 Q What day was this?

20 A Tuesday.

21 Q What time was this?

22 A Around 6:00.

23 Q Does that hatchet appear to be the same hatchet
24 that you had seen previously in the possession of Mr. Vanisi
25 on several occasions?

1 Q And where did you meet him? Where physically
2 were you when you met him?

3 A I don't remember.

4 Q Do you remember anything about the Mormon
5 church on Buena Vista and Imperial?

6 A Yeah.

7 Q I'm sorry?

8 A Yeah. Yes.

9 Q Does that remind you of where you may have
10 first met him?

11 A Yes.

12 Q That's what you told the police?

13 A Yes.

14 Q And he was wearing this wig and the beanie.
15 Did you see anything else as far as a weapon on him when you
16 first saw him at that church?

17 A I don't remember .

18 Q At the time that you met Mr. Vanisi, did you
19 have a girlfriend?

20 A Yes.

21 Q What was her name?

22 A Renee.

23 Q What is Renee's last name?

24 A Peaua.

25 Q Miss Peaua, was she related to the defendant,

1 Mr. Vanisi?

2 A Yes.

3 Q What relations were they?

4 A I'm not sure.

5 Q Was your girlfriend Renee Peaua the closest
6 relative or the closest friend Mr. Vanisi had in Reno?

7 A Yeah.

8 MR. SPECCHIO: Objection, Your Honor. I'm not
9 so sure he is qualified to answer that question.

10 MR. STANTON: Just from his perspective.

11 THE COURT: You can ask him if he knows of any
12 other relatives or if they were relatives, as far as he
13 knows.

14 BY MR. STANTON:

15 Q Let me rephrase my question to you,
16 Mr. Taukiuvea. From your perspective, from what you knew
17 and what you observed of the defendant here in Reno for the
18 entire time that you saw him here, who was his closest
19 relative and the person that he was closest to?

20 A His family down here.

21 Q Pardon me?

22 A His family down here.

23 Q Who was his family down here?

24 A Renee's family.

25 Q The Peaua family?

1 A Yeah.

2 Q Where do they live?

3 A On Sterling Way.

4 Q Now, during the course of your seeing

5 Mr. Vanisi on that day in the church, was there anything

6 that stood out in your mind as far as how he was acting or

7 behaving?

8 A No.

9 Q He was fine?

10 A Yeah.

11 Q Didn't notice anything unusual?

12 A No.

13 Q Exhibit 6, can you see that from where you are

14 sitting?

15 A Yes.

16 Q Is that how the defendant looked?

17 A Yes.

18 Q Almost exactly; correct?

19 A Uh-huh.

20 Q You have to answer out loud.

21 A Yes.

22 Q That's with his wig and the beanie on?

23 A Yes.

24 Q Did he have a full beard?

25 A Yes.

1 Q You saw this later on, didn't you?

2 A Well, what do you mean?

3 Q On the television?

4 A No.

5 Q You didn't see this?

6 A No. I heard about it.

7 Q But you never saw that composite drawing?

8 A No.

9 Q On Friday night, which would be January 9th,

10 did you have occasion to be at Losa's house and see the

11 defendant, Mr. Vanisi?

12 A Yes.

13 Q Do you know Losa's full name?

14 A Losa Louis.

15 Q Where does Miss Louis live?

16 A On Rock Boulevard.

17 Q 1098 Rock Boulevard, apartment number A?

18 A Yeah.

19 Q You were there?

20 A Yes.

21 Q And do you go over there frequently?

22 A Yes.

23 Q Why?

24 A Because they are friends of mine.

25 Q Who else lives at Losa Louis' house?

1 A Corina, Bill and Masi.

2 Q Who is Corina, Bill and Masi?

3 A They are brothers and sisters.

4 Q Of Losa?

5 A Yeah.

6 Q And Masi would be spelled M-A-S-I?

7 A Yes.

8 Q On the 9th of January, did you see the
9 defendant with a weapon?

10 A I'm not sure.

11 Q You're not sure?

12 A Yeah.

13 Q Would reviewing the transcript of your
14 interview with the police remind you of what you said?

15 A Yes.

16 Q And is your memory better, Mr. Taukiuvea, of
17 the events of what occurred around that time today or back
18 when you talked to the police?

19 A Probably back when I talked with the police.

20 Q If you would, and counsel, to his transcript,
21 turn, Mr. Taukiuvea, to page 26. Do you have that
22 transcript in front of you?

23 A Yes.

24 Q In order to give you the frame of reference of
25 time, if you would go to page 24 first because it's a couple

1 pages back where they lay the foundation or discuss with you
2 the time.

3 I direct your attention to lines 19 where
4 questioned by Detective Dreher, down to line 38. Do you see
5 that, Mr. Taukiuvea?

6 A Yes.

7 Q Could you read that to yourself, those lines?
8 Just tell me when you are done reading it.

9 Are you done?

10 A Uh-huh.

11 Q So at this point you say it's Friday that you
12 are over at Losa's house?

13 A Yes.

14 Q Now, if you could turn to page 26 and directing
15 your attention to lines 13 through 37. If you could read
16 those to yourself and tell me when you are done reading
17 them.

18 A All right.

19 Q When the detectives asked you on the Friday,
20 January 9th, at Losa's house of seeing the defendant, they
21 ask you whether or not he was carrying any weapon with him.

22 A Uh-huh.

23 Q What did you say to the detectives then?

24 A He did.

25 Q What kind of weapon did he have on him?

1 A He had a hatchet, an ax, little ax.

2 Q Could you describe that little ax as you
3 remember seeing it on the defendant, what it looked like?

4 A It was just about so big and had a black
5 handle.

6 Q You are indicating approximately 18, 20 inches?

7 A Yeah.

8 Q It had a black handle on it? Where was the
9 defendant carrying it when you saw him?

10 A On his right side.

11 Q How was he carrying it? Was it in something?

12 A It was like in his pants.

13 Q Tucked inside his waistband?

14 A Tucked inside his pants.

15 Q And did you ask the defendant why he had the
16 hatchet?

17 A No. I don't remember.

18 Q Showing you Exhibit 21, take a close look at
19 that, Mr. Taukiueva. Does that appear to be the same size,
20 dimension, color, characteristics of the weapon you saw on
21 the defendant?

22 A Yes.

23 Q If you would direct your attention once again
24 to your transcript, Mr. Taukiueva, page 26, line 39. The
25 very bottom of that page, a question is posed to you by

1 Detective Dreher. Could you read that question to yourself?

2 A Page 26?

3 Q Yes. Very last line of that page. Do you see
4 the question that he asked you?

5 A Yeah.

6 Q If you could turn to page 27. I'd like you to
7 read from line 20, or line 1 through line 27 to yourself.

8 A Okay.

9 Q Now, Detective Dreher asked you a specific
10 question about whether or not he told you, he being
11 Mr. Vanisi, why he was carrying the ax. And you responded
12 that he didn't tell you, just like you testified here;
13 correct? You have to answer out loud.

14 A Yes.

15 Q In fact, that wasn't true, was it?

16 A No.

17 Q The defendant had told you why he was carrying
18 the ax, didn't he?

19 A Yes.

20 Q And then on that same page, line 27, the
21 detectives confront you with that fact, and they say, "Yes,
22 he did tell you, Mr. Taukiuvea." What did you tell the
23 police the second time they asked you, when they confronted
24 you with the fact they didn't think you were truthful about
25 why Mr. Vanisi told you he was carrying the hatchet?

1 A He said he wanted to kill a cop.

2 Q That's what you told the police during the
3 interview?

4 A Yes.

5 Q He told you something else, didn't he, about
6 why he wanted to kill a cop, beyond just killing a cop,
7 didn't he?

8 A Yes.

9 Q And the police then confront you with that,
10 right after your answer that you just gave, they confront
11 you again and they say, didn't he say something else? What
12 did Mr. Vanisi tell you beyond wanting to kill a cop, as to
13 why he had the hatchet?

14 A That he wanted to kill a cop.

15 Q Anything else?

16 A That he wanted his badge and radio.

17 Q Anything else besides his badge and his radio?

18 A And his gun.

19 Q That's what you told the police there on line
20 22 and 23; correct?

21 A Yes.

22 Q Is that the truth?

23 A Yes.

24 Q Who else was present in the Losa Louis home
25 when Mr. Vanisi made this statement?

1 A Me, Losa, Corina, Bill, Masi and Laki.
2 Q Was he trying to -- did he whisper this to you?
3 A Whisper what?
4 Q That he wanted to kill a cop, take his badge,
5 radio, gun?
6 A No.
7 Q He said it out loud?
8 A Yeah.
9 Q Wasn't trying to hide it?
10 A Uh-huh.
11 Q Was he trying to hide what he was saying?
12 A No.
13 Q All those other people that you just mentioned
14 were present and could potentially overhear what he said;
15 correct?
16 A Yes.
17 Q How many times did he tell you that day that he
18 wanted to kill a cop?
19 A He said it a lot of times.
20 Q Do you remember how many times?
21 A No.
22 Q Was it more than five?
23 A I would think so.
24 Q I'd like to turn your attention to page 29 of
25 that transcript. Directing your attention to the final line

1 on 40, question posed to you by Detective Dreher, if you
2 could read that question to yourself, and then turn the page
3 to page 30, and read lines 1 through 6 to yourself.

4 You gave a description to the detectives about
5 how many times or kind of an impression of how often
6 Mr. Vanisi was talking about killing a cop. What was that
7 impression, how many times, as the words that you used to
8 the detectives?

9 A He was just bragging about it.

10 Q The cop, Detective Dreher, asked you, "Okay,
11 tell us, elaborate, what do you mean?" Beginning on line 5
12 and 6, what was your response? You can read it out loud.

13 A Read it out loud?

14 Q Yes, lines 5 and 6, your response to Detective
15 Dreher's: "Okay, tell us, elaborate, what you mean when you
16 said blabbing."

17 A Like every time he talked, you know, it would
18 be like, I got to do this, I have to kill a cop. I have to
19 do this, you know.

20 Q So he was constantly saying this?

21 A Uh-huh.

22 Q Was the conversation about killing cops when
23 you brought it up, or was this something he brought up on
24 his own?

25 A Brought up on his own.

1 Q What did you think about that when you first
2 heard it?

3 A I thought he was just joking.

4 Q Did there come a time that, Mr. Taukiuvea,
5 where Mr. Vanisi talked to you about going to Wal-Mart and
6 purchasing a hatchet?

7 A No.

8 Q You don't remember that? You have to answer
9 out loud.

10 A No.

11 Q Could you turn to page 32 of the transcript?
12 Actually page 31. Directing your attention to lines 25
13 through 27. He told you he went to Wal-Mart with some other
14 people?

15 A Yes.

16 Q Was one of those people he mentioned
17 specifically to you Mele Maveni?

18 A Yes.

19 Q Did he ever tell you why he went to Wal-Mart?

20 A No.

21 Q On Monday, the 12th of January, did you have
22 occasion to be at Losa Louis' house at approximately 10:00
23 a.m.?

24 A Yes.

25 Q Who was there at Miss Louis' house on that day

1 and that time?

2 A Same people.

3 Q Do you know a Priscilla Endemann?

4 A Yes.

5 Q Was she there?

6 A I'm not sure.

7 Q Turn to page 36 of your transcript, if you

8 would. Starting at line 1 through line 21. Do you remember

9 now who was at Losa's house at that time?

10 A Yes.

11 Q Was Priscilla Endemann there?

12 A Yes.

13 Q Who is Priscilla Endemann?

14 A That was Laki's girlfriend at that time.

15 Q That is Laki, L-A-K-I?

16 A Yes.

17 Q He is a friend as well?

18 A Yes.

19 Q Do you know his full name?

20 A No.

21 Q You just know him as Laki?

22 A Yeah.

23 Q He is Priscilla's boyfriend?

24 A At that time.

25 Q And Priscilla was there, Priscilla Endemann?

1 A Yes.

2 Q And Laki is there?

3 A Yes.

4 Q Was Losa there?

5 A Yes.

6 Q Was Mr. Vanisi there?

7 A Yes.

8 Q On that day, later on in the evening, did that
9 same general group go to a restaurant called Bully's at
10 McCarran and Mae Ann?

11 A What day is this?

12 Q It would have been around or about the 12th of
13 January or the previous Sunday, the 11th.

14 A No.

15 Q It wasn't the 12th?

16 A No.

17 Q It was Sunday, the 11th?

18 A Yeah.

19 Q There is an incident involving you going with
20 the defendant to look for a cop to kill. Was that the night
21 that you went to Bully's?

22 A No. We went to Bully's on Saturday.

23 Q And the incident in Sparks with the defendant
24 looking for a cop to kill occurred Sunday?

25 A Yes.

1 Q Did you see the defendant on Saturday when you
2 went to Bully's with the hatchet?

3 A Yes.

4 Q Where was he carrying the hatchet?

5 A Same place.

6 Q Describe it again?

7 A On his right side.

8 Q In his pants?

9 A In his pants.

10 Q And you went to Bully's to play pool?

11 A Yes.

12 Q Did the defendant carry the hatchet into
13 Bully's with him?

14 A Yes.

15 Q Underneath the coat?

16 A Yes.

17 Q What kind of coat was he wearing?

18 A He had a red burgundy jacket.

19 Q How long did the jacket come down? How long on
20 Mr. Vanisi's body did it come?

21 A Probably past, between -- to his knees.

22 Q I show you 23-A and -B. Do you recognize the
23 burgundy leather jacket in these photographs?

24 A Yeah.

25 Q Is that the jacket he was wearing?

1 A Yes.

2 Q Do you recognize where these photographs were
3 taken?

4 A Losa's house.

5 Q On Saturday night, when you went to Bully's and
6 any time during that evening, did you ever hear the
7 defendant make any statements about wanting to kill a cop
8 that night?

9 A I don't remember it.

10 Q You're not sure if he did one way or another?

11 A No.

12 Q On Sunday night, I'd like to talk to you,
13 Mr. Taukiuvea, about the incident that occurred with you and
14 Mr. Vanisi driving around looking for a cop to kill. Do you
15 remember that?

16 A Yes.

17 Q Is that pretty clear in your mind?

18 A A little bit.

19 Q Prior to you getting into the car with
20 Mr. Vanisi, where were you at?

21 A At Losa's house.

22 Q How did it come that you and Mr. Vanisi, just
23 you two, ended up in a car?

24 A I don't remember.

25 Q You don't remember? Do you remember what time

1 of evening it was?

2 A No.

3 Q Was it in the evening?

4 A Yeah, it was in the nighttime.

5 Q Whose car were you in?

6 A In my car.

7 Q Who was driving?

8 A Me.

9 Q When did the subject come up about killing a
10 cop? Before you got into the car or after you got into the
11 car?

12 A After.

13 Q And where were you going prior to the subject
14 being brought up about killing a cop?

15 A I don't remember.

16 Q You don't remember? But it's just you and
17 Mr. Vanisi?

18 A Yes.

19 Q You're driving?

20 A Yes.

21 Q Who is the first person that brings up the
22 subject about killing a cop?

23 A He is.

24 Q The same as he had done a couple days before?

25 A Yes.

1 Q What did you think this time?

2 A I thought he was serious.

3 Q What made -- excuse me. What made you think he
4 was serious this time?

5 A I don't know. Just the way he said it.

6 Q Was it different than the way he said it before
7 or what made it different?

8 A Just because it was just me and him.

9 Q How was he dressed?

10 A The same.

11 Q Describe it again.

12 A He had the burgundy jacket, ax, with the long
13 hair.

14 Q Dressed like that?

15 A Yes.

16 Q Where is the ax?

17 A On his right side.

18 Q Did there come a time where you saw a police
19 officer?

20 A Yes.

21 Q Where were you physically in your vehicle when
22 you saw this police officer?

23 A We were at an intersection.

24 Q What was the intersection of the streets?

25 A Oddie and El Rancho.

1 Q If you could turn to that transcript at page
2 112. Directing your attention to page 112 to lines 9
3 through 11. If you turn to the page 111, one page before,
4 lines 6 through 13, you also discuss the location at that
5 portion of the interview. Do you remember where, what the
6 intersections, the precise streets were when you saw this
7 police officer?

8 A It was on Oddie and Silverada.

9 Q There is a couple of landmarks that you gave to
10 the police, Paradise Park and the Jack-in-the-Box that was
11 nearby?

12 A Uh-huh.

13 Q What police officer did you see? What agency
14 and what did that police officer look like?

15 A He was from Sparks.

16 Q Sparks police officer?

17 A Yeah.

18 Q How do you know that?

19 A Because he was in a white car.

20 Q He was in a marked patrol unit?

21 A Yeah.

22 Q Was he in uniform?

23 A Yeah.

24 Q Was he white?

25 A Yeah.

1 Q What did the defendant say when he saw that
2 police officer driving in front of the intersection right in
3 front of your car?

4 A He told me to follow him.

5 Q When he said to follow him, why do you think
6 the defendant, based upon what he had said to you, wanted
7 you to follow that police car?

8 A I don't know. To do it.

9 Q Do what?

10 A To kill him.

11 Q Did you follow him?

12 A No.

13 Q What did you tell the defendant?

14 A I don't remember.

15 Q You don't remember what you told him?

16 A Huh-uh.

17 Q Did you tell him you wanted to follow him?

18 A No. I told him I didn't want to.

19 Q What did he say after you told him that you
20 didn't want to follow him?

21 A I don't remember.

22 Q Turn to page 113. If you would direct your
23 attention, sir, to lines 23 through 38.

24 At line 31, the detective is asking you what
25 happens after you were to follow him, and your response on

1 line 34, read that out loud, please.

2 A "He wanted me to drop him off and leave."

3 Q Leave him?

4 A Yeah.

5 Q The detective asked you, "Drop him off where"?
6 What was your response?

7 A "Where the cop was at."

8 Q Specifically he told you to do several things.
9 That line, line 38, read it verbatim, what you said.

10 A "Wherever he stopped at, the cop, and leave."

11 Q He wanted you to follow him, drop him off
12 wherever the cop stopped and then leave; is that correct?

13 A Yes.

14 Q And Mr. Vanisi told you that?

15 A Yes.

16 Q Is that what indeed he told you on that night?
17 Sunday night?

18 A Yes.

19 Q Mr. Taukiuvea, I want to now direct your
20 attention to Monday evening, January 12th, 1998. Sir, on
21 that evening, did you happen to be with the defendant at
22 Losa's house?

23 A Yes.

24 Q About 10:30 in the evening?

25 A In the evening?

1 Q Yes.

2 A No.

3 Q You don't remember that?

4 A I don't remember.

5 Q If you turn to page 44. Direct your attention
6 to that page, lines 25 through 40. This is the night that
7 he asked you for the ride to Sterling, to the Sterling
8 address, the Peaua home. There is some confusion about in
9 your mind when you talk to the detectives whether it is
10 Sunday night or Monday night.

11 A Yeah.

12 Q Now, if officer -- Sergeant Sullivan is
13 murdered just after midnight on Monday, the 12th, into the
14 13th of January, that Monday night, the 12th of January, at
15 10:30 at night, were you at Losa's house with the defendant?

16 A 10:30?

17 Q Yes.

18 A On Monday?

19 Q Yes.

20 A I took him home at 10:30, around that time.

21 Q So prior to you taking him home, prior to
22 10:30, you and Mr. Vanisi were at Losa Louis' house at 1098
23 Rock, apartment number A?

24 A Yes.

25 Q And who asked you to drop him off at the

1 Sterling Way address?

2 A He did.

3 Q Mr. Vanisi?

4 A Yes.

5 Q Did you have a car?

6 A Yes.

7 Q Did he?

8 A No.

9 Q At any time when you saw Mr. Vanisi here in
10 Reno during the month of January, did you ever see him in a
11 car that he owned or driving one?

12 A No.

13 Q When you dropped Mr. Vanisi off at the Peaua
14 home on Sterling Way on Monday night, January 12th, 1998,
15 how was he dressed?

16 A The same.

17 Q Red jacket?

18 A Yeah.

19 Q Wig and beanie?

20 A Yes.

21 Q Did he have the hatchet with him?

22 A Yes.

23 Q Can you describe what kind of pants he was
24 wearing?

25 A Brown corduroys.

1 Q What kind of shirt did he have?

2 A Purple shirt.

3 Q I show you Exhibit 29-B. Do you see that
4 purple shirt there?

5 A Yes.

6 Q Does that look like the shirt he was wearing?

7 A Yes.

8 Q Once again with Exhibit 6, that's how he looked
9 when you dropped him off at Sterling Way, Monday night,
10 10:30 p.m.?

11 A Yes.

12 Q After dropping Mr. Vanisi off at the Peaua
13 home, this is the home of your girlfriend; correct?

14 A Yes.

15 Q You knew the home pretty well?

16 A Yes.

17 Q Did you see your girlfriend there that night?

18 A No.

19 Q Did you go in the home at all?

20 A No.

21 Q After you dropped off Mr. Vanisi, where did you
22 go?

23 A I went back to Losa's house.

24 Q What did you do when you arrived back at Losa's
25 house?

1 A I fell asleep.

2 Q Who else was in Losa Louis' home when you came

3 back and fell asleep?

4 A Losa, Corina, Laki, Bill, Masi.

5 Q Everybody is there?

6 A Yeah.

7 Q Was anybody awake when you came back?

8 A Yeah.

9 Q Who was?

10 A Losa and Corina and Laki.

11 Q Laki?

12 A Yeah.

13 Q Where did you go to sleep inside Losa Louis'

14 home?

15 A In the boys' room.

16 Q Is that one of the bedrooms?

17 A Yeah.

18 Q Anybody else sleeping in the room?

19 A Yeah. Bill and Masi.

20 Q The younger boys?

21 A Yeah.

22 Q How old are Bill and Masi?

23 A I don't know.

24 Q As old as you or younger?

25 A Younger.

1 Q And where was Losa and Corina when you came
2 into the apartment?

3 A They were on the computer.

4 Q And where is the computer? Where were they
5 working at in the apartment?

6 A It is in the kitchen.

7 Q Did you talk to them?

8 A No. Just came in and sat down.

9 Q You went to bed?

10 A Uh-huh.

11 Q What time were -- did you awake, after going to
12 bed?

13 A I don't remember. I don't remember. .

14 Q Do you remember telling the detectives it was
15 approximately 1:30 in the morning?

16 A Yes.

17 Q Does that sound approximately correct?

18 A Yes.

19 Q What awoke you?

20 A When Vanisi came in the door.

21 Q The defendant, Siaosi Vanisi?

22 A Uh-huh.

23 Q And when he walked through the door, what
24 caused you to wake up?

25 A Just the door.

1 Q Did you get a good look at him?

2 A A little bit.

3 Q Did he look any different from what you
4 previously described here in Exhibit 6 when he walked
5 through the door at 1:30 in the morning?

6 A I don't remember.

7 Q You don't remember. Do you remember telling
8 the police how he looked?

9 A No.

10 Q If you could turn to page 51 of the transcript.
11 I direct your attention to -- you need the frame of
12 reference of the whole or the first portion of page 51, but
13 specifically lines 19 through 27.

14 Do you remember now how he was different from
15 the way he was dressed when you dropped him off at the Peaua
16 home?

17 A Yes.

18 Q What was different about it?

19 A He didn't have his wig.

20 Q Didn't have his wig. Did you see him with a
21 hatchet?

22 A No.

23 Q And was he carrying anything?

24 A He had a plastic bag.

25 Q Did you see that beanie or the bandana that was

1 on top of the wig?

2 A I don't remember.

3 Q Look to lines 25 and 27. Did he have the
4 beanie?

5 A No.

6 Q And you said he was carrying something?

7 A Yeah. A plastic bag.

8 Q What kind of plastic bag?

9 A Raley's shopping plastic bag.

10 Q What color was it?

11 A White.

12 Q Did you see what was inside of it?

13 A No.

14 Q I show you Exhibits 22 and 26. First 22. Does
15 that appear to be the same color, shape and size plastic bag
16 that he was carrying?

17 A Yes.

18 Q And showing you 26, same thing with that
19 plastic bag inside that cabinet?

20 A Yes.

21 Q You couldn't see what was in the bag?

22 A No.

23 Q You told the police that you had some
24 description of what was inside the bag. Do you remember
25 what you told the police?

1 A No.

2 Q Turn to page 135, if you would, of your
3 transcript. Directing your attention to lines 19 through
4 37. Do you remember what additional description you gave to
5 the police about the contents of that plastic bag?

6 A That it was black.

7 Q The items inside the bag appeared to be black
8 to you?

9 A Yes.

10 Q You indicated to the detectives that the bag
11 was somewhat see-through, it was light enough that you could
12 see a portion through the bag?

13 A Yes.

14 Q And it appeared to be black?

15 A Yes.

16 Q Did the bag appear to be full?

17 A I don't remember.

18 Q Was that the truth you told to the police?

19 A Yes.

20 Q Is that the best of your recollection today,
21 your memory today, that indeed it was black items in that
22 white plastic bag?

23 A Yes.

24 Q When Mr. Vanisi walked into the apartment at
25 1:30, did he ask anything of you?

1 A He asked me for my car keys.

2 Q Where was your car parked?

3 A In front of the apartment.

4 Q What kind of car was it?

5 A It's an '86 Cutlass.

6 Q And did you give him the keys?

7 A Yes.

8 Q And what did he do after you gave him the keys?

9 A He went outside.

10 Q How long was he outside?

11 A I don't remember.

12 Q Was it more than half an hour?

13 A I couldn't -- I don't remember.

14 Q He came back into the apartment?

15 A Yes.

16 Q And when he came back into the apartment, was

17 he carrying the same plastic bag?

18 A Yes.

19 Q Do you remember him carrying the bag back into

20 the apartment?

21 A Yes.

22 Q Are you certain of that?

23 A Yes.

24 Q When you awoke, did you go to sleep the next --

25 after he came back into the apartment?

1 A Yeah.

2 Q Where did Mr. Vanisi sleep?

3 A In the living room, I think.

4 Q Where did you sleep?

5 A I was in the room, the boys' room.

6 Q When you awoke the next morning, was Mr. Vanisi

7 there?

8 A Yes.

9 Q Do you have any idea how Mr. Vanisi got back to

10 the Losa Louis home on Rock Boulevard from Sterling?

11 A I don't remember.

12 Q Do you know?

13 A Yes.

14 Q You didn't take him?

15 A No.

16 Q And the only way you know is from hearing it

17 from other people?

18 A Yes.

19 Q You don't have personal knowledge --

20 A Yes.

21 Q -- of how he got back; correct?

22 A Right.

23 Q The next morning, what time did you get up,

24 Mr. Taukiueva? Do you remember?

25 A No.

1 Q That Tuesday, the 13th of January, you first
2 hear about Sergeant Sullivan being murdered; correct?

3 A Yes.

4 Q How did you first hear about the news of his
5 murder?

6 A Everyone was talking about it.

7 Q Who is everyone?

8 A Losa and everybody.

9 Q What time of day did you first hear about the
10 murder?

11 A About when I woke up.

12 Q In the morning?

13 A Uh-huh.

14 Q Did there come a time on Tuesday morning when
15 you were with the defendant, Mr. Vanisi, at a church?

16 A Yes.

17 Q At that time did you directly ask Mr. Vanisi if
18 he killed a police officer?

19 A I don't remember.

20 Q Sir, if you could turn to the transcript, page
21 53. The police detectives ask you several times the day
22 that they interviewed you about whether or not Mr. Vanisi
23 told you anything the following morning, Tuesday, the 13th
24 of January, about the murder of Sergeant Sullivan; and you
25 initially told them several different times Mr. Vanisi never

1 told you anything. Is that a fair summarization of what you
2 told the police?

3 A Yes.

4 Q And you were lying to the police?

5 A I don't remember.

6 Q Well, you told the police that Mr. Vanisi never
7 said anything to you Tuesday morning about killing Sergeant
8 Sullivan; right?

9 A Yes.

10 Q Initially. Then you changed your story.

11 A Yes.

12 Q After they asked you several times and they
13 told you that they didn't think you were being truthful;
14 right?

15 A Yes.

16 Q Now, after they confronted you several
17 different times, you tell them about an incident that took
18 place at the church on Tuesday morning when it was just you
19 and Mr. Vanisi alone. Do you remember that?

20 A Yes.

21 Q Can you tell the ladies and gentlemen of this
22 jury what you asked Mr. Vanisi that morning when you were
23 alone with him, at the church?

24 A I don't remember.

25 Q Would you please turn your attention to page 54

1 of your transcript. Line 1 through line 14. Does that help
2 you remember?

3 A Yes.

4 Q What did Mr. Vanisi -- what did you ask
5 Mr. Vanisi?

6 A I asked him if he did it.

7 Q What did he say?

8 A He said no.

9 Q Then what did you say?

10 A I don't remember.

11 Q You don't remember. Did he show you something?

12 A Yes.

13 Q What did he show you?

14 A A gun.

15 Q What kind of gun was it?

16 A I don't know.

17 Q I show you Exhibit 15-A. Does that look
18 familiar to you?

19 A Yes.

20 Q Is that the gun that he showed you or what
21 appears to be the gun he showed you?

22 A Yes.

23 Q Same size, same general color?

24 A Yes.

25 Q What did you -- what precisely did he say when

1 he showed you the gun; do you remember?

2 A No.

3 Q Would you turn to page 54, line 38? What did
4 he say when he showed you the gun?

5 A "Look what I have."

6 Q Where was the gun on Mr. Vanisi's person?

7 A It was in his pocket.

8 Q Did it seem to you that he knew how to operate
9 that gun?

10 A No.

11 Q Why is that?

12 A I don't know. Just the way he was holding it.

13 Q Didn't seem to know much about guns?

14 A Yeah.

15 Q What did you tell Mr. Vanisi after he showed
16 you the gun?

17 A I don't remember.

18 Q Turn to page 55, lines 13 through 23. After he
19 tells you, Look what I got, what do you tell him?

20 A I told him he was crazy.

21 Q What did he say after you told him he was
22 crazy?

23 A Nothing.

24 Q I'd like to direct your attention to page 55,
25 Mr. Taukiuvea, to line 15. Do you see that in quotes about

1 Mr. Vanisi in that line, what he said?

2 A Yes.

3 Q Read that aloud, please.

4 A "This is the first time I had a gun."

5 Q That is what Mr. Vanisi told you?

6 A Yes.

7 Q Is that the truth?

8 A I don't remember.

9 Q You don't remember him saying that?

10 A Yeah, I do.

11 Q Was your memory better back when you were

12 talking to the police about what he said --

13 A Yes.

14 Q -- than it is today?

15 A Yes.

16 Q In that same line, line 15, you say that you

17 then tell Mr. Vanisi, You're crazy.

18 A Yes.

19 Q And the detective asked you down at line 21,

20 "What did he say back?" Meaning Mr. Vanisi. "What did he

21 say back to you when you told him he was crazy?"

22 And you said, "He said nothing. But he did

23 something." What did he do?

24 A He just giggled.

25 Q Did you ask him how he got the gun?

1 A I don't remember.

2 Q Directing your attention to page 55, line 33
3 through 35. When the police asked you about what Mr. Vanisi
4 said about how he got the gun, you told them he didn't tell
5 you how he got the gun.

6 A Yes.

7 Q That was a lie, wasn't it?

8 A Yes.

9 Q He did tell you how he got the gun, didn't he?

10 A I don't remember.

11 Q You don't remember. Do you remember what you
12 told the police?

13 A No.

14 Q Turn to the next page. Lines 1 through 5.
15 What did he tell you?

16 A He said he did it.

17 Q Did what?

18 A I don't know.

19 Q You don't know? He shows you the gun, he tells
20 you that this is the first time he's gotten a gun. You tell
21 him he is crazy. He giggles. Then you ask him how he got
22 the gun, and you don't remember what he told you about how
23 he got the gun?

24 A He probably killed a cop.

25 Q You say probably killed a cop. Do you remember

1 what Mr. Vanisi told you?

2 A He said he was going to.

3 Q Well, at the time that he is showing you this
4 gun and this conversation is going on, where are you?

5 A We're in the Mormon church.

6 Q Where in the Mormon church?

7 A In the bathroom.

8 Q Who else is present?

9 A Just me and him.

10 Q Just you and him. I direct your attention to
11 page 57, lines 13 through 24. Mr. Taukiuvea, specifically
12 lines 15 through 16, the police detectives ask you whether
13 or not on that date, the 13th of January, in the bathroom at
14 the Mormon church, you ask Mr. Vanisi whether or not he
15 killed the police officer. What did Mr. Vanisi say?

16 A He said yes.

17 Q He said, Yeah, I did it?

18 A Yes.

19 Q How was Mr. Vanisi acting that morning when he
20 was telling you this, besides giggling?

21 A I don't remember.

22 Q Was he nervous, calm, agitated, excited?

23 A I don't remember.

24 Q You don't remember. Who was the first person
25 to approach the subject about the gun and showing you the

1 gun? Was it you or was it him?

2 A What do you mean?

3 Q You are in the bathroom. Who first brings
4 up -- how did you find out that he had a gun? Did you ask
5 him first or does he say something to you?

6 A He just pulls it out.

7 Q Page 75, Mr. Taukiuvea, line 18 through 20.
8 Specifically at line -- it would be probably -- appears to
9 you to be line 19. Are there any quotes in that line
10 starting with, "Hey, Teki?" What did you tell the police
11 was his exact words?

12 A "Check this out."

13 Q "Hey, Teki, check this out." And then he shows
14 you the gun?

15 A Yes.

16 Q Do you know of a dog that is a family dog at
17 the Peaua home at Sterling Way?

18 A Yes.

19 Q What is the name of the dog?

20 A Doobie.

21 Q Can you describe that dog?

22 A It's a black and white dog.

23 Q Black and white dog?

24 A Yeah.

25 Q It is a big dog, small dog?

1 A Big.

2 Q And did Mr. Vanisi tell you whether or not he
3 was with Doobie at the time that he committed these murders?

4 A I don't remember.

5 Q Turn to page 96 and 97, if you would,
6 Mr. Taukiuvea. Directing your attention on line 40, do you
7 want to read a couple lines above that to kind of get the
8 sense of where you are in this conversation with detectives?
9 Finish up with page 96 and read half way down page 97.

10 A He said, "I'm lucky because Doobie is a nice
11 dog, sniffed his way home."

12 Q What did that mean?

13 A That he walked him home.

14 Q The dog of the Peauas, Doobie, Mr. Vanisi told
15 you after the murder, helps him find his way home by
16 sniffing his way back to the Peaua home?

17 A Yes.

18 Q Mr. Taukiuvea, have you ever been convicted of
19 a felony?

20 A A felony?

21 Q Yes.

22 A I don't know.

23 Q You don't know? Were you arrested by Sparks
24 Police Department for a charge?

25 A Yes.

1 Q When was that?

2 A I don't remember.

3 Q How long ago was it?

4 A A year ago.

5 Q Was it before the events that we're talking
6 about now?

7 A It was after.

8 Q You were arrested after?

9 A After, if I remember correctly.

10 Q Well, Mr. Taukiuvea, the night that you talked
11 to the police, the police thought you had a warrant out for
12 your arrest?

13 A Yes. That's when I got arrested.

14 Q But you had previously been arrested by the
15 police for the actual offense; correct?

16 A Yes.

17 Q So maybe I'm confusing you, and I apologize if
18 I am. The night that you were interviewed by the police,
19 January 19th, 1998, the police thought you had an
20 outstanding warrant because you failed to appear on a court
21 date.

22 A Uh-huh.

23 Q That court date was involving charges that you
24 had already been arrested on?

25 A Yes.

1 Q And is that all correct?

2 A Yes.

3 Q How long before talking to the police on
4 January 12th, 1998, had you been arrested by the police
5 initially for the first time regarding those charges?

6 A I don't remember.

7 Q Was it days, months?

8 A Months.

9 Q So sometime in 1997, you were arrested by the
10 police; is that correct?

11 A Yes.

12 Q Do you remember what those charges were?

13 A Burglary.

14 Q Possession of stolen property?

15 A Yes.

16 Q Grand larceny? And what were you ultimately
17 convicted for?

18 A Possession.

19 Q Possession of stolen property?

20 A Yeah.

21 Q And you're on probation on that charge as you
22 sit here today?

23 A Yes.

24 Q And this offense that you were arrested on, the
25 possession of stolen property that you were convicted of,

1 occurred in 1997?

2 A Yes.

3 Q And when you were arrested in 1997, did the
4 police take your fingerprints?

5 A Yes.

6 MR. STANTON: No further questions at this
7 time, Your Honor.

8 THE COURT: Cross-examination.

9 MR. SPECCHIO: Thank you, Your Honor.

10 **CROSS-EXAMINATION**

11 BY MR. SPECCHIO:

12 Q Let me understand. How many times have you
13 been arrested for felony charges?

14 A Just that one time.

15 Q Okay. So when Mr. Stanton tells you that you
16 were arrested before the death of Sergeant Sullivan, that's
17 the only one?

18 A Yes.

19 Q And then you went to court I think on
20 January 29th of last year, didn't you? Like this day right
21 here?

22 A I don't remember.

23 Q Sergeant Sullivan was killed midnight here?

24 A Uh-huh.

25 Q Is that the 12th and 13th?

1 A Yes.

2 Q You gave your statement that you have in front
3 of you, isn't the date January 19th? Isn't the date on that
4 January 19th, the date of the statement?

5 A I don't know.

6 Q Look over here where it says 1/19/98.

7 A Yes.

8 Q So that would be here.

9 A Yes.

10 Q So you knew at least on the 19th of January
11 that you would be a witness in this case?

12 A Yes.

13 Q And you went to court on the 29th -- do you
14 remember going to court on the 29th? Is that about right?

15 A I don't remember.

16 Q You don't remember a lot of things, huh?

17 A No. It's been a year, a long time.

18 Q I mean, you don't even remember stuff like what
19 anybody said to anybody or things like wanting to kill a cop
20 and all that? You don't remember any of that?

21 A What do you mean?

22 Q It didn't stick out in your mind? You
23 indicated 43 times on your direct examination that you
24 didn't remember, which you might have been asked 47
25 questions, which means to me that this was not necessarily

1 an event in your life that you wanted to recall.

2 A I don't know what you mean.

3 Q Okay. We'll go through it by the numbers. All
4 right?

5 A All right.

6 Q You are a student at UNR?

7 A No.

8 Q You were a student at UNR January of '98?

9 A No.

10 Q You just work there?

11 A Yes.

12 Q Okay. How long did you work there?

13 A For about three years.

14 Q Always doing the same thing?

15 A Yes.

16 Q And your normal hours would be what?

17 A 4:00 to 8:00.

18 Q 4:00 in the afternoon to 8:00 at night?

19 A Yes.

20 Q During that time I guess you got to know the
21 workings of people that work at UNR?

22 A Yes.

23 Q You saw UNR police officers before?

24 A Yes.

25 Q You saw them in your place of business?

1 A Yes.

2 Q You knew the routines that they had?

3 A No.

4 Q You didn't?

5 A No.

6 Q You never saw any police officers parked in a

7 certain location?

8 A No.

9 Q Were there police officers on duty while you

10 were working?

11 A I don't know.

12 Q Who is Chiatra Hanke?

13 A That was my ex-girlfriend.

14 Q And she was your girlfriend back in January;

15 right, of last year?

16 A During this?

17 Q Yes.

18 A No.

19 Q No? Renee was your girlfriend?

20 A Yes.

21 Q You didn't have two very close friends, Chiatra

22 and Renee, at the same time?

23 A No.

24 Q When you talk about Masi --

25 A Masi.

1 Q -- that's -- is that Brandon Louis, the young
2 boy?

3 A Yeah.

4 Q Was he present when you heard Mr. Vanisi say
5 that he wanted to kill a cop?

6 A I'm pretty sure he was.

7 Q How many times did you hear this, I want to
8 kill a cop, I got to kill a cop, I have to kill a cop? How
9 many times did you hear that?

10 A I'm not sure. He kept on saying it.

11 Q You would say four, five, six times; is that
12 about right? You don't remember that?

13 A I don't remember that.

14 Q Was the statement ever made that, I have to
15 kill a white cop?

16 A No.

17 Q You never heard that?

18 A No.

19 Q You would have remembered that?

20 A Yeah.

21 Q Now, you have been interviewed I assume by the
22 police and the District Attorney on a number of occasions?

23 A Yes.

24 Q When is the last time that you were
25 interviewed?

1 A Last time was I think last week.

2 Q Were you interviewed yesterday?

3 A Yesterday, no.

4 Q Last week?

5 A Yeah.

6 Q Were you given that transcript of the statement
7 that you gave to the police?

8 A Yes.

9 Q And did you read it?

10 A No.

11 Q Oh, okay. So it didn't help you refresh your
12 recollection in any fashion?

13 A No.

14 Q There's just some things you just don't
15 remember; isn't that right?

16 A Yes.

17 Q You have seen this before; right?

18 A Yes.

19 MR. STANTON: For the record --

20 BY MR. SPECCHIO:

21 Q Exhibit 15-A --

22 THE COURT: Let the record reflect that is the
23 same exhibit that Mr. Stanton was holding up earlier and it
24 was identified at that time.

25 BY MR. SPECCHIO:

1 Q You have seen this before?

2 A Yes.

3 Q You have told the police that your fingerprint
4 may be on this gun?

5 A Yes.

6 Q That is a true statement; isn't it?

7 A Yes.

8 Q You remember that?

9 A Yes.

10 Q On the night that Sergeant Sullivan got killed,
11 you drove Mr. Vanisi someplace, didn't you?

12 A Yes.

13 Q You didn't return directly back to the Rock
14 Boulevard address, did you?

15 A I did.

16 Q You did. What time did you get there?

17 A Back to the Rock Boulevard?

18 Q You left from there, took Mr. Vanisi to
19 Sterling Way?

20 A Uh-huh. And came straight back.

21 Q You didn't make any stops?

22 A No.

23 Q You remember that?

24 A Yes.

25 Q Who is Moa?

1 A Moa? That's Renee's brother.

2 Q Who is Manacui?

3 A That is the older brother.

4 Q How long have you lived in Reno?

5 A About 16 years.

6 Q And you're 19 years old?

7 A Yeah.

8 Q Do you know what the term 187 means?

9 A Yes.

10 Q What does 187 mean to you?

11 A Death. That there was a killing.

12 Q It means somebody is dead?

13 A Yeah.

14 Q Do you know where 187 comes from?

15 A No.

16 Q Did you ever have a conversation with Moa about
17 a 187?

18 A I dor.'t remember.

19 Q On the night of January 12th -- well, on the
20 morning of January 13th, there was a lot of talk going
21 around about the death of Sergeant Sullivan, wasn't there?

22 A Yes.

23 Q Were you interviewed on the 13th?

24 A No.

25 Q The 14th?

1 A No.

2 Q The 15th?

3 A No.

4 Q Any time before the 19th?

5 A No.

6 Q Do you remember if you were wearing the same
7 clothes on the 19th as you were wearing on the 13th?

8 A No.

9 Q No, you weren't, or no, you don't remember?

10 A I don't remember.

11 Q Tell me about this let's-go-look-for-a-cop-to-
12 kill trip that you took on Sunday night, which would be the
13 11th. How did this come about?

14 A I don't remember.

15 Q Could it have been you that said, Let's go out
16 and find a cop to kill?

17 A No.

18 Q It couldn't be that way?

19 A No.

20 Q Did you ever have any problems with any
21 University of Nevada police?

22 A No.

23 Q What about drugs? Any drugs being used by
24 either you or Mr. Vanisi?

25 A Just marijuana.

1 Q Just marijuana.

2 A Yeah.

3 Q When? What time? What days?

4 A I don't remember.

5 Q Well, I guess I could have expected that one.

6 When you were driving the car, taking

7 Mr. Vanisi from Rock Boulevard to Sterling Way, were you
8 smoking marijuana?

9 A No.

10 Q When you were driving around Sunday night
11 looking for a cop to kill, were you smoking marijuana?

12 A No.

13 Q The only other time you saw him was at Losa's
14 house and at the church?

15 A Yes.

16 Q First of all, whose weed? Is it yours or his?

17 A His.

18 Q This is a foreign substance to you, you never
19 smoked marijuana before?

20 A (Negative nod.)

21 Q Never before?

22 A Yeah. The day before.

23 Q So the marijuana smoking happened at the
24 church?

25 A No.

1 Q It didn't happen in the two trips in the car.
2 It didn't happen at the church and it didn't happen at
3 Losa's. When else were you with Mr. Vanisi?

4 A I don't remember.

5 Q Were you on the campus of the University of
6 Nevada at Reno?

7 A No.

8 Q You said that the bag, the white plastic bag,
9 how far away from that bag were you?

10 A About three, four feet.

11 Q Was the room lit like this room is lit?

12 A No.

13 Q It was darker?

14 A It was in between. Half the room was lit.

15 Q You never looked in the bag?

16 A No.

17 Q So you don't know what was in there?

18 A No.

19 Q You said it looked black. Could it have been
20 dark brown, the material that was in the bag?

21 A Yeah.

22 Q When did you see Mr. Vanisi's picture on
23 television?

24 A I didn't see it.

25 Q You never saw it?

1 A No.

2 Q Ever?

3 A No.

4 Q You were talking about the death of the police
5 officer. You read the stuff in the paper?

6 A No.

7 Q You didn't read it?

8 A Just heard about it.

9 Q Okay. And you never watched anything on TV?

10 A No.

11 Q Did anybody ever tell you that Mr. Vanisi's
12 picture was on television?

13 A Yes.

14 Q Did you tell him then that he should leave the
15 state?

16 A No.

17 Q How long were you in the car on Sunday night
18 looking for a cop to kill?

19 A About 15 minutes, 15, 20 minutes.

20 Q So it wasn't a long hunt? This thing was over
21 pretty quickly?

22 A Yeah.

23 Q You were driving the car?

24 A Yes.

25 Q You never stopped any police officer?

1 A No.

2 Q You didn't kill anybody that night?

3 A No.

4 Q The statement that you gave to the police,
5 which is in front of you, about what, 150 pages long?

6 A Yeah. 143.

7 Q 143. And you spoke to the police for how long?
8 I think it says from time to time on the front, doesn't it?

9 A No.

10 Q It doesn't have the times on it?

11 A No.

12 Q But you agree it was on the 19th, which is the
13 following Monday, after this incident?

14 A Yes.

15 Q Does that date agree with your recollection?
16 That it was about a week after the officer died that you
17 were interviewed?

18 A Yes.

19 Q And you spoke to nobody, no police officers
20 between the time of death of Sergeant Sullivan until the
21 19th?

22 A Yes.

23 Q Now, you said that that statement is 143 pages
24 long. You lied a lot in there, didn't you?

25 A Yes.

1 Q And at some point in time you decided that
2 maybe you were in trouble and you were going to tell
3 whatever you had to tell and lay this thing on Mr. Vanisi?
4 Isn't that a fair statement?

5 A Yes.

6 Q If you look at page 81 -- how long did this
7 thing go on? How long were you interviewed this day?

8 A Probably six hours.

9 Q This is all on six hours on this 143 pages?

10 A (Positive nod.) 82?

11 Q Page 81. If you look down the eighth -- your
12 first statement coming up from the bottom. What did you
13 tell the police?

14 A I'd tell them the truth.

15 Q What is the whole sentence?

16 A "For once I am telling the truth."

17 Q That's on page 81; right?

18 A Yes.

19 Q Now, you will admit to me now that there are a
20 number of less-than-truthful statements between pages 1 and
21 81?

22 A Less than truth?

23 Q There were lies here, but then you turned them
24 around later?

25 A I don't remember because I didn't read this. I

1 didn't look it over.

2 Q Do you want to go through them? We can do it.
3 We'll be here for a while.

4 A No.

5 Q There are some statements in here that are
6 incorrect; is that a fair statement?

7 A No.

8 Q It's not?

9 A No.

10 Q There's no false statements in here?

11 A They are true.

12 MR. SPECCHIO: Well, Judge, maybe the best way
13 to do this would be for me to recall him. He's going to be
14 here for two hours.

15 THE COURT: It's your choice. If you'd like to
16 recall him.

17 MR. SPECCHIO: I think that's what we will do.

18 THE COURT: Based on the --

19 MR. SPECCHIO: Make it subject to recall.

20 THE COURT: Okay. Subject to recall.

21 Mr. Stanton.

22 MR. STANTON: Thank you.

23 **REDIRECT EXAMINATION**

24 BY MR. STANTON:

25 Q Mr. Taukiuvea, you told the police that your

1 fingerprints were going to be on this gun 15-A?

2 A Yes.

3 Q How did your fingerprints come about to be on
4 that gun?

5 A Because he wanted to show me how to use it.

6 Q Where was this taking place?

7 A The same place, in the bathroom.

8 Q Who is he?

9 A Vanisi.

10 Q Mr. Vanisi?

11 A Yeah.

12 Q And so you took the gun?

13 A No, I didn't take it. I just touched the top
14 part of it. I just left it alone.

15 Q Mr. Vanisi is me. He's got the gun. How do
16 you touch it? What do you do? You show him how it works?

17 A No. I just leave it alone.

18 Q You didn't pull it back like this?

19 A No.

20 Q The police were asking you whether or not your
21 fingerprints were going to be on this gun; right?

22 A Uh-huh.

23 Q Mr. Specchio asked whether or not you have met
24 with the District Attorney's Office or police prior to your
25 testimony today. I believe you indicated that you met with

1 myself and other members of my office sometime last week?

2 A Uh-huh.

3 Q There was one thing that was told to you
4 repeatedly of what you were to do when you were sitting in
5 this witness chair testifying. What is that?

6 A Tell the truth.

7 Q When you were talked to by the police, the
8 transcript that you have in front of you, what was your
9 relationship with Mr. Varisi at the time that they
10 interviewed you?

11 A I didn't really talk to him that much.

12 Q Were you friends?

13 A I really didn't see him that much.

14 Q Did you call the police?

15 A No.

16 Q You didn't call them up and say, Hey, look, I
17 have heard about this murder, I think I have some
18 information that you want?

19 A No.

20 Q They came and got you?

21 A Uh-huh.

22 Q If the police hadn't come and gotten you, would
23 you have called them?

24 A No.

25 Q Why did you tell the police some lies in your

1 interview?

2 A Too scared.

3 Q Scared of what?

4 A How they were talking to me, pressuring me.
5 They like put words in my mouth.

6 Q They thought you were up on the campus with the
7 defendant during Sergeant Sullivan's murder, didn't they?

8 A Yes.

9 Q They asked you a number of questions about
10 that?

11 A Yes.

12 Q Did you ever tell them that you were up on the
13 campus?

14 A No.

15 Q Mr. Specchio asked you a question about your
16 charges and that you were interviewed on the 19th and that
17 you entered your plea sometime after your interview with the
18 police. Do you remember that?

19 A Yes.

20 Q Who was your attorney for those charges?

21 A John Oakes.

22 Q Now, when you were arrested sometime back in
23 1997, on the charges that you mentioned, you had what's
24 called a preliminary hearing. Do you remember that?

25 A No.

1 Q It would have been the first time your case
2 would have been called to court. It would have been out at
3 the Sparks Justice Court. Do you remember that?

4 A No.

5 Q Do you think your attorney would remember a lot
6 more of these details than you, than you remember about what
7 happened in your case when things happened?

8 A Yeah.

9 Q Now, did you go to trial on those charges, just
10 like we are here today in front of a jury?

11 A No.

12 Q You plead guilty?

13 A Yes.

14 Q You plead guilty pursuant to a plea bargain?

15 A Yes.

16 Q That is you plead to some charge, usually not
17 all the charges or some lesser charge and there is some deal
18 struck?

19 A Yes.

20 Q When was that deal struck, Mr. Taukiuvea?

21 A I don't remember.

22 Q Was it before Sergeant Sullivan's murder?

23 A Yes.

24 Q Do you remember how long before the murder?

25 A No.

1 Q Would November of 1997 ring a bell with you?

2 A No.

3 Q Mr. Oakes would know a lot better than you?

4 A Yes.

5 MR. STANTON: Thank you. Nothing further.

6 THE COURT: Do you want to reserve everything
7 until later, Mr. Specchio?

8 MR. SPECCHIO: In light of his response, Your
9 Honor, I don't think I have any alternative. So we'll
10 excuse him now subject to recall.

11 THE COURT: Okay. You may step down, but you
12 are not excused from further testimony in the case.

13 (The witness was temporarily excused.)

14 THE COURT: Ladies and gentlemen of the jury,
15 we have come to the time when we will take our lunch recess.
16 During this break, I ask that you remember the admonition I
17 have given you at all other breaks. I'll see you back this
18 afternoon at 1:30 p.m.

19 It is your duty not to discuss among yourselves
20 or with anyone else any matter having to do with this case.
21 It is your further duty not to form or express any opinion
22 regarding the guilt or innocence of the defendant until the
23 case is finally submitted to you for decision.

24 You are not to read, look at, view or listen to
25 any news media accounts regarding this case. And should any

1 person attempt to discuss the case with you or in any manner
 2 attempt to influence you with regard to it, notify the
 3 bailiff immediately upon returning to the court, and he in
 4 turn will notify me.

5 Ladies and gentlemen of the jury, we'll see you
 6 back at 1:30.

7 Counsel, I will see you back at 1:30.

8 Court is in recess.

9 (Recess taken at 11:54 a.m.)

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RENO, NEVADA, THURSDAY, JANUARY 14, 1999, 1:37 P.M.

-oOo-

(Whereupon, the following proceedings were held in open court, outside the presence of the jury.)

THE COURT: Mr. Specchio. Mr. Stanton.

MR. STANTON: Yes. Thank you, Your Honor.

Your Honor, based upon the cross-examination of the last State's witness, Sateki Taukiuvea, the State would make a motion at this time to endorse an additional witness, and that would be Mr. Taukiuvea's attorney, John Oakes, who is present in the courtroom.

THE COURT: Mr. Specchio.

MR. SPECCHIO: I would prefer to stand mute on that issue, Your Honor.

THE COURT: Other than the specifics of -- tell me why you believe that it is necessary and why you didn't know beforehand.

MR. STANTON: Well, the cross-examination -- until the opening argument was made by counsel in this case, the State was unaware that the theory of the defense was Mr. Taukiuvea's the murderer of Sergeant Sullivan, I guess among other things.

In addition, the cross-examination of Mr. Taukiuvea, which obviously the State wasn't privy to,

1 involved, prior to the actual examination occurring, was an
2 implicit reference to the time of Mr. Taukiuvea's interview
3 by Detectives Dreher and Depczynski on the 19th of January,
4 1998, and his subsequent entry of plea in the Second
5 Judicial District Court to a felony charge of possession of
6 stolen property.

7 I think the clear inference of that examination
8 by Mr. Specchio is that there was some sort of negotiations
9 or deal struck with the witness and the State. The State
10 plans to call Mr. Taukiuvea's --

11 THE COURT: Excuse me just a minute. Would you
12 remove the gentleman from the courtroom, please?

13 Go ahead.

14 MR. STANTON: The purpose of calling Mr. Oakes
15 is to clarify before this jury that the negotiations as
16 Mr. Taukiuvea's counsel was conducted relative to that
17 charge as far as the plea bargain was entered into on
18 November 25th, 1997, a little over a month prior to George
19 Sullivan's murder.

20 THE COURT: With that offer of proof, do you
21 have anything further to add, Mr. Specchio?

22 MR. SPECCHIO: No, Your Honor. We will submit
23 the matter to the Court.

24 THE COURT: Based upon that offer of proof, the
25 Court will grant the relief requested. Mr. Oakes is added

1 as a potential witness in this case.

2 MR. STANTON: In addition, Your Honor, I
3 believe the next order of business prior to calling
4 Mr. Oakes in front of the jury would be a stipulation
5 regarding a piece of evidence, and I would ask the Court at
6 the end of the stipulation to advise the jury of what a
7 stipulation is and how they are to treat it.

8 THE COURT: What is the stipulation?

9 MR. GAMMICK: Your Honor, I have been speaking
10 with Mr. Specchio. This morning we had a known fingerprint
11 of Mr. -- Teki compared with the unidentified fingerprint
12 that came from the white plastic bag that was discussed
13 yesterday. They did not match. So that fingerprint was not
14 produced by Mr. Taukiuvea.

15 I would like -- Mr. Specchio has agreed to do
16 that by stipulation rather than recalling Mr. Stevenson.

17 THE COURT: Mr. Specchio?

18 MR. SPECCHIO: Sounds good to me, Judge.

19 THE COURT: Have you reduced this stipulation
20 to writing?

21 MR. SPECCHIO: No.

22 MR. GAMMICK: All I have at this time is a
23 note, Your Honor. If the Court would like that prepared on
24 a piece of paper, we can do that. On a yellow piece of
25 paper at this time, it is signed the Marx Brothers. That is

1 an inside joke for Investigator Mark Covington and
2 Investigator Mark Crosby are the ones that passed the note
3 to us.

4 THE COURT: I think that there is no urgency
5 that it be done right this minute before the jury, that
6 stipulation. So I'd like you to reduce it to writing, one
7 side to the other. Both of you sign the stipulation, and
8 I'll provide it to the jury, and it will be in writing, and
9 I will read the stipulation.

10 If you want me to utilize the standard stock
11 instruction that we use in civil cases frequently with
12 regard to stipulations, I can do that. But I'd also like
13 that instruction to be at the bottom of the stipulation so
14 that the record is clear that you all are agreeing that that
15 is what I should tell the jury.

16 MR. GAMMICK: Can do that, Your Honor.

17 THE COURT: Thank you. Now, you intend to call
18 Mr. Oakes now?

19 MR. STANTON: After the stipulation is entered
20 into, that would be the next witness.

21 THE COURT: What do you mean after the
22 stipulation? You don't need the stipulation on the
23 fingerprints before Mr. Oakes testifies, do you?

24 MR. STANTON: If the Court is ruling -- maybe I
25 misunderstood it. The stipulation will come in when the

1 actual document is prepared?

2 THE COURT: Yes.

3 MR. STANTON: The next witness would be
4 Mr. Oakes.

5 THE COURT: Now, Mr. -- is there anything
6 additional with regard to his testimony to give Mr. Specchio
7 notice of what you intend to call him for?

8 MR. STANTON: That is all the direct
9 examination of Mr. Oakes is going to be.

10 THE COURT: Mr. Specchio, do you need a
11 continuance to confer with Mr. Oakes?

12 MR. SPECCHIO: No, Your Honor.

13 THE COURT: Then we will bring the jury in.

14 (Whereupon, the following proceedings were held
15 in open court, in the presence of the jury.)

16 THE COURT: Counsel, can you stipulate to the
17 presence of the jury?

18 MR. GAMMICK: Yes, Your Honor.

19 MR. SPECCHIO: So stipulated, Your Honor.

20 THE COURT: Thank you. You may be seated.

21 Good afternoon, ladies and gentlemen of the
22 jury.

23 Call your next witness.

24 MR. STANTON: State would call John Oakes to
25 the stand.

JOHN E. OAKES

called as a witness on behalf of the Plaintiff,
having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. STANTON:

Q Mr. Oakes, could you please state your complete name for the record?

A John E. Oakes.

Q And, Mr. Oakes, are you a licensed attorney here in the State of Nevada?

A I have been, yes.

Q And how long have you been a licensed attorney?

A Since 1978.

Q Currently your practice is in what area?

A Criminal defense.

Q I want to direct your attention to the name of Sateki Taukiuvea. Do you recognize that name?

A I do, and I cannot to this date pronounce it.

Q Were you Mr. Taukiuvea's attorney for criminal charges that arose out of an arrest from Sparks Police Department in 1997?

A Yeah. I was appointed by the Washoe County Public Defender's office on October -- little bit different up here; I'm used to being back there -- October 22nd, 1997.

1 Q When was Mr. Taukiuvea's arrest from arising
2 out of those charges that you were appointed on that date?

3 A October 14th of 1997.

4 Q And is it fair to say that the first or one of
5 the early important proceedings that occurs in a criminal
6 case is something called a preliminary hearing?

7 A Correct. That was held on November 25th, 1997.

8 Q At that time was there plea negotiations that
9 were entered into between the State and your client?

10 A Yes. He was charged with two counts: one
11 count of burglary and one count of possession of stolen
12 property.

13 I did not personally negotiate this deal. At
14 that point in time, my partner, David Spitzer, appeared in
15 my behalf. He negotiated the case, and as reflected on the
16 waiver of preliminary hearing, it was agreed that the State
17 would dismiss the charge of burglary and he would enter a
18 plea of guilty to possession of stolen property.

19 Additionally, at the time of sentencing the
20 State would have no objection to a 458 program. Otherwise
21 concur with the recommendation of the Department of Parole
22 and Probation.

23 Q You said a lot of things that I'm sure are part
24 of the vernacular to an experienced criminal defense
25 attorney. Let me just back up and go through it briefly.

1 When was the date that that plea negotiation
2 was settled between your client and the State of Nevada?

3 A November 25th, 1997.

4 Q And after that date, was there any time that
5 the plea negotiations were either modified, attempted to be
6 modified, or were you ever approached by any representative
7 of the District Attorney's Office to modify those
8 negotiations?

9 A Never.

10 Q When was the first time you had heard about any
11 inquiry regarding your client's plea that we just mentioned?

12 A When I was walking out of the courtroom this
13 morning after the morning arraignments and I thought you
14 were making a joke. So this morning about 10:00 o'clock.

15 Q Now, Mr. Oakes, the negotiations that you just
16 mentioned, were those fairly typical of a case of that
17 magnitude and the facts as you knew them to be?

18 A The facts of this case were pretty straight
19 forward. He and a co-offender -- actually two other
20 co-offenders were caught red-handed with hot stolen
21 merchandise.

22 In October of '97, there was a blackout in
23 Sparks. They were caught, or Sparks Police Department was
24 doing a sweep around the neighborhood because there was a
25 blackout in Sparks. He was caught with his co-offender with

1 some stolen sporting goods equipment, who had just
2 suffered -- it was a next door store, and they had just been
3 burglarized.

4 Q So the negotiations that the State entered into
5 in this case, would they be fair and reasonable based upon
6 your number of years and experience based upon the facts and
7 the charges in that case?

8 A And the evidence, yes.

9 Q And was there any time after that again that
10 anybody sought to modify the negotiations?

11 A At no time. In fact, his change of plea was
12 before Judge Berry on December 22nd, 1997.

13 Q And relative to the contact with the District
14 Attorney's Office and your representation of Mr. Taukiuvea,
15 did anybody ever contact you at any time requesting the
16 assistance of your client pursuant to his charges of being a
17 witness in this case?

18 A Not at any point in time. Like I said, the
19 first contact I had was by you today.

20 MR. STANTON: No further questions.

21 THE COURT: Cross?

22 MR. SPECCHIO: Your Honor, as tempting as it
23 is, no questions, Your Honor.

24 THE COURT: You may step down.

25 THE WITNESS: Thank you.

1 (The witness was excused.)

2 MR. STANTON: State would call Maria Losa
3 Louis.

4 **MARIA LOSA LOUIS**

5 called as a witness on behalf of the Plaintiff,

6 having been first duly sworn,

7 was examined and testified as follows:

8 **DIRECT EXAMINATION**

9 BY MR. STANTON:

10 Q Ma'am, if you could pull that microphone down
11 as close as you can get to it.

12 Could you state your full and complete name?

13 A Maria Losa Louis.

14 Q Could you spell your middle?

15 A L-O-S-A.

16 Q And how do you spell your last?

17 A L-O-U-I-S.

18 Q How old are you, ma'am?

19 A 22.

20 Q I want to direct your attention to
21 approximately one year ago, the time frame of January 13th,
22 1998. Ma'am, at that time, where were you living?

23 A 1098 North Rock Boulevard, Apartment A.

24 Q And who else was living with you at that
25 location?

1 A It was myself, my sister and my two little
2 brothers.

3 Q Can you tell me your siblings' names and their
4 ages?

5 A Corina Louis, 18; William Louis, 15; Brandon
6 Louis, 12.

7 Q And Brandon also has a name of Masi?

8 A Uh-huh. Yes.

9 Q Now, over your right-hand shoulder is a chart
10 of the month of January 1998. If you need to refer to that
11 in any part of my questions, feel free to do so.

12 Do you know someone by the name of Siaosi
13 Vanisi?

14 A Yes, I do.

15 Q Do you see him in court today?

16 A Yes, I do.

17 Q Could you point to where he is in the courtroom
18 and tell me what he is wearing?

19 A He is sitting right there with the gray suit,
20 blue tie.

21 Q At the table right to my left?

22 A Yes.

23 Q Now, ma'am, on January or in January of 1998,
24 how well did you know Mr. Vanisi?

25 A Not that well. We met on family occasions,

1 family gatherings.

2 Q About how many times had you seen or met
3 Mr. Vanisi prior to his arrival in Reno in January?

4 A I would say about twice.

5 Q How long before his arrival in January 1998 had
6 you seen him on those two occasions?

7 A A year. I would say a year.

8 Q Now, do you remember where you were in Reno
9 when you first saw Mr. Vanisi in January of 1998?

10 A Yes. I was at a dance.

11 Q Where did this dance take place?

12 A At Paradise Park.

13 Q Was the dance put on by a particular
14 organization?

15 A It was just for the Tongan society youth.

16 Q And you said you saw the defendant there --

17 A Yes, I did.

18 Q -- Mr. Vanisi? And was he dressed or look the
19 same at the dance when you saw him as he does in court
20 today?

21 A No, he does not.

22 Q How does he look different?

23 A Well, when I first saw him, he had a -- he had
24 longer hair, it was a wig, with a beanie, black baggy pants,
25 and a leather jacket.

1 Q Showing you Exhibit 24-A, is this the way he
2 looked, minus the wig and the beanie?

3 A Yes.

4 Q When you saw him at the dance that night, how
5 was he behaving?

6 A I wasn't really paying attention. He was just
7 dancing like others, like the rest of us.

8 Q Was he acting unusual?

9 A No.

10 Q Do you remember on January 13th, 1998, sometime
11 in the evening hours of that day being interviewed by the
12 Reno Police Department, members of the Reno Police
13 Department?

14 A Yes.

15 Q Using that time frame and up there on the chart
16 that would be reflected as Tuesday, when was the dance when
17 you first saw Mr. Vanisi?

18 A Saturday, the 11th. I'm sorry. The 10th.

19 Q You said he had a wig on?

20 A Yes.

21 Q How do you know that it was a wig?

22 A Because he came over to my house and he took it
23 off.

24 Q I show you Exhibit 6. Have you ever seen that
25 composite drawing before?

1 A On the news.

2 Q And did that, does this accurately depict the
3 way Mr. Vanisi looked when you saw him at the dance that
4 night?

5 A Yes.

6 Q What were the names that you knew Mr. Vanisi by
7 in January 1998?

8 A Pe.

9 Q Pe?

10 A Perin (phonetic) and Siaosi.

11 Q Did you ever hear him called George?

12 A No.

13 Q During the dance that you described at Paradise
14 Park, did you ever see Mr. Vanisi with a hatchet?

15 A No, I didn't.

16 Q Did you see the hatchet sometime later with
17 him?

18 A Yes, I did.

19 Q Do you remember him wearing a jacket at the
20 dance?

21 A Yes.

22 Q What kind of jacket was it?

23 A It was a burgundy leather jacket.

24 Q Ma'am, I want to show you two photographs, 23-A
25 and 23-B. First 23-A, do you recognize what's contained in

1 that photograph?

2 A Yes.

3 Q And 23-B?

4 A Yes.

5 Q Is that the jacket that you just mentioned you
6 saw the defendant wearing?

7 A Yes.

8 Q Do you know where these two photographs are
9 taken?

10 A In my apartment. 1098 North Rock Boulevard.

11 Q Do they accurately reflect the condition of the
12 jacket and its location where you last remember seeing it
13 before the police came in?

14 A I don't remember seeing that jacket. I have
15 seen it before, but I don't remember seeing it there.

16 Q In your apartment like this?

17 A Yeah.

18 Q But you are certain that is the jacket he was
19 wearing at the dance?

20 A Yes, it is.

21 Q When was the first time that you saw Mr. Vanisi
22 with a hatchet?

23 A Saturday night after the dance.

24 Q And that would be?

25 A On the 10th.

1 Q And where did he have it on his person, on his
2 body?

3 A He had it -- when I first saw him he had it on
4 his chest, tied around with a belt.

5 Q Now, using me as Mr. Vanisi, where on my body
6 would the belt be? Here?

7 A Yeah. Little lower.

8 Q About here?

9 A About there.

10 Q Right around where my stomach is?

11 A Yes.

12 Q It was a belt?

13 A It looked like a belt.

14 Q And was that hatchet on the outside of his
15 jacket or the inside?

16 A Inside.

17 Q So if I walked up to him and didn't know any
18 better, I couldn't see the hatchet?

19 A No, you couldn't.

20 Q Where were you when you saw -- physically where
21 in Reno were you when you first saw it?

22 A The hatchet?

23 Q Yes.

24 A Starlight Bowling.

25 Q Who else was present with you when you were at

1 Starlite Bowl?

2 A Sateki Taukiuvea and Renee Peaua.

3 Q And Sateki Taukiuvea and Renee Peaua were
4 boyfriend and girlfriend?

5 A Yes, they were.

6 Q Did you ask Mr. Vanisi at the Starlite Bowl
7 where he had the hatchet?

8 A No, I just asked him, What are you doing with
9 that?

10 Q What did he respond?

11 A He didn't say nothing.

12 Q You thought that was unusual?

13 A No, I didn't think nothing of it.

14 Q Did you see many people that you know carry
15 around hatchets?

16 A No.

17 Q So that was unusual?

18 A You could say that.

19 Q Did you ever hear the defendant Siaosi Vanisi
20 make a statement that he wanted to kill a cop?

21 A Yes, I did.

22 Q When was the first time you heard that?

23 A I can't really tell you the first time, but I
24 have heard it several times.

25 Q And was he the only person you ever heard say

1 that?

2 A Yes.

3 Q How many total times did you hear Mr. Vanisi
4 say, I want to kill a cop?

5 A I have heard him like three times.

6 Q Was anybody else present when he said it?

7 A Yeah. There was a lot of us.

8 Q And who were some of the other people that were
9 present when he said -- made that statement?

10 A Renee Peaua, Sateki Taukieuvea, Laki Tauveli,
11 Corina, Louis and myself.

12 Q And the person you said goes by the name of
13 Laki; correct?

14 A Yes.

15 Q Then we have Teki?

16 A Uh-huh.

17 Q And Renee?

18 A Yes.

19 Q Peaua?

20 A Yes.

21 Q Where is Renee Peaua?

22 A She is in Tonga.

23 Q When did she leave to go to Tonga?

24 A She left last year, January, or February.

25 Q Right after the murder of Sergeant Sullivan?

1 A Yeah. Yes.

2 Q Now, the statements that you heard Mr. Vanisi
3 make about killing a cop, did he whisper those to you or did
4 he say them out loud like you and I are talking now?

5 A He said them out loud.

6 Q And were these statements made before or after
7 Sergeant Sullivan was killed?

8 A Before.

9 Q Did he ever make any of those statements that
10 you heard after Sergeant Sullivan had been killed?

11 A No.

12 Q Ma'am, I'd like to take you to Monday, January
13 12th, 1998. Do you remember being at the house, at your
14 house on Rock Boulevard, Apartment A, when you came home at
15 approximately 5:00 to 6:00 p.m.?

16 A Yes.

17 Q What was Mr. Vanisi doing when you arrived at
18 your apartment on that day and that time?

19 A We were just in the house. Everybody was
20 talking.

21 Q Do you remember him to be cooking dinner?

22 A Yeah. After we talked he went in and cooked
23 dinner.

24 Q What did you do?

25 A I went and cleaned my room, fell asleep.

1 that was marked as Exhibit A and the Court's order with
2 regard to disclosure to the defense of additional
3 statements made by the defendant prior to its being
4 admitted before the jury; is that correct?

5 MR. STANTON: That's my understanding, Your
6 Honor.

7 THE COURT: Mr. Specchio?

8 MR. SPECCHIO: I'm prepared to stipulate to
9 the contents of that exhibit. I think we had made -- so
10 long as we understand that one of these guys isn't going
11 to come in and start talking about admissions of any type
12 that haven't been presented to us.

13 THE COURT: Okay.

14 MR. STANTON: We won't have any jamolt
15 testimony.

16 MR. SPECCHIO: That's right. You never know
17 if they're a jamolt or not until after they testify, but
18 we don't want them coming in here and doing that kind of
19 stuff.

20 THE COURT: Based upon the representation,
21 the motion will not be ruled upon by the Court at this
22 stage because of the stipulation.

23 Motion in Limine Regarding Criminal History
24 of the Defendant. We don't have any criminal history of
25 the defendant that the State intends to utilize?

1 MR. STANTON: Not in the guilt phase, not in
2 the case in chief. And the record that he has I can't
3 even see being relevant even as rebuttal evidence in the
4 case in chief. It may have even marginal relevance under
5 a penalty phase. Defense has been provided with whatever
6 we have in that regard.

7 THE COURT: So the Court's ruling is today
8 that there's nothing to -- it's moot. There's no evidence
9 being offered.

10 MR. STANTON: Unless the defense is going to
11 provide us with something.

12 MR. SPECCHIO: No. We're going to hide that,
13 Judge.

14 (Laughter)

15 THE COURT: Okay. Motion for Jury
16 Questionnaire. That will be decided in totality at the
17 December 10th hearing. Motion in Limine Regarding the DNA
18 expert. I have required the supplemental information to
19 be provided to the Court. We'll do a separate written
20 order on that.

21 Motion to Compel State to Designate Trial
22 Witnesses was ruled upon on August 4th.

23 MR. SPECCHIO: In that regard, Your Honor, I
24 think we have an agreement that we're going to swap those
25 anyway in the next week or two.

1 THE COURT: Try to expedite the process?

2 MR. SPECCHIO: Yes. Exactly the word I was
3 looking for.

4 THE COURT: Motion to Disqualify Certain
5 Potential Jurors was ruled upon on August 4th.

6 MR. SPECCHIO: When was that one filed,
7 Judge?

8 THE COURT: June 18th.

9 MR. SPECCHIO: Thank you.

10 THE COURT: Motion to Allow Jury Consultants
11 and Consultants at Counsel Table. That was ruled upon on
12 August 4th.

13 Motion to Declare Nevada's Death Penalties
14 Unconstitutional will be in the order you'll receive
15 tomorrow.

16 Motion in Limine Regarding racially mixed
17 Jury will be in the order you'll receive tomorrow.

18 Motion in Limine Regarding Undisclosed
19 Informants will be in the written order tomorrow.

20 Motion in limine Regarding Undisclosed
21 Informants will be ruled upon in the order tomorrow.

22 Motion to Exercise Right of Allocution will
23 be in the written order tomorrow.

24 Motion to have 48 Hours Between Guilt and
25 Penalty Phase, if we get to a penalty phase, will be ruled

1 upon in the order tomorrow.

2 Motion for Change of Venue is moot until
3 after the voir dire. So I'll rule upon it at the
4 conclusion of the voir dire.

5 MR. SPECCHIO: It's just reserved at this
6 point?

7 THE COURT: Reserved.

8 Motion Regarding Hearsay Evidence at the
9 Penalty Hearing. You'll receive your written order on
10 that. That was filed July 15th.

11 MR. SPECCHIO: That was hearsay evidence at
12 penalty phase?

13 THE COURT: Right.

14 Motion to Limit Victim Impact Statements.
15 That will be in tomorrow's order.

16 Motion Regarding Future Dangerousness of the
17 Defendant will also be in tomorrow's order.

18 Motion to Exclude Inadmissible and
19 Prejudicial Evidence at Penalty Hearing will be in
20 tomorrow's order.

21 Motion for Production of all Aggravating
22 Factors and Character Evidence that the State intends to
23 produce at the penalty hearing. Also tomorrow.

24 Motion for Consideration of all Mitigating
25 Factors. That will be in the written order. It will be

1 something that will have to be revisited at the penalty
2 phase/jury instruction discussion.

3 MR. SPECCHIO: Your Honor, in that regard,
4 too, I think the record should reflect that on July 16th
5 we filed our notice of the mitigating factors.

6 THE COURT: I do have that notice filed on
7 that date.

8 Motion for Bifurcated Penalty Hearing.
9 You'll receive my order tomorrow on that in writing.

10 And Motion to Strike Aggravating
11 Circumstances, you'll receive a written order with regard
12 to that. But to let you know, that's going to be held in
13 abeyance until the conclusion of the State's case and the
14 penalty phase.

15 MR. SPECCHIO: I'm sorry, which one?

16 THE COURT: That's your Motion to Strike the
17 Aggravating Factors. I'm not going to rule on that until
18 the conclusion of the State's case.

19 MR. SPECCHIO: Okay. Thank you.

20 THE COURT: Now, that's all I have for
21 motions filed by the defense. Do you have any additional
22 motions that you have filed and I haven't ruled on?

23 MR. SPECCHIO: Your Honor, we have four
24 motions that we've withdrawn. I'm sorry. No, they
25 haven't been filed. And I think that covers them all,

1 then. Thank you, Your Honor.

2 THE COURT: It's 41 motions?

3 MR. SPECCHIO: Yes.

4 THE COURT: That matches your count?

5 MR. SPECCHIO: Yes. What we had was three
6 that were withdrawn and four that we didn't file, but we
7 didn't even file the withdrawn ones, so there was eight.

8 THE COURT: Now, do you anticipate any
9 additional motions in this case?

10 MR. SPECCHIO: I don't think so. If there
11 are, they'll be minimal procedural motions. I don't
12 anticipate any more.

13 THE COURT: If we have the hearing set for
14 two weeks from now, almost three weeks from now, so I
15 would want to be able to consider every last motion that
16 you can think of.

17 MR. SPECCHIO: I don't really anticipate
18 there will be any, Judge.

19 THE COURT: But we do have that hearing time
20 set aside, although I don't think it will take very long
21 to decide the jury.

22 Mr. Gammick, do you have any additional
23 motions for the State? Any motions at all?

24 MR. GAMMICK: No, your Honor.

25 THE COURT: Then we'll proceed with our

1 current status. We have a next hearing date set for
2 December 10th. Although we have a specific order of
3 business at the December 10th hearing, something that
4 comes up between now and then, please be sure to raise it,
5 even though it's outside the jury voir dire issues.

6 We also still have the hearings scheduled
7 within three days of trial. So those will be set.

8 I want to let you know that it looks like we
9 will probably be doing realtime for the trial. If you'd
10 like to find out about realtime or utilize your own laptop
11 to use realtime while I'm using it, talk to the court
12 reporting service. I'd like to know early, not late, so
13 we can get electricity to your tables. But that will
14 probably be utilized. You will definitely have your
15 dailies, but we will probably be doing realtime in this
16 trial also.

17 MR. STANTON: We'd be interested, Your Honor.

18 MR. SPECCHIO: Sure. Sign me up.

19 THE COURT: Do you have a laptop, Mr.
20 Specchio?

21 MR. SPECCHIO: No, but we can buy one. The
22 county has a lot of money.

23 THE COURT: You can rent one, maybe. Sierra
24 Nevada Reporters are my court reporter. In fact, the
25 court reporter who is present is a certified realtime

1 reporter and she'll be reporting, her or Eric Nelson,
2 throughout the trial.

3 At the conclusion of today's hearing, if you
4 feel comfortable, ask her about what you need if you've
5 never done it. Set up a time and she'll be glad to walk
6 you through it and train you minimally on realtime before
7 you're ready to go.

8 MR. STANTON: I have one final oral motion;
9 that is, to return Exhibits 4, the series 4 and 5 to the
10 State.

11 THE COURT: Okay. And the clerk has made
12 copies; is that correct?

13 THE CLERK: Correct.

14 THE COURT: The copies will be retained by
15 the Court. Mr. Specchio, you have no objection to
16 returning the originals to Mr. Stanton for trial
17 preparation?

18 MR. SPECCHIO: No. He's going to provide
19 originals or copies to both the clerk and myself; is that
20 right?

21 THE COURT: Actually, he's going to give you
22 a copy, I guess, and himself a copy, and he's going to
23 give us back the originals. In the interim we will keep a
24 Xerox copy of the originals.

25 MR. SPECCHIO: That's fine.

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THE COURT: Thank you. The Court's in
recess.

(Recess taken at 2:35 p.m.)

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Exhibit 84

Exhibit 84

FILED

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AMY H. HARTMAN

CASE NO. CR98-0516

DEPT. 4

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

BEFORE THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

THE STATE OF NEVADA,

Plaintiff,

-vs-

SIAOSI VANISI,

Defendant.

PRETRIAL HEARING

December 10, 1998

Reno, Nevada

APPEARANCES:

FOR THE STATE:

RICHARD A. GAMMICK
Washoe County District Attorney
Washoe County Courthouse
Reno, Nevada

FOR THE DEFENDANT:

MICHAEL R. SPECCHIO
Washoe County Public Defender
One South Sierra Street
Reno, Nevada

THE DEFENDANT:

SIAOSI VANISI

Reported by: Lesley A. Clarkson, CCR #182

ORIGINAL

SIERRA NEVADA REPORTERS (775) 329-6560

AA03084

1 RENO, NEVADA, THURSDAY, DECEMBER 10, 1998, 11:45 A.M.

2 -ooo-

3 THE COURT: Let the record reflect defendant and
4 counsel are present.

5 Are we talking about tables?

6 MR. SPECCHIO: No, just the location of Mr. Vanisi
7 during trial. We are going to have three lawyers here. And
8 we want him at counsel table, he will want to be at counsel
9 table. I'm just wondering if maybe we could put him on the
10 end.

11 THE COURT: Would you want -- I certainly wouldn't
12 presuppose where you would want him to sit, but you might
13 want two lawyers and Mr. Vanisi and then put the lawyer on
14 the end.

15 I don't think it matters to me. Does it matter to
16 anyone else?

17 MR. SPECCHIO: Well, we can talk about it. I'll
18 talk to these gentlemen about it. I think we will probably
19 have one lawyer sitting back here.

20 THE COURT: That's one of the questions. As you
21 can see, the tables are turned, and this is the way we intend
22 to have them during the trial.

23 MR. SPECCHIO: This is fine.

24 THE COURT: But we are not going to have any chairs
25 behind the extra chairs.

1 MR. SPECCHIO: These.

2 THE COURT: So just tell us how many you think you
3 need, if you need one.

4 MR. SPECCHIO: I think if we have three chairs at
5 counsel table, we will only need one chair in the back.

6 THE COURT: Okay. Then that's the way it will be
7 set up. And then we believe that there will be no chairs
8 behind the district attorney's seat.

9 MR. GAMMICK: That will be fine, Your Honor.

10 THE COURT: That's sort of the way we thought it
11 would work.

12 MR. SPECCHIO: We also didn't discuss the
13 possibility, Judge, of we are going to have a lot of
14 material. It's going to come over on carts.

15 THE COURT: That's where -- we thought we would
16 want to move those chairs out so you would have room to set
17 your cart up there.

18 MR. SPECCHIO: Would it be all right to have that
19 material in the courtroom rather than have to haul it all
20 back every night?

21 THE COURT: Yes. Courtroom will be secure. If you
22 want to -- we might work with where you stack it. Because I
23 would rather, I like my staff be able to come and go.

24 MR. SPECCHIO: Maybe, because you are going to have
25 arraignments.

1 THE COURT: Right.

2 MR. SPECCHIO: So if we could just, you know, maybe
3 at the end of the day put them against the wall, I think that
4 will be all right. Mr. Gammick I don't think has any
5 problem, his people will be on that side of the table anyway.

6 THE COURT: Right, and he can move his cart a
7 little easier, I think. They don't have to leave the
8 building. But I understand it's hard to haul it across the
9 street.

10 Mrs. Stone, who will be your court clerk for the
11 trial, and the two bailiffs that are going to be assigned
12 will be glad to work with you about how to take care of the
13 material. We will find a place for it.

14 Okay. We also, today, I wanted to talk about just
15 briefly, give you an indication of the courtroom security
16 determinations that were made by the Court and the court
17 detail.

18 We will have a weaponless courtroom. There will be
19 no weapons in the courtroom by anyone other than court detail
20 personnel and as determined by the sheriff. Everyone else
21 will check their weapons. The sheriff is responsible for
22 maintaining this. It's not a court, the Court isn't going to
23 be doing it. There will be a magnetometer outside the
24 courtroom doors, and the courtroom will be cleared every,
25 after arraignments before court starts, just so you can know

1 and notify your officers.

2 The old rule was in many cases unless you were in
3 uniform, but in this particular instance it's going to be no
4 weapons, uniform or not.

5 The security issues remain to be an issue for the
6 Court, and I want to make sure the record is clear that the
7 Court's goal is to have the jury believe that Mr. Vanisi is
8 not in custody. And we will make every effort to do that.
9 And I have been assured by the court detail that they will
10 make every effort to do that so the jury has no idea he is
11 being held in custody. If there is an issue that arises or
12 something appears to be not working, counsel again is
13 reminded that you should feel comfortable bringing that up to
14 the Court so that we can correct any problems that result.

15 I believe that during jury selection we will have
16 the jury panel move from the courtroom rather than the
17 parties. So if there's a break necessitated, the parties
18 will remain in the courtroom and the panel will be moved down
19 to another courtroom to be held.

20 We have a pretrial issue with regard to jury
21 questionnaires. It's the Court's determination that I will
22 allow for a pretrial questionnaire of the jury, which is an
23 expanded questionnaire over what we normally use. However, I
24 do not want this to be more than a page, perhaps two, but no
25 more than. And I have asked that counsel get together,

1 submit to the Court a proposal, or at the very least let me
2 know what your real requests are to be held in this
3 questionnaire. I'm especially concerned about the wording of
4 the questionnaire as it relates to pretrial publicity.

5 I'll need this response back from the State and the
6 defense no later than next Wednesday at noon, so that we can
7 get this jury questionnaire put together.

8 I anticipate utilizing the questionnaire by having
9 the jury panel brought in, the veniremen, on January 4 to the
10 jury commissioner's office, being admonished about the jury
11 questionnaire, sworn by the clerk, and then fill out the jury
12 questionnaire in the presence of court personnel.

13 The questionnaire will remain in the courthouse
14 then and will never be out, and the people filling out the
15 questionnaire will have presented identification and be truly
16 the veniremen that are called.

17 Then I propose giving the questions, filled out
18 questionnaire to counsel by five o'clock that day. That
19 would be January 4. And then we have pretrial hearings set
20 already for the afternoon of January 7, at which point if
21 there's any individuals that we can remove from our veniremen
22 list based upon their questionnaire or background check that
23 is conducted and presented to counsel, we will be able to do
24 that at that hearing.

25 I'm going to ask the jury commissioner to pull 150

1 people, and then we don't know how many of those will
2 actually appear to fill out the questionnaire. We are having
3 approximately 20 percent loss. And then we will reduce that
4 number down to who actually will appear on January 11 for
5 your jury selection.

6 We will be utilizing a modified individual voir
7 dire process in that we will do side bars if the question
8 requires a side bar discussion with the veniremen. That
9 would stop the rest of the panel from being tainted, from
10 hearing what the veniremen might say.

11 The method, just so that counsel knows, is the
12 court reporter will be up on the witness level throughout
13 jury selection, because we will have 42 or so people in our
14 pit area during the jury selection, and so we are going to
15 have them up there. And it also will be more convenient for
16 side bar. Everyone will go to the actual side bar, and we
17 will be on the record during the side bar discussions, but
18 the jury won't be hearing it.

19 The individual voir dire process that we will
20 utilize will be on a case-by-case basis and only as I see
21 it's necessary to stop the rest of the panel from being
22 contaminated by the statements of knowledge that the
23 individual jurors might have.

24 Jury confidentiality order. We have a jury
25 confidentiality order that's in effect in the county that was

1 issued by the chief judge. I require a slight modification
2 in that, in that I ask that jurors' names, addresses and
3 telephone numbers not be provided by, to outside people,
4 anyone outside of the particular attorneys trying the case.
5 And that those telephone numbers, addresses not be
6 memorialized by counsel.

7 We require that the jury questionnaires that you
8 receive, the copies be returned to the Court for shredding.
9 The originals are held, and they are held in the sealed
10 documents of the court. Anyone can get them if there's a
11 reason for it, but absent a reason they will be held somewhat
12 confidential for the jurors' benefit.

13 Those people who are not selected for jury duty,
14 that are actually excused for jury duty, are not called up
15 even into the panel, the 40 that we inquire, those are not
16 even held by the court. That's our usual policy. If someone
17 believes something else should happen with those, you need to
18 make a motion and talk about it on the January 7 date, if you
19 have any concerns about that.

20 The decision with regard to the motion in limine
21 regarding the State's DNA expert will be in writing, but, and
22 you will receive it later this week, my written
23 determination. But it's, I don't think it will impact the
24 witnesses that we plan on calling.

25 That was everything on my list of things that we

1 needed to talk about. I know counsel probably has some
2 concerns on their own lists.

3 So do you want to go forward, Mr. Gammick?

4 MR. GAMMICK: Thank you, Your Honor.

5 I would indicate for the record that we have
6 already returned the demonstrative evidence hatchet to the
7 clerk which was marked as Exhibit Number 5. I now will
8 present to the clerk photographs that were marked at the last
9 hearing labeled 4.B through 4.J, which were the photographs
10 that Dr. Clark testified to in court and the Court was going
11 to allow during the course of the trial.

12 THE COURT: Okay.

13 MR. GAMMICK: We have made -- we did have copies
14 printed of these and we have furnished them to defense,
15 except one photograph which we had a problem with, and that
16 will be done hopefully today or tomorrow.

17 THE COURT: Thank you.

18 MR. GAMMICK: I would also indicate that -- the one
19 that we didn't get to defense yet is 4.I, and he printed the
20 wrong photograph and we are getting that one reprinted, so we
21 should have that in the next day or two.

22 There is also four additional photographs that Dr.
23 Clark advised us after the hearing that she may need. We
24 went ahead and pulled those, we had those printed, we
25 furnished those to defense. If in fact Dr. Clark decides she

1 does need one or any of those, then we would ask the Court
2 for another hearing, if the Court deems that's necessary, and
3 establish the foundation and everything for those photographs
4 also.

5 They are basically the same as the Court's already
6 allowed, except there may be a little different angle or a
7 little different perspective on particular wounds. I'm not
8 even sure if Dr. Clark's going to need them at this time.

9 THE COURT: Will you know by the January 7 trial
10 date?

11 MR. GAMMICK: By January 11?

12 THE COURT: I mean the January 7 pretrial hearing
13 date that we have set aside.

14 MR. GAMMICK: We can contact Dr. Clark and see if
15 she's made up her mind by that time. If in fact we can have
16 her, if we do need any additional, if she decides she wants
17 to use any of those we anticipated, to be on the safe side,
18 furnish those to defense so they know what they are.

19 THE COURT: You should be prepared to rebut what,
20 if the defense has an objection. There was an initial motion
21 to exclude all the photographs. After the hearing I
22 granted -- denied the motion basically somewhat by the
23 culling down of the photographs and the viewing of the
24 photographs and my determination of their necessity. If you
25 want to add more to it you should be prepared to do that and

1 make a record so that I can see them in their total, because
2 it's the entire packet that you intend to use, and you should
3 be prepared to do that on Thursday the 7th of January.

4 MR. SPECCHIO: Judge, what time is that hearing on
5 the 7th?

6 THE COURT: It's set for 1:30, and it was set
7 initially, and it's blocked out the whole afternoon, so you
8 can do whatever you need to do.

9 MR. GAMMICK: I would also indicate for just
10 purposes of the record that on December 3 and December 4 our
11 investigators went to Reno Police Department and went
12 completely through their files, did find some additional
13 material. We have furnished that to Mr. Specchio this
14 morning. And we will go from there.

15 So as far as we are concerned, defense has
16 everything now. I explained to Mr. Specchio if anything else
17 comes up we are going to be surprised, too, because we have
18 been through it. And then we will also extend to
19 Mr. Specchio and Mr. Gregory the opportunity to come over to
20 our office and go through our file piece by piece if they
21 wish and make sure they do have everything.

22 I believe we have accomplished that on discovery, I
23 believe the statute requires discovery be furnished no later
24 than Saturday, which would be tomorrow. I believe that's
25 been complied with now with the exception of one photograph I

1 brought up we hadn't furnished them yet.

2 THE COURT: Okay. Mr. Specchio, do you have any
3 concerns or anything you'd like to apprise me of?

4 MR. SPECCHIO: Well, Your Honor, we are probably --
5 I have to see how this custody security thing is going to pan
6 out, but I do think we are going to have some problems, or at
7 least we might want to make a record. If I understand it,
8 there's going skirting around this table and that table.

9 THE COURT: Both tables, yes.

10 MR. SPECCHIO: And the defendant's going to have a
11 belly chain on and ankle bracelets.

12 THE COURT: As I understand, there will be some
13 sort of a waist restraint, electrical restraint, but it will
14 be under his clothing. His arms will be free during the
15 trial to write and pass notes back and forth.

16 MR. SPECCHIO: Well, I'm assuming, Judge, that I'm
17 supposed to be making some kind of a complaint, but I don't
18 think I can until I see what it will be, and then we will
19 voice it at that time.

20 THE COURT: Certainly you don't have to complain.
21 We hope this whole security issue works perfect and there's
22 nothing to complain about.

23 MR. SPECCHIO: That's fine.

24 THE COURT: So we will keep an open mind on that.

25 MR. GAMMICK: Your Honor, I did have one other

1 question. I apologize. I missed it.

2 If the, we are going to have the information in to
3 you by noon next Wednesday on the supplemental questionnaire.

4 THE COURT: Yes.

5 MR. GAMMICK: And you intend to give that to the
6 jurors on the 4th, are we going to have some time in between
7 to see what the Court proposes to give the jurors in case we
8 do have any comments or objections to make?

9 THE COURT: Actually I would like to have some -- I
10 think we actually have to put that on the record anyway, what
11 is ultimately determined. And I don't think -- we don't have
12 Mrs. Stone here, who kind of is the guru on the calendar, so
13 I can't really give you a definitive time and date right now.
14 If you all agree mostly on that, and I don't have a lot of
15 disagreement that you give me, we could even do it Wednesday
16 afternoon. But I have to look and see what else we are doing
17 next week.

18 So we will get back to you on when we will get
19 together, and you will have an opportunity to voice your
20 objections before I rule on it.

21 MR. GAMMICK: Well, I was looking at if the Court
22 wants them in by noon next week, the Court of course has to
23 have it in time to look at it, put together a questionnaire.
24 I just want to see that document the Court proposes to give
25 the jurors once you are done with it in case we have any

1 other comments.

2 THE COURT: Then you can decide if you want to
3 object to it or not.

4 MR. GAMMICK: Then we will see if we need a
5 hearing. We may be totally agreeable.

6 THE COURT: Is that procedure all right with you?

7 MR. SPECCHIO: I think that's fine, Judge. I still
8 extend the offer, if you want us to prepare it, it will speed
9 things up, just give me a call and we will prepare it. I'm
10 sure Dick would, too. So that we can have it reduced to
11 writing and know what we are talking.

12 THE COURT: Well, if you all can get together and
13 reduce something to writing by next Wednesday at noon, that
14 would be the best possible thing.

15 MR. SPECCHIO: What I am going to do, Judge, is
16 submit mine to the Court with a copy to Mr. Gammick, and
17 there will be probably 15 or 20 questions. And the ones he
18 agrees with, fine. The ones that he doesn't, he will advise
19 the Court, and vice versa. I'm sure he will do the same to
20 me.

21 MR. GAMMICK: We will do the same procedure, Your
22 Honor. I know the Court will fine glean it down to what the
23 Court will want to present. That's all I want to see, just
24 the final one, if we have any objections or questions or
25 issues with it.

1 THE COURT: We will go ahead and do that. We will
2 follow that, and we will give you a copy of the final form
3 that's proposed and then give you certain period of time to
4 voice your objections.

5 MR. GAMMICK: That will be fine, Your Honor. Thank
6 you.

7 THE COURT: Anything else?

8 MR. SPECCHIO: No. Judge, I should advise that
9 Mr. Rusk from the district attorney's office was kind enough
10 to provide me with my reading material for the weekend.

11 THE COURT: Is it Bates stamped?

12 MR. SPECCHIO: No, it isn't, Judge. It's just a
13 bunch of stuff, but I think we have it. I don't know yet.
14 I'll have to review it.

15 THE COURT: You can double check.

16 MR. SPECCHIO: I think with that, I'm going to rely
17 on Mr. Gammick's statement that we have everything. Which I
18 assume we do.

19 THE COURT: As he indicated, the file is open, so
20 at any time you --

21 MR. SPECCHIO: Exactly.

22 THE COURT: -- you can go over and look.

23 MR. SPECCHIO: I think, Mr. Stanton has been great
24 in providing all the stuff that we had.

25 THE COURT: Thank you, counsel.

1 STATE OF NEVADA)
2) SS
3 COUNTY OF WASHOE.)
4

5 I, LESLEY A. CLARKSON, Official Reporter of
6 the Second Judicial District Court of the State of Nevada,
7 in and for the County of Washoe, DO HEREBY CERTIFY:

8 That I was present in Department No. 4 of the
9 above-entitled Court on Thursday, the 10th day of December,
10 1998, and took stenotype notes of the proceedings had upon
11 the Pretrial Hearing in the matter of THE STATE OF
12 NEVADA, Plaintiff, vs. SIAOSI VANISI, Defendant,
13 No. CR98-0516, and thereafter transcribed them
14 into typewriting as herein appears;

15 That the foregoing transcript is a full,
16 true and correct transcription of my stenotype notes of
17 said hearing.

18 Dated at Reno, Nevada, this 2nd day of
19 January, 1999.

20 *Lesley A. Clarkson*
21 Lesley A. Clarkson, CCR #182

22
23
24
25

Exhibit 85

Exhibit 85

FILED

Case No. CR98-0516

JAN 04 1999

Dept. No. 4

AMY HARVEY
By: *[Signature]*
DEPUTY CLERK

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE CONNIE STEINHEIMER, DISTRICT COURT JUDGE

-o0o-

STATE OF NEVADA,

TELEPHONE CONFERENCE

Plaintiff,

-vs-

December 30, 1998

SIAOSI VANISI,

Reno, Nevada

Defendant. /

APPEARANCES:

For the Plaintiff:

RICHARD A. GAMMICK
District Attorney
DAVID L. STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Defendant:

MICHAEL R. SPECCHIO
Public Defender
1 South Sierra Street
Reno, Nevada

The Defendant:

NO APPEARANCE

Reported by:

DENISE PHIPPS, CCR #234, RDR, CRR

ORIGINAL

1 RENO, NEVADA, WEDNESDAY, DECEMBER 30, 1998, 11:00 A.M.

2 -o0o-

3
4 THE COURT: Good morning. Let the record
5 reflect that we're convened on a conference call with Mr.
6 Specchio and Mr. Gammick present, and the court clerk.
7 This is Case No. CR98-0516, State versus Mr. Vanisi.

8 I've received a communication, gentleman,
9 from the Jury Commissioner regarding jurors that were in
10 the original 150 people that we have pulled for our panel
11 that had conflicts with regard to coming to trial and/or
12 with regard to appearing on the 4th.

13 Looking at this list, there's eight
14 individuals that the Jury Commissioner would like
15 direction with regard to. But all of their issues can
16 await our hearings that are set next week. We're getting
17 together on Monday anyway, except for one of the
18 individuals, and that's why I asked for the conference
19 call today. Her name is Mary Haskell, H-a-s-k-e-l-l.

20 According to the Jury Commissioner, she has
21 communicated with the Jury Commissioner and has a
22 flight -- it doesn't say she's flying, it says she's
23 leaving December 31st at seven a.m. to Los Angeles for a
24 one-month stay. She is waiting for the Jury Commissioner
25 to call her back and verify that she may leave on her

1 vacation.

2 MR. SPECCHIO: I don't have any problem
3 letting her off.

4 THE COURT: Mr. Gammick.

5 MR. SPECCHIO: I don't know anything about
6 her, but we can probably get a jury.

7 MR. GAMMICK: I don't have any problem with
8 it, Judge.

9 THE COURT: I'll allow the Jury Commissioner
10 to excuse her from service in this case. The other
11 individuals, we'll just wait and talk about when I see you
12 on the 4th.

13 MR. SPECCHIO: Judge, do we have something
14 set on the 4th? I had it down as the 7th.

15 THE COURT: Yes, we have the --

16 MR. SPECCHIO: The questionnaires?

17 THE COURT: The questionnaire. Now, we
18 should talk about this. We have the entire panel coming
19 in in two groups of 75 each or thereabouts. One group
20 will be in the courtroom, I think, at 10:00 and the second
21 group at 10:30. And what will happen in the courtroom,
22 there will be a roll call taken and they'll be sworn and
23 they'll be admonished by me that they'll be answering this
24 questionnaire under oath and that they may not talk about
25 the case among themselves, the regular criminal

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1 admonishment. Then they will leave the courtroom with one
2 of the two bailiffs and be taken down to Department No. 7
3 where they'll actually fill out the questionnaire, and
4 those questionnaires will be handed to the bailiff as
5 they're checked, as they're excused. And I will tell them
6 they have to come back on the 11th at ten a.m.

7 Then after you receive the questionnaires, if
8 there's anybody you stipulate to excusing, we'll go ahead
9 and excuse those people. But we will tell them other than
10 some phone call from me they're going to be back on the
11 11th. Now, this appears to me to be a critical stage in
12 the trial that Mr. Vanisi has a right to be present for.

13 MR. SPECCHIO: We'll waive that, Judge, at
14 least for the 4th. I don't think it's necessary for him
15 to be there. And I'll be happy to waive that on the
16 record, since we're not going to be doing any selecting,
17 you're just going to advise them of the questionnaire and
18 so on.

19 THE COURT: Correct.

20 MR. SPECCHIO: I'll be happy to put that on
21 the record. I don't want to bring him down unless we
22 absolutely have to, otherwise we've got that security
23 thing all over again.

24 THE COURT: Mr. Gammick, do you have any
25 problem with the waiver?

1 MR. GAMMICK: No. I have no problem with the
2 waiver, at all. I've got a few questions for you when you
3 have a moment.

4 THE COURT: Mr. Specchio, then we'll enter
5 your waiver on behalf of Mr. Vanisi for his being present
6 for the questionnaire process on the 4th.

7 MR. SPECCHIO: That's fine. I'll be happy to
8 put it on the record.

9 THE COURT: Well, actually you are on the
10 record.

11 MR. SPECCHIO: That's right, you've got a
12 court reporter. Go ahead. Let's do it now. We do waive
13 his presence for the purpose of proceeding on January 4th,
14 1999.

15 THE COURT: Thank you.

16 Now, Mr. Gammick, you had some questions.

17 MR. GAMMICK: Your Honor, I have no problem
18 with waiving his appearance as long as next time we meet
19 when he is there, which I believe is scheduled for the
20 7th, that the Court goes ahead and inquires of him if he
21 has any problem with that, that he doesn't. Not that I
22 don't trust Mr. Specchio, I just want to make sure that
23 Mr. Vanisi agrees.

24 Another question, is the questionnaire
25 prepared at this time so we get a chance to review it?

1 THE COURT: I've been acting chief judge and
2 I have to tell you I just looked at the court clerk and
3 she looked at me. I don't know, Mr. Gammick. I'm going
4 to have to check. I've been so busy putting out other
5 fires, it just totally slipped my mind.

6 MR. GAMMICK: It's totally understood.

7 THE COURT: I'll check on it, and if you
8 haven't seen it, that probably means I haven't seen the
9 final draft either.

10 MR. SPECCHIO: I haven't either.

11 THE COURT: Let me look on that and I'll make
12 sure you get it.

13 MR. GAMMICK: Then on the 4th, very busy day,
14 were you expecting us to be there or can we be there? The
15 4th, I've gotta be sworn in at 9:00. We've got swearing
16 in at the Supreme Court. We have all kinds of things. I
17 wasn't planning on being personally there, but I believe
18 Mr. Stanton can be there.

19 THE COURT: I think that counsel for the
20 parties should be there, but not for the -- this is the
21 process: We're going to bring the first panel in of 75.
22 They're going to be out of our courtroom in 10 or 15
23 minutes. Then the second panel will be in by 10:30.
24 They'll be out of the courtroom in 10 or 15 minutes.
25 There will be no need to stay past that point. It's only

1 for the being present to swear in the jury and my
2 admonition on the record. And then after that the
3 bailiffs and the Jury Commissioner staff will take care of
4 it.

5 MR. GAMMICK: We have found some jurors who
6 have pending cases in this office. We've also found some
7 other jurors that have some other types of legal problems.
8 I will have that list to you before Monday.

9 THE COURT: Okay.

10 MR. GAMMICK: And to Mr. Specchio.

11 MR. SPECCHIO: Great.

12 MR. GAMMICK: That's all I had. Thank you.

13 THE COURT: Do you think that if we do this
14 at 10:00 you'll be through with your 9:00 a.m. by then,
15 Mr. Gammick?

16 MR. GAMMICK: I will be there with Mr.
17 Stanton or Mr. Stanton will be there. That's not a
18 problem.

19 THE COURT: Okay. And I want to go to Carson
20 City for the Supreme Court investiture also. So I plan on
21 leaving right away after the 10:30. So I think these are
22 very short hearings with the court and attorneys present.

23 MR. GAMMICK: Fine. That's understandable.
24 Got it covered.

25 THE COURT: All right. The only other thing

1 we have, and we can wait and talk about it on the 7th, but
2 you need to find a time to mark exhibits.

3 MR. GAMMICK: Right now we're open Friday the
4 8th totally. So it's up to the Court. Friday morning
5 would be fine if it's fine with the Court and Mr.
6 Specchio.

7 MR. SPECCHIO: Judge, I think I've talked to
8 Stanton about this. If they submit a list to me, we can
9 probably do this in five minutes.

10 MR. STANTON: Judge, the distinction is that
11 I've got an exhibit for Mr. Specchio relative to the kind
12 of dry, foundational aspects of certain evidence. But the
13 actual marking of the evidence is I think what is
14 something a little different, at least in my mind, when I
15 talked to Mike about it.

16 THE COURT: Okay. Actually, Mr. Specchio,
17 what we do in this department is you meet with the court
18 clerk, both attorneys, at least one attorney from each
19 side, and the exhibits are actually physically marked in
20 each other's presence with the court clerk. Then she
21 takes custody of all the exhibits.

22 MR. SPECCHIO: Okay.

23 THE COURT: So that's what takes a little bit
24 of time. But I don't know how many exhibits you all think
25 you're going to have.

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1 MR. GAMMICK: Your Honor, we're meeting this
2 afternoon with Mr. Specchio at the various evidence
3 locations. We're going to go through all the physical
4 evidence this afternoon from all parties and we'll have a
5 much better grasp of it at that time. The question I have
6 for you, we already have 1 through 5 marked. Are those
7 going to be set aside as strictly for that hearing so we
8 start again with 1 again for the trial, or is it 6 now?

9 THE COURT: We'll start with 6. If it was
10 going to be held separate for the hearing, we would have
11 used A, B, C. But when we have things that we mark in a
12 hearing pretrial that we anticipate that we're going to
13 use at trial, we use the numerical numbering. And we
14 number 1 through whatever, and it doesn't matter who's
15 offering the exhibits.

16 MR. GAMMICK: That's fine. I just wanted an
17 idea of where to start, because we've already started
18 putting our list together. Would the Court have a
19 preference for time?

20 THE COURT: Let me check with the clerk.
21 Gentlemen, if you start at 2:00 with the
22 court clerk on Friday afternoon, can you get done by 5:00?

23 MR. SPECCHIO: I don't know how many exhibits
24 they've got, Judge.

25 MR. GAMMICK: Yes, because we will be -- it's

1 a matter of sticking the labels on them and the numbers on
2 them because we'll be ready with them in order.

3 THE COURT: Okay. You're going to do a
4 written list, Mr. Gammick, with an identification like
5 you're going to say "shoe" and you're going to give it a
6 tentative number, 6; and 7 is a letter from Charlie; 8 is
7 a picture, something like that?

8 MR. GAMMICK: Your Honor, there's two
9 different things going on here: There's a list that Mr.
10 Stanton and Mr. Specchio are putting together involving
11 specific items of evidence and their control numbers,
12 their lab numbers, et cetera, the much more technical
13 thing. Then we are doing our list of our evidence for our
14 witnesses is a separate thing and we will be prepared to
15 mark the evidence items in the order that we intend to put
16 in our case in chief. I wasn't really planning on taking
17 my evidence list and making that available to anybody
18 else.

19 THE COURT: Okay. Let's look on Thursday.
20 What do you have on Thursday? My concern isn't the actual
21 marking of the exhibits. The clerk can do that pretty
22 quick. But then she has to take, come up with a
23 description of the exhibit and enter that description on
24 the computer. And so if she has a list with the
25 description already written down, and it only needs to be

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1 five or six words, at most, then she could do that much
2 quicker. But if she's going to come up with, generate her
3 own evidence list and come up with her own description,
4 then she has to do it as she marks it. So it takes a
5 little bit longer.

6 MR. SPECCHIO: Why don't we do it after the
7 Vanisi hearing on the 7th?

8 THE COURT: That's what we were thinking.

9 MR. SPECCHIO: That's all right with me.

10 THE COURT: If it's not done, then we have
11 the 8th to finish up.

12 MR. GAMMICK: We can't do that, Your Honor.
13 We've already got a lot of pretrials scheduled. We set
14 time for marking. 2:00 is fine with us. If we need to
15 provide additional information, we'll be more than happy
16 to.

17 THE COURT: If you can give a description of
18 the evidence to the clerk when you present the evidence to
19 her, it would be much easier. She can get it done much
20 quicker.

21 MR. GAMMICK: We can handle that. We should
22 be able to get this done in two hours max, maybe even an
23 hour.

24 THE COURT: The clerk has something she'd
25 like to say to you.

1 THE CLERK: Gentlemen, if it's a group of
2 photographs, they would be marked -- and you want them
3 kept as a group -- just mark them like 6-A, 6-B, 6-C and
4 then that's okay. And you just have to put photograph.
5 It's not necessary, unless you feel they need to be
6 described in more content, then that's fine. If not, it
7 just needs to say photograph. But you don't have to do
8 each one as a separate number, you can do it in groups.

9 THE COURT: Did you hear her?

10 MR. GAMMICK: Got it covered.

11 MR. SPECCHIO: Yes.

12 THE COURT: All right. Thank you, gentlemen.
13 I'll see you on the 4th. And we'll tell the jail not to
14 bring Mr. Vanisi.

15 MR. GAMMICK: Thank you.

16 MR. SPECCHIO: Thank you.

17 (Proceedings concluded at 11:10 a.m.)

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25

1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)

4 I, DENISE PHIPPS, Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in
6 and for the County of Washoe, do hereby certify;

7 That I was present in Department No. 4 of the
8 above-entitled Court on December 30, 1998 and took
9 verbatim stenotype notes of the proceedings had in the
10 matter entitled herein;

11 That the foregoing transcript is a full, true
12 and correct transcription of my stenotype notes of said
13 proceedings.

14 DATED: At Reno, Nevada, this 31st day of
15 December, 1998.

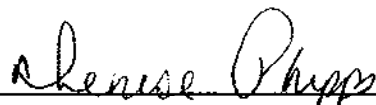
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17 
18 _____
19 DENISE PHIPPS, CCR #234
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Exhibit 86

Exhibit 86

SVan1s12JDC03837

Case No. 98-0516

FILED

Dept. No. 4

JAN 11 1999

AMY HARVEY
By: *M. Stone*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA,)	
)	
Plaintiff,)	HEARING
)	
vs.)	JANUARY 7, 1999
)	
SIAOSI VANISI,)	Reno, Nevada
)	
Defendant.)	
)	

APPEARANCES:

For the Plaintiff:

RICHARD GAMMICK
District Attorney
DAVID L. STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Defendant:

MICHAEL R. SPECCHIO
Public Defender
STEPHEN GREGORY
JEREMY BOSLER
Deputy Public Defenders
1 South Sierra Street
Reno, Nevada

The Defendant:

SIAOSI VANISI

ORIGINAL

Reported by:

ERIC V. NELSON, CCR No. 57

RENO, NEVADA, THURSDAY, JANUARY 7, 1999, 2:00 P.M.

-o0o-

THE COURT: This is the continued time in State vs. Vanisi. We'll start today's hearing I think with a canvass of Mr. Vanisi.

Mr. Vanisi, we have had a couple of hearings this week, Monday and earlier this morning, regarding the jury filling out some questionnaires and having the jury come in and fill out the questionnaires, and your attorneys have told me that you didn't care to be here, that you were waiving your right to be here for those hearings. We didn't do any business other than swearing those people to tell the truth and giving them the questionnaires.

Is that true; did you waive your right to be here for those hearings?

THE DEFENDANT: That's correct, Your Honor.

THE COURT: And your attorneys told you about it, and you didn't have any questions about what was going on?

THE DEFENDANT: I was fine with what they have told me.

THE COURT: Okay. Thank you. You may be seated.

Now today we have -- this is our statutory Rule

1 250 hearing. We have done pretrial hearings throughout this
2 case, and I'd like to first offer, give the opportunity to
3 defense, are there any additional motions that you would
4 like to make or be heard on today?

5 MR. GREGORY: Not at this time, Your Honor.
6 Thank you.

7 THE COURT: And does the State have anything
8 pending that you believe should be resolved today?

9 MR. GAMMICK: No, Your Honor.

10 THE COURT: Okay. Counsel, you have received a
11 list entitled Absent Juror List dated January 11th, 1999.

12 MR. GREGORY: Yes, Your Honor.

13 THE COURT: This list are the names of the
14 original jury panel that we called in this case, the list of
15 those people who have not appeared, either on Monday or this
16 morning to fill out the additional jury questionnaire. Is
17 there any reason that either party has not to proceed
18 without these absent jurors?

19 MR. GREGORY: No, Your Honor.

20 MR. GAMMICK: No, we have no objection to
21 proceeding without them, Your Honor.

22 THE COURT: So everybody understands these
23 jurors are going to be permanently excluded from our jury,
24 these potential jurors will be permanently excluded from our
25 jury pool.

1 MR. GREGORY: Yes, Your Honor.

2 MR. STANTON: Your Honor, may the State request
3 of the court that this list be made part of the record?

4 THE COURT: Yes. The clerk has -- let me state
5 for the record the names and the reasons why they were not
6 here were all prepared by the Jury Commissioner, and the
7 Jury Commissioner will certify the list and it will be filed
8 into the record.

9 MR. STANTON: In addition, Your Honor, when you
10 briefly spoke with Mr. Vanisi just a moment ago, you
11 explained to him the nature of the process that occurred
12 Monday and this morning. If I may ask of the court to
13 inquire of Mr. Vanisi that he is under the understanding
14 that in addition to the procedures that you outlined, that
15 one juror whose name appears on the absent juror list of
16 January 11th, juror by the name of Mary Haskell, was
17 stipulated to by both parties to be excused, and if he is
18 aware of that additional procedure that took place and
19 whether or not he has any objection to that.

20 MR. GREGORY: Court's indulgence. Mr. Vanisi
21 is aware of that circumstance, Your Honor, and he
22 understands it, and he has no problems with the way we
23 handled the matter.

24 THE COURT: Correct, Mr. Vanisi?

25 THE DEFENDANT: I agree.

1 THE COURT: Now there was also one other juror,
2 Mrs. Palmer, who arrived with all the children and all those
3 problems that I excused and counsel stipulated to that
4 individual.

5 MR. GREGORY: I apologize. I thought that was
6 the juror we were talking about.

7 THE COURT: No, this was the lady who was on
8 vacation, had to leave for a month trip, and it happened
9 right before the New Year's that we had a status conference.

10 MR. SPECCHIO: Can I have the Court's
11 indulgence?

12 THE COURT: Yes.

13 MR. GREGORY: We have no problems with either
14 stipulation.

15 THE COURT: Okay. Mr. Vanisi, you understand
16 that both of those people were excused by your counsel on
17 your behalf?

18 THE DEFENDANT: Yes, I understand.

19 THE COURT: And you didn't have any problem
20 with that?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Then the certified list will be
23 marked as an exhibit to the jury selection process by the
24 clerk and admitted as an exhibit in this file. It won't go
25 to the jury, but it will be part of the permanent record.

1 The other question I had for counsel is the
2 clerk is going to be reading the Information in this case,
3 and there are three also known as names on the Information.
4 Normally she reads the Information in its entirety, but we
5 usually get a stipulation from counsel with regard to the
6 also known as.

7 MR. GREGORY: Court's indulgence. May we
8 approach?

9 THE COURT: Yes.

10 (Whereupon, a bench conference was held among
11 Court and counsel.)

12 THE COURT: Mr. Gregory, do you want to put on
13 the record about that?

14 MR. GREGORY: We have no objections to the
15 aka's reflected on the Information, Your Honor.

16 THE COURT: The clerk will be reading the
17 Information as it is in its entirety. Anything else that
18 counsel has to bring up at this time?

19 I would like to have an idea from counsel if
20 you have looked at the jury questionnaires that were filled
21 out on Monday and if there is any -- if you think that we
22 should have another hearing tomorrow to excuse or explore
23 the possibility of excusing any of those jurors.

24 MR. GAMMICK: Your Honor, we have reviewed
25 those, and the difficulty we have with that is the way the

1 questions are worded, they don't really address the legal
2 bounds for selecting jurors. They are more in general type
3 questions, and also there are several answers that we have
4 found that are pretty inconsistent with the way they
5 answered them in the jury questionnaires where they have to
6 be explored. I don't believe we saw anyone that we would
7 request excusal at this time due to the questionnaire
8 because there are a lot of questions that need to be asked
9 as a result of those.

10 MR. BOSLER: We agree. The jurors indicate
11 they can't be fair, I think you have to talk to them in
12 person before we make legal challenges, Weatherspoon or
13 otherwise. I don't think we can do anything without the
14 jurors here.

15 THE COURT: So there is nobody that out of the
16 chute you stipulate to being excused from jury selection?

17 MR. BOSLER: Not at this point, Your Honor.

18 MR. STANTON: There are two jurors I think
19 probably whose questions should be taken in chambers,
20 though, based upon their responses. If indeed they get
21 called, I think specifically based upon their responses to
22 the questionnaire that will require one-on-one interaction.

23 THE COURT: Now what I'd like you to do is let
24 the defense team know who those two people are that you
25 think, Mr. Stanton, that is going to take place with.

1 The other thing is because of the circumstances
2 involved in this case, we won't be doing that in chambers,
3 we'll be doing it in here. So I will work on the logistics
4 of when that questioning will take place based on the whole
5 panel will have to move out and counsel and Mr. Vanisi will
6 remain in the courtroom. Rather than trying to move Mr.
7 Vanisi into chambers to do this in chambers and all counsel
8 in chambers. It will be too crowded. We will have to move
9 the panel out to do it.

10 The way I anticipate that we will do this is if
11 they actually get called as one of our members of our set
12 panel. Is that the way everyone wants to wait to do that
13 until they actually come out of the box? Does everyone
14 agree with that?

15 MR. STANTON: State does, Your Honor.

16 MR. BOSLER: Yes, Your Honor.

17 THE COURT: At the request of counsel to have
18 four alternates, I have decided I will go along with your
19 request. So we will have a jury of 12 plus four alternates,
20 so there will be 16 people on the ultimate jury, and as you
21 know, we have 14 chairs. So we'll have 14 regular chairs,
22 then we will have two extra chairs on the side.

23 Any logistics issues about how you are going to
24 move evidence around and what you are going to do, you are
25 going to have to take into effect that you have a couple of

1 extra jurors up there. If you want to look at the way it's
2 going to be configured with the bailiff later, feel free to
3 come by and look at it and figure out the logistics how you
4 want to use and do your evidence.

5 Okay. Is there anything further?

6 MR. GAMMICK: I believe we're scheduled for two
7 o'clock tomorrow afternoon to bring evidence in and mark it
8 at that time.

9 THE COURT: Yes.

10 MR. GREGORY: Court's indulgence. That's
11 correct, Your Honor. Your Honor, we do have a concern and
12 that is how security is going to be handled for Monday as
13 far as Mr. Vanisi is concerned. We don't want a spotlight
14 put on him, obviously, and because he is surrounded by DIRT
15 team members or the way he is dressed or the leather
16 shackles on his feet. It is my understanding they decided
17 not to use that.

18 THE COURT: That is correct. It is my
19 understanding that you brought clothes in today?

20 MR. GREGORY: We did indeed, Your Honor.

21 THE COURT: He will be dressed in civilian
22 clothing. I would ask that you would meet the transport
23 team wherever they tell you they want you to meet up with
24 him so that you can walk into the courtroom with him.
25 However, none of the potential jurors will even be on this

1 floor until Mr. Vanisi and you are here and at counsel
2 table.

3 So there will be no transporting of Mr. Vanisi
4 while the jury is out and about. If we have to take a
5 recess, the jury is going to be removed en masse by the
6 bailiffs that I have to assist in the jury and the Jury
7 Commissioner staff to another courtroom. During jury
8 selection the court -- the jury room will be utilized by the
9 security team to keep Mr. Vanisi in this area so he is not
10 walking the halls running the risk of running into an errant
11 potential juror. If it takes us all day, that is kind of
12 the way we'll work it. We'll make sure that we hold on to
13 the jury panel at all times.

14 MR. GREGORY: And I have no problems with what
15 the Court has just outlined. However, I would have an
16 objection to him being surrounded by the jurors who are
17 present with the DIRT officers. I'm not asking where are
18 they going to position themselves, but I assume it will be
19 discreet enough that no one will conclude that Mr. Bosler or
20 myself is in custody. They may conclude that Mr. Specchio
21 is in custody.

22 MR. SPECCHIO: With my record.

23 THE COURT: I don't anticipate any of the
24 people -- the gentleman who is sitting in front of the bar
25 is a DIRT team person, and he will not be in front of the

1 bar. The only people in front of the bar will be my two
2 bailiffs. One will be sitting at the chair next to Marci
3 Stone, and the other will be sitting where the bailiff is.

4 MR. GREGORY: And the rest of the DIRT team
5 will be spaced in the audience?

6 THE COURT: Wherever. They are not going to be
7 in front of the bar.

8 MR. GREGORY: You also indicated something
9 about the skirted tables?

10 THE COURT: They figured -- they decided not to
11 do that. So Mr. Vanisi will not be chained or shackled
12 unless the tables are somehow skirted and it is completely
13 outside the view of the jury. So it is not going to happen,
14 as I understand it, at this stage. If they decide for
15 security reasons they need to modify that, they will modify
16 it in such a way that there will be no view of the custodial
17 status of Mr. Vanisi to the jury. And you will have an
18 opportunity to see what it is before the jury comes in so
19 you can make any objections that you might want to have.

20 MR. GREGORY: Thank you, Your Honor.

21 THE COURT: Anything to add, Deputy?
22 Lieutenant, Sergeant?

23 THE SERGEANT: Sergeant.

24 MR. STANTON: Just got a field promotion.

25 THE COURT: At least I didn't say captain.

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1 MR. STANTON: Your Honor, I'd just like to make
2 the record and to inquire of the Court. The State I believe
3 provided to the court on Monday or Tuesday the State's
4 proposed jury instructions in this case. Has the Court
5 received those?

6 THE COURT: Yes, I have received those.

7 MR. STANTON: We provided to defense counsel
8 copies on the same date and time as provided to the court.
9 For the record, to date we have not received any proposed
10 jury instructions from the defense. I believe the local
11 court rule requires that by 5:00 o'clock tomorrow, and I'd
12 ask the court if indeed the court would enforce that local
13 rule in this case.

14 MR. SPECCHIO: At this juncture, Your Honor, we
15 don't anticipate to submit any additional instructions.
16 That may change between now and the conclusion of the trial,
17 but at this juncture we have no additional instructions to
18 offer.

19 THE COURT: Okay. If there comes a time during
20 the defense that you think something has happened that it is
21 important to offer an additional instruction, please submit
22 that to the court. If it has something to do with strategy
23 and you are worried about giving away your strategic case
24 for some reason, you can offer it in camera with an
25 explanation of why it is in camera.

1 MR. SPECCHIO: That is fine, Your Honor.

2 THE COURT: But I don't want any surprises on
3 the jury instructions.

4 MR. SPECCHIO: I don't anticipate any.

5 THE COURT: So I guess you are not going to get
6 any, Mr. Stanton.

7 MR. STANTON: Thank you, Your Honor.

8 THE COURT: Anything further?

9 MR. STANTON: Not from the State.

10 MR. GREGORY: Not by the defense, Your Honor.

11 THE COURT: Tomorrow at two o'clock, as I
12 understand it, it is going to be counsel only; is that
13 correct, Mr. Vanisi does not wish to be present?

14 MR. SPECCHIO: It is just to mark the evidence,
15 Your Honor. I don't think he needs to be here. It is an
16 inconvenience for everybody but for no reason. All they are
17 going to do is mark it.

18 THE COURT: Correct.

19 MR. SPECCHIO: You are not even going to be
20 here. So nothing can be done with it. I don't think it's
21 necessary that he be here.

22 THE COURT: Mr. Vanisi, if you for some reason
23 want to be present, then we would hold this as an open court
24 session, which means I would be present, you would be
25 present, and we'd do it all on the record. But it is kind

1 of a time consuming issue if you do it all on the record.
2 It takes a little bit more time.

3 If you waive your appearance, I will not be
4 present either, and the attorneys will just meet with the
5 court clerk. They get to look at the evidence whichever
6 side is offering evidence, and they watch as the Court clerk
7 marks the individual exhibits so that everybody knows what
8 the exhibits are and what number goes with which exhibit,
9 but nothing will be admitted or done.

10 Do you understand that.

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Would you waive being present
13 during that period?

14 THE DEFENDANT: And I can take the day off,
15 Your Honor. Thank you, Your Honor.

16 THE COURT: I'll be doing other things, but you
17 get the day off.

18 Anything else?

19 Then, counsel, I'll see you for the next court
20 session Monday at 10:00 a.m., and you will be back with the
21 clerk tomorrow. Court is in recess.

22 (Recess taken at 2:19 p.m.)
23
24
25

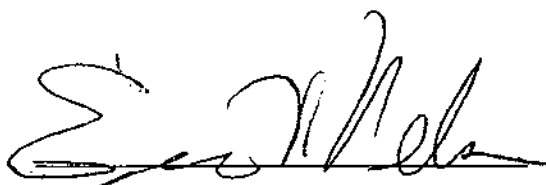
STATE OF NEVADA,)
)
COUNTY OF WASHOE.)

I, ERIC V. NELSON, Certified Shorthand Reporter
of the Second Judicial District Court of the State of
Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the
above-entitled Court and took stenotype notes of the
proceedings entitled herein, and thereafter transcribed the
same into typewriting as herein appears;

That the foregoing transcript is a full, true
and correct transcription of my stenotype notes of said
proceedings.

DATED: At Reno, Nevada, this 11th day of June,
1999.



ERIC V. NELSON, CCR No. 57

Exhibit 87

Exhibit 87

SVan1s12JDC03852

FILED

Case No. CR98-0516

Dept. No. 4

JAN 11 1999

AMY HARVEY
By: *M. Stanton*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CONTINUED JURY SELECTION
)	
vs.)	JANUARY 7, 1998
)	
SIAOSI VANISI,)	Reno, Nevada
)	
Defendant.)	
)	

APPEARANCES:

For the Plaintiff:

RICHARD A. GAMMICK, ESQ.
District Attorney
DAVID STANTON
Deputy District Attorney
75 Court Street
Reno, Nevada 89520

For the Defendant:

MICHAEL R. SPECCHIO, ESQ.
Washoe County Public Defender
One South Sierra Street
Reno, Nevada

The Defendant:

Not present

ORIGINAL

Reported by:

ERIC V. NELSON, CCR No. 57

SIERRA NEVADA REPORTERS (702) 329-6560

AA03131 857

2JDC03852

RENO, NEVADA, THURSDAY, JANUARY 7, 1998, 8:38 A.M.

-oOo-

THE COURT: This is the time set for State vs. Siaosi Vanisi, continued jury selection process.

Counsel, are you ready to proceed?

MR. SPECCHIO: Yes, Your Honor. We're prepared to waive Mr. Vanisi's presence for the purposes of this hearing based on the record.

THE COURT: Thank you.

MR. GAMMICK: Yes, we're ready.

THE COURT: Thank you. Ladies and gentlemen of the jury panel, welcome. If you don't already realize it, you are in the Second Judicial District Court, Department 4, and my name is Connie Steinheimer. I'm the judge that presides in this department.

You have been summoned for jury service in the case of State vs. Siaosi Vanisi. This trial is due and scheduled to begin next week on Monday with jury selection and continue for a period of two to three weeks. So the trial could take as long as three weeks.

In order to facilitate the jury selection, I have prepared an extended jury questionnaire. You have already filled out your traditional jury questionnaire, but this morning you are going to go with the Jury Commissioner

1 and fill out an extended jury questionnaire.

2 Now this questionnaire, by extended, isn't
3 long. It's only four or five pages long. So it is not
4 really, really long. It is not going to take you very long
5 this morning to fill it out. However, you must realize that
6 you will be filling it out after you have sworn your oath
7 and to answer completely and fully the questions.

8 If you have any difficulties about serving on
9 this case between -- for the three weeks it is scheduled to
10 take place, please be sure to answer the questions fully and
11 completely on the questionnaire, and completely discuss any
12 difficulties you might have.

13 The purpose of this whole process is to
14 streamline the jury selection process which could take some
15 period of time.

16 In addition, this particular case involves the
17 death of a University of Nevada Reno police officer about a
18 year ago. It has been extensively covered in the media,
19 both in the newspaper and the television.

20 The purpose of the questionnaire is also to
21 find out what you may or may not have heard about from the
22 press regarding this case. If you are selected as a juror,
23 you must disregard everything you may have heard through the
24 news media and decide this case based solely on the facts
25 and evidence that's presented here in the courtroom.

1 So it's important for me to learn what you may
2 know or remember about the case and whether or not you are
3 able to set aside anything you might have heard. We all
4 know that the reports in the newspaper are not a hundred
5 percent accurate and those people have not sat through the
6 trial. A trial may only be decided by jurors who have heard
7 every piece of evidence.

8 Also because of the fact that you now know what
9 case you are summoned to serve on, I'm going to be giving
10 you an admonition in a few minutes that will require you not
11 to view any news media accounts regarding this matter until
12 after it's been determined whether or not you will be
13 sitting on this jury. Now, that's going to require that you
14 have someone else read the newspaper for you in the morning
15 and be sure there is no articles and/or don't read the
16 newspaper. It's going to require that you not view the
17 local news accounts, either by radio or television, unless
18 someone else is there to filter it for you and so that you
19 don't accidentally hear something about the case.

20 At this time I'm going to have the clerk call
21 the roll of those of you present this morning. Please
22 answer hear or present while your name is called.

23 (Roll call conducted.)

24 THE COURT: Ladies and gentlemen of the jury
25 panel, is there anyone wishing to affirm rather than swear?

1 Please stand, raise your right hand and be
2 sworn.

3 (Prospective jury panel sworn.)

4 THE COURT: Please be seated. You will now be
5 proceeding back down to the Jury Commissioner's office with
6 the Jury Commissioner, Mrs. Lopshire. She will supervise
7 the filling out of the questionnaire, make sure that you
8 fill it out before you leave.

9 You must sign it under penalty of perjury and
10 under the oath that you have just taken. And she will take
11 it from you, at which time then she will provide it to me.

12 You must return to the Jury Commissioner's
13 office at 9:30 a.m. on January 11th. That's next Monday.

14 So you will be here today, fill out your
15 questionnaires, then you may leave. Remember the admonition
16 and I'll give it to you again. And then you will come back
17 to the Jury Commissioner's office at 9:30 next Monday
18 morning, that's January 11.

19 Now, I don't want you to come to the courtroom.
20 I don't want you to go anywhere else in the courthouse. I
21 just want you to go directly to the Jury Commissioner's
22 office and check in.

23 Ladies and gentlemen of the jury panel, during
24 this break that we're going to take between now and Monday,
25 you are admonished that it is your duty not to discuss among

1 yourselves or with anyone else any matter having to do with
2 this case. It is your further duty not to form or express
3 any opinion regarding the guilt or innocence of the
4 defendant until the case has been submitted to you if you
5 are selected as a juror.

6 You are not to read, look at or listen to any
7 news media accounts regarding this case should there be any.
8 Should any person attempt to discuss the case with you or in
9 any manner attempt to influence you with regard to it, you
10 are advised to return to the court, notify the Jury
11 Commissioner immediately and not allow anyone to influence
12 you but be sure to tell us that someone tried.

13 Ladies and gentlemen of the jury panel, we
14 appreciate your service. I want you to know that we all
15 understand that at best jury service is an inconvenience,
16 and for some people it can be a great hardship. We will
17 make every effort to use your time productively.

18 Please go with the Jury Commissioner at this
19 time. Court is in recess.

20 (Recess taken at 8:45 a.m.)
21
22
23
24
25

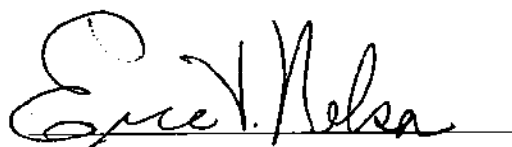
STATE OF NEVADA,)
)
COUNTY OF WASHOE.)

I, ERIC V. NELSON, Certified Shorthand Reporter
of the Second Judicial District Court of the State of
Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the
above-entitled Court and took stenotype notes of the
proceedings entitled herein, and thereafter transcribed the
same into typewriting as herein appears;

That the foregoing transcript is a full, true
and correct transcription of my stenotype notes of said
proceedings.

DATED: At Reno, Nevada, this 10th day of
January, 1999.



ERIC V. NELSON, CCR No. 57

Exhibit 88

Exhibit 88

FILED

Case No. CR98-0516

JAN 11 1999

Dept. No. 4

AMY HARVEY
By: *M. Stone*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

---o0o---

THE STATE OF NEVADA,

Plaintiff,

-vs-

SIAOSI VANISI,

Defendant.

JURY SELECTION

January 8, 1999

Reno, Nevada

APPEARANCES:

For the Plaintiff:

RICHARD A. GAMMICK
District Attorney
DAVID L. STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Defendant:

MICHAEL R. SPECCHIO
Public Defender
STEPHEN GREGORY
and JEREMY BOSLER
Deputies Public Defender
P.O. Box 11130
Reno, Nevada

The Defendant:

NOT PRESENT

The Jury Commissioner:

WANDA LOPSHIRE

Reported by:

KATE RAMAGE, CCR #599

ORIGINAL

RENO, NEVADA; FRIDAY, JANUARY 8TH, 1999; 2:00 P.M.

---o0o---

THE COURT: Let the record reflect that we're convened in chambers with the Clerk of the Court and Counsel: Mr. Specchio, Mr. Gregory, Mr. Bosler, and Mr. Gammick and Mr. Stanton on State versus Vanisi.

After we were all together yesterday, the jury commissioner, late yesterday afternoon, received a phone call from Kenneth Peak, he's juror number 112. He, apparently, had an ill father and wanted to leave on an airplane for Illinois to see his father. He had filled that out on his questionnaire. We asked that it be filled out. He was just telling the jury commissioner, I'm leaving.

Of course, we couldn't find you all yesterday afternoon, so I did not excuse him, but it would be a huge expense probably for him to return to our jurisdiction for Monday morning. Do you want to excuse him? Do you want to compel him to return? You've had an opportunity to review his questionnaires.

MR. SPECCHIO: I'd say let him go, Judge.

MR. BOSLER: Your Honor, based on his answers to the questionnaire, he states that George Sullivan was his subordinate for a year. He probably would be a person that would have a cause challenge anyway, so we have no

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1 objection. I wish he would have notified the Court before
2 he took the trip.

3 THE COURT: Well, I wish we would have found it
4 a little sooner. After we got that call, my staff and
5 myself went through all of the questionnaires. We read them
6 along with the jury commissioner yesterday afternoon and
7 into the evening hours. We were unable to find anybody else
8 with a similar problem that was compelling before jury
9 selection on Monday except juror number 88.

10 Now, juror number 88, I'm not making any
11 representation as to how I believe the validity of her
12 problem, but she alleges in her questionnaire that she's
13 going to be out of town, leaving tomorrow, and may not
14 return in time for 10:00 a.m. I didn't want to direct the
15 jury commissioner to say anything to her in response to this
16 until I had an opportunity to talk to you and find out what
17 your pleasure was.

18 MR. STANTON: Well, relative to Mr. Peak, the
19 State is familiar with his situation, both set forth in the
20 supplemental questionnaire as well as the initial
21 questionnaire, which he expresses some reservation in the
22 initial questionnaire. The State would have no objection to
23 excusing him as well.

24 THE COURT: Okay, based upon the stipulation.

25 Now, Mr. Bosler, do you believe that this is

1 similar to the circumstances we had earlier in the week that
2 Mr. Vanisi waived his appearance?

3 MR. BOSLER: Yes, Your Honor.

4 THE COURT: You think you still have authority
5 from him to waive his appearance?

6 MR. BOSLER: Yes, Your Honor.

7 THE COURT: Then I'm going to accept the waiver
8 of Mr. Vanisi's appearance, and I'll go ahead and excuse
9 Mr. Peak. The jury commissioner is present, and I'll ask
10 her to do that.

11 MR. STANTON: I'd also ask that at the next
12 time convenient, outside the presence of the jury, that we
13 conduct the same or similar canvass with Mr. Vanisi,
14 regarding the two jurors that we're discussing today.

15 THE COURT: Okay. Now, what is your pleasure
16 with regard to Ms. Agee? She was number 88.

17 MR. STANTON: Did you get any impression about
18 whether or not she had definitive plans to leave, or was
19 waiting instructions from the Court?

20 THE COURT: Ms. Lopshire, had you had any
21 direct contact with this woman?

22 MS. LOPSHIRE: She's leaving. She has plane
23 tickets in the morning.

24 THE COURT: Do you know where she's going, did
25 she say?

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1 MS. LOPSHIRE: I think she was going to Las
2 Vegas and won't return until 5:00 p.m. Monday afternoon.

3 MR. STANTON: Your Honor, I have no thoughts
4 one way or another as far as to compel her or not. It's not
5 an issue that the State is in a position to request the
6 Court to compel her attendance or to hold her in contempt
7 for nonappearance at 10:00 o'clock Monday morning.

8 MR. BOSLER: Your Honor, I know the Court's
9 procedure normally is if people have already bought tickets
10 and arranged vacation plans, they're excused, as it would be
11 for people who have financial hardship or something like
12 that.

13 I would also note on the questionnaire, she
14 says question number 12 on the special questions is, Will
15 she follow the Court's instruction if it conflicts with her
16 opinion about the case. She says, No, I cannot follow the
17 Court's instructions. I would vote according to my
18 conscience, which, I think, is going to be another problem.

19 I don't want to make this a full-blown hearing,
20 but I have brought with me several other questionnaires
21 where people have indicated that they won't be fair, they
22 will not follow the Court's instructions, they will follow
23 Biblical law and impose death if a murder conviction is
24 found.

25 I think we're going to get into a problem that

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1 a lot of people have admitted in questionnaires that they
2 have either strongly held opinions or opinions that put them
3 in a position where they won't listen to the evidence, or
4 they don't feel the Court's instructions are the things that
5 are going to control their decisions in the courtroom.

6 Hopefully, in the process of the jury
7 selection, these people will be honest and admit those
8 things because that's how they feel. If they say things
9 consistent with the questionnaires in the courtroom, I think
10 there's going to be for-cause challenges. I only brought
11 three with me here today, and if the Court wants the names,
12 I will give them the names.

13 We may be in a position where they can't be
14 fair under those circumstances, and if that happens, and we
15 get down to a number of jurors, if we exercise all our
16 challenges, and we are coming close to not having a whole
17 jury, we're going to have to renew our motion for a change
18 of venue.

19 I think we followed the affidavit earlier when
20 we asked you to submit questionnaires. When the people look
21 at the questionnaires a little bit more honestly, they are
22 in the courtroom. The things answered in the questionnaires
23 indicate a lot of people who aren't going to sit in this
24 case and be impartial or unbiased.

25 THE COURT: We can deal with that, whether or

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1 not they understood the question, whether or not they still
2 hold that opinion after the voir dire process or during the
3 voir dire process. We will deal with that as it comes up.
4 I wouldn't want to excuse this person at this juncture based
5 solely on her answer in the questionnaire. You all decided
6 not to do that at our last hearing.

7 The only question I had was, should I have the
8 jury commissioner call her and say, We don't care if you
9 have a ticket coming back Monday at 5:00, be back at 10:00
10 a.m. That's my question for you all. We can hold her as an
11 alternative if we go into a second day, or I can excuse her.

12 MR. BOSLER: We have no objection to excusing
13 her right now.

14 THE COURT: Actually, her service and
15 Mr. Peak's service really should be continued. They
16 shouldn't be excused. That's just an internal issue. They
17 should have to serve on a case when they don't have
18 obligations, so those two, we will not compel their return.

19 MR. BOSLER: That's fine, Your Honor.

20 THE COURT: That concludes our hearing. Thank
21 you.

22 (Proceedings concluded at 2:08 p.m.)
23
24
25

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, KATE RAMAGE, Certified Court Reporter of the
5 Second Judicial District Court, in and for the County of
6 Washoe, State of Nevada, do hereby certify:

7 That I was present in the above-entitled court on
8 Friday, January 8, 1999, and took stenotype notes of the
9 proceedings entitled THE STATE OF NEVADA, Plaintiff, versus,
10 SIAOSI VANISI, Defendant, Case No. CR98-0516, and thereafter
11 transcribed them into typewriting as herein appears;

12 That the foregoing transcript is a full, true and
13 correct transcription of my stenotype notes of said hearing.
14

15 DATED: At Reno, Nevada, this 11th day of January,
16 1999.

17
18
19 
20 KATE RAMAGE, CCR #599
21
22
23
24
25

Exhibit 89

Exhibit 89

Case No. CR98-0516

Dept. No. 4

FILED

JAN 15 1999

AMY HARVEY
By: *M. Sten*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA,

Plaintiff,

vs.

SIAOSI VANISI,

Defendant.

TRIAL

January 14, 1999

VOLUME 4

Reno, Nevada

APPEARANCES:

For the Plaintiff:

RICHARD A. GAMMICK
District Attorney
DAVID L. STANTON
Chief Deputy District Attorney
75 Court Street
Reno, Nevada 89520

For the Defendant:

MICHAEL R. SPECCHIO
Public Defender
STEPHEN GREGORY
and JEREMY BOSLER
Deputies Public Defender
One South Sierra Street
Reno, Nevada

The Defendant:

SIAOSI VANISI

Reported by:

ERIC V. NELSON, CCR No. 57

ORIGINAL

SIERRA NEVADA REPORTERS (702) 329-6560

AA03148

2JDC02949

I N D E X

WITNESSES:

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
SATEKI "TEKI" TAUKIEUVEA	690	736		
JOHN E. OAKES	762			
MARIA LOSA LOUIS	766	791		
PRISCILLA LUPE ENDEMANN	801			
MANAMOUI PEAUA	817	828	831	
METUISELA DANIEL TAUVELI	834	851	862	
JIM DUNCAN	863			

EXHIBITS:

	<u>Marked for Identification</u>	<u>Admitted into Evidence</u>
36		692
20-A		810
20-B		810
30-A through 30-G	834	
8		849
24-D		874
21		880
23-A		885
23-B		885
11		885
25		886
29-A		897
29-B		897
15-B		898
15-C		898
15-D		898
22		900
26		900
16		901
16-A		901
16-B		901

RENO, NEVADA, THURSDAY, JANUARY 14, 1999, 10:28 A.M.

-oOo-

(Whereupon, the following proceedings were held in open court, in the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen of the jury.

THE JURY: Good morning.

THE COURT: Counsel, are you able to stipulate to the presence of the jury?

MR. GAMMICK: Yes, Your Honor.

MR. SPECCHIO: Yes, Your Honor.

THE COURT: Thank you. You may proceed.

MR. STANTON: Your Honor, the State would call its next witness, Sateki Taukiuvea.

SATERI TAUKIUVEA

called as a witness on behalf of the Plaintiff,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. STANTON:

Q Sir, if you could turn and face me. Pull that microphone as close as you can to you. Could you please state your full name and spell your first and last name for the court reporter?

SIERRA NEVADA REPORTERS (702) 329-6560

AA03150

2JDC02951

1 A Sateki Taukiuvea. S-A-T-E-K-I.

2 Last name is T-A-U-K-I-U-V-E-A.

3 Q Do you have a name that friends call you?

4 A Yeah. Teki.

5 Q Teki, how old are you?

6 A Nineteen.

7 Q And I want to draw you back to approximately
8 one year ago. Do you recall on January 19th of 1998, being
9 interviewed by two Reno detectives at the Reno Police
10 Department?

11 A Yes.

12 Q And you brought with you today a transcript of
13 that interview?

14 A Yes.

15 Q Have you had occasion to review that
16 transcript?

17 A Not really.

18 Q Is the portions that you have reviewed an
19 accurate -- is it an accurate rendition of the questions
20 that were asked and the answers that you gave?

21 A Yeah.

22 Q On January 12th, 1998, where were you working?

23 A At UNR.

24 Q What were you doing at UNR?

25 A Campus dining.

1 Q Where is the campus dining facilities that you
2 worked at?

3 A It's on South Virginia.

4 Q What is the name of the building where you
5 worked?

6 A Crossroads.

7 Q How long had you worked there as of January
8 12th, 1998?

9 A Three years.

10 Q What did you do there on campus dining?

11 A I was beverage waiter.

12 Q A beverage waiter?

13 A Yeah.

14 Q Now, at some time in January of 1998, did you
15 meet an individual by the name of Siaosi Vanisi?

16 A Yes.

17 Q Prior to January of 1998, had you ever met him
18 before?

19 A No.

20 Q From the date of January 13th, that is the date
21 of the murder of Sergeant Sullivan, do you remember when
22 that occurred?

23 A Yeah.

24 MR. STANTON: Your Honor, Exhibit No. 36 has
25 been marked. It is a blown-up calendar of January 1998. I

1 move for its admission.

2 MR. SPECCHIO: No objection, Your Honor.

3 THE COURT: That's Exhibit 36. It's admitted.

4 (Exhibit No. 36 admitted.)

5 BY MR. STANTON:

6 Q Mr. Taukiuvea, if you could take a look at
7 Exhibit No. 36, the month of January 1998. I'll represent
8 to you that on Monday night, the 12th of January, and into
9 just past the midnight hours of Tuesday, January 13th, is
10 when Sergeant George Sullivan was murdered on the UNR
11 campus. With that map or that chart of January as a
12 reference, could you tell this Court when you first met
13 Mr. Vanisi?

14 A I'm not sure.

15 Q How many days?

16 A I don't know. I don't want to take a guess.

17 Q Was it a week, a month?

18 A I would say about a week.

19 Q About a week.

20 A Yeah.

21 Q You had never met him before that?

22 A No.

23 Q Do you see Mr. Vanisi in court today?

24 A Yeah.

25 Q Could you please point out where he is in the

1 courtroom and what he is wearing?

2 A He's wearing a gray suit, blue tie.

3 Q Could you point to him?

4 A (Indicating.)

5 Q Is he the individual sitting at counsel table?

6 A Yeah.

7 Q Does he look today like when you first met him?

8 A No.

9 Q How did he look when you first met him?

10 A He had long hair, a wig, and just full beard.

11 Q 24-A and 24-B, if they haven't been already
12 moved for admission, I think they have been. 24-A, do you
13 recognize that photograph?

14 A Yeah.

15 Q Is that how he looked?

16 A Yes.

17 Q And did you ever see him in this condition,
18 24-B?

19 A I don't remember.

20 Q Relative to when you first saw him,
21 Mr. Taukiuvea, you said he had a wig on. Could you describe
22 that?

23 A It was just long, and a beanie.

24 Q Did he have anything on top of the wig?

25 A Like a headband.

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

SIAOSI VANISI,

Appellant,

vs.

RENEE BAKER, WARDEN, and
CATHERINE CORTEZ MASTO,
ATTORNEY GENERAL FOR
THE STATE OF NEVADA,

Respondents.

No. 65774

Volume 13 of 26

Electronically Filed
Jan 14 2015 12:21 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPELLANT'S APPENDIX

Appeal from Order Denying Petition
for Writ of Habeas Corpus (Post-Conviction)

Second Judicial District Court, Washoe County

RENE L. VALLADARES
Federal Public Defender

TIFFANI D. HURST
Assistant Federal Public Defender
Nevada State Bar No. 11027C
411 E. Bonneville, Suite 250
Las Vegas, Nevada 89101
(702) 388-6577
danielle_hurst@fd.org

Attorneys for Appellant

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 7th day of January, 2015. Electronic Service of the foregoing Appellant's Appendix shall be made in accordance with the Master Service List as follows:

Terrence P. McCarthy
Washoe County District Attorney
tmccarth@da.washoecounty.us

Felicia Darensbourg
An employee of the Federal Public Defender's Office

1 THE WITNESS: That's correct. What happened
2 was in the first book, the red book, they gave these
3 really high -- they said, well, just in case, we'll just
4 give all the frequencies, say, 10 percent or .1. In the
5 newer version of the yellow book what they did was say,
6 listen, we have a better understanding of the population
7 substructure and we can actually use the correct
8 frequencies for the profile that's being obtained. So
9 they said if you use this formula, you take into account
10 the inbreeding or the subpopulation, substructure, you can
11 use the frequencies from the data base and everything will
12 be fine.

13 THE COURT: So it's your belief that the
14 statisticians took, for instance, how many people in this
15 country are of an ethnic subgroup that are found in a
16 certain ethnic population group when they determined the
17 statistical percentages that you would utilize?

18 THE WITNESS: Yes.

19 THE COURT: When determining frequencies?

20 THE WITNESS: They looked at various
21 population data bases and they said, well, listen, is this
22 good if we take this one person and put them in this
23 group, are we able to obtain the correct number.

24 THE COURT: That's all my questions.

25 Do my questions cause any additional

1 questions from either counsel?

2 MR. STANTON: No, your Honor.

3 THE COURT: Mr. Specchio?

4 MR. SPECCHIO: Nothing further, Your Honor.

5 THE COURT: Thank you. You may step down.

6 MR. STANTON: That's all the evidence
7 relative to that motion. I believe we have Dr. Clark here
8 now. Can we go to the taking of that evidence or --

9 THE COURT: Do you have any problem deferring
10 your argument with regard to the DNA testing until after
11 Dr. Clark's testimony?

12 MR. SPECCHIO: No.

13 THE COURT: Then we'll proceed with Dr.
14 Clark.

15 Dr. Clark, please come forward.

16 (Witness sworn.)

17 THE CLERK: Exhibits 4-A through 4-J marked.

18 (Exhibits 4-A through 4-J marked.)

19

20 ELLEN CLARK

21 called as a witness on behalf of the State

22 herein, being first duly sworn,

23 was examined and testified as follows:

24

25 DIRECT EXAMINATION

1 BY MR. STANTON:

2 Q Please state your name for the record.

3 A Ellen Clark, C-l-a-r-k.

4 Q And Dr. Clark, have you been certified -- are
5 you a licensed forensic pathologist and a licensed
6 physician in the state of Nevada?

7 A Yes.

8 Q Have you been qualified before in the Second
9 Judicial District as well as other judicial district
10 courts as an expert in the field of forensic pathology?

11 A Yes.

12 Q Dr. Clark, did you perform the autopsy on
13 George Sullivan?

14 A Yes.

15 Q And in this case prior to the hearing today
16 did you have occasion to review all of the photographs
17 that were taken at the autopsy of Sergeant Sullivan?

18 A Yes.

19 Q And at the State's request did you go through
20 those photographs to determine and select certain
21 photographs that would answer specific questions, two
22 questions in particular: One is the cause of death of
23 Sergeant Sullivan and the other is to describe and to
24 document the wounds to Sergeant Sullivan?

25 A Yes, I did.

1 Q And as a result of that I have before you
2 Exhibits 4-B through 4-J. Are those the photographs that
3 you selected pursuant to those parameters?

4 A Yes, they are.

5 Q How many photographs in total did you review
6 to select these?

7 A I don't know exactly. I'd estimate between
8 100 and 150.

9 Q Dr. Clark, while Mr. Specchio is reviewing
10 those photographs, I'm going to go through each photograph
11 and put it up on this system here so you can look at them.

12 THE COURT: He's looking at 4-A through 4-J,
13 he's not looking at the 100 or 150?

14 MR. STANTON: Correct.

15 BY MR. STANTON:

16 Q Dr. Clark, I'd like to begin with 4-B.

17 THE COURT: So 4-A is not marked?

18 MR. STANTON: 4-A is marked but it's not a
19 photograph.

20 THE COURT: Go ahead and give it to the
21 clerk; she'll withdraw it.

22 MR. STANTON: It's a three-by-five card.

23 BY MR. STANTON:

24 Q Dr. Clark, you have with you a laser pointer.
25 I'm going to ask you, can you see 4-B?

1 A Yes.

2 THE COURT: Do you want it sideways like
3 that?

4 THE WITNESS: Could you turn it?

5 BY MR. STANTON:

6 Q Is that clear enough for you, Dr. Clark, so
7 you can see that?

8 A Are you able to turn down the lights so
9 there's not so much white out?

10 I can see it. It's not as it appears to look
11 directly at it. It's a representation. That's fine.

12 BY MR. STANTON:

13 Q Dr. Clark, relative to that photograph, could
14 you please describe the necessity of that photograph
15 regarding the questions that I've previously posed to you,
16 speaking of cause of death, the nature of the wounds and
17 specifically the forensic identification of the wounds
18 ultimately with an implement that was provided to you?

19 A This photograph is an identification
20 photograph. It shows a portion of Sergeant Sullivan's
21 upper torso and it also shows his face from a frontal
22 view. In the photograph you can identify many injuries.
23 In all, within this view, based upon my examination, there
24 is representation of at least ten separate impact sites to
25 the face and/or head extending into the frontal hairline.

1 The photograph shows that there's wide
2 distribution of injuries. It shows variation in
3 patterning of injuries and it shows externally damage
4 which was created by the multiple injuries or separate
5 impacts ultimately leading to death.

6 Q 4-C.

7 A Exhibit 4-C shows Sergeant Sullivan's left
8 hand at the time of autopsy. It shows extensive bruising
9 to the backs of all the fingers of the left hand. It also
10 shows evidence of sharp force injury in the form of very
11 deep lacerations which were associated with bone fractures
12 and caused near detachment of the tips of the fingers.
13 This represents combined blunt and sharp force injury to a
14 separate portion of the body in a distribution that's
15 characteristic of a defensive injury.

16 Q 4-D.

17 A Exhibit 4-D shows the top of the decedent's
18 head and demonstrates in detail an injury which was barely
19 visible in Exhibit 4-B. And that is the laceration which
20 has distinctive patterning at the top of the center of the
21 forehead in the scalp line. It shows one of the many
22 varieties of patterned injuries that were present in this
23 case, in particular that is a wedge-shaped wound that has
24 features of both sharp force injury and blunt trauma.

25 Q 4-E.

1 A 4-E shows the right side of Sergeant
2 Sullivan's face. It shows two separate injury types and,
3 in particular, patterning which is different from that
4 previously shown in detail in the other autopsy
5 photographs. In particular, there is abrasion or skin
6 break injury representing blunt trauma on the left side of
7 the chin, extending on to the left facial cheek. There
8 also are injuries which again have features of sharp and
9 blunt trauma but have a more unique finding, and that is a
10 curved edge directly adjacent to a rectangular or
11 square-shaped edge which further speak to the design or
12 shape of the weapon used to create the injuries.

13 Q 4-F.

14 A Exhibit 4-F shows the top of the decedent's
15 head, in particular the scalp having been shaved. It
16 shows additional combined blunt and sharp force injuries,
17 again having patterning different than those that we have
18 already seen. The injury which is identified as No. 2
19 consists of a long or elliptical laceration that has
20 intersecting bar-shaped lacerations speaking to a
21 dimension and surface of a weapon.

22 No. 3 has a much broader but still partially
23 rectangular, partially sharp and blunt pattern which
24 speaks to a different size and shape corresponding to an
25 instrument or weapon surface.

1 Q Throughout the 4 series of photographs that
2 you have reviewed, have the black Magic Marker notations,
3 numerical notations, distinguished separate and distinct
4 wounds, Dr. Clark?

5 A Yes, they have. Those are placed for
6 reference and identification in enumerating injuries and
7 are for that purpose only. They identify separate
8 injuries.

9 Q 4-G.

10 A 4-G again shows the top of the scalp at the
11 very top of the center of the head. It shows a pattern
12 injury again having features of both sharp and blunt force
13 trauma. And it shows an intersecting area where there is
14 a physical lop or a curved edge which aligns with the
15 straight edge and then a repeat of this pattern along the
16 other margin, again with dimensions and shapes that are
17 different than those previously shown.

18 Q 4-H.

19 A 4-H, which does not project well here, shows
20 a different view of the top of Sergeant Sullivan's head at
21 the outset of the autopsy and it, in particular, shows the
22 multiplicity of injuries, at least seven separate impact
23 sites to the top of the head and the scalp within the
24 hairline. It shows some of the injuries which have been
25 shown in detail but it shows their wide separation or

1 distribution, again in the center top of the head
2 extending towards the back, towards the left side of the
3 scalp in the midline towards the left on the lateral edge
4 or outer edge of the head on the left in the frontal
5 region on the right, and then there were injuries also
6 towards the back of the head on the left occipital region
7 and wrapping down. This shows an overall view again of a
8 wide distribution of injuries and multiple separate impact
9 sites.

10 Q 4-I.

11 A Exhibit 4-I shows again the decedent's face.
12 This shows partial reflection of the lips and exposure of
13 the oral cavity to show very massive trauma to the teeth
14 and also to the jaw and the facial bones indicating injury
15 in excess of that which is externally visible or on the
16 outer surfaces of the face in earlier photos.

17 Q Finally, 4-J.

18 A 4-J is similar to the immediately previous
19 photograph in that it shows some injuries which have
20 previously been shown but shows exposure of portions of
21 the left eyelid to show deep trauma to the eye surfaces,
22 in addition to bruising on the outer surfaces of the face.
23 It also shows injuries in some detail on the left facial
24 cheek and towards the left side of the forehead and on the
25 nose which are not well represented in other exhibits.

1 THE CLERK: Exhibit 5 marked as
2 demonstrative.

3 (Exhibit 5 was marked.)

4 BY MR. STANTON:

5 Q Dr. Clark, Exhibit 5 is the item --

6 THE COURT: Are you through with the
7 projector for now? It's a little dark to be -- I can't
8 see that.

9 MR. STANTON: I'm through with showing the
10 photographs. I don't know if Mr. --

11 THE COURT: Turn the light on. Proceed.

12 BY MR. STANTON:

13 Q Dr. Clark, Exhibit 5 was provided to you at
14 autopsy to conduct an examination as to whether or not the
15 surfaces of that implement were consistent in both the
16 size and shape with some, if not all, of the injuries that
17 you observed on Sergeant Sullivan; is that correct?

18 A That's correct.

19 Q And the photographs, the 4 series we have
20 just gone through, are they necessary for you to properly
21 describe the nature of your examination and the results
22 both as to cause of death, as well as the forensic aspect
23 of the nature of the wounds, the force used and the
24 location on Sergeant Sullivan's body that the implement
25 struck?

1 A Yes.

2 MR. STANTON: Thank you. I have no further
3 questions.

4 THE COURT: Cross. Do you want to see the
5 photographs projected again?

6 MR. SPECCHIO: I'll make reference to them.
7 Maybe she'll remember them.

8 THE COURT: Why don't we just approach the
9 witness with the exhibits.

10 MR. SPECCHIO: That's fine.

11 THE COURT: I have written notes on each of
12 them.

13

14 CROSS-EXAMINATION

15 BY MR. SPECCHIO:

16 Q Dr. Clark, this is 4-C. How does this assist
17 you in discussing the cause of death of Sergeant Sullivan?

18 A This assists me in describing the
19 distribution of the injuries and, in particular, in making
20 reference to what we term in forensic pathology as
21 defensive wounds. It shows the magnitude of force which
22 was used, and it also shows the positioning and
23 distribution of the injuries on the hand.

24 Q What was the magnitude of the force in this
25 case?

1 A The force was sufficient to nearly tip off
2 the ends of two fingers and break the bones beneath those.
3 The force was also of a magnitude that it caused diffused
4 and continuous bleeding underneath the skin surface from
5 the tips of the fingers to the back of the hand.

6 Q How much force is that?

7 A A lot.

8 Q Pounds?

9 A I can't tell you in terms of pounds per
10 square inch.

11 Q Do you have to drop the axe from ten feet or
12 can you drop it from three inches?

13 A I would say that that does not imply that
14 anything was dropped. Something was wielded with great
15 force to create --

16 Q Wielded from a height of ten feet or ten
17 inches?

18 A I can't tell you.

19 Q This really doesn't help you to do anything
20 other than to point out a gory defensive wound?

21 A In my opinion it helps show the distribution
22 of the wounds and, in particular, make reference to
23 defensive wounds.

24 Q Doesn't show anything about the cause of
25 death; he didn't die from these cut-off fingers, did he?

1 A His more immediately life-threatening
2 injuries were those to the face and the head.

3 Q I never went to law school (sic) and I can
4 tell you by looking at these photographs that this guy
5 probably died by an axe wound to the head.

6 MR. STANTON: I think counsel is referring to
7 he may not have gone to medical school. I know he went to
8 law school.

9 THE WITNESS: Please repeat your question.
10 BY MR. SPECCHIO:

11 Q Most people would be able to look at that and
12 say he probably died by an axe to the head?

13 A I disagree.

14 Q This weapon, this Exhibit 5, you're not
15 trying to tell the Court that you think this weapon caused
16 all of these injuries?

17 A I would say no, that weapon didn't
18 specifically cause every one of those injuries.

19 Q It's consistent with a lot of them, though,
20 isn't it?

21 A That's correct.

22 MR. SPECCHIO: Judge, let me ask you a
23 question here, does the State intend to blow up these gory
24 eight-by-tens into three-feet-by-three-feet gory
25 photographs at trial?

1 MR. STANTON: Yes, your Honor.

2 MR. SPECCHIO: We're going to object to that,
3 Your Honor. We think it's highly inflammable. We would
4 object to these. And I will give this back to the clerk.
5 And, Your Honor, that Exhibit 5 I think they're going to
6 use, and we're going to stipulate that that is a
7 reasonable facsimile to the alleged murder weapon. Is
8 that a fair statement?

9 MR. STANTON: Pretty close, I think, yes.

10 THE COURT: We'll hold onto it.

11 MR. STANTON: I have no further questions on
12 redirect for Dr. Clark.

13 THE COURT: You may step down.

14 MR. STANTON: That would be the evidence that
15 the State would present relative to the motion in limine
16 regarding gruesome photographs.

17 THE COURT: Mr. Stanton, do you intend to
18 utilize the projector system that you've utilized in lieu
19 of publishing to the jury during the course of the trial?

20 MR. STANTON: Your Honor, the State's
21 intent -- for the record, this is what's called the Doar
22 system, spelled D-o-a-r. The State would be requesting of
23 the Court and it plans to use this system for purposes of
24 Dr. Clark's testimony to the jury in its entirety as she
25 did virtually before the Court this morning. The State

1 would then actually offer the photographs prior to
2 displaying them into evidence and then ultimately the
3 photographs would be available for the jury for their
4 review, the actual photographs themselves.

5 The difficulty the State has is that the size
6 of the photographs, which are eight-by-ten, to have Dr.
7 Clark demonstrate with the implement to all the jurors at
8 the same time is somewhat difficult. Granted the size is
9 increased in the use of the Doar system; however, the
10 projector, at least as we're set up here, is several feet
11 away from the jury box, and I think it's the only way
12 other than blowing up the photographs to 16-by-20 size so
13 that Dr. Clark's testimony can be received by all 13 or 14
14 jurors in this case contemporaneously, especially the
15 detail that Dr. Clark didn't get into today but will at
16 trial, and that is taking Exhibit 5, the hatchet, and
17 going through each wound to show that it, indeed how she
18 comes to the conclusion from the wound itself that that
19 implement and the surfaces of that implement are
20 consistent with that wound. I think that's very difficult
21 to do with an eight-by-ten so that all 14 jurors can see
22 it.

23 THE COURT: Mr. Specchio, do you have any
24 further argument?

25 MR. SPECCHIO: We're going to object. I

1 mean, those photographs are gruesome enough without
2 plastering them on a board at three or four feet by three
3 or four feet and then allowing them to relook at the
4 photographs. We would object to that procedure.

5 That's all I have to say.

6 THE COURT: The Court is very familiar with
7 systems like the Doar system. I've utilized them in other
8 trials. In looking at the exhibits, I'm going to first
9 find that they are necessary for the testimony of the
10 expert pathologist. So I am going to allow them to be
11 admitted based upon the presentation here today.

12 Further, I'm going to find at this time that
13 it is not more gruesome to have them actually projected.
14 I've had an opportunity to review the photographs
15 personally, as well as observe them projected. The
16 distance from the front rail of the jury box to where the
17 projection screen is 17 and a half feet. We just recently
18 had the courtroom measured. So that distance is
19 considerable.

20 MR. SPECCHIO: How big is the screen?

21 THE COURT: The screen that they are
22 utilizing right now I think is approximately five-by-four.
23 And not the whole screen was filled with the pictures.

24 What I believe is that the jury holding these
25 photographs in their hands, the eight-by-ten glossies, is

1 more gruesome and more graphic than what we observed on
2 the screen. I think the observation on the screen seemed
3 less gruesome and less direct to the members of the jury.
4 It certainly feels that way to the Court when I look at
5 the pictures. Therefore, I don't think it's more
6 prejudicial to have utilization of the projection than if
7 I allow the publication, which would be the other
8 procedure, of the jury handling them, touching them.

9 MR. SPECCHIO: They're not going to see them?

10 THE COURT: They'll receive them in the jury
11 room during deliberations, as with all other evidence that
12 is admitted. But they will not be getting them during the
13 course of the trial. We don't need to publish them to the
14 jury a second time. They're published once while the
15 testimony proceeds, and if you want to use them during
16 cross-examination, you may. If you don't, you may just
17 use the photographs with the witness.

18 So for those reasons I'm going to deny the
19 motion to exclude the utilization of the Doar system.

20 MR. SPECCHIO: And our continuing objection
21 would be noted for the record, Judge, so we don't have to
22 keep saying it here in the trial?

23 THE COURT: Absolutely. It is noted. And
24 we'll certainly preserve the record for the appellate
25 review.

1 Anything further with regard to the
2 photographs?

3 MR. STANTON: No, your Honor.

4 THE COURT: The photographs have been
5 admitted for the purposes of this hearing. The foundation
6 has been laid, I think, for purposes of the trial also.
7 But they won't be admitted until you move for admission at
8 trial in front of the jury. The clerk is going to hold
9 onto all the exhibits that have been marked.

10 MR. STANTON: The State is going to make a
11 motion with the Court that Exhibit 4 series and 5 be
12 released back to the State pending the trial. We have
13 pretrials with other witnesses that we need to conduct
14 between now and then. I don't believe there's going to be
15 an objection, certainly, to the 4 series, the foundation
16 of them, because that could be laid at any time. And once
17 again with Exhibit 5, that is a demonstrative piece of
18 evidence that there will be a stipulation that it is the
19 same weight, size, consistency and make and model of the
20 implement that ultimately was taken in this case. So I
21 don't believe there's any chain of custody issues.

22 THE COURT: I don't have a problem with 5.
23 Don't you have another set of photographs so that we can
24 keep the record clear, the ones that were testified to
25 today with regard to the Court admitting or the Court

1 saying were not too gruesome were the same set of
2 photographs at trial?

3 MR. STANTON: They're marked. Obviously they
4 will remain marked. I'll represent as an officer of the
5 court, we're not going to change the markings on them. In
6 addition, if I can have them for a brief period of time I
7 can get those specific photographs duplicated through the
8 negatives for our purposes and even Mr. Specchio, if he
9 wants a set of them, so that we can do that. But I will
10 need the actual photographs to go to the crime lab
11 personnel to ensure, since there's several hundred
12 photographs at the autopsy, there are slight differences
13 between, say, 4-B and probably three other photographs.
14 To ensure that indeed the same one is used, I'll need to
15 match them up with a person from the photography division
16 of the crime lab to make sure we have a precise duplicate
17 set.

18 MR. SPECCHIO: Are these the only photographs
19 we're going to be introducing?

20 MR. STANTON: From the autopsy of Sergeant
21 Sullivan, that's correct.

22 MR. SPECCHIO: Death and autopsy?

23 MR. STANTON: Yes.

24 MR. SPECCHIO: I have no objection. If he
25 wants to release them, copy them and provide the Court and

1 myself with a copy, that would be all right.

2 THE COURT: The clerk, though, prior to
3 release will make a Xerox copy at least of these so we'll
4 have some record that the clerk can compare. Not that
5 there would be any purposeful exchange, but we want to
6 make sure everyone is protected.

7 It was my understanding when I made my ruling
8 these were all the photographs of Sergeant Sullivan or of
9 the death of the sergeant that would be moved for
10 admission. And that is true, right?

11 MR. STANTON: Relative to the autopsy and the
12 issues of cause of death and the nature of wounds, that's
13 correct. There probably is one, possibly two photographs
14 of the generalized scene as it was first observed and
15 documented, which would include Sergeant Sullivan's
16 clothed body.

17 MR. SPECCHIO: That's all right, Judge. I
18 don't have any problem with that.

19 THE COURT: You've seen that and have no
20 problem with that?

21 MR. SPECCHIO: No problem.

22 THE COURT: Okay. Do you want to argue with
23 regard to the utilization of Mr. Riolo as a DNA expert?

24 MR. STANTON: Jeff Riolo, yes, Your Honor, if
25 I may.

1 Relative to that testimony in the motion,
2 Your Honor, I just have a couple of things I'd like to
3 argue briefly to the Court. Number one is that the sum
4 and substance of Jeff Riolo's testimony, Your Honor, I
5 think can be boiled down to a very popularized analogy
6 that I think everybody at least in the criminal context
7 can understand, and that is the use of fingerprint
8 technology.

9 At some point when that testimony was being
10 first utilized in criminal forensic settings, someone had
11 to be making the determination that a fingerprint was
12 indeed a unique anatomical design. At some point things
13 progressed within the scientific community that everybody
14 understood and agreed that, generally speaking, a
15 fingerprint is unique. I believe that's where we are on
16 the cusp of DNA science and the statistics behind that
17 science according to Jeff Riolo's testimony.

18 The motion as I read it specifically attacks
19 or suggests to the Court a prohibition of Mr. Riolo
20 testifying both to the scientific results that he did with
21 his testing and more specifically a cap, if you will, on
22 his testimony only to the science and not to the attendant
23 genetics.

24 I believe Mr. Riolo has testified and the
25 Court opinions have confirmed that indeed the science and

1 the statistics of DNA are one in the same now; that
2 State's Exhibit 3, the National Research Council, within
3 the scientific community is the generally accepted
4 standards. And as Mr. Riolo has stated, that the
5 scientific community has accepted both the science of DNA
6 and the statistics of DNA through the use of various
7 different formulas.

8 The issue of ethnic subgrouping in this case
9 is somewhat of a misleading aspect of the case, and that
10 is, the DNA material in this case, unlike most of the
11 published opinions that you review regarding DNA evidence
12 is DNA evidence tied to the defendant, either through
13 hair, through blood or through some other secretion of DNA
14 material, in this case the evidence that the State will
15 present is that there are certain items of evidence,
16 clothing worn by the defendant and property that will be
17 identified as being Sergeant Sullivan's that all comes
18 back with genetic material matching his, specifically the
19 genetic material is blood.

20 So we're not talking in this case about
21 genetic material being typed to then the ethnic subgroup
22 of the defendant who is indeed, or what the State has been
23 informed, a Tongan male. So even putting aside the issue
24 of ethnic subgrouping just for a moment, I believe that is
25 somewhat of a red herring in this case because it's not at

1 issue.

2 Now certainly in Mr. Riolo's testing of this
3 matter he used a controlled known sample of Mr. Vanisi's
4 for purposes of excluding him as the donor source of that
5 material. And I believe the statistics that he cited in
6 the reports that have been provided to the defense some
7 several months ago in this case indeed confirm that the
8 DNA profiles in this case show that there is a statistical
9 value or statistical likelihood that that material is
10 consistent with Sergeant Sullivan. There's going to be no
11 testimony in this case that it is a match. The statistics
12 in this case don't reach that level, merely that the DNA
13 material is consistent with being that of Sergeant
14 Sullivan within a certain population group.

15 When you then add what the science has
16 addressed with ethnic subgroups, according to Mr. Riolo
17 the formulas used in PCR testing, is indeed adopted by the
18 scientific community to include population geneticists to
19 account for any ethnic subgrouping if indeed that has any
20 effect any more on DNA testing. And I believe what Mr.
21 Riolo says, and confirmed in Exhibit 3, what's referred to
22 as the yellow book, that in RFLP testing now, the full
23 blown DNA testing where you get very large DNA statistics,
24 that indeed ethnic subgrouping is no longer even a viable
25 argument against DNA testing and the statistics derived.

1 therefrom.

2 I think the reason, Your Honor, as I
3 understand the science, to summarize what Mr. Riolo and
4 Exhibit 3 articulates, is this: They have looked at
5 ethnic subgrouping across the broad spectrum of the three
6 groups that Mr. Riolo has testified to and smaller ethnic
7 subgroups and they have concluded that the genetic markers
8 that are derived in this testing do not -- are not
9 determined by one's ethnicity; that indeed they are unique
10 genetic codes regardless of what ethnic group you're from.

11 By analogy, once again, borrowing from
12 fingerprints, that if the argument went within a subgroup
13 such as a Tongan subgroup, breeding primarily within
14 Tongan males and Tongan females, thus Tongan offspring,
15 that somehow you would get fingerprints that may not be
16 unique. That's indeed the same argument with DNA
17 genetics, that if you bred within a certain group over a
18 certain period of time, your genetic markers may not
19 distinguish them from one another, certainly not to the
20 statistical level that they were getting in other type
21 cases.

22 Indeed, the National Research Council has
23 concluded that is not true. DNA genetic markers are DNA
24 genetic markers and that the ethnicity of them play no
25 relevant role whatsoever in the statistics.

1 I would agree with Mr. Specchio, and I
2 believe Mr. Riolo's assessment is that statistics indeed
3 is an estimation, that there is no concrete assessment
4 because there's no testing, obviously, of each child born
5 and each person that dies into that pool to confirm one in
6 whatever, but it is an approximation. But that
7 approximation is indeed still statistically precise, and
8 that it doesn't make a difference whether people are
9 entering a population data base or exiting.

10 Further, it doesn't make a difference the
11 number of people in that data base, save and except for a
12 minimal level that the experts have evaluated that says we
13 have now a proper amount of people to do a comparative DNA
14 sample and thus we are properly able to derive statistics
15 therefrom. And I think that's precisely what Mr. Riolo
16 has stated in his testimony today, and that the exclusion
17 of his testimony to the statistics indeed is not necessary
18 nor supported by the weight of the scientific community.
19 What is generally accepted within the scientific community
20 as reflected in Exhibit 3, the National Research Council
21 yellow book, embraces both the science of DNA and the
22 statistics that's derived therefrom.

23 I have found four appellate cases since we
24 filed the motion in this case that have addressed
25 precisely that issue or pretty close to precisely that

1 issue, and that is, is the science of DNA separate and
 2 apart from the statistics of DNA requiring, A, a separate
 3 witness, to wit, a population geneticist, or indeed is the
 4 science of DNA joined at the hips so that they are, for
 5 practical purposes, one item? I think that's obviously
 6 the State's position, and those four cases that I've found
 7 I think support that. I've provided to defense counsel
 8 the other two. I've checked periodically at our library.
 9 They are available on Westlaw, and I can provide them. I
 10 would ask, since they weren't enclosed in our opposition,
 11 I found these cases after the briefing of this matter, to
 12 request, if the Court is interested, leave of the Court to
 13 provide those cases to the Court in the consideration of
 14 this issue.

15 Like I said, I have two that I've pulled off
 16 in one form from the Internet that I can provide hard
 17 copies for the Court, and I'd say approximately within
 18 seven days I can have the remaining two. So I'd at least
 19 offer that as an opportunity to the Court to review some
 20 other appellate courts that have embraced what appears to
 21 be the same thing, and that is whether or not there is a
 22 distinction between the science and the statistics.

23 THE COURT: Yes, I would like those.

24 Mr. Specchio, you certainly have an
 25 opportunity.

1 MR. SPECCHIO: I have no objection, Your
2 Honor. This is one of the motions that we submitted, in
3 any event.

4 THE COURT: Right.

5 MR. SPECCHIO: And I have no problem if the
6 Court wants to review those cases before deciding that
7 motion.

8 THE COURT: Would you afford the Court's law
9 clerk those cites and/or the copies that you have that are
10 unmarked?

11 MR. STANTON: I'll provide the actual copies
12 because the sites I don't think will do much good. I've
13 looked for the past four months, three months, to try and
14 get them. They're from regional reporters and gone
15 through the advanced sheets. They're relatively new, and
16 so I can get the hard copy and provide them to your law
17 clerk.

18 THE COURT: Okay. I think that we have a few
19 minutes this morning, but I'm not sure we can get too far.
20 We still have the motion in limine with regard to the
21 circumstances surrounding the defendant's arrest in Salt
22 Lake City.

23 MR. SPECCHIO: We might have that one
24 resolved, too, Your Honor, if I might.

25 THE COURT: You may.

1 MR. SPECCHIO: Mr. Stanton and Mr. Gammick
2 have provided me with kind of a synopsis of the testimony
3 or what would be the testimony of Deputies Craig Meyer,
4 Blake Schroeder, Keith Stephens and B. Adamson. If they
5 would like to submit a written stipulation in accordance
6 with what's on this paper that they provided me, I think
7 we can -- I'd be prepared to stipulate as to those facts
8 regarding the arrest, if that's what we're talking about.

9 MR. STANTON: Your Honor, I provided counsel
10 with an outline of four witnesses from the state of Utah
11 police officers that the State would offer testimony.
12 And, once again, it is a summary fashion of their
13 testimony and their role.

14 THE COURT: Do you have a copy for the Court?

15 MR. STANTON: I do, Your Honor.

16 The purpose of me providing it to defense
17 counsel, Your Honor, is we had previously discussed what
18 issues can we agree on or disagree. In addition, we still
19 have the pending motion regarding the limitation of that
20 evidence. If counsel I think is referring to based upon
21 that representation he is -- I don't know if the correct
22 word is withdrawing his motion, if there is no issue now
23 before the Court relative to that motion, I think that
24 kind of resolves it. As far as the actual trial goes, I
25 think that would be something that we, the State and Mr.

1 Specchio, needs to discuss down the road. To some extent
2 I think we can probably stipulate to some of that evidence
3 and whittle those witnesses down from four to two, but I
4 think, in essence, there's going to need to be at least
5 two witnesses from the state of Utah to add some colorable
6 context to the evidence in this case and to those facts,
7 specifically I believe it's witness one and three, which
8 would be Detective Keith Stephens and Deputy Meyer.

9 MR. SPECCHIO: Judge, my position is this:
10 If all they're going to talk about, all the Utah people
11 are going to talk about are issues or facts contained on
12 this sheet of paper, I'm prepared to stipulate to it.
13 They don't have to bring anybody if they don't want to.
14 They can bring them all if they'd like.

15 THE COURT: The only issue really is the
16 description of Vanisi's behavior in the residence. What
17 is that?

18 MR. STANTON: Deputy Meyer, I believe, would
19 testify consistent with the reports that I have and
20 defense counsel has --

21 MR. SPECCHIO: I have no problem with that.

22 MR. STANTON: That he enters the residence
23 pursuant to what ultimately becomes a SWAT tactical
24 assessment to enter the home because the home is now, at
25 least a portion of it, on fire. And they want to have Mr.

1 Vanisi taken into custody. He's on the first floor of the
2 two-floor structure. Deputy Meyers enters the building
3 second after the door is battered down by the use of a
4 battering ram with SWAT personnel. He enters the home and
5 initially sees Mr. Vanisi at the end of a hallway. Deputy
6 Meyer describes that he sees his right eye, his right ear,
7 all being Mr. Vanisi's, and his right arm with a
8 semi-automatic handgun consistent with the size and shape
9 of a Glock .45, which he has experience in that weaponry.
10 The weaponry comes up. He makes brief eye contact with
11 Mr. Vanisi. He believes Mr. Vanisi is going to fire at
12 him. He fires three to four rounds of his duty weapon at
13 Mr. Vanisi, striking him apparently at least one time in
14 his arm. He's then removed from the building at that time
15 by other officers because he lost his balance and fell.
16 Other officers thought he had been shot, and they
17 tactically removed him from the residence.

18 THE COURT: No statements?

19 MR. STANTON: The only statements that Mr.
20 Vanisi, that the State will seek to elicit are the
21 generalized ones about what Mr. Vanisi's behavior and
22 demeanor was during what I gather is at least a two-hour
23 time period from the initial we have a standoff situation
24 when Mr. Vanisi sees police outside, runs back into the
25 house and when he's ultimately taken out of the home by

1 use of a beanbag gun. In a generalized sense, Mr. Vanisi
 2 had walked around, talked to several different officers
 3 through several different windows of this home saying that
 4 he wanted to talk to relatives, that he wasn't going to
 5 give up. His demeanor and behavior of shifting gears
 6 frequently, saying that there was children in the home and
 7 that he had to feed them and clothe them -- there weren't
 8 any children in the home at this time period -- the police
 9 officers felt that that was a delaying tactic for Mr.
 10 Vanisi. Obviously someone else can argue that that
 11 statement means something else.

12 So those are the generalized bits of
 13 information that Detective Keith Stephens was both a
 14 percipient witness to and as the case detective in Salt
 15 Lake City could attest to if Mr. Specchio doesn't object
 16 along those lines. If so, we would bring in some of the
 17 other witnesses but they wouldn't be very significant as
 18 the extent and nature of their testimony.

19 THE COURT: Some of these witnesses or
 20 witnesses still further?

21 MR. STANTON: Those witnesses I believe could
 22 testify to those aspects. There may be one or two others
 23 if there's a particular comment that the State feels is
 24 germane. It's not contained in the reports, but obviously
 25 at some juncture we have to pretrial with the Utah

1 authorities to find out if there's something, as there
2 typically is, not included in their police reports. Right
3 now I'm only operating with what I have in police report
4 form in front of me and provided to defense counsel.

5 THE COURT: Do we have a day set aside prior
6 to the jury being selected for any hearings?

7 MR. STANTON: Yes. I think we have just
8 before, the week before the trial begins.

9 THE COURT: You will have your pretrial with
10 the Utah authorities before that time?

11 MR. STANTON: I certainly would hope so.

12 THE COURT: My concern is that if there are
13 some statements that come out of your pretrial, that we
14 don't have any delay in the case, that you are able to
15 disclose that through your discovery with Mr. Specchio and
16 we can have a hearing if we have to.

17 MR. STANTON: I think that would be certainly
18 possible and I think would fit well. I plan on having the
19 pretrial with the folks well before the hearings that we
20 have scheduled in this case.

21 I would ask, and maybe a question is, if we
22 can go the other way, is there something of concern that
23 Mr. Specchio's looking for that he doesn't want coming in
24 from Utah? Aside from the fact of what I just mentioned
25 and outlined, we're also dealing with a chain of custody

1 of certain items: Sergeant Sullivan's clothing, that was
 2 specifically his weapon, certain items from his person
 3 that the State alleges were taken by the defendant from
 4 Sergeant Sullivan's person on the night of his murder, as
 5 well as the stolen vehicle that is the subject of Count V
 6 of the charging document that was recovered at that
 7 location and obviously a nexus of how the defendant got
 8 from Reno to Salt Lake City. But if there's a specific
 9 concern of the defense as to something that they don't
 10 want to come in relative to what happened in Salt Lake
 11 City, we can maybe address it that way as well.

12 THE COURT: I'm going to have the clerk just
 13 mark as Exhibit A the Utah witness checklist that was
 14 provided to the defense just so the record is clear what
 15 you were reviewing, Mr. Specchio. Is there anything in
 16 particular that you know of that you are concerned about
 17 now that hasn't been addressed?

18 MR. SPECCHIO: With regard to Salt Lake City?

19 THE COURT: Yes.

20 MR. SPECCHIO: No, your Honor.

21 THE COURT: With regard to the discovery of
 22 information that will come out of the pretrial, I don't
 23 know your position, Mr. Stanton, on oral statements of the
 24 defendant. I just recently had something develop with the
 25 District Attorney's Office, so I want to make it clear.

1 If you determine through your pretrial with the Utah
2 authorities that Mr. Vanisi made a statement against
3 interest that is not written down in a police report, do
4 you agree with the Court that you will have a hearing
5 outside the presence of the jury and be sure Mr. Specchio
6 knows about it before it's presented to the jury?

7 MR. STANTON: Well, if that's the Court's
8 ruling on it, I'll certainly comply with the Court's
9 ruling. I don't necessarily agree that that is indeed the
10 status of the law regarding -- I can guarantee the Court
11 right now that there's probably dozens of statements that
12 the defendant made to various different law enforcement
13 officers that are statements against interest or certainly
14 could be viewed in that light, depending on which side
15 you're on, that are not documented in any report.
16 Guaranteed.

17 This was a standoff situation in excess of
18 two hours. He had contact with family members on the
19 telephone. He had contact with at least one hostage
20 negotiator with the police department, as I've indicated,
21 several police officers as he's walking around and
22 sticking his head out of various different windows and
23 doors throughout this interaction. And these are reports
24 from Salt Lake City that are probably, the longest one is
25 three to four pages in length, very few of it focusing on

1 what the person said. Understanding Salt Lake City knew,
2 at the time that they were authoring these reports, that
3 they didn't have a case anymore that they were going to
4 prosecute in Salt Lake City. This was a turnkey operation
5 for them, take him into custody, extradite him to Nevada
6 on their warrant. I don't know what their habit and
7 custom is as far as documenting in their reports, but
8 certainly with that in mind you get what you basically get
9 with police officers, documenting what they did and really
10 no idea of what the focus was when it comes to litigating.

11 THE COURT: For the purposes of this trial,
12 if in your pretrial you determine there are statements
13 that Mr. Vanisi has made that have not been disclosed to
14 the defense that you want to utilize in your case in chief
15 as determinations of guilt or innocence of the defendant,
16 I'm going to order that you disclose those to Mr.
17 Specchio, because he's filed a motion in limine. Either
18 we get a stipulation that he doesn't need a hearing or we
19 have a hearing with regard to their admissibility prior to
20 presenting them to the jury.

21 Now, if the timing is such that we have to do
22 it in the middle of the trial, we do it in the middle of
23 the trial. If we do it in the middle of the witness'
24 testimony, we do it. But I want to have that
25 determination outside the presence of the jury before we

1 present it to the jury. And then we're clear that we
2 aren't creating an error.

3 MR. STANTON: Yes, your Honor.

4 THE COURT: And I think that based on what
5 you've told me today, Mr. Specchio, it will fulfill your
6 concerns?

7 MR. SPECCHIO: I think so, Your Honor. I
8 would assume that their statements will be consistent with
9 their police reports. So I don't have any problem with
10 that. But if all of a sudden I'm stipulating to all of
11 these facts and one of these jamolts (phonetic) wants to
12 come in and start talking about confessions and admissions
13 that I'm not aware of, I'm going to have a real problem.
14 And we'll have to do this trial over again down the road.
15 I don't want to get in that situation.

16 THE COURT: Mr. Stanton is going to tell you
17 if he's got something like that before we ever start our
18 jury trial. We'll have those hearings before we swear the
19 jury panel. If you have to have a continuance based on
20 some information that came out, we'll deal with that as it
21 happens.

22 MR. STANTON: If I got a nice piece of
23 smoking gun type statement that goes right to intent or
24 whatever, Mr. Specchio is going to hear about it before
25 the jury does and before this Court does.

1 MR. SPECCHIO: It will make my day. It will
2 make my day.

3 THE COURT: I'm sure Mr. Stanton will do
4 that.

5 And Mr. Gammick.

6 MR. GAMMICK: Understood, Your Honor.

7 THE COURT: So here we are with -- all we
8 have is criminal history. It's noon. I think we better
9 deal with that this afternoon.

10 MR. STANTON: Your Honor, actually I think
11 we're pretty close to concluding. I think we could do it
12 within 15 to 20 minutes.

13 THE COURT: Well, I know we have to take a
14 break for the court reporter. We have to take some break.
15 We've been at it a couple of hours.

16 We might as well keep on -- did you have
17 someplace you had to be this afternoon?

18 MR. STANTON: No. I was just figuring that
19 we've got a lot of people tied up here and we could finish
20 it up in 15 or 20 minutes, then everybody could go about
21 their business.

22 MR. SPECCHIO: I've already missed my morning
23 nap.

24 THE COURT: Mr. Specchio, we all know you're
25 teasing us about that. You've looked very alert

1 throughout the hearing.

2 MR. SPECCHIO: Judge, I really would like to,
3 when we're done, go over my list and make sure --

4 THE COURT: I think we'll just take a recess.
5 We can come back at 1:30, because Mr. Specchio wants to go
6 through this list anyway and make sure we've touched
7 everything. There's no reason to rush through. We've got
8 lots of time set aside.

9 MR. GAMMICK: Is the courtroom going to be
10 secured during the lunch hour, Your Honor? I'm inquiring
11 if we can leave the cart here.

12 THE COURT: Yes.

13 MR. GAMMICK: We'll be the only ones coming
14 back at 1:30?

15 THE COURT: You're the only ones. We have no
16 hearings before you, and the bailiff will lock it up.

17 MR. SPECCHIO: Judge, I would think we could
18 probably conclude everything in half an hour or 45 minutes
19 at the most.

20 THE COURT: I anticipate that. Thank you,
21 counsel. Court's in recess.

22 (Recess taken at 12:00 p.m.)
23
24
25

1 RENO, NEVADA, TUESDAY, NOVEMBER 24, 1998, 1:40 P.M.

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3
4 THE COURT: We are back on the record in
5 continued hearings for State versus Siaosi Vanisi, Case
6 No. CR98-0516.

7 I have had an opportunity to review all the
8 motions that have been filed and so we can go through that
9 list. But the only ones I have yet to hear is there's a
10 defense motion that was filed regarding prior bad acts
11 that there was a discussion about it being moot. There's
12 a motion with regard to criminal history of defendant.
13 And those are the only two things other than what has been
14 submitted, and I'll go through and I'll tell you what
15 you'll receive written orders on.

16 MR. STANTON: We should have the gang
17 affiliation motion.

18 THE COURT: And gang affiliation. Thank you.
19 I'm missing it on my checklist here. Those are the only
20 three things that I think are still pending.

21 MR. STANTON: That checks with my list.

22 THE COURT: We'll go through it completely,
23 Mr. Specchio, but let's get to the hearing.

24 Do we have prior bad act evidence that the
25 State wants to offer or do we have prior criminal history

1 evidence you want to offer?

2 MR. STANTON: If I could go through the
3 motions in order, specifically I'd like to start off with
4 the prior bad acts motion.

5 THE COURT: Okay.

6 MR. STANTON: Out of an abundance of caution
7 what I have done is try to assess anything that could be
8 potentially perceived as prior bad acts. And I'm going to
9 recite to the Court the preliminary hearing transcript, if
10 you have that available.

11 THE COURT: Yes.

12 MR. STANTON: Your Honor, when I read the
13 motion -- let me just start off as a fundamental thing to
14 address what I think is at least a larger portion of
15 defense's motion. First of all, the State is aware of no
16 particular evidence that would normally be considered
17 48.045 evidence, as a separate act that the defendant
18 committed that we are going to bring in either police
19 officers or another victim to say that they did that and
20 we're going to offer it from one of the recognized
21 statutory exceptions. So there is no, I guess,
22 traditional 48.045 evidence. But I'm not certain what
23 would be potentially considered along those lines. So I'd
24 like to cite to three instances that the State seeks to
25 admit as potentially uncharged misconduct. And all of

1 this was presented at the preliminary hearing.

2 The first one I'd like to start with is page
3 64 of the preliminary hearing transcript. The witness
4 that this came in at the preliminary hearing is the same
5 fashion as the State's going to elicit at trial. And that
6 is, the witness testifying on page 64 is a relative of the
7 defendant's. His name is Vainga Kini Kini. Mr. Kini Kini
8 was the individual the defendant met upon his arrival at
9 the Kini Kini home in Salt Lake City. He actually met
10 with some other relatives initially, but he does arrive at
11 the Kini Kini home. The Kini Kini home is the one
12 ultimately that is burnt and where he's taken into
13 custody.

14 On the top of page 64 is when he begins to
15 talk to Vainga Kini Kini, who is a convicted felon, a gang
16 member who has kind of changed his ways during this time
17 period. He had come back to the Kini Kini home to his
18 brother David Kini Kini, who is a very religious man, and
19 to get his life together. And David Kini Kini was there
20 to assist him in straightening out his life. He tells
21 Vainga about an incident in Inglewood, California talking
22 to TCGs, which stands for Tongan Crypt Gang.

23 And Mr. Kini Kini, Vainga states, "Yes."

24 And then it says, "What did he say occurred
25 that he did in Inglewood, what I would refer to as

1 the Inglewood incident?"

2 The answer by Mr. Kini Kini, starting at line
3 seven: "He said he went up to a dance." This is the
4 defendant speaking to him in Salt Lake City. "That he
5 went to a dance in Inglewood. I guess it was a church
6 dance. And all the TCG's gang members in Inglewood were
7 outside in the parking lot. He said he went up to them
8 and asked them if they wanted to join him. And he said,
9 'Do you want to join me and go kill people?' And they
10 said 'No.'"

11 So that's what I call the Inglewood incident.
12 Now, just since we're staying in the same course, I'm
13 going to try, unfortunately, blend this between this and
14 the gang motion because the evidence is somewhat the same.
15 Obviously in that context there's another act that occurs
16 in Inglewood and it does deal with gangs. The State has
17 no evidence that the defendant is a member of a gang or
18 that any of his crimes that were committed or alleged to
19 have been committed in this case were motivated for gang
20 reasons. We haven't charged it, alleged it; there's no
21 evidence to suggest that. So the State's not offering it
22 for that matter. But there is reference to him contacting
23 gang members to commit murders.

24 On that same page, once again with Vainga
25 testifying, he said that he observes a vehicle that was

1 underneath a tarp in Salt Lake City. Your Honor, this is
2 the vehicle that was stolen and how the defendant got to
3 Salt Lake City. "And he says that the defendant used a
4 particular term to describe that vehicle to you?" That's
5 the question that I posed to Mr. Kini Kini, lines 13
6 through 17. The witness answers, "Yes, he described it
7 as," once again using the defendant's words to him, "a G
8 ride."

9 And I repeat that. He says, "Yes."

10 "What does a G ride mean to you?"

11 Now remember, Vainga has been a member of the
12 Tongan Crypt Gang, is familiar with it, familiar with the
13 gang nomenclature.

14 "ANSWER: G meaning gang. Gang meaning
15 stolen."

16 So he tells the defendant -- the defendant
17 tells Vainga that it's a G ride, and to Vainga that means
18 it's a stolen automobile. And I guess the relevance for...
19 this proceeding is somewhat self-evident.

20 On the next page, page 65, is the second
21 incident. I'll call this one the Mormon elders incident.
22 On page 65, Mr. Kini Kini, Vainga Kini Kini, is discussing
23 a series of statements and behaviors that he observes the
24 defendant make inside the Kini Kini home prior to the
25 whole hostage situation coming to the forefront.

1 Beginning at line four, there's a question
2 posed, "The photograph in front of you is a series of
3 pictures that hangs on your brother's wall." This is a
4 photograph in this case, of the interior of the Kini Kini
5 home. On that photograph there's a picture of three white
6 gentlemen. They are elders of the Mormon church. And he
7 answers that in the next question:

8 "They're prophets of the Mormon church.

9 "They're elders?

10 "Yes.

11 "Did there come a time when the defendant
12 made some direct reference to those photographs?

13 "Yes.

14 "What did he do?

15 Beginning at line 19:

16 "He pointed -- he pointed the pistol at the
17 pictures saying 'Fuck that white man. I'll kill that
18 white man.'"

19 So that's a second incident that may be
20 described or viewed by some as being a 48.045. -- I don't
21 think necessarily it is, but out of an abundance of
22 caution I'm just laying my cards on the table so everybody
23 knows where we're going.

24 And then on page 68 of this transcript, once
25 again, same witness, at the bottom of page 68, beginning

1 at line 22, there's a question posed to Vainga Kini Kini:

2 "Did there come a time when he," meaning the
3 defendant, "was talking about being a Tongan Robinhood?"

4 "Yes, there was."

5 And then the question goes, "What was he
6 telling you about?" And now this is the final incident
7 that I categorize underneath prior bad acts, potentially,
8 and also this relates to the gang motion.

9 He says, "He meant that in helping our people
10 out by getting us together and robbing and giving it back
11 to our people.

12 "QUESTION: Did he ask you whether or not
13 there were any TCGs in Salt Lake City?

14 "ANSWER: Yes.

15 "QUESTION: What did you tell him?

16 "ANSWER: I told him there were quite a few.

17 "Is there quite a few?

18 "Yes, there is.

19 "Did he ask you whether or not they're still
20 involved in criminal activity?

21 "ANSWER: Yes.

22 "QUESTION: What did he tell you about the
23 TCGs?

24 "I told him they were heavily involved in
25 crime.

1 "What did he say right after you told him
2 that?

3 "To hook up -- why don't we go hook up with
4 them.

5 "And do what?

6 "Get together and do crime.

7 "Was there specifically people he wanted to
8 commit crimes against?

9 "ANSWER: White people."

10 Those are, once again, references to a gang
11 but not the defendant's affiliation in, but an incident
12 where he asked to solicit the assistance of the Tongan
13 Crypt Gang in Salt Lake City.

14 Now Mr. Kini Kini, when I and Mr. Gammick
15 talked with him prior to his testimony at the preliminary
16 hearing, was a little bit more graphic in his description
17 about what the defendant said to him in this regard. At
18 the preliminary hearing we didn't get into all of the
19 attendant details other than just the core aspect of the
20 discussion the defendant had with him. He uses terms that
21 are within the vernacular, for example, when he -- I
22 specifically asked him about the contact the defendant had
23 with him about TCGs in Salt Lake City. He said -- he told
24 the defendant that, "Yeah, they're dirty. They do dirt,"
25 which in his vernacular means that they do crime and they

1 do significant heavy duty criminal activity within the
2 Salt Lake City area. And he described in some detail the
3 conversation he had with the defendant about what type of
4 criminal activity that they were involved in.

5 So it's kind of -- in the transcript of the
6 preliminary hearing it's a bear bones rendition of it.
7 I'm not sure to what extent Mr. Kini Kini now will
8 recollect those events. Obviously we're going to show his
9 previous statements or interviews with police to refresh
10 his recollection. But that, in substance, Your Honor, is
11 the areas both what could be considered 48.045, whether it
12 is or isn't I don't really know and don't know how
13 relevant it really is to this motion, and also the only
14 evidence that the State has in any way, shape or form that
15 affiliates the defendant with gangs.

16 THE COURT: Okay. Any objection to that
17 evidence, Mr. Specchio?

18 MR. SPECCHIO: Yes, your Honor. I think it's
19 highly prejudicial. I'm not so sure what the probative
20 value is other than to try to put another nail in the
21 coffin. And I think we're on real thin ground here. The
22 State admits they have no evidence that the defendant is a
23 member of a gang. If they did, I probably wouldn't be
24 here arguing this point. But to create little smoke
25 screens about gangs here and there without being able to

1 prove that he in fact is a member of any gang I think is
2 highly prejudicial. It far exceeds any probative value,
3 and I think they should be all excluded. I assume. Your
4 Honor, we're talking about both the gang affiliation
5 motion and the PBAs. If that's the PBAs they're talking
6 about, I guess we can discuss these as one discussion for
7 both motions. I think without any indication or any
8 evidence that Mr. Vanisi is in fact a member of the TCG or
9 in fact committed illegal acts with them, I think it is
10 highly prejudicial against this defendant and I see no
11 basis for the admission of any of those references.

12 THE COURT: Mr. Stanton.

13 MR. STANTON: The relevance, I think, is --
14 let me just address it two-fold. First of all, the
15 relevance of the conduct is to speak to two several
16 different items. Number one is the intent of the
17 defendant to do the acts he's alleged in this case. The
18 State's theory in this case is that the defendant
19 specifically picked out the victim in this case for
20 several different reasons. By the defendant's own
21 admission, he wanted to kill a police officer. He wanted
22 to kill a white police officer. And he took specific
23 items from his person as either trophies or part of an
24 express opinion to steal from what he perceived to be an
25 impressive ethnic group and to give back this Tongan

1 Robinhood theory that he espoused after the murder. There
2 are probably no less than ten witnesses that the State
3 could call in this case of the defendant prior to the
4 murder of George Sullivan telling them he wanted to kill a
5 police officer.

6 THE COURT: So you're not going to call any
7 of those witnesses?

8 MR. STANTON: No, I'm just saying that the
9 evidence to suggest that there is a plan of the
10 defendant's to kill a police officer, especially a motive
11 in this case of why George Sullivan was killed, and that
12 is, the State has alleged in this case that it is a
13 premeditated murder. He has pled not guilty to that. In
14 addition, the State has alleged this murder was committed
15 by lying in wait. Kind of a unique theory of murder
16 that's frequently not brought because that evidence is
17 relatively rare to obtain.

18 In this case the State submits that there's a
19 significant amount of evidence that the defendant in this
20 case watched George Sullivan at an automobile stop for
21 several minutes, then pursued him for several minutes and
22 then crept up on him while he was performing a ministerial
23 function inside his motor vehicle for the sole purpose
24 that he knew he was white and because he was a uniformed
25 police officer that he wanted to kill. So towards that

1 end the defendant's conduct soon in time of the murder of
2 Sergeant Sullivan is directly relevant of his motive to
3 want to kill white people and a white police officer, to
4 rob from him and to give back, as he at least expresses
5 it, to his people. And the incident of Inglewood.

6 THE COURT: But the issue at Inglewood, is it
7 necessary to discuss that he was asking Tongan Crypt Gang
8 members whether or not they wanted to go kill someone? Do
9 you have evidence that he's made statements that he wanted
10 to kill a white police officer, which is much more
11 specific and does not involve any allegation of gang
12 affiliation?

13 MR. STANTON: I think what we could do in
14 this case, Your Honor, as I was hearing Mr. Specchio's
15 objection, specific objection to these acts, is I don't
16 think it affects the integrity of the evidence or would
17 mislead the jury in this case if we were to redact and for
18 the State to discuss with that one witness, Mr. Kini Kini,
19 to make no reference in either of those two instances,
20 either the Salt Lake City incident or the Inglewood
21 incident to the fact they were TCGs, merely that he
22 approached people and made those requests. And at that
23 point I think the State gets what it believes to be
24 probative evidence to his intent and his motive, desire
25 and the pains that he went to go about committing this

1 act, and we redact out any reference, spill-over effect,
2 if you will, that the defendant is somehow associated with
3 a criminal gang.

4 THE COURT: That would certainly make me more
5 comfortable.

6 MR. STANTON: I think that's doable. Mr.
7 Kini Kini is -- I think Mr. Specchio saw him in court.
8 From my experience, Your Honor, I think if Mr. Kini Kini
9 is advised of that, he will -- we deal with certain
10 witnesses with varying different levels of sophistication
11 about what we as attorneys and the law indicate about
12 don't discuss this. I think Mr. Kini Kini is pretty savvy
13 and he'll understand that, and I don't think there will be
14 any problem. We'll certainly instruct him on the front
15 end along those lines, and maybe to even be more certain
16 prior to his testimony we just take a few minutes with him
17 and reinform him. I know we will do it when we meet with
18 him. Our investigative staff will talk to him prior to
19 him coming to court. And I think just to make sure we do
20 it one more time coming from Your Honor, I think that will
21 make a difference with Mr. Kini Kini. He's not
22 uncooperative. He's obviously a relative of the
23 defendant, still likes the defendant very much, so I don't
24 think he'd do anything malicious or otherwise intentional
25 in this case.

1 THE COURT: Okay. So if you limit your
2 inquiry of him as to statements that the defendant told
3 him he made to someone about wanting to go kill -- these
4 are statements the defendant told him about, right?

5 MR. STANTON: Yes, your Honor. And we would
6 just redact in the Salt Lake City incident, as well as the
7 Inglewood incident, any reference to the identification of
8 a group of people that he was specifically attempting to
9 solicit to do those criminal acts.

10 THE COURT: In the Salt Lake incident, as I
11 understand it, he first talks about a G ride, your witness
12 does. Then he indicates to you that Mr. Vanisi admitted
13 that he had stolen the vehicle. So the reference to a G
14 ride or gang terminology is really not necessary, is it;
15 your witness can just say the part that he admitted?

16 MR. STANTON: Yeah, I guess that's true. Mr.
17 Kini Kini knows it because he himself was a member of a
18 gang. I think at least some connotation it was some
19 admission that Mr. Kini Kini was admitting that he was a
20 member of a gang which he's willing to admit, I think
21 that's another thing. If Mr. Specchio would object to
22 that potential nexus to his client, I think we could at
23 least redact it to the portion that he knew it to be a
24 gang term. I think in some context I think it to be fair
25 he would have to say, well, he told me it was a G ride and

1 I took that to mean -- I know that term to mean that it is
2 stolen. He doesn't have to say it comes from the world of
3 street criminal gangs, but certainly I think to some
4 extent -- what I don't want to have happen is some sort of
5 examination of Vainga Kini Kini saying that he read too
6 much into that statement, that he's inferring something
7 that didn't exist.

8 THE COURT: Certainly if the
9 cross-examination goes down that road, then I will
10 certainly let you explain how he knew what it meant. I
11 don't think Mr. Specchio would go down that road. Of
12 course his co-counsel isn't present. I'm sure Mr.
13 Specchio will give him a heads up.

14 MR. STANTON: I'm throwing out now all the
15 potentials I see. I don't think there's any problem with
16 the redaction of Mr. Kini Kini, relating to him that he
17 knows that G ride to be a gang term. I think it's fair to
18 say that G ride, he could testify to that, that it means a
19 term that he knows to mean a stolen vehicle.

20 MR. SPECCHIO: Why does he even have to say G
21 ride if he says that he said he stole the car? What
22 difference does it make? Isn't there some potential
23 prejudicial problem with presenting that? If you say we
24 can't talk about gangs, which we shouldn't be able to do
25 in this case, but we can talk about gang lingo, I think

1 we're treading on --

2 THE COURT: I would prefer we just, if you
3 just ask him if he admitted that he stole the vehicle.
4 But Mr. Specchio, what this precludes you from doing is
5 cross-examining the witness down the line that, well, you
6 mean you just assumed that the -- you just assumed he
7 stole the vehicle, he didn't really say I stole the
8 vehicle. That would preclude you from that kind of an
9 inquiry on your cross-examination, because if you go down
10 that road, I'm going to let Mr. Stanton come in behind you
11 in redirect and say, wait a second, exactly what did he
12 say and how do you know what that means.

13 MR. SPECCHIO: I understand.

14 MR. STANTON: That's precisely the point,
15 Your Honor, because I don't think when talking to Vainga
16 Kini Kini, the conversation he had with the defendant was
17 not like you just said. The defendant didn't tell him "I
18 stole the car." They're talking in the vernacular that
19 both he and Mr. Kini Kini understood, and that is when he
20 told him it was a G ride, that's all he needed to tell
21 him, and he knew from that term that the defendant had
22 stolen the motor vehicle. So to that degree, Mr. Kini
23 Kini, I don't believe, is going to be able to understand
24 the dynamics of this case. He's going to say what the
25 defendant told him and what that meant to him.

1 MR. SPECCHIO: Based on your conversation
2 with Mr. Vanisi, did you assume that he stole that
3 vehicle? What's wrong with that question.

4 MR. STANTON: I don't want him to assume
5 anything.

6 MR. SPECCHIO: Did you gather from his
7 statement that he stole that vehicle?

8 THE COURT: I'm sure Mr. Stanton would like
9 it if you would stipulate that he could ask, based on your
10 conversation with Mr. Vanisi, did he admit to you he stole
11 the vehicle?

12 MR. SPECCHIO: Then, go ahead and say that,
13 that's fine. But we also have the stipulation that the
14 words gang, TCG, Tongan Crypt Gang and G ride are not
15 going to come in at this trial.

16 MR. STANTON: If counsel will not object to
17 me, A, leading Vainga Kini Kini in the fashion he just
18 said, and I think to some extent I'm going to need to lead
19 him so that we don't accidentally fall into that area, and
20 that there is going to be no other inference that can be
21 drawn, save and except a flat out omission from the
22 defendant that indeed he stole the vehicle, then I'd
23 agree. And absent some door being opened by examination
24 or inference by some question on cross-examination with
25 this witness or any other witness, I'd agree.

1 THE COURT: Is there really any question
2 about the motor vehicle being stolen? I mean I don't know
3 if that's an issue that's going to be litigated or not.

4 MR. SPECCHIO: Well, based on my knowledge of
5 the case, Your Honor, I think it's not a major issue. I
6 mean I don't want to state on the record here and start
7 admitting things.

8 THE COURT: I didn't mean to ask you for
9 that. I mean it's not going to be a hotly contested
10 issue, is it?

11 MR. SPECCHIO: Not from me.

12 THE COURT: Well, let's see. We have a
13 stipulation that you can lead. We have a stipulation that
14 you can use the word "admit." If it goes someplace after
15 that in cross-examination, approach the bench and I'll let
16 you know where we can go.

17 MR. STANTON: I think that resolves the issue
18 as to the gang affiliation. Other than that, I'm aware of
19 no information that the State will produce in its case in
20 chief or even in penalty, if we reach that stage in this
21 case, about the defendant's affiliation with a gang.

22 THE COURT: Okay.

23 MR. STANTON: The only other thing is that
24 the references I've made I think need a separate and
25 distinct ruling of both the Inglewood, Salt Lake City and

1 the Mormon elders situation.

2 THE COURT: Depending on who is on our jury,
3 the reference to killing a white man, and I don't know
4 from the transcript how your witness is going to describe
5 that, if that's a threat to kill Jesus Christ, is that a
6 threat to kill a particular Mormon elder, is it a threat
7 to kill all Mormon elders -- how is that perceived by your
8 witness? You said he was more forthcoming and more
9 complete in his discussion with you that you didn't go
10 into. How is that going to come out?

11 MR. STANTON: I'm not really going to elicit
12 any testimony from Mr. Kini Kini, Vainga Kini Kini, about
13 what he perceived it to mean. The only thing I'm going to
14 elicit is through the use of a photograph, it's a
15 photograph of a wall of another photograph. There are
16 three members of the Mormon church. I recognized two out
17 of the three. I'm not a member of the Mormon church, but
18 just out of my knowledge of that religion I know two out
19 of the three to be top ranking elders of the Mormon
20 church. The State is simply going to elicit what the
21 defendant did regarding that photograph, pointing a gun at
22 the photograph, and the statements he made.

23 THE COURT: Are they current elders or are
24 they past? Are we talking about Brigham Young?

25 MR. STANTON: Well, they're current. I

1 believe one of them is deceased. But I can't be
2 absolutely positive. But if he is deceased, it is recent
3 vintage, within the past year to two, if my knowledge of
4 Mormon religion is very accurate.

5 THE COURT: Okay. And Mr. Specchio, are you
6 objecting to this evidence?

7 MR. SPECCHIO: Not if we can put 12 Jews in
8 the box over there, I'm not going to.

9 THE COURT: I don't know if our population
10 will allow, statistically allow for that.

11 MR. SPECCHIO: I'm going to have a problem if
12 number seven is a Jack Mormon that knows all -- I can
13 guarantee you I won't know who these people are in this
14 photograph. So I'm at a disadvantage here.

15 THE COURT: Well, the testimony, though, even
16 describes who they are.

17 MR. SPECCHIO: That depends upon who you talk
18 to. My understanding is that that is not exactly
19 accurate. But like I said, I don't know. My problem is
20 if we have one of those people over there that is going to
21 be highly inflamed by such a statement. That's my
22 problem.

23 THE COURT: What is the relevance of this --
24 why is this the only testimony or the most probative
25 testimony you have to get across the threats to -- and I

1 assume you aren't offering this to show that he threatened
2 a Mormon elder, you're offering it based on your argument
3 to show that he threatened white people, to show motive
4 for killing Sergeant Sullivan.

5 MR. STANTON: Well, actually it's a little
6 bit more complex than that, Your Honor. And it goes to
7 all of what the defendant has told to friends, associates,
8 people within the Tongan community, about his thoughts on
9 religion, his life, why he is so angry and potentially the
10 basis of why he did what he did relative to Sergeant
11 Sullivan's murder.

12 For example, the defendant has made mention
13 to other individuals, and there is some thread throughout
14 this trial about the Mormon religion; it comes from the
15 defendant, no other source other than the defendant, of
16 the talking to people that he believes he's a Lamanite
17 warrior.

18 I'm not an expert on the Mormon religion. I
19 think one person that maybe everybody or the two parties
20 would agree would know more about the Mormon religion is
21 David Kini Kini; he's a very devoutly religious person.
22 He's the person we used as someone to explain what we had
23 heard the defendant's thought processes were about
24 religion, life, minorities, Mormon church. But more
25 directly relevant why he did what he did in this case, his

1 hatred towards white people, which the State believes is a
2 direct motivating factor for why he killed George
3 Sullivan. And he has taken, as David Kini Kini informs
4 us, and other people that we have bounced this off of here
5 in the local Mormon community, a historical fact or at
6 least claimed factor in the Mormon church about Lamanite
7 warriors and what the Mormon church believes occurred in
8 that. He's now kind of twisted that, because no one else
9 in the Mormon church believes apparently what the
10 defendant believes regarding what a Lamanite warrior is
11 and what a modern day version of what a Lamanite warrior
12 would be.

13 He's also, along with that, expressed a
14 hatred for coming to the United States, specifically a
15 hatred towards a parent figure, I think it's specifically
16 his mother, that she should have never brought them to the
17 United States; that he wanted to remain in Tonga.

18 The transcript talks about statements to
19 Vainga Kini Kini made upon his arrival in Salt Lake City
20 where he expressed a desire that that year was the year he
21 was going to return to his roots, his Tongan roots. And
22 so I think it all comes together and at least makes sense
23 from where he's formulating this opinion, it's obviously a
24 very grossly distorted view of Mormon religion, the
25 historical basis of the Lamanite warriors, and obviously

1 of coming to the United States. So in and of itself that
2 incident does directly, I guess, address the fact of his
3 hatred towards white people, but it has a much broader
4 context because it puts a lot of other statements that
5 he's made in the same light.

6 The defendant is a very intelligent man.
7 He's a very talkative person. He spoke at length to a lot
8 of people, friends and associates, about his beliefs,
9 religious and otherwise. And I think that is one aspect
10 that puts his other statements that will come in I believe
11 in this trial also into context, to include his version
12 that he's indeed a Lamanite warrior, a Tongan Robinhood or
13 several other somewhat distorted viewpoints.

14 MR. SPECCHIO: I don't know if he really
15 answered the question. There was a lot of different
16 directions he was going in. But I still don't understand
17 how we're going to not inflame a potential Mormon juror by
18 bringing in that statement.

19 THE COURT: Well, the issue for the Court
20 isn't whether or not -- there's a potential for anybody to
21 become somewhat incensed by any piece of evidence that is
22 presented in any trial.

23 MR. SPECCHIO: What's the probative value?

24 THE COURT: That's the Court's consideration.
25 Is there no other evidence that establishes the point that

1 you need to establish that is less prejudicial or less
2 inflammatory than what you want to offer?

3 MR. STANTON: That's what I was trying to lay
4 out to the Court was kind of a context of the probative
5 value. It's not only the probative value of the statement
6 that they happened to be three white people, it's also the
7 fact that the three white people within the Mormon church
8 are well known, both to the individuals and to the
9 defendant.

10 THE COURT: How do you get that -- I'm sorry,
11 I know you probably want to be kind of circumspect about
12 the theory of your case, but I still don't get how, even
13 if he hated Mormon elders, blamed the Mormon church for
14 everything, how you extrapolate that to the murder of
15 George Sullivan? Is there some proof that he is of the
16 Mormon faith and that that had any connection?

17 MR. STANTON: No. The connection, Your
18 Honor, is part of the defendant's dissatisfaction of, A,
19 being in the United States; B, his dissatisfaction with
20 the Mormon religion in the Mormon religion, and the
21 history of the Lamanite warriors. And maybe going into
22 that may shed some light on it.

23 Is the Court familiar at all with that term
24 and that historical basis?

25 THE COURT: No.

1 MR. STANTON: As I understand it, Lamanite
2 warriors were individuals of color. They were minority
3 individuals who were oppressed by a Caucasian conquering
4 group of people in that they ultimately coalesced and
5 revolted to protect primarily their land and their way of
6 life. And they were called Lamanite warriors,
7 specifically a term referring to people of color or a
8 minority in this conflict that they had in the uprising
9 that they were involved in. They are a people within the
10 Mormon church that -- and I'm not sure if it's correct to
11 say that that's part of the Mormon church's history or is
12 it just something that the Mormon church discusses as a
13 part of history and their religion's involvement in it.
14 It's my understanding that the people involved, and I
15 don't even know if they were Mormon or Mormon was even a
16 recognized religion at that time, but as I understand it,
17 that after the revolt, they protected their way of life
18 and their land and that was the extent of where the
19 Lamanite warriors historically were involved as a warrior
20 and as a term Lamanite.

21 The defendant has taken that, according to
22 family members who he's talked to, and said, well, they
23 didn't go far enough. They needed to go and get back what
24 they have had taken away from them by whites since that
25 uprising and, thus, the kind of a Robinhood scenario and

1 his displeasure within the Mormon church to include the
2 elders of the Mormon church which happen to be white, part
3 of the oppression of him as a minority within the church
4 or against white people in general.

5 Your Honor, as I indicated to you before,
6 there are not statements before this Court that the
7 defendant has made relative to his hatred towards white
8 people in general, his being distinctly upset about his
9 parents bringing him over from his native land into a
10 white culture, predominantly white culture.

11 THE COURT: What does the statement add to
12 what you've already presented? What does his statement at
13 the time of his location in Utah add that he's pointing
14 the pistol at the picture and --

15 MR. STANTON: I think it directly puts into
16 context his state of mind, both prior to the murder and
17 immediately after the murder. It is consistent with
18 his -- it's a piece of the puzzle as to what's going on in
19 his mind that establishes his intent and his motive, why
20 did he murder, and why did he murder in the fashion that
21 he did and who he did. For example, he has stated to
22 individuals that he perceives police officers to be a
23 particular role in society of oppressing minorities and,
24 thus, his anger and resentment directed towards not only
25 whites but police officers being one of several different

1 occupations that he finds more abhorrent than others.

2 THE COURT: Is there some evidence in this
3 case of the defendant's, that you intend to introduce that
4 the defendant believes that the Mormon church, he
5 believes, is oppressive?

6 MR. STANTON: Yes. His statements to --
7 statements made prior to the murder of George Sullivan, as
8 well as statements made after the murder of George
9 Sullivan. He believes as part of that oppression, the
10 Mormon church being a cause of some of the problems, to
11 include minority members within the Mormon church, of
12 which Tongans, the Kini Kini family, David Kini Kini told
13 us is a family of approximately 500 people that live in
14 Salt Lake City. All of them have a significant nexus or
15 direct affiliation with the Mormon church. And I think at
16 least I know for a fact that the Mormon church is very
17 active in the Pacific Island nations of which Tonga is one
18 of several, Samoa, and the islands.

19 THE COURT: At this point I'm not going to
20 rule on the admissibility of this particular statement in
21 the guilt phase of this case. I want to see how the rest
22 of the trial progresses and who our jury is. I'm going to
23 allow Mr. Specchio to renew the motion prior to the
24 witnesses testifying, if it appears that it's cumulative
25 or would inflame the particular jury that we have, and

1 then we'll have some more argument on it when I know what
2 the evidence is and I can truly decide it in its complete
3 context.

4 Is there any other criminal history evidence
5 that you want to put on?

6 MR. STANTON: Not in our case in chief, Your
7 Honor.

8 THE COURT: That's all the arguments, and I
9 can go through my list of motions that were filed by the
10 defense. And if there's something I leave out, Mr.
11 Specchio, please let me know.

12 You filed a Motion for Production of Samples,
13 Procedures and Report of all DNA Testing for Analysis. It
14 was ruled on in the August 4th, '98 order.

15 MR. SPECCHIO: Judge, let me just check these
16 off.

17 THE COURT: Motion in Limine Regarding
18 Prosecutorial Misconduct was ruled in the 8-4 order.
19 Motion for Discovery was ruled upon in an August 4th
20 order. Motion in Limine Regarding Courtroom Security was
21 ruled upon previously in the August 4th order.

22 MR. GAMMICK: I think my notes, Your Honor,
23 show the Court reserved that until trial time to actually
24 make a decision.

25 THE COURT: What I said was I thought we

1 would be fine and if there wasn't any problems we'd just
2 follow the usual procedure.

3 MR. GAMMICK: Okay.

4 THE COURT: But certainly the defense -- what
5 I did was I left it open for the defense to renew its
6 motion if there was some specific problem.

7 Motion in Limine Regarding Custody Status of
8 the Defendant. We did the same thing in that on the
9 August 4th order.

10 Motion in Limine Regarding Prior Bad Acts
11 we've just dealt with. The prior bad act, the only thing
12 that we haven't resolved either by stipulation today is
13 the issue with regard to the pointing the pistol and
14 offering to kill one of the white people depicted in the
15 picture. In your description, I'm assuming that there
16 were four white people and that you're describing Jesus
17 Christ as a depiction of a white person.

18 MR. STANTON: No, I don't know. The Court's
19 mentioned that twice now about Jesus Christ.

20 THE COURT: That's in the transcript.

21 MR. STANTON: No, there's three people in the
22 picture. Jesus Christ is not the fourth.

23 THE COURT: It's not a composite of some
24 kind?

25 MR. STANTON: He didn't reference killing one

1 particular, he said he was going to kill all three. At
2 least that was what Mr. Kini Kini said he observed by his
3 behavior and the actual statements he made.

4 THE COURT: Okay. So that particular issue
5 we're going to wait and hear what the rest of the evidence
6 is.

7 MR. STANTON: The confusion may be, Your
8 Honor, there's another picture on the same wall, separate
9 distinct picture of Jesus Christ; but the reference of his
10 behavior and his comments were not directed, at least as
11 far as I know, towards Jesus Christ.

12 THE COURT: Okay. That was a concern to the
13 Court because we weren't dealing with just incensing --

14 MR. STANTON: As far as I know, Jesus Christ
15 has nothing to do with this case.

16 THE COURT: Okay. Okay. We have Motion in
17 Limine Regarding Gruesome Photographs. I've given you my
18 ruling, but I'm also going to codify it in a ruling, in an
19 order that you'll receive tomorrow.

20 Motion for Hearing to Determine Competency of
21 Witnesses Under the Age of 14 Years. That was ruled upon
22 on August 4th.

23 Motion for Proper Number of Jury Veniremen.
24 That came out of August 4th. It was decided then.

25 Motion for Additional Peremptory Challenges.

1 That was denied August 4th.

2 Motion to Expand Jury Admonition. It's in
3 the August 4th order.

4 Motion to Sever. It was decided on August
5 4th.

6 Motion in Limine Regarding Reference to Gang
7 Affiliation. We've dealt with that by stipulation today.

8 Motion to Avoid Death Prone Jury. I'm going
9 to give my ruling in a written order tomorrow. That was
10 submitted previously.

11 Motion to Preclude Photographs and Television
12 Coverage in the Courtroom. I've orally entered an order
13 today on it. And you'll receive a written order tomorrow.

14 Motion for Invocation of Rule of Exclusion
15 was granted on August 4th.

16 Motion for Early Jury List was granted in
17 part on August 4th.

18 Motion for Individual Voir Dire we're going
19 to get. Basically I denied that today but we're going to
20 have a written order out of the December 10th hearing
21 after I've talked to the jury consultant and we have our
22 hearing, then I'll give you a written order on the
23 procedure we're going to utilize for all of the voir dire.

24 Motion for all Background Information on
25 Prospective Jurors was ruled on on August 4th.

1 Motion for Exchange of Expert Witnesses was
2 ruled upon on August 4th.

3 MR. SPECCHIO: What was that last one?

4 THE COURT: Motion for Order to Exchange
5 Expert Witnesses. It was filed June 9th.

6 MR. STANTON: Your Honor, relative to that,
7 I'll talk with Mr. Specchio when this is over, but Mr.
8 Specchio knows at this juncture whatever experts, like,
9 for example, Ellen Clark, at this point there's nothing
10 really to hide as far as who is a potential witness. But
11 depending on how the evidence comes out regarding the
12 religion and the motive in this case, there may be
13 technically somebody that's an expert witness relative to
14 the Mormon religion that may be called in this case. But
15 I'll talk to Mr. Specchio about that, about who we would
16 be calling in that regard.

17 THE COURT: Would you be calling them in your
18 case in chief or in rebuttal?

19 MR. STANTON: It really would depend upon how
20 the case develops and goes. If the State believes that
21 there is some need to explain that the defendant's version
22 of, for example, the Lamanite warriors or whatever is
23 something that needs further explanation, for example,
24 that it's not accepted within the Tongan community, it's
25 rejected, no one believes in it and certainly the degree

1 of beliefs held by the defendant would be considered even
2 within that community to be extreme, that would be
3 something. And we may not, relative to the Court's ruling
4 on that -- I know that there was several days in advance
5 that we must exchange that. I hope the Court will give us
6 some latitude along the lines of certainly subject matter
7 that all the parties knows are going to be potentially
8 involved here, who it may be, because we're obviously at
9 the point of talking to individuals. Who is available,
10 who is comfortable with doing it, number one, within the
11 local community here, is something that we may not need to
12 be massaging inside that Court's order.

13 THE COURT: Now, do you anticipate that that
14 evidence would be presented in the guilt phase or in the
15 penalty phase?

16 MR. STANTON: Your Honor, as far as I'm
17 concerned -- it potentially could be in the guilt phase
18 for the reasons I just mentioned, if for some reason the
19 introduction of the evidence would need further
20 explanation. Frankly, David Kini Kini, I think, might be
21 the guy that could put this whole thing to rest about what
22 it means and the history of the Mormon religion. He's a
23 very articulate man. So there may not be any further need
24 to go beyond his testimony.

25 As far as the penalty phase goes, certainly

1 not in the State's position, because his beliefs relative
2 to the Mormon religion and the Lamanite warriors and
3 Tongan Robinhood, other than to give some context to the
4 jury that he did it with some motive as opposed to a
5 purely random act, the State does not plan to introduce
6 any evidence regarding the Mormon religion and his state
7 of mind. I anticipate that the defense might do that. So
8 for purposes of a rebuttal witness during the penalty
9 phase to say the things I just said, that it was extreme,
10 not widely accepted or held within the Mormon community,
11 that's, I think, probably where it's most likely coming
12 from the State.

13 THE COURT: Well, certainly Mr. Specchio is
14 on notice at this time that there's a potential for
15 calling an expert witness with regard to particular tenets
16 of the Mormon religion. As soon as you know who that
17 witness will be, I'd ask you let Mr. Specchio know.

18 MR. STANTON: We will, Your Honor.

19 MR. SPECCHIO: That's assuming the Court's
20 going to allow this testimony at all.

21 THE COURT: That's right. That's just for
22 purposes of discovery and notice.

23 Now, we have the Motion in Limine Regarding
24 the Arrest of the Defendant. As I understood this
25 morning, the defense withdrew that pursuant to the outline