

1                    TUESDAY, MAY 20, 2008 AT 9:38 A.M.

2                    [Within the Presence of the Jury]

3                    THE COURT: Okay. We're back on the record in case  
4                    number C228752, the State of Nevada versus Daimon Monroe. Let  
5                    the record reflect the presence of the Defendant, his Counsel,  
6                    Counsel for the State, all ladies and gentlemen of the jury  
7                    are back in the box. Okay.

8                    MS. DIGIACOMO: Julie Holl.

9                    THE COURT: Julie Holl. This is what it kind of looks  
10                   like, ladies and gentlemen, we've got, I think, one witness  
11                   that's 15 or 20 minutes. I'll read you the instructions on  
12                   the law, which is about 15 minutes. And we're going to hear  
13                   argument -- I'm guessing it's two-and-a-half, so -- once  
14                   you're deliberating, the County buys you lunch. We've already  
15                   made arrangements for that, so I'm guessing we'll probably  
16                   just take a short restroom break, maybe, 11:00 or something  
17                   like that, and go through until about 1:00. Then we can feed  
18                   you while you're deliberating, and you don't have to waste any  
19                   time, you know, going out, or whatever.

20                   If we get to one o'clock and we're still going a  
21                   little bit, we may just stop and take a lunch break, but I  
22                   think it will work for us.

23                   THE CLERK: Please raise your right hand.

24                   JULIE HOLL, STATE'S WITNESS, SWORN

25                   THE COURT: State your name, spell your name for the

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1 Court Recorder, please.

2 THE WITNESS: Julie Holl. J-u-l-i-e H-o-l-l.

3 THE COURT: Go ahead.

4 DIRECT EXAMINATION

5 BY MS. DIGIACOMO:

6 Q How are you employed?

7 A I'm employed with the Las Vegas Metropolitan Police  
8 Department, assigned to the Tourist Safety Unit.

9 Q Is that as a Detective?

10 A Yes, it is.

11 Q Now, how long have you been with Metro overall?

12 A I've been with Metro for, going on 10 years now.

13 Q Do you have any other prior police enforcement  
14 background before coming to Metro?

15 A Yes, I do. I did just under 11 years in Lake  
16 County, Indiana.

17 Q And what was your role there?

18 A The time working there, I worked mainly K-9,  
19 underwater rescue and recovery, and regular patrol duties.

20 Q Now, back in the fall of 2006, what assignment did  
21 you have at that time?

22 A I was assigned to the Tourist Safety Unit.

23 Q As a Detective as well?

24 A Yes.

25 Q All right.

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1 A Swing shift.

2 Q Now, specifically drawing your attention to  
3 September 20<sup>th</sup>, 2006, on that date, were you investigating a  
4 certain person?

5 A Yes, I was.

6 Q And who was that?

7 A It was Bobby Holmes.

8 Q Now, you said Bobby Holmes. Is that his full name?

9 A Robert Bobby in quotations -- he goes by Bobby,  
10 Holmes.

11 Q All right. And I'm showing you State's Exhibit 994.  
12 Do you recognize this person?

13 A Yes, it is. That would be Bobby Holmes.

14 Q Now, did you execute a search warrant at his house  
15 at 6177 Riespine on the 20<sup>th</sup> of September?

16 A Yes, I did.

17 Q And, were there certain items that you took out of  
18 the residence?

19 A Yes. There were several electronic items, such as  
20 part of a recording studio, equalizers, and there was also a  
21 very large industrial-type Viking refrigerator that we took  
22 out.

23 Q Okay. Now, I'm going to show you what's been marked  
24 for identification as State's Proposed Exhibits 828 through  
25 833. If you could just flip through them quickly, and let me

1 know what -- if you recognize them.

2 A Yes.

3 Q Just flip through them all.

4 A Okay. Yes, I do.

5 Q Okay. Do these fairly and accurately depict the way  
6 the residence at Riespine looked when you executed the search  
7 warrant on November -- excuse me, September 20<sup>th</sup>, 2006?

8 A Yes, it does.

9 MS. DIGIACOMO: Your Honor, I move for admission of  
10 State's Proposed Exhibits 828 through 833.

11 THE COURT: Any objection?

12 MS. TRAMEL: No objection.

13 THE COURT: Admitted.

14 [State's Exhibits 828 through 833 Admitted]

15 BY MS. DIGIACOMO:

16 Q I'm showing you first State's Exhibit 828. What are  
17 we looking at here?

18 A That would be the entrance to Bobby Holmes's garage,  
19 and the main thing that we're looking at would be the  
20 refrigerator on the back wall, which was an industrial-size  
21 Viking refrigerator, that we later found to be reported  
22 stolen.

23 Q Okay. So, was this seized that day, on November  
24 20<sup>th</sup>? Or, I mean, excuse me, September 20<sup>th</sup>, 2006?

25 A Yes, it was.

1 Q All right. So you, at Metro actually took the  
2 Viking refrigerator out of the garage?

3 A Yes, we did.

4 Q Showing you State's Exhibit 829. What are we  
5 looking at here?

6 A I don't know, it's kind of hard to see. There's a  
7 chair there, and I believe it's actually a computer stand, I  
8 guess, it would be a CPU unit.

9 Q On the chair?

10 A Yes. And that whole area there was -- it would be  
11 the third part of the garage. His garage was actually a  
12 three-car garage, but the small third-car garage was actually  
13 made into a recording studio.

14 Q Okay. So this is looking into the recording studio?

15 A Yes, it would be.

16 Q I'm showing you State's Exhibit 830. What are we  
17 looking at here?

18 A That would be inside the recording studio, and those  
19 are items that we confiscated that we found to have been  
20 reported stolen.

21 Q And you said "those items". What items did you take  
22 out of the house that day?

23 A It would be the two speakers.

24 Q And you can circle on the screen.

25 A Oh, okay. It would be the two speakers here we

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1 took. Actually, it was everything here. We took the two  
2 monitors that were here, and I'm not in to the recording  
3 studio, so I'm not really sure exactly what these items would  
4 be called.

5 Q Okay.

6 A And then we took this item down here.

7 Q All right. Now, there are some other items around  
8 on the wall and on the side here. Did you see what those  
9 were?

10 A Yes, I did. This item right here.

11 Q On the wall?

12 A On the wall, I believe, was a Michael Jordan. He  
13 was in the air, like slamming a basketball, and it was signed.  
14 I'm not sure what this one would be. This one here, on the  
15 bottom.

16 Q On the bottom right?

17 A Bottom right, would be -- it's either -- I believe  
18 that's a Wilt Chamberlain signed jersey, and --

19 Q So, is it fair to say there were some sports  
20 memorabilia in the residence?

21 A There was actually a lot of sports memorabilia in  
22 the residence.

23 Q Was any of that seized at that time or taken?

24 A No, it was not.

25 Q Now, other than the Wilt Chamberlain and the Michael

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1 Jordan that you described, what other items of sports  
2 memorabilia do you remember from being in the house?

3 A There was another Michael Jordan jersey that was  
4 signed. There was a, I think, it's Dan Marley, purple jersey,  
5 Marley, I believe he played for the Phoenix Suns. There was  
6 one of his jerseys there that was signed. I also noticed a  
7 Muhammad Ali boxing glove encased in a plastic container.  
8 That was also signed and dated. And, there were several other  
9 items that I just, at this time, can't recall. I know there  
10 were signed basketballs and footballs and such.

11 Q Okay. And I'm showing you State's Exhibit 831.  
12 What are those things there?

13 A That would be the earlier picture that we just saw  
14 that you couldn't see very well. But that would be a computer  
15 stand that was taken out of his recording studio, the CPU.

16 Q Okay. So, this is the picture of the computer stand  
17 in the recording studio?

18 A Yes, it is.

19 Q And then showing you 833. What are we looking at  
20 there?

21 A This is in his upstairs den area, and there was  
22 another computer. I believe we found that this monitor here  
23 ended up coming up stolen, and you can't really see the CPU  
24 units down here on the bottom, but we also took those, because  
25 they came back stolen.

1 Q All right. Now with regard to the sport memorabilia  
2 items you just described, now were -- well, let me move on  
3 from there. So, on the 20<sup>th</sup> of September, you took certain  
4 items out. Now, do you recall the serial numbers of all of  
5 the items that you took out?

6 A Not off the top of my head. Those would be on our  
7 property report.

8 Q So, were you the one that actually filled out a  
9 property impound with regard to this case?

10 A Oh, there were a couple of us at the residence at  
11 the time, and I believe one of the other Detectives actually  
12 filled it out, but my name is on it.

13 Q So you would have been the one to confirm that all  
14 the items on there were impounded?

15 A Confirm and double-check, yes.

16 Q Now, do you recall specifically the model number or  
17 the serial number of the Viking refrigerator-freezer that was  
18 taken out?

19 A Mainly, all I remember is that part of it had been  
20 removed, and we were able to confirm the rest of the serial  
21 number through stolen reports.

22 Q Now, would that have been documented on this report?

23 A Yes, it would be.

24 Q And this report is made at the time of the impounds,  
25 when you're looking at the item and then writing down the

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1 numbers?

2 A Yes.

3 Q All right. Now, I'm going to show you a two-page  
4 property report. Do you recognize this?

5 A Yes, I do.

6 Q All right. And how do you recognize it?

7 A Well, my name is on top of it. It would be the  
8 event number that we used for the search warrant on Riespine.  
9 It also has Bobby Holmes's name and address on there.

10 Q All right. And, this also -- the event number tells  
11 you that you executed this warrant on September 20<sup>th</sup>, 2006?

12 A Yes, it does.

13 Q All right. Now directing you to package 1, item 1,  
14 is that the Viking refrigerator-freezer we've been referring  
15 to, in the garage?

16 A Yes, it is.

17 Q And what was the partial model number that you could  
18 get off of that garage, if it's documented on your report?

19 A The partial was the David David Sam Baker and I  
20 believe the 4 2 and I believe the 3 and I believe it would be  
21 an S S would be what was left off on the --

22 Q On the --

23 A -- on the refrigerator.

24 Q Okay.

25 A On the sticker that was inside the refrigerator.

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1 Q So, then, how did you determine what that full  
2 number was?

3 A We found that exact same refrigerator with the same  
4 numbers leading up to the 2, just missing the 3SS, that was  
5 reported stolen, to our department.

6 Q Okay. And that was by Canyon Construction, Grand  
7 Canyon Construction?

8 A Yes, it was.

9 Q All right. And then items 6 and 7, what  
10 specifically was impounded there?

11 A Those were Alesus [phonetic] Monitor 1 speakers, a  
12 set of two.

13 Q And then if you could, the next item, item 8, what  
14 was that?

15 A It's a Tascam CD recorder, it's a CD/RW 5000.

16 Q Does it have a serial number?

17 A Yes, it does.

18 Q What is that serial number?

19 A It would be 9902010.

20 Q And item number 9, what is that?

21 A It's an AKG microphone, model C414B B Baker dash  
22 Union Lincoln Sam, ULS.

23 Q And what's the serial number?

24 A 51530.

25 Q And item 10, what was that?

1 A It's a Novation drum station.

2 Q And what item -- oh, does that have a serial number,  
3 the drum station?

4 A Yes, it does. 008485.

5 Q What about item number 11, what is that?

6 A That was a Novation, a black Novation super base  
7 station, with the serial number of 020914.

8 Q And lastly, what was item 12?

9 A It's an Ensoniq's DP4 effects processor, and that  
10 had the serial number removed.

11 Q And when you say Ensoniq's, can you spell that for  
12 the record?

13 A It would be E Edward N Nora S Sam O Ocean N Nora I  
14 Ida Q Queen.

15 Q All right. These items were all impounded by you?

16 A Yes, they were.

17 Q Now, moving you forward -- well, actually let me ask  
18 you. When you executed the warrant on the 20<sup>th</sup>, was there  
19 anyone else living at the residence at the time?

20 A Yes, there was.

21 Q And who was that?

22 A That would be his wife, Princess, and it would be  
23 his wife's mother and father were also residing there, along  
24 with their children.

25 Q So, Bobby Holmes's wife's name is Princess?

1 A Yes.

2 Q All right.

3 MS. TRAMEL: Objection. Calls for speculation.

4 THE COURT: Overruled.

5 BY MS. DIGIACOMO:

6 Q Now, was Mr. Holmes arrested that night on these  
7 stolen property charges?

8 A No, he wasn't. He wasn't present on the -- he  
9 wasn't on the premises at the time.

10 Q All right. Was he arrested at a later date on the  
11 stolen property charges?

12 A Yes, he was. We had contacted his attorney. We had  
13 made --

14 Q Well, let me just ask you. I just want to know the  
15 date that he was arrested.

16 A He was arrested on 10/12 of '06.

17 Q On October 12<sup>th</sup>, just about two weeks after this?

18 A Yes.

19 Q Okay. Now, directing your attention to November 6<sup>th</sup>,  
20 2006. Did you take place in a search warrant that was  
21 executed at Cutler?

22 A Yes, I did.

23 Q And when you did that, what was your role?

24 A Myself and another officer were impounding items and  
25 placing the information from those items onto a property

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1 sheet, and tagging them for evidence.

2 Q What rooms specifically, or what items were you and  
3 the other -- well, who is the other officer?

4 A Dave Arbity.

5 Q And what were you and Detective Arbity actually  
6 assigned to tag, or which rooms?

7 A Pretty much at the time it was anything and  
8 everything, but we originally started within the front room,  
9 which would be the, I guess, the dining-living room area is  
10 where we initially started our impounding.

11 Q And at some point, do you move to the music room?

12 A Yes, we did, which is also downstairs.

13 Q Do you -- all right. And do you, actually, between  
14 you and Detective Arbity, do you do all of the sound  
15 equipment, or the music equipment, that comes out of that  
16 room?

17 A Yes, we did.

18 Q Okay. Now, with regard to the loft area, did you go  
19 up there as well?

20 A Yes, we did.

21 Q All right. And was there some electronic equipment  
22 up there that you impounded, with Detective Arbity?

23 A Yes, there was.

24 Q Okay. Now, I'm going to just show you State's  
25 Proposed Exhibit 341. Do you recognize this?

1 A Yes, I do.

2 Q Okay. And how do you recognize it?

3 A That would be the -- it would be actually a  
4 downstairs bedroom at the Cutler address that was being used  
5 as a possible music recording type room.

6 Q And this fairly and accurately depicts the keyboard  
7 and monitor that was in that room?

8 A Yes, it does.

9 MS. DIGIACOMO: Your Honor, I'd move for admission of  
10 State's Proposed Exhibit 341.

11 THE COURT: Objection?

12 MS. TRAMEL: No objection, Your Honor.

13 THE COURT: Admitted. . .

14 [State's Exhibit 341 Admitted]

15 BY MS. DIGIACOMO:

16 Q Okay. At the time that you were at the Cutler  
17 residence doing the search warrant, you said that you and  
18 Detective Arbity worked as a team to impound certain items?

19 A Yes.

20 Q How was it that that was actually impounded? How  
21 did the paperwork happen?

22 A Detective Arbity was filling out the actual property  
23 report, and I would fill out the actual stickers or tags that  
24 would go onto the property that we were impounding.

25 Q All right. So, you would have taken part in listing

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1 what they were? Serial numbers, et cetera?

2 A Yes.

3 Q All right. Now, I'm going to show you page 2 of a  
4 24-page impound report from Cutler. Do you recognize this  
5 page?

6 A Yes, I do.

7 Q And how do you recognize it?

8 A I recognize it as I was watching Detective Arbity  
9 fill it out as I was also filling out the tags, because I  
10 would read the serial numbers to him. He would write them  
11 down. Of course, I would also observe to make sure he was  
12 writing down the right serial number.

13 Q All right. So now I want to direct your attention  
14 specifically to item number 20 on page 2. What was that that  
15 was impounded by you and Detective Arbity?

16 A That would be a Marantz --

17 Q And spell that please.

18 A M Mary A Adam R Robert A Adam N Nora T Tom Z Zebra.  
19 It was a CD/DV player.

20 Q All right. And did it have a serial number attached  
21 to it?

22 A Yes, it did.

23 Q And what is that entire serial number?

24 A It would be M Mary 2000509002592.

25 Q Now, looking at page 2, item 35. What was that that

1 was impounded?

2 A That would be a Panasonic digital audio tape  
3 recorder.

4 Q All right. Did that have a serial number?

5 A No. There is not a serial number listed on the  
6 report here, that it was either removed or it didn't have one.  
7 More than likely it was removed.

8 Q Now, showing you page 3. It is items 38 and 39.  
9 What are those?

10 A It's an Acoustic Engineer set of amps. It would be  
11 two amps.

12 Q No, I'm sorry, items, not --

13 A Oh, I'm sorry.

14 Q Items 38 and item 39.

15 A Sorry.

16 Q I apologize.

17 A it's an M-Audio, it's a model Sam Paul 5 Baker set  
18 of speakers. It would be two speakers.

19 Q All right. Did those two speakers each have a  
20 serial number of them?

21 A Yes, they did.

22 Q And what was the serial number on the first speaker?

23 A 29 Sam Paul 5 Baker 1129-2.

24 Q And then what was the serial number of the second  
25 speaker?

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1 A 29 Sam Paul 5 Baker 1129-1.

2 Q All right. And then also on this page, page 3, item  
3 62, at the bottom. What was impounded there?

4 A It's an Ensoniq's Model DP4 effects processor.

5 Q And I'm showing you page 4, item 67.

6 A It's a Tascam CD re-writable recorder.

7 Q And what -- how do you spell Tascam?

8 A Tom Adam Sam Charlie Adam Mary.

9 Q And did this recorder have a serial number?

10 A No.

11 Q And then I'm showing you page 4, item 78. What's  
12 listed there?

13 A That would be a Marantz stereo receiver.

14 Q Did that have a serial number?

15 A It sure did.

16 Q What was that?

17 A Mary 2000507004989.

18 Q And again, with pages 3 and 4, you recognize these  
19 as being the pages that you and Detective Arbity had filled  
20 out?

21 A Yes.

22 Q When you were impounding?

23 A Yes.

24 Q Okay. Now, based upon what you saw at the Cutler  
25 residence, is there anything else you did that day?

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1           A     Yes. At the Cutler residence, I noticed that a lot  
2 of the items within the recording room were extremely familiar  
3 to the items that were also in Bobby Holmes's residence.  
4 Also, within the Cutler residence was a lot of sports  
5 memorabilia that looked and appeared to be the same type of  
6 memorabilia that was in the Holmes's residence.

7           Q     All right. So, did you get another search warrant?

8           A     Yes, I did.

9           Q     And was it executed that evening of November 6<sup>th</sup>,  
10 2006?

11          A     Yes, I did.

12          Q     All right. I'm going to show you what's been marked  
13 for identification as State's Proposed Exhibit 834 through  
14 836. If you could flip through those and let me know if you  
15 recognize them all?

16          A     Yes, I do.

17          Q     And how do you recognize these?

18          A     These would be the photographs depicting the address  
19 and the front of 6177 Riespine.

20          Q     And this is where the search warrant was executed on  
21 November 6<sup>th</sup>, 2006?

22          A     Yes, it was.

23          Q     And these photographs were taken that night?

24          A     Yes.

25          MS. DIGIACOMO: Your Honor, I move for admission of

1 State's Proposed Exhibits 834 through 836.

2 THE COURT: Any objection?

3 MS. TRAMEL: No objection.

4 THE COURT: Admitted.

5 [State's Exhibits 834 through 836 Admitted]

6 BY MS. DIGIACOMO:

7 Q I'm showing you State's Proposed Exhibits 837  
8 through 842. Flip through them all and just let me know if  
9 you recognize them all.

10 A Yes, I do.

11 Q Okay. And are these additional photographs taken of  
12 the inside, specifically, the family room area, of Riespine on  
13 November 6<sup>th</sup>, 2006?

14 A Yes.

15 Q Do they fairly and accurately depict the way that  
16 room looked?

17 A Yes.

18 MS. DIGIACOMO: I move for admission of 837 through 842.

19 THE COURT: Any objection.

20 MS. TRAMEL: No objection.

21 THE COURT: Admitted.

22 [State's Exhibits 837 through 842 Admitted].

23 BY MS. DIGIACOMO:

24 Q I'm showing you State's Proposed Exhibits 843  
25 through 845. Do you recognize these as fair and accurate

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1 depictions of the way the dining area looked next to the  
2 family room area on November 6<sup>th</sup>, 2006?

3 A Yes, I do.

4 Q Okay.

5 MS. DIGIACOMO: I move for admission of 843 through 845.

6 MS. TRAMEL: No objection.

7 THE COURT: Admitted.

8 [State's Exhibits 843 through 845 Admitted]

9 BY MS. DIGIACOMO:

10 Q I'm showing you State's Proposed Exhibits 846  
11 through 853. If you could look at all those photographs.

12 A Yes, I recognize them.

13 Q Okay. Do they fairly and accurately depict two of  
14 the kids' rooms that were in the Riespine residence on  
15 November 6<sup>th</sup>, 2006?

16 A Yes, it does.

17 MS. DIGIACOMO: Your Honor, I move for admission of 846  
18 through 853.

19 MS. TRAMEL: No objection.

20 THE COURT: Admitted.

21 [State's Exhibits 846 through 853 Admitted]

22 BY MS. DIGIACOMO:

23 Q I'm showing you State's Proposed Exhibit 854 through  
24 857. Do you recognize all four of these photographs?

25 A Yes, I do. That would be the den area.

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1 Q Okay. And do these fairly and accurately depict the  
2 den or the office area of the Riespine residence on November  
3 6<sup>th</sup>, 2006?

4 A Yes it is.

5 MS. DIGIACOMO: Your Honor, I move for admission of 854  
6 through 857.

7 MS. TRAMEL: No objection.

8 THE COURT: Admitted.

9 [State's Exhibits 854 through 857 Admitted]

10 BY MS. DIGIACOMO:

11 Q I'm showing you State's Proposed Exhibits 858  
12 through 866. Do you recognize what's depicted on all these  
13 photographs?

14 A Yes, I do.

15 Q And do they fairly and accurately depict the way the  
16 master bedroom looked at the Riespine residence on November  
17 6<sup>th</sup>, 2006 when you went in that house?

18 A Yes, it does.

19 MS. DIGIACOMO: I move for admission of State's Proposed  
20 Exhibits 858 through 866.

21 MS. TRAMEL: No objection.

22 THE COURT: Admitted.

23 [State's Exhibits 858 through 866 Admitted]

24 BY MS. DIGIACOMO:

25 Q And then lastly, I'm showing you State's Proposed

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1 Exhibits 867 through 871. Can you just flip through those and  
2 let me know if you recognize them.

3 A Yes, I do.

4 Q And do these fairly and accurately depict the way  
5 the items, some of the items that were taken out of the house,  
6 looked before they were carried away by Metro on November 6<sup>th</sup>,  
7 2006?

8 A Yes, they do.

9 MS. DIGIACOMO: Okay. I move for admission of 867  
10 through 871, Your Honor.

11 MS. TRAMEL: No objection.

12 THE COURT: Admitted.

13 [State's Exhibits 867 through 871 Admitted]

14 BY MS. DIGIACOMO:

15 Q I'm showing you, first of all, 343. Do you  
16 recognize this photograph?

17 A Yes, I do.

18 Q Okay. What are we looking at here?

19 A It would be some electronics equipment that would  
20 have been taken out of the third part of the garage, or the  
21 recording studio. And this is in the garage area.

22 Q Now, which date was this?

23 A That would have been on November 6<sup>th</sup>.

24 Q And showing you 344, is that a close-up of one of  
25 the items that we were looking at in 343?

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1 A Yes, it is.

2 Q I'm showing you State's Exhibit -- excuse me, 578.  
3 Do you recognize what's depicted here?

4 A Yes. Again, it would be more of the electronic  
5 equipment that we had taken out of the studio area.

6 Q Okay. And this was on September 20<sup>th</sup>?

7 A Yes, it would be.

8 Q Okay. And it was taken out of the room that we see  
9 in 579?

10 A Yes.

11 Q Okay. Now, you had said that you -- one the reasons  
12 you wanted to go back into the residence at Riespiene on  
13 November 6<sup>th</sup> was for some sports memorabilia?

14 A Yes.

15 Q And when you got out there, was there any sports  
16 memorabilia in the studio or the music room, that was part of  
17 the third -- part of the garage?

18 A No. The only thing we found in there was there was  
19 a basketball, but it looked like it was signed by some type of  
20 league that you and I, or anyone else, would play in. It  
21 wasn't signed by any sports stars.

22 Q So, all the items that we discussed earlier, the  
23 Michael Jordan, the Wilt Chamberlain, the Marley, the Muhammad  
24 Ali, did you not see any of those items when you went back on  
25 the 20<sup>th</sup> -- or excuse me, on the 6<sup>th</sup> of November?

1 A No, those were all removed.

2 Q All right. Now, at some point, did you see  
3 photographs of possibly those items again?

4 A Yes, I did.

5 Q Okay. Now, I'm showing you State's Exhibit 1118.  
6 Do you recognize what we're looking at here?

7 A Yes. That looks like the same Muhammad Ali encased  
8 glove, signed, encased glove that I saw at the Riespine  
9 address.

10 Q And so the one, the glove that you saw at Riespine  
11 on September 20<sup>th</sup>, 2006, was enclosed in a plastic case like  
12 this?

13 A Yes, it was.

14 Q Okay. But you don't know where this photograph was  
15 taken from?

16 A No, I don't.

17 Q And then, actually looking in the background there,  
18 there's a Michael Jordan and another jersey back there. Do  
19 you recognize those?

20 A Those were very similar to the ones that were in the  
21 Riespine address, too. In fact, the -- appears to be the  
22 third one in the back might be the Marley.

23 Q I'm showing you a better picture of those. I'm  
24 showing you 1120. First of all, there's a Michael Jordan, and  
25 it's got a photograph and a signature above the Jordan.



1 A Those look very similar.

2 Q Okay.

3 A To the ones in Riespine.

4 Q Now, you can't say from these photographs if they're  
5 the exact same ones that you saw in Holmes's residence on  
6 September 20<sup>th</sup>, correct?

7 A No, I can not.

8 Q But these look almost the same?

9 A Yes.

10 Q Okay. What about the Wilt Chamberlain, that's  
11 signed on the number 1?

12 A It looks just like the ones that I saw in his  
13 recording studio.

14 Q And the Marley that's signed on the 9?

15 A Yes, the same.

16 MS. DIGIACOMO: Pass the Witness.

17 THE COURT: Questions?

18 MS. TRAMEL: Just a couple, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. TRAMEL:

21 Q Detective, you were initially in charge of  
22 investigating Bobby Holmes, correct?

23 A Yes, I was.

24 Q All right. And all of the sports memorabilia that  
25 we just viewed in those pictures was recovered from Holmes's

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1 Riespine address, correct?

2 A Those photos that we just looked at now?

3 Q Yes.

4 A No. They were not recovered from his house.

5 Q You initially saw them?

6 A Yes. I initially viewed them, very similar ones, at  
7 his residence, yes.

8 Q At the Riespine address?

9 A Uh-huh.

10 Q Great. And the Viking refrigerator that you  
11 recovered from Bobby Holmes's residence, did not have a  
12 complete serial number, correct?

13 A No. I believe there was three numbers that were  
14 missing.

15 MS. TRAMEL: Court's indulgence. That's all, thank you.

16 THE COURT: Ms. DiGiacomo?

17 MS. DIGIACOMO: Just to clarify.

18 REDIRECT EXAMINATION

19 BY MS. DIGIACOMO:

20 Q You said -- she asked you about a serial number? It  
21 was actually the model number that was partially removed on  
22 this -- the Viking refrigerator?

23 A Yes, you know, yes, it was. It was the model  
24 number, I'm sorry.

25 Q There actually wasn't a serial number on the

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1 refrigerator?

2 A No, there wasn't. That was part of what was removed  
3 was, part of the model number and then the rest of the serial  
4 number, that was attached to it, is everything that was  
5 removed from it.

6 MS. DIGIACOMO: Nothing further.

7 THE COURT: Thanks, Detective. Appreciate your time.  
8 State?

9 MS. DIGIACOMO: Your Honor, I have here three public  
10 documents that are certified that -- it's State's Proposed  
11 Exhibit 995, 996, and 997. These are the certified DMV  
12 vehicle registrations for Tonya Trevarthen's car, Bryan  
13 Fergusons's Explorer that was found on the side of the  
14 residence, and Robert Holmes's white box truck. And I move  
15 for admission.

16 THE COURT: Any objection?

17 MR. HART: Only relevance, Your Honor.

18 THE COURT: Be admitted.

19 [State's Exhibits 995 through 997 Admitted]

20 MS. DIGIACOMO: With that, the State rests.

21 THE COURT: Defense?

22 MR. HART: Your Honor, the Defense rests.

23 THE COURT: All right. That's the evidence, ladies and  
24 gentlemen. As I told you before, the next thing that happens  
25 is we give you the law that applies to this case, what the law

1 says is I have to read you each of the statutes that come out  
2 of the books, that apply to anything that's been shown today.

3 What I've found over years and years of doing it is,  
4 the easiest way to do it is to give you a copy, you read along  
5 with me, it makes a lot more sense. When the lawyers argue,  
6 they may point you to number 9 or number 17. You can look  
7 right at it. You don't have to try to take notes as fast as I  
8 can read, and when you go back to the jury room, there's --  
9 each of you has a copy so you don't have to pass one around.  
10 It speeds things up. I know you can all read. What I'd  
11 really like to do is say is read it to yourself, and when you  
12 get to the end, let me know by raising your hand. But that's  
13 not the way it works, so bear with me.

14 [Jury Instructions Read]

15 THE COURT: You want five minutes now, or you want to  
16 hear an hour argument and take five minutes?

17 UNIDENTIFIED JUROR: Take five.

18 THE COURT: Five minutes right now? Get your argument  
19 set up. Let's go.

20 [Off the record]

21 [Within the Presence of the Jury]

22 THE COURT: We're now back on the record in case number  
23 C228752, State of Nevada versus Daimon Monroe. Let the record  
24 reflect the presence of the Defendant, his Counsel, Counsel  
25 for the State, all ladies and gentlemen of the jury are back

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1 in the box. Ms. Small, go ahead.

2 MS. SMALL: Thank you, Your Honor. They didn't think we  
3 were anything big. They didn't think we were anything big.  
4 On September 24<sup>th</sup>, 2006, officers are called out on a burglary  
5 call. They're heading out in that direction. They get  
6 another call, another burglary call comes out, so they divert  
7 their attention to that call. They get into that area, they  
8 see a white minivan in the parking lot.

9 It's two, three o'clock in the morning. It's dark,  
10 it's cold. There's no traffic out. There's no people walking  
11 around. They follow the white minivan. They pull it over.

12 Officers approach the white minivan. They see two  
13 men sitting in the front of that white minivan. The driver,  
14 the Defendant, Daimon Monroe. The passenger, Bryan Fergason.

15 Officers ask them to get out of the vehicle, and  
16 another officer goes up to the van. He peeks his head in.  
17 He's checking to see is there anybody in the back of that van  
18 hiding, for officer safety. And something catches his  
19 attention.

20 There's a crystal object on the ground in that white  
21 minivan. It catches his attention, and he looks at it, and  
22 come to find out that white crystal object is connected to the  
23 Anku Crystal Palace. That very night, the Anku Crystal Palace  
24 had been burglarized, and that object had been taken out of  
25 the store. Other objects that had been taken out of the store

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1 were also found in that white minivan.

2 That's not the only thing the officers find in the  
3 white minivan, though, ladies and gentlemen. They also find  
4 tools. They find sledgehammers with tape wrapped around the  
5 handles. They find crowbars. They find screwdrivers, and  
6 they find this one screwdriver in particular that sort of  
7 catches their attention.

8 The shaft of the screwdriver is sort of shaved down.  
9 It's a little bit narrower than a normal screwdriver, and it's  
10 bent at a 90-degree angle. Detective Nickell came in  
11 yesterday, and he testified, and he told you that through his  
12 investigation, he learned that the Defendant had a name for  
13 that tool. Matthew.

14 Detective Nickell also testified that when you take  
15 Matthew and you insert it into a commercial glass doors that  
16 come together and they're in a metal frame, when you insert  
17 Matthew in, it comes up on the other side. It flips over, and  
18 it opens up that little thumb lock. I mean, you get into the  
19 property pretty quickly, very little damage on the door.

20 Based on this, Detective Nickell decides to  
21 investigate further. He starts listening to jail calls. Jail  
22 calls between Tonya and the Defendant. Jail calls between the  
23 Defendant and Bryan Ferguson. Jail calls between the  
24 Defendant and Bobby Holmes.

25 Based on those jail calls, he starts to think, we

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1 need to set up surveillance. Eventually, in November 6, 2006,  
2 they serve a search warrant on 1504 Cutler and that's why  
3 we're here today. That's why we're standing here today,  
4 ladies and gentlemen. That's why we just spent the last seven  
5 days talking about all of this property.

6 There was a jail call between the Defendant and  
7 Bryan Fergason. That jail call, the Defendant states in it,  
8 they're going to have to prove it's somebody else's shit,  
9 okay? Who in the world is going to come to court four years  
10 later, three years later --

11 MR. HART: Objection, Your Honor.

12 THE COURT: What?

13 MR. HART: Three to four years later. Uncharged, Your  
14 Honor.

15 THE COURT: He's charged with possessing property, some  
16 of which was taken four years before. Overruled. Go ahead,  
17 Ms. Small.

18 MS. SMALL: Thank you. Who in the world is going to come  
19 to court four years later? Three years later? You think  
20 somebody is going to take their time and still matter for five  
21 years?

22 Well, guess what, ladies and gentlemen, we all know  
23 they care. We all know that they showed up here in court over  
24 the past week, and here's all the people that cared. Here's  
25 all the people, here's all the victims that showed up here in

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1 court.

2 Now, we have the burden of proof. We have to prove  
3 to you beyond a reasonable doubt that a crime has been  
4 committed and that the Defendant committed those crimes. So  
5 what crimes have been committed? Conspiracy, and if you look  
6 at jury instruction number 4, conspiracy states that "a  
7 conspiracy is an agreement between two or more persons for an  
8 unlawful purpose". It goes on to explain in greater detail.

9 But, basically, it breaks down into these three  
10 elements. There needs to be an agreement between two or more  
11 persons, for an unlawful purpose.

12 Let's start with between two or more persons,  
13 because I think that one we can just check off right away.  
14 Certainly you heard the jail calls. You heard the calls  
15 between all of the people involved, the Defendant, and Bobby  
16 Holmes, and Brian Ferguson, and Tonya Trevarthen. That's two  
17 or more persons involved.

18 I guess the real issue comes down to how do we know  
19 that there was an agreement between all of them for an  
20 unlawful purpose? How do we know there was an agreement for  
21 an unlawful purpose? Follow the evidence. Follow the stolen  
22 property.

23 Think about this. Looking at Count IV, Annie Lee  
24 Gallery. There were nine paintings recovered that had been  
25 taken from July 9<sup>th</sup>, 2006. There was one single burglary on



1 July 9<sup>th</sup>, 2006. There was a lot of paintings taken. Officer  
2 Rapozo came in, he testified, he told you he went out there,  
3 he saw all the blank walls with all the little hooks hanging  
4 on them and all the paintings missing.

5 Mr. Hines came in. He worked at the gallery. He  
6 had artwork in there. He testified that some of his paintings  
7 had been taken. Here's the thing, ladies and gentlemen, on  
8 Novembers 6<sup>th</sup>, 2006, when that search warrant was served at the  
9 Cutler residence, what was one of the things that they found  
10 out there? They found four of the Annie Lee paintings at the  
11 Cutler residence. They found four of the Annie Lee paintings  
12 at the Buffalo storage unit. They found one of the Annie Lee  
13 paintings at the Charleston storage unit, and they found Annie  
14 Lee price tags at Pirate's Cove.

15 A circle. A circle connecting all of these  
16 individuals to this case. How does it do it? Cutler. Let's  
17 look at Cutler for instance. We know that the Defendant was  
18 living there with Tonya and their three children. We know he  
19 was living there, he was paying rent. Mr. Foreman came in, he  
20 got on the stand, and he testified that he paid him about  
21 \$1,600 a month, and in fact, he would pay him six months in  
22 advance in cash.

23 Buffalo. Bryan Ferguson's name was on the lease for  
24 that property, for that storage unit. People came in, they  
25 testified, they told us that he came in, he paid for that

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1 storage unit on a monthly basis in cash, he showed his ID.

2 We've got the Defendant, we've got Brian Fergason.  
3 Now we have the Charleston unit, where one of the Annie Lee  
4 paintings was found at. The Charleston unit is in Tonya's  
5 name. And what else is significant about Charleston? Because  
6 we heard Detective King. He came in and he testified that he  
7 saw the Defendant and a huge moving van drive over to the  
8 Charleston unit, and start taking stuff out of that big, huge  
9 moving van, and load it into that storage unit. Certainly, he  
10 also had access, along with Tonya, to that property.

11 Pirate's Cove. Who is Pirate's Cove connected to?  
12 Bryan Fergason. That's where his apartment was. One single  
13 burglary, one singly burglary where all these items were  
14 taken, and you find them in all these different locations.  
15 Follow the stolen property, ladies and gentlemen.

16 Let's take another one. Look at Count XVII, Grand  
17 Canyon Construction. We know that on August 26, 2004, they  
18 were burglarized. They are putting in homes in a construction  
19 area. They hadn't quite finished yet. Econ had delivered  
20 some of the appliances that were supposed to be put in there.  
21 They hadn't been put in yet. They were burglarized.

22 Viking electric cook top was taken. A Viking  
23 refrigerator was taken. Where do we find those two things?  
24 On November 6<sup>th</sup>, 2006, where were those two items found? One  
25 was found at Cutler, one was found at Riespine. The

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1 refrigerator was found at Riespine. Who does Riespine connect  
2 to? Bobby Holmes.

3 It's a circle, ladies and gentlemen. A conspiracy.  
4 Follow the stolen property. Let's just look at one more.  
5 Looking at the very last count, Count XXVII. Right on Beat  
6 Productions. There were numerous items taken from that  
7 facility on April 15<sup>th</sup>, 2002. Think about this. 2002, ladies  
8 and gentlemen. This burglary took place.

9 Where were items found? Cutler and Riespine again.  
10 Riespine, connected to Bobby Holmes. 2002. This search  
11 warrant took place in 2006. And yet we're finding the  
12 property from that burglary in different locations connecting  
13 to all the people charged -- not charged, but all the people  
14 connected to this case.

15 What other evidence do we have that there was a  
16 possible conspiracy? Because if you look at jury instruction  
17 number 7, it talks about that "each member of a criminal  
18 conspiracy is liable for each act and bound by each  
19 declaration of every other member of the conspiracy if the act  
20 or the declaration is in the furtherance of the object of the  
21 conspiracy".

22 What does that mean? The act of one is the act of  
23 all. The act of one is the act of all. How do we know there  
24 was a conspiracy? The jail calls. Remember the conversations  
25 that the Defendant had with Brian Ferguson. What were some of

1 the conversations they had? They were talking about  
2 McNeilly's in those conversations. We know that McNeilly is a  
3 victim in this case. That his place -- his storage unit was  
4 burglarized, and his property was taken out.

5 What else are they talking about? The Defendant  
6 tells Bryan Fergason in one situation, he says, hey, they get  
7 the little Matthew, they -- excuse me, they got the Big  
8 Matthew, but the Little Matthew was left in the car. Talking  
9 about Matthew. They're talking about McNeilly's.

10 He also says -- he also talks to him about his  
11 storage unit. The Defendant says to Bryan Fergason hey man,  
12 when's the storage unit up? When's the storage unit due? And  
13 then he says, which is really interesting, he says oh, dude, I  
14 shouldn't have said that. Because they're talking on jail  
15 house calls. He knows he's being recorded.

16 What else do we know? We know that the Defendant  
17 got that big huge moving van from Bobby Holmes, took it over  
18 to Brian Fergason's apartment at Pirate's Cove, loaded it up  
19 with all of his stuff, drove it over to Charleston, and put  
20 all of his stuff in the Charleston storage unit.

21 The Defendant and Bobby Holmes, what do we know  
22 about them? We heard jail calls between them. What did they  
23 say? At one point, the Defendant says to Bobby, did you clean  
24 up that spot? Did you clean up that spot? No, no, Bobby  
25 responds. The Defendant, you've got to do that, dude. You've

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1 got to do that. What is he talking about? I mean, ask  
2 yourselves, what do you think they're talking about?

3 The other interesting connection between those two  
4 is this. We heard from Tonya. She came in and she testified  
5 that the Defendant rented the Sahara storage unit, which he  
6 rented in a fake ID under the name of Ashton Monroe. He  
7 rented that storage unit so he could move all of Bobby's home  
8 stuff into that storage unit.

9 All of these people are connected, ladies and  
10 gentlemen. Follow the property. Follow the stolen property.  
11 They're all connected. There is one single burglary, and it's  
12 found in several different locations.

13 What other crime is charged here? Possession of  
14 stolen property, and boy, we have a lot of it, don't we? If  
15 you look at jury instruction number 13, it sort of breaks this  
16 whole concept down pretty simply. It says that a person  
17 commits an offense involving stolen property "if the person  
18 for his own gain or to prevent the owner from again possessing  
19 his property, buys, receives, possesses, or withholds  
20 property, knowing that such is stolen property, or under such  
21 circumstances as should have caused a reasonable person to  
22 know that it was stolen".

23 Well, we've got to figure out what all that means.  
24 We discussed the conspiracy. Now, possession of stolen  
25 property. And if we break it down into these simple bullet

1 points, the first one being you have to ask yourselves, do you  
2 think that they were permanently depriving those victims of  
3 their property? And here's what I would point out with regard  
4 to that. I believe one of the charges is from back in 2002.  
5 The search warrant took place in 2006. Another one of the  
6 charges is from 2004, and several of them are from 2006.

7 Where was the property found? It's found in the  
8 Defendant's home. I mean, he's living in the home with all  
9 the furniture, with all the Milton Homer furniture. He's  
10 using the TV's. He's using the sofa. He's using the  
11 refrigerators. He's using the spa. He's using all of that  
12 stuff. Do you think he was going to return it?

13 The stuff that's in the storage units. It's locked  
14 up, packed up in the storage units with a big lock on it. Do  
15 you think they're going to return that stuff? I think you can  
16 check that off your list, ladies and gentlemen. Buys,  
17 receives, or possesses stolen property.

18 I'm just going to ask you to look at instruction  
19 number 14, because the law recognizes two kinds of possession.  
20 Actual possession and constructive possession.

21 A person who knowingly has direct possession control  
22 over a thing at any given time, is then in actual possession  
23 of it. And the Judge read all this to you, so I don't want to  
24 keep repeating the same stuff to you, but let's talk about  
25 stuff that we possess every single day, because it doesn't

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1 have to be in your pocket. It doesn't have to be in your  
2 purse. It doesn't have to be in your hand.

3 In fact, you see the pen on the desk over there, in  
4 front of Ms. DiGiacomo? Right now, as I stand here, I'm in  
5 constructive possession of that pen. Why? Because I know  
6 it's there, and I can go over and use it at any time. It's  
7 that simple. It's that simple. So was the Defendant in  
8 possession of the stolen property?

9 Certainly Cutler. We know he was living there. He  
10 used all of the stuff at Cutler. He could have used all of  
11 the stuff at any given time. Charleston and Sahara. Sahara  
12 was in his name. He went and opened up that unit under his  
13 name, under that Ashton Monroe name. He showed his ID. He  
14 was ID'd by the individuals that work there. They came in and  
15 testified.

16 Charleston. He was seen at the Charleston location,  
17 unloading the truck. It's also in Tonya Trevarthen's name.  
18 We know that's his girlfriend.

19 Buffalo. Let's talk about Buffalo. Bryan Fergason.  
20 You heard jail calls between the Defendant and Bryan Fergason  
21 talking about the Defendant going over to his house, taking  
22 care of his stuff, moving his van, and as a matter of fact, he  
23 had his vehicle at his house. He went in and unloaded all of  
24 the stuff out of his apartment, and took it to the storage  
25 unit. Certainly the Defendant had constructive possession

1 over that Buffalo storage unit.

2 Very last element here, knew or should have known  
3 that the property was stolen. Mr. Hart, in his opening  
4 statement, said to you it's quality, not quantity. In this  
5 particular case, ladies and gentlemen, it's quantity. And  
6 quantity equals quality in this particular case.

7 Think about this: if you have one item in your house  
8 that's stolen, one sofa, let's say, in your house that's  
9 stolen, well, maybe you can make an argument that you didn't  
10 know that it was stolen property. But when you have thousands  
11 of pieces of stolen property, isn't there a reasonable  
12 inference that you would know or you should know that that  
13 property is stolen.

14 And couple it with this: the Defendant didn't have a  
15 job. The woman that was living in the house with him, his  
16 girlfriend, was making about a hundred bucks a day. She told  
17 you that she didn't purchase any of those items, that she  
18 couldn't afford to purchase any of those items. Isn't it a  
19 reasonable inference, ladies and gentlemen, when you have  
20 thousands of pieces of stolen property in your possession,  
21 that you would know that they were stolen?

22 Think about this, too: there were 12 to 15 flat  
23 screens in that house that were stolen. There were 88 pieces  
24 of furniture from Milton Homer store stolen. Tons of sports  
25 memorabilia in the garage, lining the garage walls. The



1 children's rooms were covered in cartoon cells, stolen. In  
2 this case, quantity equals quality.

3 Value. "The value is the highest value attributable  
4 to the property by any reasonable standard." And here's where  
5 we need to get into it a little bit more. The purchase price,  
6 the price tag, or replacement cost. All of those things can  
7 be used to determine the value of the property.

8 Desert Rock Sports. We know when the burglary took  
9 place. We know what items were taken out of that particular  
10 location. We know where the items were found. What was the  
11 value?

12 MR. HART: Your Honor, I'm going to object. That's a  
13 misstatement, Your Honor. This is a possession of stolen  
14 property case. It's at the time it was possessed, not --

15 THE COURT: It would be the value of the property on the  
16 dates charged, which is September to November '06. Now, she  
17 can argue that based upon the testimony she had about the  
18 value at some other time, there's a reasonable inference of  
19 value. But you are correct, Mr. Hart. That's the timeframe  
20 they're going to have to make the determination.

21 MS. SMALL: The items that were taken from Desert Rock  
22 Sports. We heard from the owner, he came in, took the stand,  
23 and he testified as to the value of that property.

24 He said that the sleeping bags apiece cost between  
25 \$200 and \$350. He said that a pair of socks is about \$10, and

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1 there were maybe 50 pairs of socks. Certainly, that is over  
2 the \$250 mark. You can go ahead and check that off.

3 Touch of Vegas. Here are all the items that were  
4 taken, and the value. Again, we had someone come in, take the  
5 stand, and testify. And we know that some of those items,  
6 just one of them in particular, would probably kick us up over  
7 the \$250 mark. All of these items combined are over \$2,500.  
8 You can go ahead and check the \$2,500 mark on that one. It's  
9 cumulative. Buffalo storage unit was found. Cutler. Those  
10 items were found.

11 Annie Lee Gallery. Again, the burglary took place  
12 on July 9<sup>th</sup>, 2006. There were paintings found at Cutler,  
13 paintings found at Buffalo, paintings found at Charleston.  
14 The value, you know, you saw Mr. Hines come in, he was  
15 testifying as to the value of Annie Lee's property because he  
16 worked at that gallery. And he said that one of her paintings  
17 alone would go for \$10,000. So, I mean, even if you felt like  
18 they weren't worth \$10,000, or you wouldn't pay \$10,000 for  
19 them, certainly, cumulatively, all nine paintings were over  
20 the \$2,500 mark. There's Annie Lee collecting her paintings  
21 at Cutler. There they are at the storage unit.

22 And the other thing that I point out to you, ladies  
23 and gentlemen, with regard to this, is these items were  
24 actually very unique. How do we know that they were Annie  
25 Lee's? Well, the art had a basic theme to it. It all looked

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1 very much the same. And the other concept is this: it was all  
2 signed Annie Lee. I don't think there is any question that  
3 those paintings came from the Annie Lee Gallery. Also West  
4 Charleston.

5 Spa Depot. When the burglary took place, what was  
6 taken? And, again, I believe she came in and testified over  
7 \$2,500, but certainly it's over \$250, that those spa chemicals  
8 cost. What's significant about this? How did she know those  
9 chemicals belonged to her? Well, they are the only dealer in  
10 the area that sold these particular spa chemicals with that  
11 particular brand on it. That's how she was able to recognize  
12 it.

13 See's Candies. I love that picture. They talked  
14 about how much the candy was per pound. They said that it  
15 \$15.40 per pound for the Famed Gold Fancies, and I think there  
16 was one pound of those. There was five pounds of the dark  
17 assorteds, and there was 24 pounds of the assorteds.  
18 Certainly, ladies and gentlemen, if you look at that, it's  
19 over the \$250 mark for all of the candy that was found at the  
20 Cutler residence.

21 Mountain Springs Wellness. You heard Mr. Waldron  
22 come in, he was the owner. He testified, I think that  
23 hyperbolic chamber was over the \$2,500 mark. So, certainly,  
24 the chair along with that hyperbolic chamber were under the  
25 \$2,500 mark. And what's significant about this? You know,

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1 how do we know that belonged to him? Well, first of all,  
2 there were serial numbers on both of those things. But  
3 second, I mean, how many people have a hyperbolic chamber  
4 sitting around their house? I mean, I don't. And the tan  
5 massage chair, he came in and identified also. There it is at  
6 Smoke Ranch, there's the chair at Cutler.

7 Land Baron Investments. Here are the items that  
8 were taken. And we heard testimony that all of those items  
9 combined certainly were over \$2,500. I believe the monitor  
10 itself was over that amount. There is the gentleman at Cutler  
11 collecting those items. There is the North Buffalo storage  
12 unit where some of the items were found. And, the -- you can  
13 see here in the corner, the baseball cards, the Vegas chips.

14 Econ Division. And I'm just going right down the  
15 counts. Burglary, April 8<sup>th</sup>, 2006. What was taken? Ladies  
16 and gentlemen, don't you -- he got up here and testified, I  
17 mean, just one of those refrigerators was well over that  
18 amount. But, certainly, if you combine all of those -- the  
19 Sub-Zero refrigerator-freezer, the Sub-Zero freezer, the ice  
20 machine, the washer and dryer, the small refrigerator. Well  
21 over \$2,500 for those items. There they are at Cutler.

22 Okay, Milton Homer. Burglary February 20<sup>th</sup>, 2006.  
23 You know, there were 88 items found at that house belonging to  
24 Milton Homer. Milton Homer --

25 MR. HART: Objection. I don't know if there was

1 testimony about 88 items.

2 THE COURT: I don't know if anybody testified  
3 specifically how much. Objection sustained. The jury can  
4 kind of figure out how many there are.

5 MS. SMALL: There are numerous items found at the Cutler  
6 residence.

7 THE COURT: That's fair.

8 MS. SMALL: There was a lot of furniture found there.  
9 You heard the representative from Milton Homer come in and  
10 testify. I mean, the sofa alone was worth over \$2,500.  
11 Certainly, all of those items combined were over \$2,500.  
12 Check that off. There is a truck -- those urns, also, that he  
13 testified to, were worth thousands of dollars. The bronze  
14 urns.

15 Cal Spas. Here's the burglary, spa. And here is  
16 one we're going to have to concede, ladies and gentlemen. We  
17 had this charge as over \$2,500. The representative came in,  
18 and he testified that the value of that spa was \$2,300. So  
19 what you're going to have to do on that particular situation  
20 is just check the \$250 or more on that one.

21 The thing that's really interesting to me, too,  
22 about a lot of these items that were found at Cutler, and you  
23 might want to ask yourself this question: do you think the  
24 Defendant loaded that spa into his home by himself? Do you  
25 think the Defendant loaded all of that furniture into his

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1 house by himself? Just kind of swinging you back to that  
2 conspiracy idea. There is the spa.

3 Here is the next count. Burglary on June 13<sup>th</sup>, 2005.  
4 An icemaker found at Charleston. The value. They stated that  
5 the value was \$1,500, so you're going to check the \$250 box on  
6 that one. There it is at West Charleston storage.

7 H.P. Media Group. I'm just trying to run you  
8 through this briefly so you kind of get a concept of what  
9 everything, what was said, what everything cost. Here are all  
10 the items that were taken from H.P. Media. Now, it's my  
11 understanding and if you look at your little cheat sheet for  
12 H.P. Media -- let's see what we've got here -- I'm sorry,  
13 ladies and gentlemen -- because I don't want to mislead you on  
14 this. The H.P. Media Group, there were one, two, three, four,  
15 five, six, seven items that we could actually count up and  
16 determine whether or not it was over the \$2,500 mark. So, I  
17 don't want to mislead you with this. Because not -- these  
18 were all the things that were taken, but we could not value  
19 all of these things when we're determining the value on this  
20 count. We can determine the Marantz digital receiver, the  
21 Marantz -- there were two of those digital receivers, the  
22 Marantz DVD player, and the four JBL surround sound speakers.  
23 And I would suggest to you, ladies and gentlemen, those items  
24 are well over the \$2,500 mark.

25 MR. HART: Your Honor, for the record, I would object.

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1 Because it does list almost double the items that they're  
2 charged with.

3 THE COURT: Well, the only thing the jury can find him  
4 guilty of is something that he's charged with and something  
5 that is within his possession, or if they find a conspiracy,  
6 within the possession of one of the co-conspirators, between  
7 the dates charged. September to November, 2006. If it  
8 doesn't fall in that category, then he's off the hook. Go  
9 ahead.

10 MS. SMALL: And certainly, ladies and gentlemen, that's  
11 why I clarified to you that the particular items that are  
12 being charged towards the Defendant. The two receivers, the  
13 DVD player, and the four JBL speakers. And again, certainly,  
14 those items, combined, are well over the \$2,500 mark. They're  
15 found at Cutler. That's a viewing of some of the items at  
16 Smoke Ranch storage unit.

17 KDS. The burglary was on May 31<sup>st</sup>, and here are the  
18 items that were recovered. Again, in this particular  
19 situation, there's only certain items that you can look at to  
20 determine value. Only the items that were charged, those  
21 items being the framed matchbook collection, the framed Norman  
22 Rockwell silver proof set, and the framed Norman Rockwell  
23 print with stamps. Those three items. And we heard testimony  
24 that framed Norman Rockwell silver proof, certainly all three  
25 of those together is over the \$2,500 mark. You can go ahead

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1 and check \$2,500 on that count.

2 MR. HART: And again, I would object because there's  
3 about 25 items listed on the display being used.

4 THE COURT: She's already said that they can only  
5 consider the three that are charged. Overruled.

6 MS. SMALL: Thank you, Your Honor. Those items were  
7 found at Cutler, West Charleston storage unit, Smoke Ranch  
8 storage unit, North Buffalo storage unit. All over the place.

9 See America. Burglary February 21<sup>st</sup>, 2005. There  
10 were 15 cells and/or paintings found at Cutler. Five pictures  
11 found at the Charleston storage unit. Three pictures found at  
12 Buffalo. And the value, certainly, ladies and gentlemen, over  
13 \$2,500, when you combine all of those things together.  
14 There's the cartoon cells at the Cutler residence, that clown  
15 picture at West Charleston storage unit, some more cells at  
16 the North Buffalo storage unit.

17 McNeilly Art Studio. Burglary January 18<sup>th</sup>, 2005.  
18 Three-D art and sketches of women found at the Charleston  
19 storage unit. Five McNeilly paintings found at the Sahara  
20 storage unit. And value over \$2,500. Now, I know this is  
21 probably pretty subjective because of that particular artwork.  
22 But you heard Mr. McNeilly come in, get on the stand, and  
23 testify as to what he would sell those items for. And that's  
24 what you look at. What would he sell those items for?  
25 Certainly, with the number of items that were taken from his

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1 storage unit, we're going to get up over that \$2,500 mark.

2 Grand Canyon Construction and/or Econ. Burglary  
3 August 26<sup>th</sup>, 2004. A Viking cook top found at Cutler. A  
4 Viking refrigerator found at Riespine. I submit this one to  
5 you, ladies and gentlemen. A Viking cook top and a Viking  
6 refrigerator are over \$2,500, and we did have testimony as to  
7 that. And these things -- you know, some of these things, and  
8 these things in particular, they were able to identify them  
9 because they had serial numbers on them. There is the cook  
10 top found at Cutler, and there is the refrigerator found at  
11 Riespine. And you just heard Detective Holl come in and  
12 testify as to them locating that particular refrigerator at  
13 Riespine. That's Bobby Holmes's house.

14 Dr. Richard Groom. Burglary on May 30<sup>th</sup>. That  
15 painting that was taken, value \$250 or more. I think that he  
16 came in -- let me see here -- Dr. Richard Groom, yeah. He  
17 said he'd paid about \$400 at the time for it. He did testify  
18 that it was twice that much now, but at the time, he only paid  
19 \$400. He said he put about \$150 to \$200 in the frame.  
20 Certainly, it's over the \$250, \$250 mark. There is the  
21 painting at West Charleston storage unit.

22 Plaza Café. Burglary March 28<sup>th</sup>, 2004. The  
23 commercial meat slicer found at Cutler. Certainly, it's worth  
24 \$250 or more. And you heard the gentleman that was the owner  
25 of that Plaza Café. He came in and testified as to the value.

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1 And there he is.

2 Complete Cosmetic Surgery. Burglary June 21<sup>st</sup>. Two  
3 large framed original tapestries found at Cutler. And, you  
4 know, he came in and testified that those, especially at the  
5 present time, would be worth more than the \$2,500. But we've  
6 only charged it as \$250 or more. So, you can just go ahead  
7 and check the \$250 or more. These were certainly impressive,  
8 the size of them, the quality of them.

9 DVD Unlimited. Burglary May 13<sup>th</sup>, 2003. Two studio  
10 monitor speakers found at Cutler. The production center found  
11 at Riespine. Certainly, these two items together, the  
12 speakers, the two speakers and that production center, would  
13 be over \$250. And you did hear a representative come in and  
14 testify to that. There they are, and there he is.

15 Family Music Center. Burgled November 29<sup>th</sup>, 2002.  
16 Six guitars found at Cutler. Seven guitars found at Smoke  
17 Ranch storage unit. The value -- you heard him talk about how  
18 expensive these guitars were. I mean, a lot of them were  
19 about \$1,000. I think he said between \$800 to \$1,000 a piece.  
20 So, certainly, with all of those guitars, we're going to add  
21 up to \$2,500 or more. You can check that off. There he is.  
22 There is one of the guitars from Smoke Ranch.

23 Brady Industries. Burglary November 11<sup>th</sup>, 2002.  
24 Commercial vacuum floor scrubber, buffers, value -- he came in  
25 and testified as to what those items cost, the representative

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1 from Brady Industry. And, he testified that cumulatively, at  
2 the end I believe I asked him a question as to how much did  
3 all of that stuff cost all together? It was over \$2,500.  
4 There's a picture of him.

5 Global Entertainment. Burglary March of 2005. Tons  
6 of memorabilia taken from that location. Certainly that type  
7 of memorabilia would go for more than \$2,500 when you combine  
8 all the things taken from that particular location. North  
9 Buffalo unit, the West Charleston storage unit.

10 Furniture Markdowns. Burglary May 8<sup>th</sup>, 2006. Here  
11 are the items that were taken. And, even with all of these  
12 items, we're merely going for the \$250 mark. I know that  
13 there was some discrepancy as to how they knew that those  
14 items came from Furniture Markdown. First of all, Ms. Paulson  
15 came in and testified that the chest and the night stands were  
16 from Goody's [phonetic] Company, and that was something that  
17 was very unique. They were the only ones that sold those  
18 particular items in the area. And her son came in and  
19 testified as to -- and I think they looked very unique, like  
20 the pineapple stand bases and so forth were very unique to  
21 that particular store. So, with all of those items, I think  
22 we get up over \$250. You can just go ahead and check that  
23 off. Here are the items at the locations that they were  
24 found.

25 Platinum Collectibles. Burglary March 18<sup>th</sup> 2002.

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1 Guitars found at Cutler. And again, certainly, they're over  
2 \$2,500. Those guitars again -- let me see what we had on  
3 those guitars. Platinum Collectibles. He said for one of the  
4 guitars alone, when he was talking about the guitars, it was  
5 \$3,000. Just for one of the guitars alone. So, certainly if  
6 you combine all those guitars together, we're going to get  
7 over the \$2,500 mark alone. That was the guitars.

8 Right on Beat Productions. Burglary April 15<sup>th</sup>,  
9 2002. Here's all the stuff that was taken, from Cutler, from  
10 the Riespine location. Here's all the equipment. Right on  
11 Beat Productions, when you look at all of that equipment, and  
12 certainly today, that probably the value would be a lot less.  
13 I think when you take all of the equipment collectively,  
14 though, you could at least come to the \$250 mark. Probably  
15 over the \$2,500 mark. I submit that to your discretion.

16 They didn't think we were anything big.

17 MR. HART: I'm going to object, Your Honor.

18 THE COURT: What?

19 MR. HART: Other acts.

20 THE COURT: What objection?

21 MR. HART: Other acts, Your Honor. Uncharged. They  
22 keep --

23 THE COURT: What other acts?

24 MR. HART: Well, they're implying that there's other acts  
25 out there.

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1 THE COURT: No. They're implying that the amount of  
2 stolen property was a lot. Overruled. Go ahead.

3 MS. SMALL: They didn't think we were anything big. When  
4 you go back to the jury deliberation room, and you take that  
5 big huge box of evidence back with you, and you look through,  
6 if you want to, all of those pictures of all the stolen  
7 property that was recovered from Cutler, from Riespine, from  
8 Buffalo, from Sahara, from Charleston, and you put it all  
9 together, it is about quantity, ladies and gentlemen. In this  
10 case, quantity equals quality. Thank you.

11 THE COURT: Mr. Hart?

12 MR. HART: Ladies and gentlemen, I'm going to stand back  
13 here, so I've got my paper, and I'm not up in your face.

14 MS. SMALL: Sorry, Marty.

15 MR. HART: It's okay.

16 MS. SMALL: Just trying to get off of that.

17 MR. HART: My big beginning. Yes, I did state quality  
18 over quantity. Because when you first heard all of the  
19 witnesses that come in, and you've seen all the evidence, all  
20 the stuff you're shown, it can be overwhelming.

21 But remember, this is 27 separate counts. And each  
22 count has to be looked at separately. It deserves, requires,  
23 mandates, that you do look at each count. It's simple to go,  
24 oh, well, I think he did something so he did everything.

25 That's not your job as jurors. Your job as jurors is to look

1 at each and every count and go under them.

2 Also, look at that verdict form, please, because it  
3 does break down over \$2,500, under \$250, and if you don't find  
4 beyond a reasonable doubt, remember, that's your standard --  
5 if you don't find beyond a reasonable doubt, it's a not  
6 guilty.

7 Also, remember that you're looking at charges of  
8 possession of stolen property. You're going to start with the  
9 instruction as to value, but the instruction goes to how much  
10 were the items worth when they were discovered? Not when they  
11 were stolen. Not what they were three years earlier. What  
12 were they worth then? Because, remember, they're like, see,  
13 we have 27 different counts.

14 Count I, let's talk about that real quick. That is  
15 conspiracy to commit burglary at the Anku Crystal Palace  
16 and/or the dentist, Just for Kids Dentistry, along with  
17 conspiracy to commit possession of stolen property. The only  
18 burglaries we're looking at here, the only burglary you can  
19 consider here, are those two. I'm not going to discuss the  
20 burglaries any more, Your Honor and ladies and gentlemen.  
21 I'll leave that up to you. But that's the evidence used to  
22 that burglary.

23 There was talk about conspiracy. Yes, conspiracy  
24 goes to the acts, you were told, one for the other. As to a  
25 conspiracy count, ladies and gentlemen, one count of

1 conspiracy. So let's look at what we have.

2 We raided six different addresses. 3250 North  
3 Buffalo, in the name of Bryan Ferguson. Had been for quite  
4 some time. We have the West Charleston address in the name of  
5 Tonya Trevarthen. The Smoke Ranch address, in the name of  
6 Tonya Trevarthen. 8265, in the name of Ashton Monroe, but if  
7 you remember the testimony of Claire Winters, said yeah, but  
8 it was the black guy that used it.

9 Riespine. It was also in the name of Bobby, Bobby  
10 Holmes. 1504 Cutler, that would be Tonya and Daimon -- the  
11 testimony that came in. And then you have Pirate's Cove, also  
12 Bryan's address. And you were asked to look at the different  
13 counts. And go through them. You just went front to back. I  
14 got a little sloppier.

15 You know, let's look at the Plaza Café. A meat  
16 slicer that had -- the testimony came in, and I asked  
17 specifically, the testimony you're talking about, is back in  
18 2004. It was gone. A used meat slicer, ladies and gentlemen.  
19 What is a used meat slicer worth? You have no expert  
20 testimony as to values. You don't have -- you have the  
21 testimony of 2004 value on something that was -- happened in  
22 2006.

23 DVD Unlimited. I'd argue that the State kind of  
24 made my argument for me. I believe that was the gentleman  
25 that testified, yeah, well it gets outdated pretty quick.

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1 There were two -- he was testifying from three years  
2 previously.

3 Now, let's get back to that -- the items from the  
4 Viking cook top and the freezer. Well, you heard the  
5 testimony that the freezer, first of all there was no serial  
6 number on it. The other was a cook top, which was found at  
7 the Cutler address, the freezer was at Riespine. Once again,  
8 we're looking at when it was retrieved. There was no  
9 testimony that it was functioning, useful, at that time at  
10 all.

11 Land Baron. Let's see, what happened there? Oh,  
12 yes, we had Mr. Beller and Mr. Chernine came in and testified  
13 -- they testified to some of their own stuff. They testified  
14 to a lot of stuff that belonged to the company. It wasn't  
15 directly theirs. The Sony monitor had gone back. Did you  
16 notice -- I don't know if you remember. I asked about that.  
17 Because, the last thing, there's no Sony monitor listed in any  
18 police report for things that were taken. Mr. Chernine was,  
19 well, maybe I grabbed the wrong one. Well, there was a couple  
20 of instances of that here and there Your Honor, ladies and  
21 gentlemen.

22 Look at -- well, let's just get to that. We're  
23 talking quantity versus quality, uniqueness and identity. A  
24 lot has been made that these were collectibles. Obviously  
25 unique items. So unique that Platinum Collectibles has to get



1 called by the police saying, oh, by the way, that's not yours.  
2 And then they remember to return it. Right after they're  
3 contacted.

4 Detective Nickell was honest when he said yes, there  
5 was a man named Mr. Nero [phonetic] that they had to go  
6 attempt to retrieve items from him. Another unique  
7 collectibles items.

8 You're looking at whether or not these were unique  
9 as you're going through these collectibles, et cetera. You  
10 had two Woodstock photos with tickets. We had testimony at  
11 one hearing that that's mine. Then you come back later and  
12 say oops, that one's not mine, that one is mine. Because your  
13 duty, and the reason I'm bringing this, it's your duty to  
14 prove each and every element of the crimes charged on each and  
15 every count beyond a reasonable doubt. So you can't just go,  
16 there's a bunch of stuff there. He's guilty.

17 Cal Spa. Yes, they testified that new, apparently,  
18 that spa was \$2,300. No testimony as to what a used spa was  
19 worth.

20 Hoshizaki, with the icemaker. That was in the  
21 warehouse in Tonya's name. She's not charged as a co-  
22 conspirator on this, if you read the -- they said you should  
23 go through, she's not a listed co-conspirator.

24 Desert Rock Sports. That testimony came out, yeah,  
25 we sell those socks. I think we're the only ones that sell

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1 the sleeping bags. Keep in mind that Desert Rock Sports,  
2 along with most of the people listed here, are in the business  
3 of selling items. They wouldn't have them if they didn't  
4 sell. Therefore can anybody testify with any true certainty  
5 that yes, those are the socks that were stolen, that we didn't  
6 sell? That was the equipment we didn't sell?

7 Global Entertainment. That was the Caynes, the  
8 husband and wife with all the disks and DVD's, and everything  
9 else. Those items were returned from North Buffalo again, and  
10 West Charleston. In addition, to the question about value,  
11 those are truly unique items. They testified that they really  
12 couldn't tell you what they were. They told you, well, to me,  
13 like he testified to me, invaluable, because it goes to what I  
14 was doing at that time. But what is a gold record with  
15 somebody else's name on it worth to you? Again, no appraisers  
16 coming in. No memorabilia to tell you this is what it's  
17 worth.

18 Right on Beat Productions. Actually, I think I  
19 misspoke a minute ago. That was the gentleman that came in  
20 and said yeah, it gets outdated pretty quick due to changes.  
21 He was very honest on that, ladies and gentlemen. I would ask  
22 you again, you're looking at value beyond a reasonable doubt.  
23 Because if you can't find it over \$250, no matter what you  
24 think, in the law, it is a not guilty.

25 Dr. Groom testified about his photo, his racing the

1 stork, and what he paid a few years earlier. He also  
2 testified that he remounted it. Had it re-matted. It's a  
3 collectible type item. Quite often with artwork, the value  
4 and matting are part of it. Has to do if it retains the  
5 original mounting or matting. Especially when it's a limited  
6 edition kind of -- and you have no testimony as to an  
7 appraiser saying this is what it's worth.

8 Platinum Collectibles. The guitars. They reported  
9 one was worth \$3,000 or more. Yet, when asked what they  
10 reported originally to the police, years earlier, \$500 per  
11 guitar, at best. These are the same people that were able to  
12 identify everything, and walked out with the Tombstone poster  
13 and a couple of other movie posters that had to be contacted  
14 by Metro to return them. Your jury instructions say "material  
15 elements". Value and identity are material elements of this.  
16 Being able to discern is that actually ours? It also says if  
17 they, I won't use the word "lied", misrepresented, as to any  
18 particular item, you can discount all their testimony.

19 Furniture Markdown. They testified that a couple of  
20 the dressers were a unique manufacturer. Everything else was  
21 -- what's the word I want to use -- commonly carried by  
22 everybody. The palm table base. Then we asked, well, you  
23 didn't list the palm table base on your original reports, did  
24 you? No, you never listed them. The cartoon cells, on your  
25 original reports, did you? No. Yet, those very less-than-

1 unique items are things that you're being asked to consider to  
2 come up with a price, beyond a reasonable doubt.

3 The gentleman from Touch of Las Vegas, came across  
4 as a real nice old -- nice guy. But his testimony, if you  
5 remember, was, I can't really remember what I paid. I think  
6 it was about this. I think it was about that. All the way  
7 through. He couldn't truly remember the values.

8 I cannot [indiscernible] this enough. The value is  
9 a material. I'd ask you to prove beyond -- just remember,  
10 it's beyond a reasonable doubt. Not just what feels right,  
11 but what is beyond a reasonable doubt.

12 Mountain Springs Wellness Center. Hyperbaric  
13 chamber. Again, that was found at the Smoke Ranch address,  
14 not in Daimon Monroe's name. But you can -- there was a  
15 massage chair, a used massage chair, found at the Cutler  
16 address. There's an instruction use your common sense out  
17 there, too. Any of you've been to Costco. You're not allowed  
18 to do research, but you're allowed to use your common sense  
19 and knowledge. What does a new one go for? What would a used  
20 one go for?

21 Now, we went over the jury instructions, and I need  
22 those back. Briefly, a few minutes ago, instruction number  
23 16. You heard me hammer repeatedly, Defendant is presumed  
24 innocent until the contrary is proven. Presumed. This  
25 presumption places the State -- gives the State -- puts on the

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1 State the burden of proving beyond a reasonable doubt every  
2 material element of the crime charged. And, that the  
3 Defendant is the person who committed the offense.

4 Then it goes on, "and if you, having reasonable  
5 doubt as to the guilt of the Defendant, he's entitled to the  
6 verdict of not guilty". I cannot stress this strong enough.  
7 Every material element. Value. Possession. Knowing that  
8 it's stolen, ladies and gentlemen. Those are all material  
9 elements.

10 And then there's instruction number 20 about  
11 accomplice liability. You heard testimony from Tonya  
12 Trevarthen. That instruction says you can't consider, or you  
13 have to have independent corroboration, independent proof,  
14 with her testimony.

15 And it's up to you to decide how much independent  
16 proof is necessary. And please keep in mind that this is an  
17 individual that, well, you got instruction about a felony  
18 count treatment, and how you look at her testimony based on  
19 the felony conviction, but the reality, you're looking at a  
20 gross misdemeanor, because that's what happens at the end.

21 A hundred thousand dollars is missing. In Texas.  
22 Money not returned was part of the \$25,000 or so transferred  
23 to her mother. Please look at all her testimony with just a  
24 grain of salt.

25 She came in and she said I did it because I wanted

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1 to do the right thing. I would submit to you that she came in  
2 because she sure as heck needed to keep the heat going  
3 somewhere else. Out of all the storage units, two that were  
4 the most full had her name on them. The last couple of  
5 exhibits there are where the car is in her name. Please keep  
6 in mind when you're reading those instructions, you have the  
7 instruction on conspiracy and liability, that goes to one  
8 count. And that's Count I. Thank you for your time.

9 THE COURT: Ms. DiGiacomo?

10 MS. DIGIACOMO: Actually, Mr. Hart is wrong. This is not  
11 27 individual counts that's alleged here. There are 27 counts  
12 in the indictment, but they're not all separate counts. What  
13 you have here is an overriding conspiracy. And when you have  
14 an overriding conspiracy like you do in this case, the act of  
15 one is the act of all.

16 Mr. Monroe is on the hook for all that stolen  
17 property. Doesn't matter if it was in a house he lived in,  
18 but he didn't have a lease in his name. It doesn't matter if  
19 it was found in a car that is in the name of his girlfriend.  
20 Or in the storage unit in the name of his girlfriend, or in  
21 the storage unit in the name of one of his buddies. Doesn't  
22 matter. It's a conspiracy, and he was right in the middle of  
23 it.

24 You don't even need to look at Tonya's testimony to  
25 get to that. You've got the Defendant's own words. You've

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1 got the property. Look at where it's found, and then start  
2 looking at the jail calls.

3 The Defendant knows what's going on, and he knows  
4 who's got what. Mr. Ferguson is still in jail, and Defendant  
5 is telling him about, you know, don't worry, I'm going over to  
6 your place. I'm taking care of you. I've got that covered.  
7 I'm going to get you moved out.

8 You recall there's one call where he says, you know  
9 what? I was freaking last night, because you know, the heat's  
10 on them. They talk about Rop's [phonetic] watching them, and  
11 he goes, I moved out your McNeilly's and all your g's. And  
12 Ferguson is like my what? He goes, your g's. He goes, my  
13 g's? Yeah, the four-string, the six-string.

14 He's talking about the guitars. He's talking about  
15 the McNeilly paintings. Where were all those McNeilly  
16 paintings found? At West Charleston, which was the storage  
17 unit Tonya rented to get all of Brian Ferguson's stuff out of  
18 his house and into that storage unit.

19 And, also, there was more stuff that was put in the  
20 side of the yard and in the garage at Cutler. Defendant is  
21 right in the middle of this, in the middle of this conspiracy.

22 Think about the call, the first call after Robert  
23 Holmes was arrested for the stolen property in his house, the  
24 equipment that belongs to Right on Beat, some of which was  
25 found in the Cutler residence, and is -- for the Viking

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1 refrigerator that was found at Riespine, and the matching cook  
2 top is found at Cutler. What does the -- listen to that call.

3 It's the Defendant that brings up, oh, I can't  
4 believe it, dude, this. This is crazy. This is insane. I  
5 already looked up your charges on the computer. He already  
6 knew what he was charged with. And who is the one that says  
7 hey, don't worry. No one is going to want to come to court  
8 after three or four years.

9 Well, coincidentally, in 2006, we go back three or  
10 four years, that gets you to about when the burglary was. The  
11 Defendant knows all of this. He's right in the middle of this  
12 conspiracy. They're all involved.

13 . MR. HART: Objection again, Your Honor.

14 THE COURT: Overruled.

15 MS. DIGIACOMO: They're all involved with the stolen  
16 property. They're sharing it, they're passing it back and  
17 forth, they're helping each other move it. The conspiracy,  
18 and when you find the conspiracy, that guy, the Defendant, is  
19 on the hook, for all of it.

20 Now, the issue that Defense Counsel brings up is,  
21 well, is value. And instruction 11 tells you "the value of  
22 the property involved shall be deemed to be the highest value  
23 attributable to the property by any reasonable standard,  
24 though you may be shown by evidence as to purchase price,  
25 price tag, or by replacement cost".



1 Now, it's true that conspiracy in the stolen  
2 property is charged as being possessed and going on during the  
3 fall of 2006. Now, some of this property was a few years old  
4 that was found. And Defense Counsel wants you, as the jury,  
5 to say, hey, you know what, we can't give them what they paid  
6 for it as the value or what it would go for now. It's used.  
7 You know what? We can't give them that value.

8 But you know what? You can. The spa, that was now  
9 used in the back of -- his back yard. Well, you know, it was  
10 brand new when it was stolen. So you can go with the cost.

11 MR. HART: Objection, Your Honor.

12 THE COURT: Sustained. No, I think they have to value  
13 the property as of '06. There is not charged that this  
14 Defendant stole it or had anything to do with it. They've got  
15 to figure that out. Now, they may use values at another time  
16 to make that computation, and they have an instruction that  
17 says they can use their own common sense. But they have to  
18 determine value in their mind during the period that's  
19 charged.

20 MS. DIGIACOMO: That's fine. And I submit, go ahead and  
21 do that. What would be the cost of the spa place to replace  
22 it? We told you it was \$2,300. That's what his cost was.  
23 That's what the value of that is. It's over \$250.

24 The Plaza Café says you've got this commercial meat  
25 slicer. You know, I wonder why he had that? Look at the

1 photographs of the Cutler fridge that's full of big slabs of  
2 meat. But he says, oh, that's used. Well, what is a meat  
3 slicer used for? It's used for slicing meat. So, it cost him  
4 \$1,200. It's something he used in his business, so you can  
5 give him that value as well.

6 MR. HART: Objection. That is not the stated law.

7 THE COURT: No. I think she can make the argument and  
8 the jury would decide that, tools, for example, are worth as  
9 much new as used, or art goes up in value, or cars go down in  
10 value. They can use their common sense and make a  
11 determination. She can make the argument, they'll make the  
12 decision. Go ahead.

13 MS. DIGIACOMO: Thank you. Now with regard to the Viking  
14 cook top that was found in the attic in the garage, and was  
15 stolen, if you recall, from -- there's a cul-de-sac behind the  
16 Cutler residence, where Ms. Kennedy from Grand Canyon told you  
17 that the Viking refrigerator and the cook top was stolen from,  
18 right behind. The cook top was found at the Cutler residence,  
19 and the refrigerator was found at Cutler, and Defense Counsel  
20 suggested to you that it wasn't functioning, therefore it has  
21 no value.

22 Well, look at it the other way. It hadn't been  
23 used. It still had the wrap on it. It was brand new. So,  
24 use that when you determine value.

25 With regards to the collectible stuff, same thing.

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1 That goes up in value as the years go on.

2 With regards to, I believe it was Global  
3 Entertainment, he said who's going to want this stuff that has  
4 their nameplate on it? Well, you know what? They're all  
5 signed, autographed gold records. You can take the nameplate  
6 off. It still has the value that they've given it.

7 With regards to Desert Rock Sports saying, you know,  
8 this is all used stuff. The socks. Well, sure he did say  
9 that the tags had been taken off the socks, but look in the  
10 sleeping bag. You've got all of those brand new, in-the-  
11 package headlights and all kinds of camping equipment, and  
12 that's how they've determined where it come from, because  
13 there was a partial tag with "ERT", and the Detective knew  
14 that Desert Rock Sports was around the corner. It's all brand  
15 new stuff. You can use the values that they told you was the  
16 cost to them when it was stolen, as to the value. These were  
17 all brand new.

18 And I could go on, but, when you look at the value,  
19 I mean, it's common sense. You can look at what they told you  
20 it was their cost, and you can consider what goes up and what  
21 goes down.

22 With regard to this investigation, Defense Counsel  
23 made some issues about, you know, what was really theirs,  
24 because some things were returned that probably shouldn't have  
25 been returned.

1           The gentleman from Platinum Collectibles, Mr.  
2 Veltre, he told you, you know, they got their guitars that  
3 were stolen off the wall in their office, and a couple of the  
4 other items that they took, they realized wasn't in their  
5 inventory, because they were items that they had had. They  
6 were theirs, but they had sold them, and they returned them to  
7 the police.

8           When you look at the magnitude of what this case  
9 was, sure. It's not going to be a perfect investigation. If  
10 you recall, it was one unit, or one assignment or detail that  
11 was supposed to be out there executing the search warrant, and  
12 here's calls going back to the bureau, hey, we need help. Can  
13 you send somebody on your squad? Can you send somebody on  
14 this squad? Because it was too overwhelming.

15           You've got photographs. You know they started at  
16 6:00 in the morning. You've got photographs well into the  
17 night. This was a big task. So, yeah, maybe they did return  
18 property that wasn't supposed to go back to a certain owner.  
19 But here, you have owners that got it back and they said it  
20 was theirs.

21           You have Platinum Collectibles that got back their  
22 guitars and then gave back the three photographs that turns  
23 out was not in their inventory any more. And then you've got  
24 all the rest of the victims who didn't get their stuff back.  
25 And it's still in impound.

1           And that's why you have the Detective in this case  
2     doing all of the evidence used. These people went down. They  
3     saw it in person. And they looked at it, and they determined  
4     yes, it's mine. They brought their serial number sheet. They  
5     brought whatever information they had, and they confirmed yes,  
6     this is my stuff.

7           It would be a bit tedious for us to carry in all  
8     that property for you to see, and that's why we worked from  
9     photographs, but it's been identified as theirs.

10          You know, when you look at everything in this case,  
11     you know what? It's true, it's our burden of proof. You've  
12     got to hold the State to its burden of proof, every material  
13     element. Well, there's not a question based on the evidence  
14     given to you, that there was a conspiracy here to possess  
15     stolen property in order to commit burglaries. I mean, there  
16     shouldn't be a question.

17          You don't just have all the physical evidence where  
18     the property was. You've got the Defendant and his buddies'  
19     own words on tape. They're own phone calls. Clearly there's  
20     a conspiracy. Clearly we have stolen property that was  
21     possessed by every member in the conspiracy. So we met that  
22     burden as well.

23          The last we have to meet is that -- the value. And  
24     you have all these people coming in here, and they told you  
25     what they paid for it. And they told you what they could sell

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1 it for retail. And the jury instructions tell you you can use  
2 your common sense and use the highest attributed value. When  
3 you look at everything, and do it. Hold the State to its  
4 burden. Look at everything, and when you do, you're going to  
5 come back, and you're going to say the Defendant is guilty of  
6 all counts.

7 THE COURT: Thanks. Okay. Ms. Clerk, will you swear the  
8 Officer to take charge of the jury, please, and draw the  
9 alternates at random?

10 THE CLERK: You do solemnly swear that you will keep this  
11 jury together in some private and convenient place, that you  
12 will not permit any person to speak to them, nor speak to them  
13 yourself, unless it be by order of the Court, except to ask  
14 them whether they have agreed upon a verdict, and that you  
15 will return them into court when they have so agreed, so help  
16 you God?

17 THE OFFICER: I do.

18 THE COURT: Just a second, we've got to draw some  
19 alternates.

20 THE CLERK: Hold on, folks. Juror number 3, Natalia  
21 Salman.

22 THE COURT: Okay.

23 THE CLERK: And juror number 6, Thurman Arnold.

24 THE COURT: Okay. Here's the way this works. Usually  
25 when we get to this point in a trial this long, we've lost

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1 one, about 20 percent of the time we've lost two, 20 percent  
2 of the time we've lost none, so I congratulate you for that.  
3 So, what happens is we draw anybody over 12 to be as an  
4 alternate. In this case, it's Mr. Arnold and Ms. Salman.

5 So, the way it will work, is the other 12 will go in  
6 the jury room and commence to deliberate. Mr. Arnold and Ms.  
7 Salman, you'll stay together here at a different place. You  
8 don't talk about the case. Talk about the weather -- same  
9 thing we've been doing, because it does happen, more often  
10 than I care to tell you, that something happens while people  
11 is in the jury room, and then we've got to put one of you in  
12 there to take their place, and it's not fair, if you've talked  
13 about the case outside. Just like if you'd talked to your  
14 spouse or your neighbor or something else.

15 So, you two can hang together. You'll eat lunch  
16 together, and talk about other stuff. If we need one of you  
17 in there, you'll be in there. If we don't and we get a  
18 verdict, everybody is still part of the team. We bring you  
19 all back and we deliver the verdict.

20 Okay, if you'll go with RJ. He'll show everybody  
21 where to go. We've got lunch supposed to be coming about 20,  
22 30 minutes. We'll feed you. All you've got to do is let us  
23 know when you're done.

24 [Jury Out]

25 [Outside the Presence of the Jury]

1 THE COURT: Okay. The jury has exited. Anything else?  
2 Okay. Mr. Monroe, here's the answer. Sour cream. It can go  
3 bad two different ways. One way is it can get mold on it.  
4 It's kind of a blue green mold.

5 UNIDENTIFIED SPEAKER: I'm going to shut the door.

6 THE COURT: You know, you can actually just take the mold  
7 off. If the rest of it's still good, it's okay. Or, it can  
8 break down. It'll liquefy. You get a lot of water on the  
9 top.

10 THE DEFENDANT: Yeah, I've seen that.

11 THE COURT: When it breaks down, no good, throw it away.  
12 But it can't go sour because it's already sour. So, those are  
13 the two ways. There you go. All right. We'll call you when  
14 we've got a verdict.

15 [Off the record]

16 [Within the Presence of the Jury]

17 THE COURT: Let's go back on the record in case C228752,  
18 State of Nevada versus Daimon Monroe. Let the record reflect  
19 the presence of the Defendant, his Counsel, Counsel for the  
20 State, and all ladies and gentlemen of the jury are back in  
21 the box. Now, who will be the foreperson? Sir, have you  
22 reached a verdict?

23 FOREPERSON: We have, Your Honor.

24 THE COURT: Would you give the verdict to the Marshall,  
25 please? Okay. Ms. Clark, will you read the verdict into the



1 record?

2 THE CLERK: District Court, Clark County, Nevada. The  
3 State of Nevada, Plaintiff, versus Daimon Monroe, Defendant.  
4 Case number C228752, Department number VII. Verdict: We the  
5 jury in the above-entitled case find the Defendant, Daimon  
6 Monroe, as follows:

7 Count I, Guilty of Conspiracy to possess stolen property  
8 and/or to commit burglary.

9 Count II, Guilty of possession of stolen property value  
10 over \$2,500.

11 Count III, Guilty of possession of stolen property value  
12 over \$2,500.

13 Count IV, Guilty of possession of stolen property value  
14 over \$2,500.

15 Count V, Guilty of possession of stolen property value  
16 over \$250.

17 Count VI, Guilty of possession of stolen property value  
18 over \$250.

19 Count VII, Guilty of possession of stolen property value  
20 over \$2,500.

21 Count VIII, Guilty of possession of stolen property value  
22 over \$2,500.

23 Count IX, Guilty of possession of stolen property value  
24 over \$2,500.

25 Count X, Guilty of possession of stolen property value

1 over \$2,500.

2 Count XI, Guilty of possession of stolen property value  
3 over \$2,500.

4 Count XII, Guilty of possession of stolen property value  
5 over \$250.

6 Count XIII, Guilty of possession of stolen property value  
7 over \$2,500.

8 Count XIV, Guilty of possession of stolen property value  
9 over \$2,500.

10 Count XV, Guilty of possession of stolen property value  
11 over \$2,500.

12 Count XVI, Guilty of possession of stolen property value  
13 over \$2,500.

14 Count XVII, Guilty of possession of stolen property value  
15 over \$2,500.

16 Count XVIII, Guilty of possession of stolen property  
17 value over \$250.

18 Count XIX, Guilty of possession of stolen property value  
19 over \$250.

20 Count XX, Guilty of possession of stolen property value  
21 over \$250.

22 Count XXI, Guilty of possession of stolen property value  
23 over \$250.

24 Count XXII, Guilty of possession of stolen property value  
25 over \$2,500.

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1 Count XXIII, Guilty of possession of stolen property  
2 value over \$2,500.

3 Count XXIV, Guilty of possession of stolen property value  
4 over \$2,500.

5 Count XXV, Guilty of possession of stolen property value  
6 over \$250.

7 Count XVI, Guilty of possession of stolen property value  
8 over \$2,500.

9 Count XVII, Guilty of possession of stolen property value  
10 over \$250.

11 Dated this 20<sup>th</sup> day of May, 2008. Chris Browne,  
12 foreperson."

13 Ladies and gentlemen of the jury, are those your  
14 verdicts? So say you one, so say you all?

15 THE COURT: Is that your verdict?

16 JURORS: Yes.

17 THE COURT: Either side desire to have the jury polled?

18 MR. HART: Please, Your Honor.

19 THE COURT: Ms. Clerk, by number, please.

20 THE CLERK: Juror number 1, are those your verdicts as  
21 read?

22 JUROR NO. 1: Yes.

23 THE CLERK: Juror number 2, are those your verdicts as  
24 read?

25 JUROR NO. 2: Yes.

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1 THE CLERK: Juror number 4, are those your verdicts as  
2 read?

3 JUROR NO. 4: Yes.

4 THE CLERK: Juror number 5, are those your verdicts as  
5 read?

6 JUROR NO. 5: Yes.

7 THE CLERK: Juror number 7, are those your verdicts as  
8 read?

9 JUROR NO. 6: Yes.

10 THE CLERK: Juror number 8, are those your verdicts as  
11 read?

12 JUROR NO. 8: Yes.

13 THE CLERK: Juror number 9, are those your verdicts as  
14 read?

15 JUROR NO. 9: Yes.

16 THE CLERK: Juror number 10, are those your verdicts as  
17 read?

18 JUROR NO. 10: Yes.

19 THE CLERK: Juror number 11, are those your verdicts as  
20 read?

21 JUROR NO. 11: Yes.

22 THE CLERK: Juror number 12, are those your verdicts as read?

23 JUROR NO. 12: Yes.

24 THE CLERK: Juror number 13, are those your verdicts as  
25 read?

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1 JUROR NO 13: Yes.

2 THE CLERK: Juror number 14, are those your verdicts as  
3 read?

4 JUROR NO. 14: Yes.

5 THE COURT: Okay. Thanks. Well, I want to thank you,  
6 and apologize a little bit for working you so hard and we lost  
7 a day, and whatever, and you really did work hard and pay  
8 attention, and it was an important trial, and your assistance  
9 is greatly appreciated.

10 Just tell you a little bit about the history of this  
11 so you kind of see, you know, how are we here today.  
12 Originally in September, Mr. Monroe and Mr. Fergason were  
13 arrested for the burglary of the Anku Palace and the  
14 children's dentistry. And those charges were filed, and they  
15 kind of flowed through the system.

16 And then they got the search warrants in November,  
17 and all this came together. But it was such a massive thing,  
18 it took the District Attorney's Office and the police, you  
19 know, a few months, to be able to put it together, the case  
20 that we have -- that we had here.

21 And they were never able to catch the cases up  
22 together. So, that case, the other case, you may have  
23 wondered what happened to the Anku Palace, that case was tried  
24 in front of Judge Wall, and both Fergason and Mr. Monroe, and  
25 they were convicted about, oh, 90 or 120 days ago, I'm

1 guessing, and they were both sentenced to prison, because this  
2 ain't their first rodeo.

3 As it works out, there were some legal reasons why  
4 we can't try everybody together, so luckily for you, not so  
5 much for us, starting tomorrow, the next seven days we're  
6 trying Ferguson on the same case. So, the DA's, me, and the  
7 staff, and the same 80 witnesses are going to dance this dance  
8 again for the next seven days, starting tomorrow, because  
9 that's what we have to do.

10 It was -- there were some issues that would have --  
11 we like to do things together for judicial economy, but this  
12 wouldn't allow for a fair trial, and that ultimately is the  
13 big consequence. So, the next seven days, we're going to do  
14 it again, except for these people and for you folks. And  
15 we'll go from there. Anybody have any questions, in leading,  
16 or standing, anything you want to know why I did it, or -- you  
17 did a fine job, you should be proud of yourself. You did your  
18 community a service. On average, each juror serves twice in  
19 their life. Doesn't mean everybody serves twice. It's just  
20 the average typically, now, and then maybe another 15 years  
21 from now, kind of sort of the way it works.

22 In theory, if you get a summons in six months from  
23 now, and you had a great time, you just want to come back and  
24 do it again, nothing says you can't. But, if you have other  
25 things to do with your life, you can say hey, you know, back

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1 there in May. I took my turn in front of Judge Bell. They'll  
2 look it up and they'll know it's a computer glitch, and  
3 they'll give you a pass until it's your turn.

4 Have a great day. You worked very hard. We've made  
5 advance arrangements for your pay. By hour, it's less than  
6 minimum wage, but --

7 [Jury Out]

8 THE COURT: Say hi to the guard for me.

9 UNIDENTIFIED SPEAKER: I'll do that.

10 [Outside the Presence of the Jury]

11 THE COURT: Okay. I'm going to set this out a ways,  
12 because I want to get through the other trial and see where he  
13 is, and -- how about August 12<sup>th</sup>? You going to be in town,  
14 Mart?

15 MR. HART: Yes, I will.

16 THE COURT: That work for you, Ms. DiGiacomo? You going  
17 to be in town the middle of August?

18 MS. DIGIACOMO: The following week works better for me.

19 THE COURT: All right. It doesn't work for that. How  
20 about August 26<sup>th</sup>? You'll be there then? August 26<sup>th</sup>.  
21 Defendant will be held without bail pending sentencing. Okay.  
22 Now, we're still dancing for tomorrow, right? Good. All  
23 right. See you tomorrow.

24 MS. DIGIACOMO: Thank you, Judge, very much.

25 [Proceedings Concluded at 1:58 p.m.]

**A/V-TRONICS, INC.**

E-Reporting and E-Transcription  
Phoenix (602) 263-0885 • Tucson (520) 403-8024  
Denver (303) 634-2295

1 ATTEST: I do hereby certify that I have truly and correctly  
2 transcribed the audio/video recording in the above-entitled  
3 case to the best of my ability.  
4  
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13 Donna Schlachter  
14 Donna Schlachter, Transcriber  
15  
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**A/V-TRONICS, INC.**

E-Reporting and E-Transcription  
Phoenix (602) 263-0885 • Tucson (520) 403-8024  
Denver (303) 634-2295



1 VER

FILED IN OPEN COURT

MAY 20 2008

20

1:49pm

CHARLES J. SHORT  
CLERK OF THE COURT

ORIGINAL

BY Tina Hurd DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA, )

8 Plaintiff, )

CASE NO: C228752

9 -vs- )

DEPT NO: VII

10 DAIMON MONROE, )

11 Defendant. )

12  
13 VERDICT

14 We, the jury in the above entitled case, find the Defendant DAIMON MONROE, as  
15 follows:

16 COUNT 1 - CONSPIRACY TO POSSESS STOLEN PROPERTY AND/OR TO COMMIT  
17 BURGLARY

18 (please check the appropriate box, select only one)

19 ☒ Guilty of CONSPIRACY TO POSSESS STOLEN PROPERTY AND/OR  
20 TO COMMIT BURGLARY

21 ☐ Not Guilty

22  
23 COUNT 2 - POSSESSION OF STOLEN PROPERTY (Desert Rock Sports)

24 (please check the appropriate box, select only one)

25 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

26 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

27 ☐ Not Guilty

28  
Void  
cc 18  
5-20-08

1 **COUNT 3** - POSSESSION OF STOLEN PROPERTY (A Touch of Vegas)

2 *(please check the appropriate box, select only one)*

3 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

4 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

5 ☐ Not Guilty

6  
7 **COUNT 4** - POSSESSION OF STOLEN PROPERTY (Annie Lee Gallery)

8 *(please check the appropriate box, select only one)*

9 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

10 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

11 ☐ Not Guilty

12  
13 **COUNT 5** - POSSESSION OF STOLEN PROPERTY (Spa Depot)

14 *(please check the appropriate box, select only one)*

15 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

16 ☐ Not Guilty

17  
18 **COUNT 6** - POSSESSION OF STOLEN PROPERTY (See's Candies)

19 *(please check the appropriate box, select only one)*

20 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

21 ☐ Not Guilty

22  
23 **COUNT 7** - POSSESSION OF STOLEN PROPERTY (Mountain Springs Wellness)

24 *(please check the appropriate box, select only one)*

25 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

26 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

27 ☐ Not Guilty

1 **COUNT 8** - POSSESSION OF STOLEN PROPERTY (Land Baron Investments)

2 *(please check the appropriate box, select only one)*

3 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

4 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

5 ☐ Not Guilty

6  
7 **COUNT 9** - POSSESSION OF STOLEN PROPERTY (Econ Division)

8 *(please check the appropriate box, select only one)*

9 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

10 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

11 ☐ Not Guilty

12  
13 **COUNT 10** - POSSESSION OF STOLEN PROPERTY (Milton Homer)

14 *(please check the appropriate box, select only one)*

15 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

16 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

17 ☐ Not Guilty

18  
19 **COUNT 11** - POSSESSION OF STOLEN PROPERTY (Cal Spas)

20 *(please check the appropriate box, select only one)*

21 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

22 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

23 ☐ Not Guilty

1 **COUNT 12** - POSSESSION OF STOLEN PROPERTY (Hoshizaki Western)

2 *(please check the appropriate box, select only one)*

3 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

4 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

5 ☐ Not Guilty

6  
7 **COUNT 13** - POSSESSION OF STOLEN PROPERTY (H.P. Media Group)

8 *(please check the appropriate box, select only one)*

9 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

10 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

11 ☐ Not Guilty

12  
13 **COUNT 14** - POSSESSION OF STOLEN PROPERTY (KDS CPA)

14 *(please check the appropriate box, select only one)*

15 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

16 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

17 ☐ Not Guilty

18  
19 **COUNT 15** - POSSESSION OF STOLEN PROPERTY (See America)

20 *(please check the appropriate box, select only one)*

21 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

22 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

23 ☐ Not Guilty

1 **COUNT 16** - POSSESSION OF STOLEN PROPERTY (McNeilly Art Studio)

2 *(please check the appropriate box, select only one)*

3 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

4 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

5 ☐ Not Guilty

6  
7 **COUNT 17** - POSSESSION OF STOLEN PROPERTY (Grand Canyon and/or Econ)

8 *(please check the appropriate box, select only one)*

9 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

10 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

11 ☐ Not Guilty

12  
13 **COUNT 18** - POSSESSION OF STOLEN PROPERTY (Dr. Richard Groom)

14 *(please check the appropriate box, select only one)*

15 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

16 ☐ Not Guilty

17  
18 **COUNT 19** - POSSESSION OF STOLEN PROPERTY (Plaza Café)

19 *(please check the appropriate box, select only one)*

20 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

21 ☐ Not Guilty

22  
23 **COUNT 20** - POSSESSION OF STOLEN PROPERTY (Complete Cosmetic Surgery)

24 *(please check the appropriate box, select only one)*

25 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

26 ☐ Not Guilty

1 **COUNT 21** - POSSESSION OF STOLEN PROPERTY (DVD Unlimited)

2 *(please check the appropriate box, select only one)*

3 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

4 ☐ Not Guilty

5  
6 **COUNT 22** - POSSESSION OF STOLEN PROPERTY (Family Music Center)

7 *(please check the appropriate box, select only one)*

8 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

9 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

10 ☐ Not Guilty

11  
12 **COUNT 23** - POSSESSION OF STOLEN PROPERTY (Brady Industries)

13 *(please check the appropriate box, select only one)*

14 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

15 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

16 ☐ Not Guilty

17  
18 **COUNT 24** - POSSESSION OF STOLEN PROPERTY (Global Entertainment)

19 *(please check the appropriate box, select only one)*

20 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

21 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

22 ☐ Not Guilty

23  
24 **COUNT 25** - POSSESSION OF STOLEN PROPERTY (Furniture Markdowns)

25 *(please check the appropriate box, select only one)*

26 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

27 ☐ Not Guilty

1 **COUNT 26** - POSSESSION OF STOLEN PROPERTY (Platinum Collectibles)

2 *(please check the appropriate box, select only one)*

3 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$2500

4 ☐ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

5 ☐ Not Guilty

6  
7 **COUNT 27** - POSSESSION OF STOLEN PROPERTY (Right On Beat Productions)

8 *(please check the appropriate box, select only one)*

9 ☒ Guilty of POSSESSION OF STOLEN PROPERTY VALUE OVER \$250

10 ☐ Not Guilty

11  
12  
13 DATED this 30 day of May, 2008

14  
15 

16 FOREPERSON

3  
1 AJOC

2010 SEP 17 P 12:55

2  
3  
4 DISTRICT COURT

*D. L. L.*  
CLERK OF THE COURT

5 CLARK COUNTY, NEVADA

6  
7 THE STATE OF NEVADA,

8 Plaintiff,

CASE NO. C228752-1

9 -VS-

DEPT. NO. IV

10  
11 DAIMON MONROE  
aka Daimon Devi Hoyt  
12 #0715429

13 Defendant.

00C228752-1  
AJOC  
Amended Judgment of Conviction  
937710



14  
15 AMENDED JUDGMENT OF CONVICTION  
16 (JURY TRIAL)

17  
18 The Defendant previously entered a plea of not guilty to the crimes of COUNT 1  
19 - CONSPIRACY TO POSSESS STOLEN PROPERTY AND/OR TO COMMIT  
20 BURGLARY (Gross Misdemeanor) in violation of NRS 205.275, 199.480; COUNT 2 -  
21 POSSESSION OF STOLEN PROPERTY (Category B Felony) in violation of NRS  
22 205.275; COUNT 3 - POSSESSION OF STOLEN PROPERTY (Category B Felony) in  
23 violation of NRS 205.275; COUNT 4 - POSSESSION OF STOLEN PROPERTY  
24 (Category B Felony) in violation of NRS 205.275; COUNT 5 - POSSESSION OF  
25 STOLEN PROPERTY (Category C Felony) in violation of NRS 205.275, of COUNT 6 -  
26  
27  
28



1 POSSESSION OF STOLEN PROPERTY (Category C Felony) in violation of NRS  
2 205.275; COUNT 7 – POSSESSION OF STOLEN PROPERTY (Category B Felony) in  
3 violation of NRS 205.275; COUNT 8 – POSSESSION OF STOLEN PROPERTY  
4 (Category B Felony) in violation of NRS 205.275; COUNT 9 – POSSESSION OF  
5 STOLEN PROPERTY (Category B Felony) in violation of NRS 205.275; COUNT 10 –  
6 POSSESSION OF STOLEN PROPERTY (Category B Felony) in violation of NRS  
7 205.275; COUNT 11 – POSSESSION OF STOLEN PROPERTY (Category B Felony) in  
8 violation of NRS 205.275; COUNT 12 – POSSESSION OF STOLEN PROPERTY  
9 (Category C Felony) in violation of NRS 205.275; COUNT 13 – POSSESSION OF  
10 STOLEN PROPERTY (Category B Felony) in violation of NRS 205.275; COUNT 14 –  
11 POSSESSION OF STOLEN PROPERTY (Category B Felony) in violation of NRS  
12 205.275; COUNT 15 – POSSESSION OF STOLEN PROPERTY (Category B Felony) in  
13 violation of NRS 205.275; COUNT 16 – POSSESSION OF STOLEN PROPERTY  
14 (Category B Felony) in violation of NRS 205.275; COUNT 17 – POSSESSION OF  
15 STOLEN PROPERTY (Category B Felony) in violation of NRS 205.275; COUNT 18 –  
16 POSSESSION OF STOLEN PROPERTY (Category C Felony) in violation of NRS  
17 205.275, COUNT 19 – POSSESSION OF STOLEN PROPERTY (Category C Felony) in  
18 violation of NRS 205.275, COUNT 20 – POSSESSION OF STOLEN PROPERTY  
19 (Category C Felony) in violation of NRS 205.275, COUNT 21 – POSSESSION OF  
20 STOLEN PROPERTY (Category C Felony) in violation of NRS 205.275, COUNT 22 –  
21 POSSESSION OF STOLEN PROPERTY (Category B Felony) in violation of NRS  
22 205.275; COUNT 23 – POSSESSION OF STOLEN PROPERTY (Category B Felony) in  
23 violation of NRS 205.275; COUNT 24 – POSSESSION OF STOLEN PROPERTY

1 (Category B Felony) in violation of NRS 205.275; COUNT 25 – POSSESSION OF  
2 STOLEN PROPERTY (Category C Felony) in violation of NRS 205.275; COUNT 26 –  
3 POSSESSION OF STOLEN PROPERTY (Category B Felony) in violation of NRS  
4 205.275; COUNT 27 – POSSESSION OF STOLEN PROPERTY (Category C Felony) in  
5 violation of NRS 205.275, and the matter having been tried before a jury and the  
6 Defendant having been found guilty of the crimes of COUNT 1 – CONSPIRACY TO  
7 POSSESS STOLEN PROPERTY AND/OR TO COMMIT BURGLARY (Gross  
8 Misdemeanor) in violation of NRS 205.275, 199.480; COUNT 2 – POSSESSION OF  
9 STOLEN PROPERTY VALUE OVER \$2,500.00 (Category B Felony) in violation of NRS  
10 205.275, 207.010; COUNT 3 – POSSESSION OF STOLEN PROPERTY VALUE OVER  
11 \$2,500.00 (Category B Felony) in violation of NRS 205.275, 207.010; COUNT 4 –  
12 POSSESSION OF STOLEN PROPERTY VALUE OVER \$2,500.00 (Category B Felony)  
13 in violation of NRS 205.275, 207.010; COUNT 5 – POSSESSION OF STOLEN  
14 PROPERTY VALUE OVER \$250.00 (Category C Felony) in violation of NRS 205.275,  
15 207.010, of COUNT 6 – POSSESSION OF STOLEN PROPERTY VALUE OVER  
16 \$250.00 (Category C Felony) in violation of NRS 205.275, 207.010; COUNT 7 –  
17 POSSESSION OF STOLEN PROPERTY OVER \$2,500.00 (Category B Felony) in  
18 violation of NRS 205.275, 207.010; COUNT 8 – POSSESSION OF STOLEN  
19 PROPERTY VALUE OVER \$2,500.00 (Category B Felony) in violation of NRS 205.275,  
20 207.010; COUNT 9 – POSSESSION OF STOLEN PROPERTY VALUE OVER  
21 \$2,500.00 (Category B Felony) in violation of NRS 205.275, 207.010; COUNT 10 –  
22 POSSESSION OF STOLEN PROPERTY VALUE OVER \$2,500.00 (Category B Felony)  
23  
24  
25  
26  
27  
28

1 in violation of NRS 205.275, 207.010; COUNT 11 – POSSESSION OF STOLEN  
2 PROPERTY VALUE OVER \$2,500.00 (Category B Felony) in violation of NRS 205.275,  
3 207.010; COUNT 12 – POSSESSION OF STOLEN PROPERTY VALUE \$250.00 OR  
4 MORE (Category C Felony) in violation of NRS 205.275, 207.010; COUNT 13 –  
5 POSSESSION OF STOLEN PROPERTY OVER \$2,500.00 (Category B Felony) in  
6 violation of NRS 205.275, 207.010; COUNT 14 – POSSESSION OF STOLEN  
7 PROPERTY OVER \$2,500.00 (Category B Felony) in violation of NRS 205.275,  
8 207.010; COUNT 15 – POSSESSION OF STOLEN PROPERTY OVER \$2,500.00  
9 (Category B Felony) in violation of NRS 205.275, 207.010; COUNT 16 – POSSESSION  
10 OF STOLEN PROPERTY OVER \$2,500.00 (Category B Felony) in violation of NRS  
11 205.275, 207.010; COUNT 17 – POSSESSION OF STOLEN PROPERTY OVER  
12 \$2,500.00 (Category B Felony) in violation of NRS 205.275, 207.010; COUNT 18 –  
13 POSSESSION OF STOLEN PROPERTY VALUE \$250.00 OR MORE (Category C  
14 Felony) in violation of NRS 205.275, 207.010; COUNT 19 – POSSESSION OF  
15 STOLEN PROPERTY VALUE \$250.00 OR MORE (Category C Felony) in violation of  
16 NRS 205.275, 207.010; COUNT 20 – POSSESSION OF STOLEN PROPERTY VALUE  
17 \$250.00 OR MORE (Category C Felony) in violation of NRS 205.275, 207.010; COUNT  
18 21 – POSSESSION OF STOLEN PROPERTY VALUE \$250.00 OR MORE (Category C  
19 Felony) in violation of NRS 205.275, 207.010; COUNT 22 – POSSESSION OF  
20 STOLEN PROPERTY OVER \$2,500.00 (Category B Felony) in violation of NRS  
21 205.275, 207.010; COUNT 23 – POSSESSION OF STOLEN PROPERTY OVER  
22 \$2,500.00 (Category B Felony) in violation of NRS 205.275, 207.010; COUNT 24 –  
23 POSSESSION OF STOLEN PROPERTY VALUE OVER \$2,500.00 (Category B Felony)  
24 in violation of NRS 205.275, 207.010; COUNT 25 – POSSESSION OF STOLEN

1 PROPERTY VALUE OVER \$250.00 (Category C Felony) in violation of NRS 205.275,  
2 207.010; COUNT 26 – POSSESSION OF STOLEN PROPERTY VALUE OVER

3 \$2,500.00 (Category B Felony) in violation of NRS 205.275, 207.010; COUNT 27 –  
4 POSSESSION OF STOLEN PROPERTY VALUE OVER \$250.00 (Category C Felony)  
5 in violation of NRS 205.275, 207.010, thereafter, on the 1<sup>st</sup> day of October, 2008, the  
6 Defendant was present in court for sentencing with counsel, MARTY HART, ESQ., and  
7 good cause appearing,  
8


9 THE DEFENDANT WAS ADJUDGED guilty of said offense(s) under the Large  
10 Habitual Criminal Statute and, in addition to the \$25.00 Administrative Assessment Fee  
11 and \$150.00 DNA Analysis Fee including testing to determine genetic markers, the  
12 Defendant was SENTENCED as follows: AS TO COUNT 1 - TO TWELVE (12)  
13 MONTHS in the Clark County Detention Center (CCDC); AS TO COUNT 2 – LIFE  
14 WITHOUT the Possibility of Parole in the Nevada Department of Corrections (NDC); AS  
15 TO COUNT 3 – LIFE WITHOUT the Possibility of Parole in the Nevada Department of  
16 Corrections (NDC); AS TO COUNT 4 – LIFE WITHOUT the Possibility of Parole in the  
17 Nevada Department of Corrections (NDC); AS TO COUNT 5 – LIFE WITHOUT the  
18 Possibility of Parole in the Nevada Department of Corrections (NDC); AS TO COUNT 6  
19 – LIFE WITHOUT the Possibility of Parole in the Nevada Department of Corrections  
20 (NDC); AS TO COUNT 7 – LIFE WITHOUT the Possibility of Parole in the Nevada  
21 Department of Corrections (NDC); AS TO COUNT 8 – LIFE WITHOUT the Possibility of  
22 Parole in the Nevada Department of Corrections (NDC); AS TO COUNT 9 – LIFE  
23 WITHOUT the Possibility of Parole in the Nevada Department of Corrections (NDC); AS  
24 TO COUNT 10 – LIFE WITHOUT the Possibility of Parole in the Nevada Department of  
25 Corrections (NDC); AS TO COUNT 11 – LIFE WITHOUT the Possibility of Parole in the  
26  
27  
28

1 Nevada Department of Corrections (NDC); AS TO COUNT 12 – LIFE WITHOUT the  
2 Possibility of Parole in the Nevada Department of Corrections (NDC); AS TO COUNT  
3 13 – LIFE WITHOUT the Possibility of Parole in the Nevada Department of Corrections  
4 (NDC); AS TO COUNT 14 – LIFE WITHOUT the Possibility of Parole in the Nevada  
5 Department of Corrections (NDC), COUNTS 1 -14 to run CONCURRENT with each  
6 other; AS TO COUNT 15 – LIFE WITHOUT the Possibility of Parole in the Nevada  
7 Department of Corrections (NDC); AS TO COUNT 16 – LIFE WITHOUT the Possibility  
8 of Parole in the Nevada Department of Corrections (NDC); AS TO COUNT 17 – LIFE  
9 WITHOUT the Possibility of Parole in the Nevada Department of Corrections (NDC); AS  
10 TO COUNT 18 – LIFE WITHOUT the Possibility of Parole in the Nevada Department of  
11 Corrections (NDC); AS TO COUNT 19 – LIFE WITHOUT the Possibility of Parole in the  
12 Nevada Department of Corrections (NDC); AS TO COUNT 20 – LIFE WITHOUT the  
13 Possibility of Parole in the Nevada Department of Corrections (NDC); AS TO COUNT  
14 21 – LIFE WITHOUT the Possibility of Parole in the Nevada Department of Corrections  
15 (NDC); AS TO COUNT 22 – LIFE WITHOUT the Possibility of Parole in the Nevada  
16 Department of Corrections (NDC); AS TO COUNT 23 – LIFE WITHOUT the Possibility  
17 of Parole in the Nevada Department of Corrections (NDC); AS TO COUNT 24 – LIFE  
18 WITHOUT the Possibility of Parole in the Nevada Department of Corrections (NDC); AS  
19 TO COUNT 25 – LIFE WITHOUT the Possibility of Parole in the Nevada Department of  
20 Corrections (NDC); AS TO COUNT 26 – LIFE WITHOUT the Possibility of Parole in the  
21 Nevada Department of Corrections (NDC); AS TO COUNT 27 – LIFE WITHOUT the  
22 Possibility of Parole in the Nevada Department of Corrections (NDC), COUNTS 15 – 27  
23 to run CONCURRENT with each other but CONSECUTIVE to COUNTS 1 – 14,  
24  
25  
26  
27  
28

1 SENTENCE to run CONSECUTIVE to case C 227874; with ZERO (0) DAYS credit for  
2 time served.

3  
4 THEREAFTER, on the 30<sup>th</sup> day of July, 2010, the Supreme Court ORDERED the  
5 judgment of the District Court AFFIRMED IN PART AND REVERSED IN PART AND  
6 REMAND this matter for entry of an Amended Judgment of Conviction consistent with  
7 this order, therefore, COURT ORDERED, COUNT 11 of Possession of Stolen Property  
8 is VACATED and the remaining counts are AFFIRMED.  
9

10  
11 DATED this 14<sup>th</sup> day of September, 2010.

12  
13   
14 KATHY HARDCASTLE  
15 DISTRICT JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 Daimon Monroe

2 Petitioner/In Propria Persona  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

FILED

JUL 07 2011

*John L. Blum*  
CLERK OF COURT

5 District Court

6 \_\_\_\_\_ County, Nevada

06C228752-1

PWHC

Petition for Writ of Habeas Corpus  
1510975



7 Daimon Monroe

8 Petitioner,

9 vs.

10 Warden Nevens

11 Sancti digne mo

12 Respondent(s).

Case No. 228752

Dept. No. XXX XX

Docket \_\_\_\_\_

13 **PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)**

14 **INSTRUCTIONS:**

15 (1) This petition must be legibly handwritten or typewritten signed by the petitioner and verified.

16 (2) Additional pages are not permitted except where noted or with respect to the facts which you  
17 rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or  
18 arguments are submitted, they should be submitted in the form of a separate memorandum.

19 (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to  
20 Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the  
21 certificate as to the amount of money and securities on deposit to your credit in any account in the  
22 institution.

23 (4) You must name as respondent the person by whom you are confined or restrained. If you are  
24 in a specific institution of the department of corrections, name the warden or head of the institution. If  
25 you are not in a specific institution of the department within its custody, name the director of the  
26 department of corrections.

27 (5) You must include all grounds or claims for relief which you may have regarding your  
28 conviction and sentence.

1 Failure to raise all grounds I this petition may preclude you from filing future petitions challenging  
2 your conviction and sentence.

3 (6) You must allege specific facts supporting the claims in the petition you file seeking relief from  
4 any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your  
5 petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that  
6 claim will operate to waive the attorney-client privilege for the proceeding in which you claim your  
7 counsel was ineffective.

8 (7) If your petition challenges the validity of your conviction or sentence, the original and one  
9 copy must be filed with the clerk of the district court for the county in which the conviction occurred.  
10 Petitions raising any other claim must be filed with the clerk of the district court for the county in  
11 which you are incarcerated. One copy must be mailed to the respondent, one copy to the attorney  
12 general's office, and one copy to the district attorney of the county in which you were convicted or to  
13 the original prosecutor if you are challenging your original conviction or sentence. Copies must  
14 conform in all particulars to the original submitted for filing.

### 10 PETITION

11 1. Name of institution and county in which you are presently imprisoned or where and who you  
12 are presently restrained of your liberty: HIGH desert State Prison

13 2. Name the location of court which entered the judgment of conviction under attack: \_\_\_\_\_  
14 District court VII Stewart Bell, Clark county Nevada

15 3. Date of judgment of conviction: unsure

16 4. Case number: 228752

17 5. (a) Length of sentence: Life without

18 (b) If sentence is death, state any date upon which execution is scheduled: \_\_\_\_\_

19 6. Are you presently serving a sentence for a conviction other than the conviction under attack in  
20 this motion:

21 Yes X No \_\_\_\_\_ If "Yes", list crime, case number and sentence being served at this time: \_\_\_\_\_

22 Possession Firearm

23 7. Nature of offense involved in conviction being challenged: Possession Stolen

24 Property,



1 8. What was your plea? (Check one)

2 (a) Not guilty ☒

3 (b) Guilty \_\_\_\_\_

4 (c) Nolo contendere \_\_\_\_\_

5 9. If you entered a guilty plea to one count of an indictment or information, and a not guilty plea  
6 to another count of an indictment or information, or if a guilty plea was negotiated, give details: \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_

9 10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

10 (a) Jury ☒

11 (b) Judge without a jury \_\_\_\_\_

12 11. Did you testify at trial? Yes \_\_\_\_\_ No \_\_\_\_\_

13 12. Did you appeal from the judgment of conviction?

14 Yes \_\_\_\_\_ No \_\_\_\_\_

15 13. If you did appeal, answer the following:

16 (a) Name of court: *Nevada Supreme Court*

17 (b) Case number or citation: *UNSURE - never received from*  
*counsel*

18 (c) Result: *Granted, then on Rehearing Denied*

19 (d) Date of appeal: *UNSURE, counsel never told me*

20 (Attach copy of order or decision, if available).

21 14.) If you did not appeal, explain briefly why you did not: \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_

24 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously  
25 filed any petitions, applications or motions with respect to this judgment in any court, state or  
26 federal? Yes \_\_\_\_\_ No ☒  
27  
28

1 (d) Did you appeal to the highest state or federal court having jurisdiction, the result or action  
2 taken on any petition, application or motion?

3 (1) First petition, application or motion?

4 Yes \_\_\_ No \_\_\_

5 Citation or date of decision: \_\_\_\_\_

6 (2) Second petition, application or motion?

7 Yes \_\_\_ No \_\_\_

8 Citation or date of decision: \_\_\_\_\_

9 (e) If you did not appeal from the adverse action on any petition, application or motion, explain  
10 briefly why you did not. (You may relate specific facts in response to this question. Your response  
11 may be included on paper which is 8 1/2 x 11 inches attached to the petition. Your response may not  
12 exceed five handwritten or typewritten pages in length). \_\_\_\_\_

13  
14 17. Has any ground being raised in this petition been previously presented to this or any other  
15 court by way of petition for habeas corpus, motion or application or any other post-conviction  
16 proceeding? If so, identify:

17 (a) Which of the grounds is the same: Illegal search on

18 Motion to suppress

19 (b) The proceedings in which these grounds were raised: Motion to suppress

20  
21 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts in  
22 response to this question. Your response may be included on paper which is 8 1/2 x 11 inches attached  
23 to the petition. Your response may not exceed five handwritten or typewritten pages in length). \_\_\_\_\_

1 18. If any of the grounds listed in Nos. 23(a), (b), (c), and (d), or listed on any additional pages  
2 you have attached, were not previously presented in any other court, state or federal, list briefly what  
3 grounds were not so presented, and give your reasons for not presenting them. (You must relate  
4 specific facts in response to this question. Your response may be included on paper which is 8 1/2 x  
5 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten  
6 pages in length). \_\_\_\_\_  
7 \_\_\_\_\_

8 19. Are you filing this petition more than one (1) year following the filing of the judgment of  
9 conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay.  
10 (You must relate specific facts in response to this question. Your response may be included on paper  
11 which is 8 1/2 x 11 inches attached to the petition. Your response may not exceed five handwritten or  
12 typewritten pages in length). \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_

15 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the  
16 judgment under attack?

17 Yes \_\_\_\_\_ No \_\_\_\_\_

18 If "Yes", state what court and the case number: \_\_\_\_\_  
19 \_\_\_\_\_

20 21. Give the name of each attorney who represented you in the proceeding resulting in your  
21 conviction and on direct appeal: \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_

24 22. Do you have any future sentences to serve after you complete the sentence imposed by the  
25 judgment under attack?

26 Yes \_\_\_\_\_ No \_\_\_\_\_ If "Yes", specify where and when it is to be served, if you know: \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

1 BY MS. DIGIACOMO:

2 Q All right. Now showing you State's proposed  
3 Exhibits 1012 through 1030. If you can just flip through  
4 those and let me know if you recognize them. Oh, as well as  
5 1032 and 1033.

6 A These are photos of clothes, clothes items that were  
7 inside the storage unit that we impounded.

8 Q Okay. Were they brand new with tags on it?

9 A Yes. Yes.

10 Q And some of them just show close-ups of the tags?

11 A Yes.

12 Q Fairly and accurately depict the way all the  
13 clothing items were found --

14 A Inside the unit.

15 Q -- on November 6th, 2006 in the storage unit?

16 A Yes.

17 MS. DIGIACOMO: I'd move for admission, Your Honor.

18 MS. TRAMEL: With the standing objection as to relevance,  
19 Your Honor.

20 THE COURT: Overruled, admitted. 1012 through 1030,  
21 1032, 1033.

22 [State's Exhibits 1012 through 1033, 1032 and 1033  
23 Admitted]

24 THE COURT: Anything else?

25 MS. DIGIACOMO: Yeah. I'm just going to show him this

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1 one.

2 BY MS. DIGIACOMO:

3 Q Okay. State's Exhibit 978. It's got four different  
4 photographs on this photograph. At what point of the search  
5 warrant execution were these photographs taken?

6 A This would be toward the end of the photograph in  
7 the upper left-hand corner of the boxes that would have been  
8 inside the truck of the property that we impounded. And the  
9 other photos was the items that we left there at the storage  
10 unit.

11 Q Okay. So all the items that you did end up taking  
12 were boxed up and taken to the evidence vault?

13 A Correct. Yeah, most of the blue tubs are empty.

14 Q Okay. So all of these plastic tubs that were left  
15 behind in the other three photographs?

16 A Yes.

17 MS. DIGIACOMO: Nothing further.

18 THE COURT: Anything else, Ms. Tramel?

19 CROSS-EXAMINATION

20 BY MS. TRAMEL:

21 Q The storage unit that you were looking at there in  
22 those photos, that storage unit wasn't rented in my client's  
23 name, correct?

24 A Ma'am, I don't know. I was there doing inventory on  
25 the property.

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1 MS. TRAMEL: Nothing further. Thank you.

2 THE COURT: Okay. Thanks Officer. I appreciate your  
3 time. Next.

4 MS. DIGIACOMO: Brad Nickell.

5 THE COURT: Come on up here, Detective.

6 THE CLERK: Please remain standing and raise your right  
7 hand.

8 DETECTIVE BRADLEY NICKELL, STATE'S WITNESS, SWORN

9 THE CLERK: Thank you. You may be seated.

10 THE COURT: State your name, spell your name for the  
11 court recorder.

12 THE WITNESS: Bradley Nickell. B-r-a-d-l-e-y,  
13 N-i-c-k-e-l-l.

14 THE COURT: Go ahead, Ms. DiGiacomo.

15 MS. DIGIACOMO: Thank you.

16 DIRECT EXAMINATION

17 BY MS. DIGIACOMO:

18 Q Sir, how are you employed?

19 A I'm a detective with Las Vegas Metropolitan Police  
20 Department.

21 Q How long have you been with Metro overall?

22 A Over 16 years now.

23 Q How long have you been a detective with the Las  
24 Vegas Police Department?

25 A I've been a detective since 1999.

1 Q And what is your current assignment?

2 A I work in the repeat offender program.

3 Q All right. Commonly referred to as ROPE?

4 A Yes. The ROPE unit.

5 Q And were you assigned to that unit back in September  
6 of 2006?

7 A Yes.

8 Q Now specifically a little after September 24th, 2006  
9 were you assigned a case regarding a car stop?

10 A Yes.

11 Q All right. And what was it with regard to that car  
12 stop that you were investigating?

13 A I was investigating the nature of the case, whether  
14 or not the patrolman that had made the arrest -- whether it  
15 was a strong case. The background of the individuals that  
16 were arrested, and whether or not --

17 MS. HART: Your Honor, I'm going to reiterating my  
18 objection.

19 THE COURT: All right. We'll stop it right there. Go  
20 ahead on the next question.

21 MS. DIGIACOMO: That's fine.

22 BY MS. DIGIACOMO:

23 Q So now what was one of the first things that you did  
24 with regard to your investigation?

25 A One of the first things I did was I wondered about

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1 how these people had gotten into the structures that they had  
2 gotten into.

3 Q Okay. So I guess before you started wondering that  
4 did you contact anyone with regard to the case?

5 A Yes.

6 Q And who did you contact?

7 A Tonya Trevarthen.

8 Q Okay. She was the registered owner of the car that  
9 was involved?

10 A Yeah. Of the minivan.

11 Q Now did you do anything else after contacting Tonya  
12 Trevarthen with regard to your investigation?

13 A Yes.

14 Q And what did you do?

15 A I went to the evidence vault and examined some of  
16 the evidence that was impounded there. Specifically some  
17 burglary tools that had been impounded from the van.

18 MR. HART: Objection; speculation.

19 THE COURT: Tools that were taken out of the van on that  
20 night; is that fair?

21 BY MS. DIGIACOMO:

22 Q Is that correct?

23 A Yes.

24 THE COURT: Okay.

25

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1 BY MS. DIGIACOMO:

2 Q Now did you do anything else in between the time you  
3 talked to Ms. Trevarthen and you went to check out the tools?

4 A Yes.

5 Q What did you do?

6 A I took the tools out to the two businesses that had  
7 been burglarized and was able to use one of the tools to make  
8 entry into both businesses without causing any damage to the  
9 door or leaving any significant evidence of how I made the  
10 entry.

11 Q Now did you -- were you able to figure this out on  
12 the first trip out of the evidence vault?

13 A The first time I took the tools from the evidence  
14 vault, yes. It was the first time.

15 Q Okay. But it wasn't the first time you checked the  
16 tools out of the evidence vault?

17 A No. I checked -- there's a little discrepancy there  
18 with our language that you and I are sharing. I went to the  
19 evidence vault the first time and took photographs of the  
20 tools while still at the evidence vault. So I didn't actually  
21 take them out of the evidence vault.

22 Q Okay. And then the next time you go back to the  
23 evidence vault you actually take them out of the vault and go  
24 to --

25 A Yes.

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1 Q Do you check them all out or one in particular?

2 A Actually I checked them all out.

3 Q All right. And then when you went out to the --  
4 what where the locations you took all these tools to?

5 A The Anku Crystal Palace and the Just For Kids  
6 Dentistry.

7 Q And when you took out all those tools did you zone  
8 in on one in particular when you were at those businesses?

9 A Yes.

10 Q And what was that?

11 A It was a tool that looked like it had once been a  
12 screw driver but it had been altered. It was approximately 18  
13 to 24 inches in length I believe. The shaft of the  
14 screwdriver had been ground down really thin. And there were  
15 marks on the shaft of the metal that made it appear as though  
16 someone had used a torch on it to heat it up so that the shaft  
17 could be bent at a 90 degree angle.

18 The end of the shaft where normally the screwdriver  
19 tip would be was a little bit sharpened but it -- the tool was  
20 obviously something that someone had put an extensive amount  
21 of work into. So that's what caught my attention because this  
22 seemed like maybe it was someone's favorite tool.

23 Q Now how were you able to use it with regard to the  
24 businesses?

25 A Many commercial businesses like in strip malls et

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1 cetera they have glass -- metal frame glass double doors as  
2 their entry way on the front. And the double doors meet  
3 together and basically secure to one another. I was able to  
4 take that tool and slip it in between the two double doors in  
5 the middle and manipulate the rotating thumb lock device that  
6 unlocks the lock from the inside.

7 Q When you were able to do that, which business did  
8 you do it first?

9 A I did it at the Anku Crystal Palace first.

10 Q Now how long did it take you to use the tool to open  
11 the door? Was the door locked when you attempted this?

12 A Yes. The door was locked when I attempted to open  
13 it. And it took me approximately a minute.

14 Q And then after you were done at the Anku Crystal  
15 Palace did you go over to Just For Kids Dentistry?

16 A Yes.

17 Q And again did you try it on their locked front door?

18 A Yes.

19 Q And were you able to successfully open the front  
20 door?

21 A Yes. It took maybe half a minute longer. But it  
22 took a little bit longer than it took at Anku Crystal Palace.

23 Q Now before this day had you ever used a tool like  
24 this to open a front door?

25 A Never.

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1 Q After you discovered this did you do anything to  
2 document the fact that you were able to open these front  
3 doors?

4 A I believe it was approximately a week or ten days  
5 later I checked the tools back out of the evidence vault and  
6 had another detective with me. We went back to the Anku  
7 Crystal Palace and to the Just For Kids Dentistry and kind of  
8 in a step-by-step process I did the same thing with the same  
9 tool to open the doors and photographed the process as it  
10 transpired.

11 Q Sir, I'm going to show you what's been marked for  
12 identification State's proposed Exhibits 561 through 575. If  
13 you can just flip through all those quickly and let me know if  
14 you recognize them.

15 [Pause]

16 A Yes. I recognize all of them.

17 Q All right. Do these show the tool and your  
18 demonstration that you conducted -- I guess, when was that?  
19 When did you do the demonstration that we're looking at in  
20 these photos?

21 A It was approximately ten days, seven to ten days  
22 after the first time I checked the tools out. It would have  
23 been October of 2006.

24 Q All right. So do these photographs 561 through 575  
25 accurately and fairly depict the demonstration and the tool

1 that occurred in October 2006?

2 A Yes.

3 MS. DIGIACOMO: I'd move for admission.

4 THE COURT: Objection?

5 MR. HART: No objection.

6 THE COURT: Admitted.

7 [State's Exhibits 561 to 575 Admitted]

8 THE CLERK: I'm sorry. What was the number?

9 THE COURT: 561 --

10 MS. DIGIACOMO: 561 to 575.

11 BY MS. DIGIACOMO:

12 Q First of all showing you 561, what are we looking at  
13 here?

14 A That is a photograph of the tool that I described;  
15 the bent screwdriver that's ground down.

16 Q And did you take this photograph?

17 A Yes, I did.

18 Q And what's the purpose of the ruler at the bottom?

19 A To show the length, an approximate length of the  
20 tool. It's hard to get an exact length because of the 90  
21 degree angle on the shaft.

22 Q Okay. Now I'm showing you State's Exhibit 562.  
23 What are we looking at there?

24 A That's the front entrance to the Anku Crystal  
25 Palace.

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1 Q And these are the metal framed glass doors that you  
2 were speaking of?

3 A That's correct.

4 Q I'm showing you 564, what are we looking at here?

5 A A picture of me inserting that tool in between the  
6 two doors at the Crystal Palace.

7 Q 565, what are we looking at there?

8 A That's the next shot in order where I have the tool  
9 in between the two doors. And I believe that you can see the  
10 shaft of the tool right here.

11 Q On the other side of the door?

12 A In -- actually inside the interior of the business  
13 and leading up towards what would be the thumb lock device  
14 which would be back here.

15 Q I'm showing you 566. What are we looking at here?

16 A That's a picture taken from inside the store where I  
17 have the tool inserted. And you can see that the shaft is  
18 going up towards the locking device.

19 Q Now where's the thumb lock in 566 that you were just  
20 describing?

21 A The thumb lock was taken off by George Hung who was  
22 the owner of the store.

23 MR. HART: Objection, speculation.

24 THE COURT: How do you know that? You just had a  
25 conversation with Mr. Hung?

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1 THE WITNESS: Yes. I instructed him to do it.

2 THE COURT: In light of that, overruled.

3 BY MS. DIGIACOMO:

4 Q Okay. So when you were there the first time the  
5 thumb lock mechanism was still on there?

6 A Yes.

7 Q When you did the demonstration?

8 A Correct.

9 Q And you told him --

10 A I told him that one of the things that might help  
11 make his store a little bit safer at least in the short term  
12 would be to get rid of that thumb locking device.

13 Q And actually showing you 567, what are we looking at  
14 here?

15 A That's the thumb locking device that was formally on  
16 the door.

17 Q Okay. Where's that?

18 A Right here.

19 Q That hand?

20 A Yes.

21 Q All right. So this is what used to be here where it  
22 now takes a key to lock that from the inside?

23 A Correct.

24 Q Okay. Now I'm showing you 568, what are we looking  
25 at there?

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1           A     That is a photograph of the Timbers Bar and Grill  
2     and Blinds by Debbie which are directly adjacent to the Just  
3     For Kids Dentistry.

4           Q     So the Just For Kids Dentistry isn't in this  
5     photograph?

6           A     Part of it is.

7           Q     Okay. Where, if you can circle that.

8           A     Right here.

9           Q     Okay. So the far left?

10          A     Correct.

11          Q     Okay. Now I'm showing you 569, what are we looking  
12     at here?

13          A     That's a better picture of the front of the Just For  
14     Kids Dentistry. There's --

15          Q     Now -- go ahead.

16          A     There's actually three sets of double doors that  
17     lead into their business, and all three of those are depicted  
18     there. Only one of them is used for normal entry and exit  
19     though.

20          Q     Okay. Now which is the one that's used for normal  
21     entry and exit?

22          A     The one right there on the farthest left.

23          Q     Is that the one that you tried the demonstration on?

24          A     Yes.

25          Q     I'm showing you 571, what are we looking at there?

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1           A     Those are the two double doors furthest to the left  
2     that I used the tool on.

3           Q     572?

4           A     I'm inserting the tool. Preparing to insert the  
5     tool in between the two doors.

6           Q     573?

7           A     The tool is now inside the -- in between the two  
8     doors and protruding out into the interior of the business.

9           Q     574?

10          A     A shot from the inside of the Just For Kids  
11     Dentistry showing the thumb locking device and how the tool's  
12     able to be -- able to manipulate it.

13          Q     And when you did these demonstrations at Anku  
14     Crystal Palace and Just For Kids, did you ever check the  
15     inside of the door to see whether or not there was any damage?

16          A     Yes.

17          Q     And?

18          A     There was some markings, scrapes, very minor, that I  
19     thought could be attributed to just normal wear and tear of  
20     the door.

21          Q     Okay. So there wasn't a lot of damage that you did  
22     to the door?

23          A     There was virtually no damage I did to the door.

24          Q     All right. When you were pulling out the tools and  
25     doing these demonstrations was there anything else that you

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1 were using at the time to age you in your investigation back  
2 in October of 2006?

3 A Yes.

4 Q What was that?

5 A I was Listening To Phone Calls That Were Being Made  
6 From The Clark County Detention Center on the inmate phones.

7 Q All right. Now explain to the jury how it is that  
8 you're able to listen to those phone calls?

9 A Back then the system was a little different than it  
10 is now so I'll describe what I did back then.

11 We had a system that's been in place for a number of  
12 years at the Clark County Detention Center that records all  
13 inmate telephone phone calls from every housing unit in the  
14 jail. It's a digital system, it's done by computer and  
15 there's a search tool that can be used to search through the  
16 very large volume of calls that are made.

17 It was some number of years ago now, I would say  
18 approximately 2003 that the company, the vendor at the time  
19 was named Evercom. Evercom granted permission and gave us a  
20 terminal in my office for us to have access to those phone  
21 calls. At that point in time we started using those.

22 Q Are all of the phone calls from the Clark County  
23 Detention Centre recorded?

24 A From inmate phones, yes.

25 Q All right. And so when you get on this system

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1 you're able to even go back in the archive? You don't just  
2 listen as they're going live?

3 A That's correct. And in fact most of the  
4 investigation you do through the phones you're listening to  
5 phone calls that have been recorded anywhere between maybe a  
6 day or a few hours and several months ago.

7 Q How is it that you started your search through these  
8 phone calls?

9 A The easiest way for me to start my search was to see  
10 if anybody had been calling Tonya Trevarthen at the same phone  
11 number I called her at from the jail.

12 Q Do you recall what that number is?

13 A It was area code 702-413-0333.

14 Q And based upon that are we able to pull up some  
15 phone calls?

16 A Yes.

17 Q And you listened to all of these phone calls?

18 A Yes.

19 Q All right. Were you able to listen to all the calls  
20 for that entire month of October, or did you pick and choose  
21 which ones you listened to?

22 A I listened to every phone call I could find.

23 Q Okay. Were there phone calls to other numbers as  
24 well that were attributed to the people in your investigation?

25 A Yes.

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1 Q Based upon listening to those phone calls did you  
2 gather any information regarding this tool that we saw in 561?

3 A Yes.

4 Q Okay. What was that?

5 A I learned that they had a nickname for it. I  
6 learned that they called it Matthew.

7 Q Okay. Now how were you able to discern that they  
8 called this tool Matthew?

9 A There were some phone calls where Daimon had spoken  
10 to other people about the cops finding Matthew. And in the  
11 same context of that conversation he'd be talking about being  
12 charged with burglary tools. So it just seemed to make sense  
13 to me that this tool that I've now pretty much figured out is  
14 someone's favorite tool now has a nickname.

15 Q All right. Now also was one of the investigative  
16 tools that was used in the month of October 2006 surveillance?

17 A Yes.

18 Q All right. Now would you have been a participant in  
19 that surveillance?

20 A I was not.

21 Q Okay. Is there a different squad on your team that  
22 actually handles all the surveillance?

23 A Yes.

24 Q Did you give them any information on where they  
25 should start their surveillance?

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1 A Yes.

2 Q And where was that?

3 A 1504 Cutler Drive.

4 Q Now were you able to --

5 MS. DIGIACOMO: Court's indulgence.

6 [Pause]

7 BY MS. DIGIACOMO:

8 Q So you gave him this residence. Were you able  
9 through the surveillance to determine whether any other places  
10 might be connected to your investigation?

11 A Could you reword the question?

12 Q Basically because of the surveillance that was done  
13 were detectives led to other locations --

14 A Yes.

15 Q -- that became an interest in your investigation?

16 A Yes.

17 Q What were those locations?

18 A I believe it was just one location which was the --  
19 there was a storage unit at Charleston and Cimarron.

20 Q All right. Now was there any sort of vehicle that  
21 was involved that became an interest in your investigation?

22 A Yes.

23 Q And what was that?

24 A There was a large -- I call it a cargo van. But  
25 it's like a big delivery truck like you'd see RC Willy

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1 delivering furniture with. A big white cargo truck about 27  
2 foot long I think.

3 Q And did you know -- were you able to determine who  
4 the registered owner was of that van?

5 A Yes.

6 Q Now between the time that detectives saw  
7 surveillance on this van and until just recently were you able  
8 to locate that van?

9 A Not until just recently.

10 Q So did you attempt to locate the van on November  
11 6th, 2006 or thereabouts?

12 A Yes. I had a search warrant for it.

13 Q But you weren't able to locate it?

14 A No.

15 Q I'm going to show you State's proposed Exhibits 1151  
16 and 1152. If you could look at those and let me know if you  
17 recognize them.

18 A Yes, I do.

19 Q Okay. And how do you recognize them?

20 A They're photographs and I took them.

21 Q Okay. And why did you take these photographs?

22 A Because I located the van.

23 Q At this residence?

24 A At this residence.

25 Q Okay.

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1 MS. DIGIACOMO: Your Honor, I move for admission of  
2 State's proposed Exhibits 1151 and 1152.

3 THE COURT: Objection?

4 MR. HART: The only objection I'll have is, his  
5 information's based on hearsay and I believe the testimony we  
6 have was all on prior detectives.

7 THE COURT: Well there was testimony that from one of the  
8 surveilling officers that he saw an all white but he also  
9 didn't see the side of the van where the writing is shown  
10 here. He said I saw it from the back and the other side.  
11 Objections overruled. They'll be admitted.

12 . . [State's Exhibits 1151 and 1152 Admitted]

13 BY MS. DIGIACOMO:

14 Q So Detective, with regard to State's 1150 through  
15 1155, are you the one that took these photographs?

16 A Yes.

17 Q And when did you take them?

18 A It was last week. I think maybe Tuesday of last  
19 week.

20 Q Okay. Now 1150, what are we looking at here?

21 A That's the Nevada license plate that's on the van.

22 Q And that's the same license plate that was on the  
23 van back in the fall of 2006?

24 A That's correct.

25 Q 1152, what are we looking at here?

1 A That's the house that the van is directly parked in  
2 front of.

3 Q So it was 1109?

4 A 1109 Virgil.

5 Q Okay. And is that why you took 1151 to show what  
6 street you were on?

7 A That's correct.

8 Q I'm showing you 1153, what are we looking at there?

9 A That's a shot, street view facing the front of the  
10 truck.

11 Q And 1154?

12 A The side of the truck. Driver's side.

13 Q Okay. Now there on the side of the truck there's --  
14 it's got a lot of writing on it.

15 A Yes.

16 Q Is that the way the truck looked back in the fall of  
17 2006?

18 A No.

19 MR. HART: Objection, Your Honor. It'd be based on  
20 speculation and hearsay.

21 THE COURT: Did you see the truck in the fall?

22 THE WITNESS: I did see the truck.

23 THE COURT: Okay. Overruled.

24 BY MS. DIGIACOMO:

25 Q Okay. So you saw the truck back in the fall of

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1 2006?

2 A Yes.

3 Q Okay. Did it have any writing on the sides of it  
4 like we're looking at here?

5 A No.

6 Q Was it -- what color or what did --

7 A It was plain white.

8 Q Just plain white. And I'm showing you 1150, what  
9 are we looking at here?

10 A That's the back sliding door of the truck.

11 Q All right. Did -- and it's got some writing on it  
12 as well?

13 A Yes.

14 Q All right. Was this writing on the back of the  
15 truck --

16 A No.

17 Q -- back in the fall of 2006?

18 A No, it was not.

19 Q Now we don't have a picture of the passenger side of  
20 the truck but back in 2006 what did it look like?

21 A It was plain white.

22 Q I believe you said that the surveillance led to a  
23 storage unit on West Charleston?

24 A Yes.

25 Q Okay. Were you able to locate any other storage

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1 units that might be involved?

2 A Yes.

3 Q And how did you do that?

4 A Initially what I started doing is just direct  
5 dialing from the phone book. I heard them having  
6 conversations on the jail phones about storage units.

7 MR. HART: Objection; hearsay.

8 THE COURT: Well depends on who he heard.

9 BY MS. DIGIACOMO:

10 Q Who did you hear?

11 A Defendant Monroe and one of his co-defendants.

12 THE COURT: Objection overruled. Go ahead.

13 BY MS. DIGIACOMO:

14 Q Who was the co-defendant?

15 A Brian Ferguson.

16 Q And it was these two that you were investigating  
17 after the car stop?

18 A Yes.

19 Q All right. So you said you started direct dialing.  
20 Did you have any luck?

21 A Yes. Actually from the direct dialing, no. I had  
22 no luck.

23 Q Okay. Well how -- well did you -- were you able to  
24 locate other storage units?

25 A Yes.

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1 Q And how was that?

2 A I started going out to the storage units because  
3 some of the storage units aren't very cooperative over the  
4 telephone. They don't really know if you're a police officer.  
5 So I just started visiting them in person. And I found one at  
6 5900 Smoke Ranch where the managers recognized some pictures  
7 of Daimon Hoyt, Daimon Monroe.

8 Q Okay. And who was that one registered to though?

9 A It was registered to Tonya Trevarthen.

10 Q Okay. And who is Tonya Trevarthen?

11 A Daimon's girlfriend. Mother of his children.

12 Q You're saying Daimon and Daimon Monroe and you're  
13 looking over at somebody. Just so the record's clear who are  
14 you referring to when you use the name Daimon Monroe?

15 A The man seated next to the blonde female at Defense  
16 table. He's wearing a suit and I think he has a long  
17 ponytail.

18 MS. DIGIACOMO: Your Honor, would the record reflect  
19 identification?

20 THE COURT: Yes.

21 MS. DIGIACOMO: Of the Defendant, thank you.

22 BY MS. DIGIACOMO:

23 Q Okay. So you were able to find a storage unit Smoke  
24 Ranch. With regard to the storage unit on West Charleston  
25 were you able to determine who had rented that?

1 A Yes.

2 Q All right. And who was that?

3 A That was also rented in the name of Tonya  
4 Trevarthen.

5 Q Now based upon all this information what did you do  
6 next?

7 A At that point I continued listening to the phone  
8 calls and eventually developed what I believe was probable  
9 cause for the issuance of search warrants for Daimon's house  
10 and the storage units.

11 Q Okay. So did you get search warrants then for the  
12 1504 Cutler --

13 A Yeah.

14 Q Yes?

15 A Yes.

16 Q 8100 West Charleston storage unit?

17 A Yes.

18 Q And also 15 -- and the 5900 Smoke Ranch storage  
19 unit?

20 A Yes.

21 Q All right. And based upon that were they executed  
22 on November 6th, 2006?

23 A Yes. Also along with a search warrant for Bryan  
24 Ferguson's apartment at 7400 Pirate's Cove.

25 Q Now were those all the search warrants you were

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1 executing on that date at that time when you began?

2 A Originally, yes.

3 Q Okay. When the search warrants were being issued,  
4 or executed, what was the first one that was executed?

5 A The first one that was executed was at the house at  
6 1504 Cutler Drive.

7 Q All right. And was that with the help of S.W.A.T.?

8 A Yes.

9 Q Okay. When S.W.A.T. approached the house do you  
10 recall approximately what time in the morning it was?

11 A I believe it was about 6:00 a.m.

12 Q Now were you present there or were you some other  
13 location?

14 A I was at that location but kind of around the  
15 corner.

16 Q All right. Did anyone come out of the residence  
17 based upon search warrants -- or excuse me S.W.A.T. demands?

18 MR. HART: Objection to speculation, if he's around the  
19 corner.

20 THE COURT: Were you able to see anybody come out of the  
21 residence?

22 THE WITNESS: No. But there was someone that was brought  
23 to me.

24 BY MS. DIGIACOMO:

25 Q Okay. Well let me ask you that. Who was brought to

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1 you?

2 A Mr. Monroe.

3 Q Okay. And when he was brought to you was he  
4 clothed?

5 A No.

6 Q Okay. So did you do something for him?

7 A I wrapped him in a yellow emergency blanket.

8 Q Okay. And then did you at some point walk through  
9 the house?

10 A Later, yes.

11 Q All right. And when walking through the residence  
12 was it -- was there a need for more assistance from detectives  
13 in other units?

14 A Yes.

15 Q Based upon what was located during the execution of  
16 the search warrant at Cutler, were there other units that were  
17 then -- search warrants were then obtained for?

18 A Yes.

19 Q And where were those units?

20 A I believe there was a storage unit 3250 North  
21 Buffalo. And another storage unit on West Sahara and that the  
22 address alludes me.

23 Q Now did you take part in the searches of any of the  
24 storage units?

25 A No, I did not.

1 Q Did you stay -- remain mainly at Cutler?

2 A Yes.

3 Q Okay. What about -- was there also a search warrant  
4 that was executed at a Rise Pine address 617 -- oh I forgot  
5 the address.

6 A 6177 I believe.

7 Q Rise Pine?

8 A Yes.

9 Q Okay. Was that -- was there a search warrant  
10 obtained on November 6th, 2006 for that residence as well?

11 A I understand that there was, yes.

12 Q Okay. But you didn't take part in that one?

13 MR. HART: Objection; hearsay.

14 THE COURT: Do you understand because somebody told you?

15 THE WITNESS: I've seen the documents from it.

16 THE COURT: Overruled.

17 MS. DIGIACOMO: Okay.

18 BY MS. DIGIACOMO:

19 Q Now with regard to these jail phone calls, you said  
20 you started with the phone number of Tonya Trevarthen's house?

21 A Yes.

22 Q All right. How many phone calls do you think you  
23 listened to within that month period? Where it from September  
24 through November of 2006.

25 A I would only be speculating. But I would estimate

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1 in somewhere in the neighborhood of --

2 MR. HART: Objection if it's a speculation.

3 THE COURT: Overruled.

4 THE WITNESS: Somewhere in the neighborhood of 200.

5 BY MS. DIGIACOMO:

6 Q All right. Now were you able to start learning  
7 voices and being able to discern who was who on those phone  
8 calls from listening to them?

9 A Yes.

10 Q And is that based not only on their voices but on  
11 content as well?

12 A Yes.

13 Q All right. Now there are certain phone calls I  
14 believe approximately 26 that have been marked.

15 MS. DIGIACOMO: Court's indulgence.

16 [Pause]

17 MS. DIGIACOMO: You gave them to me Tina, right?

18 THE CLERK: What are you talking about?

19 MS. DIGIACOMO: The phone calls. The --

20 THE CLERK: Oh. They're right here.

21 MS. DIGIACOMO: Oh. Sorry. I thought that I already  
22 grabbed some. All right.

23 For the record I have here what's been marked as  
24 State's proposed Exhibit 1181 which is a list of the calls  
25 that are on disks 1181A, 1181B and 1181C.



1 THE COURT: Okay.

2 BY MS. DIGIACOMO:

3 Q Now Detective when you, I guess, downloaded or  
4 logged these calls how did you notate what call was from whom  
5 or when it was, how did you do that?

6 A I made a list of notes that I think I presented to  
7 you.

8 Q Right. And was it date, time and who the call was  
9 made and to what phone number?

10 A Yes. A date, time, phone number that was dialed and  
11 sometimes there was like a brief summary of the context of the  
12 call. What -- of what importance had occurred during the  
13 phone call.

14 Q Okay. Now I'm going to show you what's been marked  
15 as State's proposed Exhibit 1181. This is probably condensed  
16 or a less number of the amount of calls that you originally  
17 downloaded. But does this look familiar to you?

18 A Yes. I created that.

19 Q Okay. So you notated the date, the time and then  
20 who the call went to and who it was placed from; is that  
21 correct?

22 A Yes. That's correct.

23 Q All right. As well as the phone numbers on all of  
24 these?

25 A Correct.

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1 Q Except for the last one, which is number 25. But  
2 you were able to recognize who those voices were on the call?

3 A Yes.

4 Q Okay. And these calls that are marked as 1181A, B  
5 and C fairly and accurately are going to depict these calls  
6 that are listed on the sheet on 1181?

7 A I hope so.

8 MS. DIGIACOMO: Your Honor, I'd move for admission.

9 MR. HART: Objection as to foundation.

10 THE COURT: Well were the phone calls downloaded and  
11 placed on a CD so that they could be presented to the jury in  
12 evidence, is that what happened?

13 THE WITNESS: Absolutely, they were.

14 THE COURT: All right. Go ahead.

15 MS. DIGIACOMO: So I move for --

16 MR. HART: And the objection was to foundation.

17 THE COURT: Overruled.

18 MS. DIGIACOMO: 1181. 1181A through C, Your Honor.

19 THE COURT: Be admitted.

20 [State's Exhibits 1181, 1181A, 1181B and 1181C Admitted]

21 MS. DIGIACOMO: And at this time I'd ask to publish.

22 THE COURT: Go ahead.

23 MR. HART: And, Your Honor, the other objection would be  
24 that any phone calls that are not involved in Daimon Monroe be  
25 stricken.

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1 THE COURT: You'll have to make the -- I haven't heard  
2 them. So you'll have to make the objection contemporaneously.  
3 I think we got a pretty sharp jury if we hear something we  
4 shouldn't. I'll ask them to disregard it and that's the best  
5 I can do.

6 Are we going to play them now; is that what we're  
7 doing?

8 MS. DIGIACOMO: Yes.

9 THE COURT: Do you have that list, Officer -- Detective?

10 THE WITNESS: I do not.

11 MS. DIGIACOMO: Your Honor, may I approach?

12 THE COURT: Why don't you give him the list and --

13 MS. DIGIACOMO: I've given one to Defense counsel as  
14 well.

15 THE COURT: The first one that we're going to hear, when  
16 did that occur, who was talking and what we can expect to  
17 hear. And that may help me with the objections, Mr. Hart.

18 [1181 Audio Tape Played in Courtroom]

19 MS. DIGIACOMO: I'm sorry. Did you -- did he state it?

20 THE COURT: No, he didn't. The first call, when did it  
21 occur, who's talking and what do we expect to hear? And that  
22 may allow me to rule on your objections without having the  
23 call played if it's appropriate. Go ahead.

24 THE WITNESS: From this list the first call is made on  
25 September 24th of 2006 at 7:58 in the morning, from Tonya to

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1 Daimon, at 702-413-0333.

2 MS. DIGIACOMO:

3 BY MS. DIGIACOMO:

4 Q And I'm sorry, you said from Tonya to Daimon?

5 A I'm sorry. To Tonya from Daimon. Excuse me.

6 [1st Audio Tape Played in Courtroom]

7 BY MS. DIGIACOMO:

8 Q And then the second call, Officer?

9 A The next call is September 24th, 2006 at 09:35  
10 hours.

11 MR. HART: Your Honor, can we approach very quickly?

12 THE COURT: Yeah.

13 [Bench Conference Not Transcribed]

14 THE COURT: Go ahead.

15 BY MS. DIGIACOMO:

16 Q I'm sorry Detective.

17 A That's a call to Tonya Trevarthen from Daimon Monroe  
18 702-413-0333.

19 [2nd Audio Tape Played in Courtroom]

20 THE COURT: Mr. Hart I checked the list and your client  
21 is on all those on the list, except 21 and 22. So we'll go  
22 through the first 20 and then you can come up here and I'll  
23 ask her for an offer of proof at the bench.

24 Who's this?

25 MS. DIGIACOMO: Sorry. Except for -- oh.

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1 THE COURT: Who's number 3, Officer?

2 THE WITNESS: Number 3 is September 24th, 2006, 16:58  
3 hours, a call to Englebert Clemente from Daimon Monroe, at  
4 702-296-2076.

5 [Pause]

6 THE COURT: State rest?

7 MS. DIGIACOMO: No.

8 [3rd Audio Tape Played in Courtroom]

9 BY MS. DIGIACOMO:

10 Q The next call?

11 A September 24th, 2006, 21:44 hours. A call from  
12 Daimon Monroe to Bryan Ferguson, 702-413-0333.

13 [4th Audio Tape Played in Courtroom]

14 THE COURT: That's the same one isn't it?

15 THE WITNESS: That's the same one.

16 MS. DIGIACOMO: It is.

17 [4th Audio Tape Played in Courtroom]

18 BY MS. DIGIACOMO:

19 Q And the next call?

20 A The next call is September 24th, 2006, 22:18 hours.  
21 It's a call to Daimon Monroe from Bryan Ferguson,  
22 702-413-0333.

23 THE COURT: Number 5?

24 THE WITNESS: Correct.

25 [5th Audio Tape Played in Courtroom]

1 THE COURT: Number 6, Detective?

2 THE WITNESS: Number 6 is September 25th of 2006, 00:51  
3 hours. A call to Daimon Monroe from Bryan Fergason,  
4 702-413-0333.

5 THE COURT: Well this is 10 minutes to 1:00 in the  
6 morning?

7 THE WITNESS: That's correct.

8 [6th Audio Tape Played in Courtroom]

9 THE COURT: Number 7?

10 THE WITNESS: Number 7, 9/25/06, 17:54 hours. Call to  
11 Daimon Monroe to Bryan Fergason, 702-413-0333.

12 [7th Audio Tape Played in Courtroom]

13 THE COURT: Number 8?

14 THE WITNESS: Number 8, 9/25/06, 18:23 hours. A call to  
15 Daimon Monroe from Bryan Fergason, 702-413-0333.

16 [8th Audio Tape Played in Courtroom]

17 THE COURT: Number 9?

18 THE WITNESS: Number 9 is September 26th, 2006 00:50  
19 hours. Call to Daimon Monroe from Bryan Fergason,  
20 702-413-0333.

21 [9th Audio Tape Played in Courtroom]

22 THE COURT: Number 10?

23 THE WITNESS: Number 10 September 26, 2006, 19:26 hours.  
24 Call to Daimon Monroe from Bryan Fergason, 702-413-0333.

25 [10th Audio Tape Played in Courtroom]

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1 THE COURT: 11?

2 THE WITNESS: 11 is September 26 '06, 19:37 hours. Call  
3 to Daimon Monroe from Bryan Ferguson, 702-413-0333.

4 [11th Audio Tape Played in Courtroom]

5 THE COURT: 12?

6 THE WITNESS: Number 12, September 26, 2006, 22:00 hours.  
7 Call to Daimon Monroe to Bryan Ferguson, 702-413-0333.

8 [12th Audio Tape Played in Courtroom]

9 THE COURT: 13?

10 MS. DIGIACOMO: And, Your Honor, for the record it's  
11 going to be 12A is next.

12 THE COURT: 12A?

13 MS. DIGIACOMO: And I'm switching disks.

14 THE WITNESS: 12A September 28, 2006, 09:30 hours. Call  
15 to Daimon Monroe to Bryan Ferguson, 702-413-0333.

16 [12A Audio Tape Played in Courtroom]

17 MR. HART: Your Honor, can we pause for a quick second?

18 THE COURT: I'm sorry, what?

19 MR. HART: Can we pause for a quick second and approach?

20 THE COURT: Yeah.

21 [Bench Conference Not Transcribed]

22 THE COURT: Okay. Let's take our afternoon break at this  
23 time. Unless you don't want to?

24 [Court Admonishes Jury]

25 THE COURT: We'll pick-up at three o'clock. We're

1 halfway done with the phone calls.

2 [Jury Out]

3 THE COURT: Okay. The record should reflect that the  
4 jury has exited. All the rest of the parties are still here.  
5 Mr. Hart, you wanted to make a record at this junction?

6 MR. HART: Like I said, I don't have the exact  
7 transcripts. I do know that like earlier we heard where they  
8 posted bail previously, I think that's bringing in another bad  
9 acts. I think this one's going to talk about --

10 THE COURT: Well that could be anything. And it could  
11 even be he posted bail for another person. You know, it was  
12 that he had some dealings with this company although had you  
13 gotten together and asked I would have said, we can redact  
14 that. But --

15 MS. DIGIACOMO: Well and, Your Honor, we did get together  
16 on that.

17 THE COURT: Oh Okay.

18 MS. DIGIACOMO: We went through these calls as much as we  
19 could but, you know --

20 THE COURT: I think it's fairly innocuous, I mean it's  
21 just, you know --

22 MR. HART: Okay. I think this other one's going to talk  
23 about -- this coming up one's going to talk about Mr. Monroe  
24 going out and seeing if he had the nuts to do another one.  
25 With Ferguson in the jail and that he missed him and he wishes



1 he could, you know, it's not as much fun as doing it without  
2 him is the context to this next call.

3 MS. DIGIACOMO: Well and, Your Honor, we already know  
4 with the whole car stop they had gone through and done these.  
5 And he talked about taking a month off and he's talked about  
6 doing a Halloween job which you've already heard on these  
7 tapes. It's all within the timeframe of conspiracy.

8 THE COURT: Well why isn't it, Mr. Hart?

9 MR. HART: Because I don't think it's a question -- I  
10 don't think it's -- conversation or further into conspiracy.  
11 It's explaining -- as I understood it and maybe I'm wrong but  
12 the ruling from the Court was the other -- the burglaries were  
13 going to be covered for Anku Palace and Just For Kids  
14 Dentistry.

15 MS. DIGIACOMO: Well, Your Honor, the conspiracy is  
16 ongoing at this point.

17 THE COURT: Right.

18 MS. DIGIACOMO: It hasn't --

19 THE COURT: What you can't talk about is things they did  
20 last year or two years ago or five years ago. But the things  
21 we're doing today and the things we're going to do tomorrow,  
22 that is in the furtherance of the conspiracy.

23 MS. DIGIACOMO: The conspiracy is charged all the way  
24 through November 27th.

25 THE COURT: All right. Okay. Your objection's noted. I

1 think that's admissible as long as they're talking about what  
2 they are doing and what they're going to do tomorrow.

3 Okay. A quick break.

4 [Recess]

5 [Within the Presence of the Jury]

6 THE COURT: Okay. Back on the record in Case number  
7 C228752, State of Nevada versus Daimon Monroe. Let the record  
8 reflect the presence of the Defendant, with his counsel,  
9 counsel for the State, all ladies and gentlemen of the jury  
10 back in the box.

11 Detective Nickell, you're still under oath, sir.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Ms. Digiacomio. I've admonished him, he's  
14 still under oath. Your were playing called 12A which isn't  
15 going to leave us all out in left field, we still only have 26  
16 total regardless of how we number them, correct?

17 MS. DIGIACOMO: Yes, sir.

18 [12A Audio Tape Played in Courtroom]

19 THE COURT: Next in order?

20 THE WITNESS: Number 13, September 30th, 2006, 15:56  
21 hours. Call to Daimon Monroe from Bryan Ferguson,  
22 702-413-0333.

23 [13th Audio Tape Played in Courtroom]

24 THE COURT: Next in order?

25 THE WITNESS: Next is October 1st, 2006, 15:19 hours.

1 Call to Daimon Monroe from Bryan Ferguson, 702-413-0333.  
2 [14th Audio Tape Played in Courtroom]  
3 THE COURT: Next.  
4 THE WITNESS: October 3rd, 2006, 20:17 hours. Call to  
5 Daimon Monroe from Bryan Ferguson, 702-413-0333.  
6 [15th Audio Tape Played in Courtroom]  
7 MR. HART: Your Honor, can we approach again?  
8 THE COURT: Yeah.  
9 [Bench Conference Not Transcribed]  
10 THE COURT: Go ahead. Next in order?  
11 THE WITNESS: Next is October 7th, 2006, 19:35 hours.  
12 Call to Daimon Monroe from Bryan Ferguson, 702-413-0333.  
13 [16th Audio Tape Played in Courtroom]  
14 THE COURT: Next.  
15 THE WITNESS: Next is October 8th, 2006, 22:38 hours.  
16 Call to Daimon Monroe from Bryan Ferguson, 702-413-0333.  
17 [17th Audio Tape Played in Courtroom]  
18 THE COURT: Next.  
19 THE WITNESS: Next, October 11, 2006, 21:11 hours. Call  
20 to Daimon Monroe from Bryan Ferguson, 702-413-0333.  
21 [18th Audio Tape Played in Courtroom]  
22 THE COURT: Next.  
23 THE WITNESS: October 13th, 2006, 14:52 hours. Call to  
24 Daimon Monroe from Bobby Holmes, 702-413-0333.  
25 MS. DIGIACOMO: And for the record, this one is out

1 chronological order, but number 20.

2 [20th Audio Tape Played in Courtroom]

3 THE COURT: Is there some relevance to this particular  
4 call that --

5 MS. DIGIACOMO: Your Honor, this one is out of  
6 chronological order with the next call, which would explain  
7 what's going on in this call when he's arrested for possession  
8 of stolen property in his house, which the next witness is  
9 going to tie up.

10 THE COURT: But do they talk to their lawyer on this  
11 call?

12 MS. DIGIACOMO: No, they do not. It's --

13 THE COURT: Go ahead.

14 MS. DIGIACOMO: -- just them trying to reach it --

15 THE COURT: Go ahead. I just wanted to make sure it  
16 wasn't a privileged communication. Go ahead.

17 MS. DIGIACOMO: No, it's not, Your Honor.

18 [20 (continued) Audio Tape Played in Courtroom]

19 THE COURT: Next?

20 THE WITNESS: Next is October 12th, 2006, 23:33 hours.  
21 Call to Daimon Monroe from Bobby Holmes, 702-413-0333.

22 MS. DIGIACOMO: Just for the record I'm now putting in  
23 Disk C.

24 THE COURT: So by my count we've got five after this,  
25 right?

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1 MS. DIGIACOMO: That's correct.

2 [21st Audio Tape Played in Courtroom]

3 THE COURT: Next?

4 THE WITNESS: October 13, 2006, 20:37 hours. Call to  
5 Tonya Trevarthen from Bryan Fergason, 702-413-0333.

6 THE COURT: This is three-way where this Defendant is on  
7 the call; is that right?

8 THE WITNESS: Yes.

9 [22nd Audio Tape Played in Courtroom]

10 THE COURT: Next?

11 THE WITNESS: October 18, 2006, 19:40 hours. Call to  
12 Tonya Trevarthen from Bryan Fergason.

13 THE COURT: This is three-way to the Defendant then?

14 THE WITNESS: Yes, it is, 702-413-0333

15 [23rd Audio Tape Played in Courtroom]

16 THE COURT: One more.

17 THE WITNESS: October 22nd, 2006, 21:13 hours. Call to  
18 Daimon Monroe from Bryan Fergason, 702-413-0333.

19 [24th Audio Tape Played in Courtroom]

20 THE COURT: Next to last?

21 THE WITNESS: The next call is on November 6, 2006 at  
22 18:59 hours. This was after the service of the search  
23 warrants on Cutler and at the storage units. This call was  
24 made to Bobby Holmes from Daimon Monroe, who's in jail.  
25 702-595-4616 is the number dialed.

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1 [25th Audio Tape Played in Courtroom]

2 THE COURT: Last call.

3 THE WITNESS: November 7, 2006, 21:17 hours. Call to  
4 Tonya Trevarthen from Daimon Monroe.

5 [26th Audio Tape Played in Courtroom]

6 MR. HART: Can we put it on pause --

7 THE COURT: Listen to it. We'll play it. Come on up,  
8 talk to me while they're playing it. Let them listen

9 [Bench Conference Not Transcribed]

10 [26th (continued) Audio Tape Played in Courtroom]

11 THE COURT: Okay. They tell me they've got about 40 more  
12 minutes of testimony total. So we're going to try to hurry it  
13 up and get it done today. I know it's late and we're tired,  
14 but speed it up.

15 BY MS. DIGIACOMO:

16 Q Sir, after hitting the houses and the storage units  
17 on November 6, did you find anything of interest at the house  
18 that may have led you to some bank accounts?

19 A There were some things found that I know of, yes.

20 Q Okay. They weren't found by you, but they were  
21 found at the house?

22 A Right.

23 Q And did that lead you to a banking institution?

24 A Yes.

25 Q And what institution was that?

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1 A Bank of America.

2 Q All right. And what were you look for specifically  
3 at Bank of America?

4 A Bank accounts.

5 Q For whom?

6 A For Tonya, or Daimon, or Bobby, or Bryan Fergason.

7 Q Okay. And were you successful at finding some of  
8 them?

9 A Yes.

10 Q Now did you work with another detective with regard  
11 to the financial warrants?

12 A Yes. Detective Patrick Fielding.

13 Q All right. And did you actually get money, seize  
14 money that was in an account for Bryan Fergason?

15 A Yes..

16 Q Do you recall approximately how much that was?

17 A Just off the top of my head I think it was around  
18 \$126,000.

19 Q All right. And what about from Tonya Trevarthen's  
20 account?

21 A It was much less. I think it was under 40,000.

22 Q Okay. And then were you also informed of some  
23 withdrawals that were made by Tonya Trevarthen?

24 A Yes.

25 Q Do you know the approximate dollar amount of that?

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1           A     Originally it was unclear. I was getting some  
2     conflicting information from different banking personnel, but  
3     it was well in excess of \$100,000.

4           Q     All right. Now, were you able to track where that  
5     money went?

6           A     Some of it, yes.

7           Q     And did you do additional warrants to get that money  
8     back?

9           A     Yes.

10          Q     Okay. And do you recall approximately how much you  
11     were able to get back from following it to other bank  
12     accounts?

13          A     I think in total, with all the different seizure  
14     warrants that were served and other monies that came in, it  
15     was in the neighborhood of \$300,000.

16          Q     For total amount?

17          A     Yes.

18          Q     Now do you recall whether you learned that Tonya  
19     Trevvarthen had given 145,000 to Bobby Holmes?

20          MR. HART: Objection; hearsay.

21          THE COURT: Why isn't that?

22          MS. DIGIACOMO: Well she's already testified that she  
23     told him. So I'm just asking him based on that, to make sure  
24     he really did.

25          MR. HART: Your Honor, it's only uncorroborated testimony

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1 that she gave to somebody else.

2 THE COURT: Well, she testified that she did. Overruled,  
3 go ahead.

4 THE WITNESS: Could you ask the question again, please?  
5 BY MS. DIGIACOMO:

6 Q Okay. Did you learn -- did you take a taped  
7 interview from Tonya Trevvarthen on November 27th, 2006?

8 A Yes.

9 Q All right. And during that taped interview did you  
10 learn -- strike that. That was the Monday after Thanksgiving  
11 that year?

12 A Correct.

13 Q All right. And did you learn during that  
14 conversation with her that she had given approximately  
15 \$145,000 to Bobby Holmes?

16 A Yes.

17 Q Based upon that information did you contact Bobby  
18 Holmes?

19 A I did not.

20 Q And did anyone contact Bobby Holmes?

21 A Let me -- let me back up. I did eventually contact  
22 Bobby Holmes, but not immediately.

23 Q All right. And when you did, what did you tell him?

24 MR. HART: Objection; it's going to be hearsay.

25 THE COURT: It's what did he tell Holmes?

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1 MS. DIGIACOMO: That's right.

2 THE COURT: He can't say what Holmes said. But go ahead,  
3 what did you tell him?

4 THE WITNESS: I told him that he needed to surrender the  
5 money that Tonya had given him.

6 BY MS. DIGIACOMO:

7 Q Right. Did you tell him the dollar amount?

8 A Yes.

9 Q And what dollar amount did you tell him?

10 A 145,000.

11 Q All right. Now did you ever receive any money from  
12 Bobby Holmes?

13 A Yes.

14 Q How much?

15 A 70,000.

16 Q And at what time period was that, versus when you  
17 learned the money with him on November 27?

18 A I don't understand the question.

19 Q Well, when was it --

20 THE COURT: How long after November 27th did you get the  
21 70,000?

22 THE WITNESS: It was approximately ten days.

23 BY MS. DIGIACOMO:

24 Q All right. Now, at the time you got the 70,000 from  
25 Holmes, when he returned that did you have a conversation with

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1 him?

2 A Yes.

3 MR. HART: Objection again.

4 THE COURT: It's not hearsay. But he can't say what  
5 Holmes said.

6 BY MS. DIGIACOMO:

7 Q What did you tell Mr. Holmes during that  
8 conversation after you were given 75 -- \$70,000?

9 A I instructed him that he still needed to come up  
10 with the other 75,000.

11 Q Now in November of 2007 and January of this year,  
12 did you conduct evidence views?

13 A Yes..

14 Q And what was the purpose of that?

15 A That was to have people who I'd had identified items  
16 through photograph as belonging to them, to have them actually  
17 show up and physically in person see these items that were in  
18 the evidence vault, so that they could be absolutely certain  
19 that these were the same items that they believe were taken  
20 from them.

21 Q All right. So you were documenting whether or not  
22 the property they previously identified in photographs were  
23 theirs?

24 A Correct.

25 Q And when you were doing this documentation did you

1 do it by photographs as well?

2 A I took photographs of the items that they had  
3 identified, yes.

4 Q And then you took pictures of them with the items?

5 A Correct.

6 THE COURT: The jurors have seen all of them.

7 MS. DIGIACOMO: No, Your Honor, we haven't. There are  
8 some that aren't in evidence.

9 THE COURT: All right.

10 MS. DIGIACOMO: I'm just going to use one that explain  
11 the way he did it.

12 THE COURT: Please.

13 MS. DIGIACOMO: And it's a short one.

14 BY MS. DIGIACOMO:

15 Q Okay. Now, looking at State's Exhibit 58, this has  
16 to do with Mountain Springs Wellness.

17 THE COURT: It's not up.

18 [Pause]

19 BY MS. DIGIACOMO:

20 Q Okay. Do you recognize this?

21 A Yes.

22 Q All right. Now in the bottom corner do you  
23 recognize this note?

24 A Yes.

25 Q What is that?

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1           A     That's a tag that I digitally placed on the  
2 photograph so that it would be easy to sort and keep in order.

3           Q     Okay. So what is that --

4           A     That's Mount Springs Wellness, number 1.

5           Q     All right. And so is the way you keep track of all  
6 the photographs?

7           A     Yes.

8           Q     And so showing you State's Exhibit Number 59.

9           A     Mount Springs Wellness, number 2.

10          Q     Okay.

11          A     It's the back plate of the chair, it shows the model  
12 and serial number.

13          Q     All right. And then I'm showing you State's Exhibit  
14 60.

15          A     Mountain Springs Wellness, number 3. That's the  
16 evidence tag for that item.

17          Q     All right. Did you, with each one of these items  
18 that was viewed, you actually took a picture of the evidence  
19 tag that went with the item?

20          A     Correct.

21          Q     And then lastly, I'm showing you State's Exhibit 61.

22          A     That is the chair with the owner.

23          Q     All right. And it's MSW4?

24          A     Correct.

25          Q     All right. So you did take numerical photographs

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1 with each of these views?

2 A Yes.

3 Q Okay. And so is it fair to say with every view that  
4 we have in Court here, they're documented just as this  
5 Mountain Springs Wellness one?

6 A Yes, ma'am.

7 MS. DIGIACOMO: Court's indulgence.

8 [Pause]

9 BY MS. DIGIACOMO:

10 Q Sir, I'm showing you what's been marked as State's  
11 proposed Exhibit 20, 22, 24. You can flip them over after you  
12 look at them. 26, 28,, 30. Okay. Sir, do you recognize all of  
13 these proposed exhibits?

14 A Yes.

15 Q And what are those?

16 A Those are photographs of evidence tags that I took.

17 Q All right. And these relate to what evidence view?

18 THE COURT: Are you saying the alleged victim?

19 THE WITNESS: Yeah. Excuse me, Touch of Vegas.

20 BY MS. DIGIACOMO:

21 Q Okay. So these again are tagged with your little  
22 symbol so that you can keep track of what goes with what?

23 A Correct.

24 Q And he's fairly and accurately depict the evidence  
25 tag that go along with the evidence property that you showed,

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1 the Touch of Vegas person, Michael Landsberger?

2 A Yes.

3 MS. DIGIACOMO: I move for admission of State's proposed  
4 Exhibits 20, 22, 24, 26, 28 and 30.

5 THE COURT: Any objection?

6 MR. HART: No, Your Honor.

7 THE COURT: Admitted.

8 [State's Exhibits 20, 22, 24, 26, 28 and 30 Admitted]

9 BY MS. DIGIACOMO:

10 Q I'm showing you now what's been marked for --

11 THE COURT: Has he pre-trialed on all of those --

12 MS. DIGIACOMO: Yeah.

13 THE COURT: -- packets?

14 MS. DIGIACOMO: Yes.

15 THE COURT: Mr. Hart?

16 MR. HART: Yes.

17 THE COURT: Do you have any objection to any of those  
18 that aren't in evidence, that he's going to say the same  
19 thing, coming into evidence?

20 MR. HART: As long as he can identify them all.

21 MS. DIGIACOMO: And, Your Honor, for the record --

22 THE COURT: At your pre-trial did you identify all those  
23 for the D.A.?

24 THE WITNESS: Yes.

25 THE COURT: Do you want to move all the ones in that

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1 aren't in?

2 MS. DIGIACOMO: Yes. And I'll just --

3 THE COURT: Just give me the number.

4 MS. DIGIACOMO: Okay. 75, 77, 219, 222, 230, 234, 250,  
5 252, 254, 256, 258, 260, 262, 264. And all of these actually  
6 have your signature and P number, correct?

7 THE WITNESS: Probably not every one of them, because  
8 there were some items that were impounded that I didn't write  
9 the tag for?

10 MS. DIGIACOMO: But a lot of them?

11 THE WITNESS: Yes.

12 MS. DIGIACOMO: 267, 269, 271, 273, 275, 277, 279, 281,  
13 283, 285, 288, 290, 292, 294, 296, 347.

14 THE WITNESS: Yes.

15 MS. DIGIACOMO: 350, 352.

16 THE WITNESS: Yes.

17 MS. DIGIACOMO: 415.

18 THE WITNESS: Yes.

19 MS. DIGIACOMO: 419.

20 THE WITNESS: Yes.

21 MS. DIGIACOMO: 422, 424, 427, 430, 433, 436, 439.

22 THE WITNESS: yes.

23 MS. DIGIACOMO: 442.

24 THE WITNESS: Yes.

25 MS. DIGIACOMO: 445.



1 THE WITNESS: Yes.  
2 MS. DIGIACOMO: 447.  
3 THE WITNESS: Yes.  
4 MS. DIGIACOMO: 452.  
5 THE WITNESS: Yes.  
6 MS. DIGIACOMO: 455.  
7 THE WITNESS: Yes.  
8 MS. DIGIACOMO: 457.  
9 THE WITNESS: Yes.  
10 MS. DIGIACOMO: 470.  
11 THE WITNESS: Yes.  
12 MS. DIGIACOMO: 472.  
13 THE WITNESS: Yes.  
14 MS. DIGIACOMO: 476.  
15 THE WITNESS: Yes.  
16 MS. DIGIACOMO: 479.  
17 THE WITNESS: Yes.  
18 MS. DIGIACOMO: 482.  
19 THE WITNESS: Yes.  
20 MS. DIGIACOMO: 484.  
21 THE WITNESS: Yes.  
22 MS. DIGIACOMO: 486.  
23 THE WITNESS: Yes.  
24 MS. DIGIACOMO: 488. That's it.  
25 THE COURT: Good.

1 THE WITNESS: I recognize all of those.

2 MS. DIGIACOMO: Okay.

3 THE COURT: They're admitted.

4 [Defendant's Exhibits 75, 77, 219, 222, 230, 234, 250,  
5 252, 254, 256, 258, 260, 262, 264 267, 269, 271, 273, 275,  
6 277, 279, 281, 283, 285, 288, 290, 292, 294, 296, 347, 350,  
7 352, 415, 419, 422, 424, 427, 430, 433, 436, 439, 442, 445,  
8 447, 452, 455, 457, 470, 472, 476, 479, 482, 484, 486 and 488  
9 Admitted]

10 THE COURT: Any other questions?

11 MS. DIGIACOMO: The Court's indulgence.

12 BY MS. DIGIACOMO:

13 Q With regard to a chest and two nightstands that were  
14 left behind at the Cutler residence, do you know what I'm  
15 talking about?

16 A Yes, I do.

17 Q Did you later learn that that was possibly the  
18 belongings of Furniture Markdowns?

19 A Yes.

20 Q And what did you do based upon that?

21 A I dropped another search warrant to go back to the  
22 Cutler address again.

23 Q And did you actually go back and impound those three  
24 items?

25 A Yes.

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1 Q Now just basically, jurisdiction, all of the places  
2 that we've talked about, the address on Rise Pine, Cutler and  
3 Pirates Cove, the apartment, is that all in Clark County,  
4 Nevada?

5 A Yes.

6 Q And what about the storage units at West Charleston,  
7 Smoke Ranch, West Sahara and North Buffalo that were discussed  
8 as well --

9 A Yes. They are Clark County.

10 Q -- all in Clark County?

11 MS. DIGIACOMO: Nothing further.

12 THE COURT: Mr. Hart.

13 CROSS-EXAMINATION

14 BY MR. HART:

15 Q Now, you said you did a viewing later, correct, at  
16 the --

17 A Yes.

18 Q -- evidence vault? And that was after you  
19 discovered that some items had been wrongfully given back to  
20 people who didn't own them?

21 A Yes, that did happen.

22 Q It happened a couple of times?

23 A Yes.

24 Q At least. A couple of different alleged victims,  
25 correct?

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1 A Yes.

2 Q Okay. And how much was it that Tonya took out of  
3 the accounts that wasn't recovered?

4 A I don't have that exact number memorized. But it's  
5 between 145 and \$200,000.

6 Q Okay. And when you first interviewed Tonya you told  
7 her that you couldn't guarantee her a deal, correct?

8 A I told her I was in -- I wasn't someone that could  
9 give her a deal; that's correct.

10 Q But you did tell her you'd speak to the District  
11 Attorney, correct, on her behalf?

12 A I don't recall saying that to her.

13 Q Does it sound like something you might have said?

14 A It's possible, I've said it in the past.

15 MR. HART: May I approach, Your Honor?

16 THE COURT: Yeah.

17 BY MR. HART:

18 Q I'm asking you, do you remember interviewing her on  
19 the 27th of November?

20 A I remember that, yes.

21 Q I'll ask you to look at the bottom part of the  
22 statement.

23 A Yes.

24 Q Okay.

25 A It refreshes my memory.

1 Q Okay. So at that time you didn't tell her you  
2 couldn't do it, but you told her you'd certainly do your best  
3 to help her out if she helped you, right?

4 A I don't believe that's what I said.

5 Q Did you say: "What I'd do is speak to the attorney  
6 and let the DA what you've done, what information you've  
7 provided, and that may carry some weight with the District  
8 Attorney"?

9 A Yes, that's what I said.

10 Q Okay. And after this she came and testified at the  
11 grand jury, correct?

12 A Yes.

13 Q And then she came in and gave you even more specific  
14 information later, correct, in January?

15 A That's correct.

16 Q Did she ask you about getting money back, some money  
17 that was inherited?

18 A There was some discussion about how much money had  
19 been seized, and that her attorney had been given some money.  
20 And I think the discussion about her having an inheritance  
21 pertained to whether or not her attorney was going to  
22 surrender monies that was given to him from that account.

23 Q Okay. Now, all the accounts seized were in her  
24 name, correct? Except for the ones that were in Mr.  
25 Ferguson's name?

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1 A Correct. I think there might have been a second  
2 person on one of the accounts, and it was one of their -- one  
3 of their children.

4 Q Okay. And you didn't do the surveillance?

5 A I was not out there for the surveillance.

6 Q And you were not there for much of the searching.  
7 You were out there at the Cutler address only, correct?

8 A Correct.

9 Q There was actually other people who did the searches  
10 for you?

11 A A very large majority of that, yes.

12 Q And none of the storage units were in the name of  
13 Daimon Monroe, correct?

14 A That's correct.

15 Q And did you talk to the District Attorney on Tonya's  
16 behalf?

17 A I told the District Attorney the information that  
18 Tonya provided to me.

19 MR. HART: Nothing further.

20 REDIRECT EXAMINATION

21 BY MS. DIGIACOMO:

22 Q I'm sorry. You said a few minutes ago that the  
23 money that wasn't recovered from Tonya was about 145 to  
24 200,000?

25 A That's not correct.

1 Q Okay.

2 A The money that we did not recover from Tonya would  
3 have been 75,000.

4 Q All right. Now if I have this correct, there was  
5 about like \$200,000 that she withdrew or she did transfers to  
6 other people?

7 A Yes.

8 Q Okay. You got all of that back by going into the  
9 accounts of different persons and the attorneys giving the  
10 money back, et cetera, and Bobby Holmes gave you the money  
11 back, except for approximately 75,000?

12 A It would probably be closer to 100,000.

13 Q Okay. But 75,000 of it was from Mr. Holmes?

14 A Correct.

15 Q And so there's approximately another 25,000 that you  
16 -- you didn't get back?

17 A Correct.

18 Q Now, the conversation of the tapes taken -- you took  
19 from Tonya on November 27th, 2006, who initiated that?

20 A Tonya.

21 Q And when you spoke to her, you said you didn't make  
22 her any promises, but did you have anything to do with the  
23 fact that she then came to the grand jury and testified?

24 A I told her that the grand jury would be taking  
25 place, and that if she wished to speak before the grand jury

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1 that was something that was available to her, because she was  
2 going to be a named defendant in the case.

3 And I told her to talk to her attorney about it, if  
4 she wanted to talk.

5 Q Okay. But it wasn't part of any deal you were  
6 trying to get --

7 A No.

8 Q -- for her to come in and testify?

9 A Not whatsoever.

10 Q And one of the store's units was in the name of  
11 Ashton Monroe, correct?

12 A Correct.

13 MS. DIGIACOMO: Nothing further.

14 THE COURT: Anything else, Mr. Hart.

15 RECROSS-EXAMINATION

16 BY MR. HART:

17 Q The part of the money wasn't returned, was part of  
18 the money she wired directly to her mother, or was that all  
19 returned?

20 A I believe that was not returned.

21 Q That was about 25,000 she wired directly there?

22 A I believe it was.

23 Q And during the voluntary statement that was done on  
24 the 27th, you guys had to stop part way through for a little  
25 while, didn't you, and then resume again?



1 A When?

2 Q During the statement on the 27th. You guys  
3 stopped for a little while and then resumed with more  
4 information?

5 A I don't have a specific memory of that.

6 MR. HART: Okay. Nothing further, Your Honor.

7 THE COURT: Okay. Thanks Detective. It's hot,  
8 everybody's tired, let's go home. We've got one more witness,  
9 we'll do it in the morning, and we're still going to finish  
10 tomorrow. We're okay.

11 MS. DIGIACOMO: Okay.

12 THE COURT: 9:30 tomorrow.

13 [Court Admonishes Jury]

14 THE COURT: I will see what I can do about the  
15 temperature tomorrow. Have a nice night.

16 [Jury Out]

17 THE COURT: Anything else?

18 MR. HART: No, sir.

19 THE COURT: Gentlemen, ladies, anything else?

20 MR. HART: Your Honor, I'll -- can I just make the  
21 argument tomorrow morning when we start? Thanks, I'm  
22 shot.

23 THE COURT: All right. We're going to have that one  
24 witness. We're going to instruct them. We're going to just  
25 argue straight through. We're going to be done about one

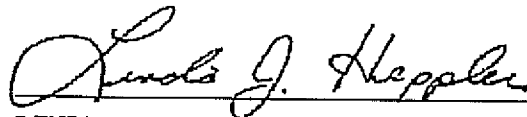
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1 o'clock, and we're going to feed him in the jury room and let  
2 them go to work.

3 [Proceedings Concluded at 5:13 P.M.]  
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1 ATTEST: I do hereby certify that I have truly and correctly  
2 transcribed the audio/video recording in the above-entitled  
3 case to the best of my ability.  
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12 LINDA J. HEPPLER, Transcriber  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,  
Plaintiff,  
v.  
DAIMON MONROE,  
Defendant.

CASE NO. C-228752  
DEPT. VII

BEFORE THE HONORABLE STEWART L. BELL, DISTRICT COURT JUDGE

TUESDAY, MAY 20, 2008

REPORTER'S TRANSCRIPT  
TRIAL BY JURY  
DAY 7 - VOLUME I

APPEARANCES:

For the Plaintiff: SANDRA A. DIGIACOMO, ESQ.  
SHELLY L. SMALL, ESQ.  
Deputy District Attorneys

For the Defendant: MARTY HART, ESQ.  
MICHAELA E. TRAMEL, ESQ.

RECORDED BY: RENEE VINCENT, COURT RECORDER

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CLERK OF THE COURT

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Julie Holl..... 5

Defendant's Witness(es) :

None

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DEFENDANT'S:

None

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IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Feb 02 2015 10:19 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

DAIMON MONROE,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

DOCKET NO.: 65827

D.Ct. Case No.:

**APPELLANT'S APPENDIX**

**Vol. IV**  
**(Pages 0751-1000)**

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1 Q Okay. What was the approximate price that was paid  
2 for that?

3 A \$2500.

4 Q So you were -- all these items that we just looked  
5 at they were released to you at the scene?

6 A Yes.

7 Q Now with regard to that computer tower, the CPU,  
8 what happened with it?

9 A They released that back to us. And a couple days  
10 later the officers contacted us and got that back.

11 Q Okay. So did you actually give the computer CPU  
12 tower back to detectives?

13 A Yes.

14 Q All right. Between the time that you had gotten it,  
15 released to you at the scene and given it back to detectives  
16 had you used it at your work?

17 A No.

18 MS. DIGIACOMO: Nothing further.

19 THE COURT: Questions for Mr. Beller?

20 CROSS-EXAMINATION

21 BY MR. HART:

22 Q Mr. Beller, when you returned that product, your  
23 computer screen, you signed for a Sony computer screen,  
24 correct?

25 A Yes.

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1 Q The only things reported were a Panasonic and an LG  
2 computer screen; is that correct?

3 A I didn't do the reporting. I was the -- I reported  
4 what was stolen in my particular office. The -- they did some  
5 other reporting. I think somebody else did the actual  
6 reporting with the other officer.

7 Q Okay. And do you know when this computer was  
8 bought?

9 A No.

10 Q Okay. So it wasn't a brand new computer?

11 A Fairly new. We've only been at that office, you  
12 know, we had only been at that office for maybe nine months.

13 Q .Okay.

14 A So it was new to that office. Everything was.

15 MR. HART: Nothing further from this witness.

16 THE COURT: Thanks, Mr. Beller. Appreciate your  
17 testimony. You're excused. Call your next.

18 MS. DIGIACOMO: Devan Thorns.

19 THE COURT: Come on up here, ma'am.

20 THE CLERK: Please remain standing and raise your right  
21 hand.

22 DEVAN THORNS, STATE'S WITNESS, SWORN

23 THE CLERK: Thank you. You may be seated.

24 THE COURT: Ma'am, state your name, spell your name for  
25 the court recorder.

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1 THE WITNESS: It's Devan Thorns, D-e-v-a-n. Last name,  
2 T-h-o-r-n-s.

3 THE COURT: Go ahead.

4 DIRECT EXAMINATION

5 BY MS. DIGIACOMO:

6 Q How are you employed?

7 A By Bank of America.

8 Q What specifically is your title?

9 A Assistant Manager.

10 Q What branch are you the assistant manager of?

11 A 300 South 4th street.

12 Q Is that the one located downtown here?

13 A Yes, ma'am.

14 Q Is that the main branch for B of A in Las Vegas?

15 A It's one of the main banking centers.

16 Q And I want to direct your attention to approximately  
17 November 21st, 2006. Did some detectives come into your bank  
18 with warrants?

19 A Yes.

20 Q And did you know that they were going to come?

21 A No.

22 Q And when they got there were you the one that  
23 assisted them?

24 A Yes.

25 Q Okay. And with regard to the warrants that were

1 executed there, what did you do?

2 A First we have to fax the search warrants to our  
3 legal department to have the search warrant reviewed to make  
4 sure we follow all the procedures that's notated in the search  
5 warrant. And that's what I did.

6 Q Okay.

7 MS. DIGIACOMO: Court's indulgence.

8 BY MS. DIGIACOMO:

9 Q So after you faxed it to legal, did you get back  
10 authorization to go ahead and execute the warrant?

11 A Yes.

12 Q All right. And based upon that do you recall what  
13 bank accounts the detectives were interested in, or had the  
14 warrants for?

15 A I believe there was some CD checking account, some  
16 savings account. Those were the accounts.

17 Q Okay. Now do you recall the names of those -- the  
18 people on those accounts?

19 A If I see it I do.

20 Q All right. Did you actually assist the detectives  
21 by pulling records from the accounts that you were going to be  
22 getting the money from?

23 A Yes. I gave them printouts from the CD and the  
24 other accounts that they had.

25 Q So if I was to show you those records, would that

1 refresh your recollection?

2 A Yes.

3 Q Okay. Now I'm going to show you just a stack of  
4 documents. If you can flip through those and let me know  
5 which ones help refresh your recollection.

6 [Pause]

7 A These ones I'm not sure of. These ones I know for  
8 sure, I recall doing these ones.

9 Q And the ones on this side. So the ones in the  
10 middle --

11 THE COURT: Ms. Thorns?

12 THE WITNESS: No.

13 THE COURT: You have a real nice soft voice.

14 THE WITNESS: I'm sorry.

15 THE COURT: But these folks need to hear you.

16 THE WITNESS: Okay.

17 THE COURT: So if you say something, speak up and speak  
18 in that direction, please?

19 THE WITNESS: This name I distinctly remember.

20 BY MS. DIGIACOMO:

21 Q Okay. The first set of documents you set aside,  
22 what's the name of those documents?

23 A It's Tonya -- is it Trevarthen?

24 Q Could you spell it for the record?

25 A T-r-e-v-a-r-t-h-e-n.

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1 Q All right. And then the second set of documents  
2 that you recall, what's the name on those; the ones that  
3 you've set aside to your right.

4 A It's Bryan Ferguson.

5 Q Okay. Now with regard to Mr. Ferguson's -- how many  
6 accounts did Mr. Ferguson have in your bank?

7 A I know he had the checking, the savings and a CD,  
8 but he didn't have much in the CD I remember, I mean in the  
9 checking account.

10 Q Okay. So when you were asked to execute the warrant  
11 with regard to Mr. Ferguson's accounts do you recall what you  
12 handed back over to the detectives or how you did that?

13 A Of course we did the cashiers' checks from the  
14 remaining funds of the accounts. And I also gave them all the  
15 information from their accounts to show what funds were  
16 remaining.

17 Q Okay.

18 A Or what funds I took from.

19 Q All right. So with regard to Mr. Ferguson, do you  
20 recall approximately how much in funds that you handed over to  
21 detectives from the three different accounts?

22 A I don't.

23 Q Okay. But do you know how you handed it over to  
24 them?

25 A In the form of a cashier's check.

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1 Q All right. And now with regard to Ms. Trevarthen's  
2 documents that you have today to your left, do you recall  
3 approximately how much you handed over to detectives in a  
4 cashier's check?

5 A I can't remember the exact amount, no.

6 Q Okay. Now with regard to the activity on Ms.  
7 Trevarthen's account, with the documents -- it looks like you  
8 pulled more documents for her than you did for Mr. Ferguson.  
9 What was the purpose of that?

10 A Well we were -- I was going through her account and  
11 I noticed that she had closed out her CD.

12 Q How much was in her CD before she closed it out?

13 A Around 100,000 or more. And I know that she had  
14 closed that out and she transferred -- she put some of it in  
15 her checking account and then she was trying to withdraw it, I  
16 can see at like other banking centers.

17 Q Can you tell how much she was able to withdraw, from  
18 your records?

19 A Yeah. From her My Access checking account after she  
20 closed her CD she put in \$102,477.71. And it looks like --  
21 that was on the 16th. And also on the 16th she did a \$20,000  
22 withdrawal.

23 Q Okay, wait. I'm sorry. I'm going to back you up.  
24 You said she deposited on the 16th. What was the full date?

25 A The 16th.



1 Q Of what month and year?

2 A Oh okay. I'm sorry. It was November 16th of 2006.

3 Q Okay. And so she closed out a 102,000 some odd  
4 dollars from her CD and transferred it to which account are  
5 you referring to?

6 A Into her My Access checking account.

7 Q So a checking account. Okay. And then on the 16th  
8 you said she also withdrew money?

9 A Yes. She withdrew 20,000 from -- it was from a  
10 Nevada teller banking center. It says Nevada teller  
11 withdrawal.

12 Q So she had to go into the bank to get that?

13 A Yes.

14 Q Okay. And then what was the next thing you noticed  
15 on her account?

16 A There was also a debit of 5,000 to, it doesn't say  
17 the full name, it was paid by the check card as a bill 5,000;  
18 that was on November 16th, 2006. And then November 17th, 2006  
19 she did a counter debit which is also going inside of a  
20 banking center filling out a form to have the funds withdrew.

21 Q How much did she try and withdrawal on the 17th?

22 A There was two separate withdrawals; one for 2,500  
23 and one for 25,000.

24 Q All right. And then when was the next withdrawal  
25 from the account?

1           A     It was on the 20th of November, 2006 for 125,000.  
2     That's a counter debit also a form that's needed to be filled  
3     out inside the banking center and signed by the customer.

4           Q     Okay. So was she allowed to withdraw that -- all  
5     those withdrawals that we've been talking about? Did they all  
6     come out of her account?

7           A     Yes.

8           Q     And what was the amount that was left in after she  
9     took out that 125,000?

10          A     It was \$29,168.90.

11          Q     Now were there any other withdrawals before the  
12     officers got to your bank? And I'm guessing it was on  
13     November 22nd, 2006 since that's the date that you printed  
14     these forms?

15          A     Uh-huh.

16          Q     Okay. Is that a yes, for the record?

17          A     Yes.

18          Q     All right. So did she make any other withdrawals  
19     between November 20th and when the officers came in on  
20     November 22nd?

21          A     On her money market savings account she did.

22          Q     Okay. Now what did she do with regard to her money  
23     market savings account?

24          A     On her money market savings account --

25          Q     Did she -- when did she first start making

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1 withdrawals in November?

2 A The earliest would be November 7, 2006.

3 Q Okay. And what about around the 17th or the 16th  
4 when she was making withdrawals from her checking account?

5 A There was a withdrawal -- well that was on November  
6 9th. So --

7 Q And where did that money go? Did it go into the  
8 checking or did it actually get taken out?

9 A This is 17,500. It was a counter debit. That was  
10 on the 9th. So it didn't go into her My Access checking  
11 account. It went into her Money Market savings account on  
12 November 9th of 2006. And then the same day of November 9,  
13 2006 there was a wire transfer out of her account.

14 Q Okay. And you provided all this information you've  
15 just discussed here with the detectives?

16 A Yes, ma'am.

17 Q Okay.

18 THE COURT: Anything further?

19 MS. DIGIACOMO: Nothing further.

20 THE COURT: Any questions?

21 CROSS-EXAMINATION

22 BY MR. HART:

23 Q And just for the record, those were all in the name  
24 of Tonya Trevarthen, correct?

25 A Yes. And Bryan.

1 MR. HART: Nothing further.

2 THE COURT: Thanks, Ms. Thorns. Appreciate your  
3 testimony. You're excused.

4 Call your next witness.

5 MS. DIGIACOMO: All right. Tonya Trevarthen.

6 THE COURT: Come on up here, ma'am.

7 THE CLERK: Please remain standing and raise your right  
8 hand.

9 TONYA MICHELLE ISSA, STATE'S WITNESS, SWORN

10 THE CLERK: Thank you. You may be seated.

11 THE COURT: Please state your name, ma'am and spell your  
12 name for the court recorder.

13 THE WITNESS: Tonya Michelle Issa. T-o-n-y-a,  
14 M-i-c-h-e-l-l-e, I-s-s-a.

15 DIRECT EXAMINATION

16 BY MS. DIGIACOMO:

17 Q Now did you -- is your maiden name Trevarthen?

18 A Yes.

19 Q Okay. And how do you spell Trevarthen for the  
20 record?

21 A It's T-r-e-v-a-r-t-h-e-n.

22 Q So up until recently your name has been Tonya  
23 Trevarthen?

24 A Yes.

25 Q All right. Now I'm going to ask you whether or not

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1 you know a person that's sitting in the courtroom. He's  
2 seated at the end of counsel table where I'm pointing. Do you  
3 know this person?

4 A Yes.

5 Q Okay. How do you know this person?

6 A I've known him since I was 14 and he's the father of  
7 two of my kids.

8 Q What is his name that you know him by?

9 A He went by Devon Monroe mostly.

10 MS. DIGIACOMO: Your Honor, for the record I'd like it to  
11 reflect that I was pointing at the Defendant.

12 THE COURT: Yes. The record will reflect the  
13 identification of the Defendant Daimon Monroe.

14 Go ahead.

15 MS. DIGIACOMO: Okay.

16 BY MS. DIGIACOMO:

17 Q So you knew him as Devon Monroe?

18 A Yes.

19 Q Does he also go by Daimon Monroe?

20 A He's used that name as far as I know, but I never  
21 called him that.

22 Q Okay. Did you also know him to use a name by the  
23 name of Daimon Hoyt?

24 A Yes.

25 Q What about Ashton Monroe?

1 A I know that he had used that also.

2 Q I want to direct your attention back to the fall of  
3 2006. Where were you living?

4 A I was living at 1504 Cutler drive.

5 Q And who were you living there with?

6 A With Devon and my three kids.

7 Q What are your three kids names?

8 A Ashley, Elizabeth and Ian. They all have the last  
9 name Monroe.

10 Q And you said two of them actually belong to Devon?

11 A Yes.

12 Q All right. Which two?

13 A Ashley and Ian. The oldest and youngest.

14 Q When you -- you said you met the Defendant when you  
15 were about 15 or 14?

16 A Fourteen.

17 Q Fourteen. And when was it that you had Ashley? How  
18 old were you?

19 A I was 15 when I had Ashley.

20 Q Okay. And you were living in this house at Cutler  
21 in the fall. How long had you lived at Cutler?

22 A Since -- it was three years in 2006. So it must  
23 have been like Halloween of 2003 that we moved in.

24 Q So you lived there approximately a little over three  
25 years?

1 A Right.

2 MS. DIGIACOMO: Court's indulgence.

3 BY MS. DIGIACOMO:

4 Q Do you know who your landlord was or who you rented  
5 the place from?

6 A Yes. Stephen Forman.

7 Q And how well did you know Steve Forman?

8 A I'd known him since I was 14 or 15, also.

9 Q And did you meet him through Devon?

10 A Yes.

11 Q All right. You've seen quite a few pictures of the  
12 way your house looked on November 6th, 2006 when detectives  
13 went in. Can you describe to the jury exactly the way you  
14 lived at Cutler?

15 A Did you say exactly the way I lived?

16 Q Yeah. Like, I mean all the belongings. I mean,  
17 what did the house look like where you lived?

18 A The house was very full of furniture, computers,  
19 TVs, paintings. Those types of things.

20 Q Do you know approximately how many flat screens you  
21 had in the house?

22 A There was I believe a TV in every bedroom, in the  
23 master bathroom, and you know, several other rooms throughout  
24 the house. Pretty much every room of the house.

25 Q I'm going to show you a couple photographs. I'm

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1 showing you State's proposed Exhibit 706. Do you recognize  
2 where this is taken?

3 A That's in one of the bedrooms. Not the master  
4 bedroom but in one of the bedrooms.

5 Q Okay. One of the kids bedrooms?

6 A Right.

7 Q All right. So does this fairly and accurately  
8 depict the way the house looked on November 6th, 2006 --

9 A Yes.

10 Q -- when the police entered? Now was there an attic  
11 in the garage?

12 A Yes.

13 Q I'm going to show you State's proposed Exhibits 738  
14 and 740. Are you familiar with these two photographs what  
15 they depict?

16 A Yes.

17 Q And what are depicted in these photographs?

18 A They're both taken in the attic.

19 Q Of the Cutler residence?

20 A Right.

21 Q So they fairly and accurately depict the way it  
22 would have looked when --

23 A Right.

24 Q -- detectives entered in November?

25 A Yes.



1 MS. DIGIACOMO: I'd move for admission of State's  
2 proposed Exhibits 738 and 740.

3 MR. HART: I don't know if she has a good basis to say it  
4 was up there at that time.

5 THE COURT: What?

6 MR. HART: I don't know that -- she's testified she never  
7 saw the attic at the time that it happened, at the time these  
8 pictures were taken.

9 THE COURT: She just said this is the way the attic  
10 looked when the police came in. Isn't that what you just  
11 said?

12 THE WITNESS: Yes. I had seen with my own eyes into the  
13 attic.

14 THE COURT: Objection overruled. How about 706, are you  
15 moving that one also?

16 MS. DIGIACOMO: I move for 706 too, Your Honor.

17 THE COURT: 706, 738, 740 will be admitted.

18 [State's Exhibits 706, 738 and 740 Admitted]

19 BY MS. DIGIACOMO:

20 Q Now I'm showing you State's proposed Exhibits 776  
21 and 777. Do you recognize this front lawn?

22 A I recognize the items.

23 Q Okay. And do you recognize also if you look at 777  
24 where that photograph was taken?

25 A The photograph was taken on the front lawn of the

1 house.

2 Q At the Cutler residence?

3 A Yes.

4 Q Now these items were not laying on your front yard  
5 when the police arrived, correct?

6 A No.

7 Q All right. But do these pictures fairly and  
8 accurately depict items that were taken out of your residence  
9 on that day when the officers were there?

10 A Yeah. All were from our residence. The majority of  
11 the items at least in 777 looked like they were from the  
12 attic. And then a few things are from inside the house.

13 Q Okay. 776, do you recall where those items were  
14 stored in the house?

15 A The stove, sinks, those types of things were in the  
16 attic.

17 Q Above the garage?

18 A Right.

19 Q So this fairly and accurately depicts those items  
20 after they were taken out of the house?

21 A Yes.

22 MS. DIGIACOMO: Your Honor, I move for admission of 776  
23 and 777.

24 THE COURT: Objection?

25 MR. HART: No objections other than what [indiscernible],

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1 Your Honor.

2 THE COURT: They'll be admitted.

3 MS. DIGIACOMO: Thank you.

4 [State's Exhibits 776 and 777 Admitted]

5 BY MS. DIGIACOMO:

6 Q I'm showing you State's proposed Exhibit 179. Do  
7 you recognize what's depicted in this photograph?

8 A Yeah. That was taken in the loft area of our home.

9 Q Okay. What does it show?

10 A It shows a computer, a mirror -- well two mirrors, a  
11 printer, a desk.

12 Q All right. This fairly and accurately depicts the  
13 way the desk area and the loft looked on November 6th, 2006?

14 A Yes.

15 MS. DIGIACOMO: I move for admission of State's proposed  
16 Exhibit 179.

17 THE COURT: Objection?

18 MR. HART: No objection.

19 THE COURT: Admitted.

20 [State's Exhibit 179 Admitted]

21 BY MS. DIGIACOMO:

22 Q I'm showing you State's proposed Exhibit 211. Do  
23 you recognize that photograph?

24 A Yes. It was taken in the garage.

25 Q Okay. And 213, that as well?

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1 A Also in the garage.

2 Q All right. And so this fairly and accurately  
3 depicts the way the garage looked before officers, or when  
4 officers made entry on November 6th, 2006?

5 A Yes.

6 MS. DIGIACOMO: Your Honor, I move for admission of  
7 State's proposed Exhibits 211 and 213.

8 MR. HART: With the standing objections, yes, Your Honor.

9 THE COURT: Admitted.

10 [State's Exhibits 211 and 213 Admitted]

11 BY MS. DIGIACOMO:

12 Q I'm going to show you State's Exhibit 211 on the  
13 equipment. Do you see in front of you on that screen?

14 A Yes.

15 Q All right. So is this the way your garage area  
16 normally looked?

17 A Yes.

18 Q All right. With all the sports memorabilia and the  
19 refrigerators, the TVs, everything?

20 A Yes.

21 Q And the car that's in the garage, who did that  
22 belong to?

23 A It was the car I normally drove. It was in my name  
24 but we both drove it.

25 Q And what kind of a car was that?

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1 A It's a 2000 Toyota Avalon.

2 Q Now I'm showing you State's Exhibit 213, what are we  
3 looking at there?

4 A A fountain drink machine and you can see some  
5 memorabilia on the wall.

6 Q Now this fountain drink machine, was it hooked up  
7 and working?

8 A Yes.

9 Q So if you needed a fountain drink that's how -- you  
10 could go out there and get it?

11 A Right.

12 MS. DIGIACOMO: Court's indulgence.

13 BY MS. DIGIACOMO: .

14 Q How many cars did you own?

15 A Three.

16 Q What kind of cars were they?

17 A The 2000 Toyota Avalon, the Plymouth Grand Voyager  
18 that I think was a '97, and then the cargo van which is maybe  
19 2001 was a Chevy Express.

20 Q And they were all in your name?

21 A Yes.

22 Q All right. Did Devon have any cars in his name?

23 A No.

24 Q And why not?

25 MR. HART: Objection; speculation.

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1 [Bench Conference Not Transcribed]

2 BY MS. DIGIACOMO:

3 Q All right. So all three of the vehicles were in  
4 your name?

5 A Yes.

6 Q Okay. And what about the bank accounts that you  
7 had, were those all in your name?

8 A Yes.

9 Q What about a lease? Did you have a written lease?

10 A No.

11 Q Okay. With Mr. Forman you did not?

12 A No.

13 Q All right. Do you know approximately how much rent  
14 you paid a month?

15 A It was \$1600 a month.

16 Q All right. And at the time were you working that  
17 you lived there, the three that you lived there?

18 A I was working part of the time as an administrative  
19 assistant for a university that I attended. And then I also  
20 worked as a long-term substitute teacher after that.

21 Q All right. Now when you worked as the  
22 administrative assistant how much money did you make?

23 A I think it was either 10 or 10.50 an hour.

24 Q So approximately how much did you bring home a  
25 month?

1 A I guess less than 2,000.

2 Q All right. And when you worked as a teacher, was  
3 that during the fall of 2002?

4 A Yes.

5 Q How much did you make at that time?

6 A It was \$100 a day. So --

7 Q How many days a week did you normally work?

8 A Monday through Friday.

9 Q So it was about 2,000 a month as well?

10 A Yes.

11 Q And that's before taxes?

12 A Right.

13 Q Okay. And what about the utilities and the bills  
14 for the residence at Cutler, whose name were they in?

15 A Those were in my name.

16 Q Did you have any storage units as well that you  
17 rented?

18 A Yes. There were two in my name.

19 Q Which two were those?

20 A The one on Smoke Ranch and Jones and one on West  
21 Charleston.

22 Q Now the one on Smoke Ranch and Jones when we're  
23 talking about the fall of 2006, how much before that did you  
24 get the one on Smoke Ranch?

25 A It was at least over three years, because I believe

1 we had it before we moved to the house on Cutler.

2 Q All right. And the one on Charleston, when did you  
3 get that?

4 A It was recently within that past few months that we  
5 had rented that one.

6 Q All right. Was there a specific purpose why you  
7 rented the one on West Charleston?

8 A Yes.

9 Q And what was that purpose?

10 A To put all of Bryan Fergason's belongings from his  
11 apartment into that storage unit.

12 Q Okay. Now do you recall who paid the bills? When  
13 you lived at the residence for Cutler who paid the bills?

14 A Well I paid them mostly through online banking,  
15 through my bank.

16 Q Now what about the rent for the house, how was that  
17 paid?

18 A The rent for the house was paid in cash.

19 Q Now who normally paid that?

20 A It was normally Devon who would pay that. I know  
21 that when we first moved into the house I had I think gone and  
22 Stephen Forman had met me at the bank and I withdrew money.  
23 Like, at least the first time. But after that I think most of  
24 the time Devon would give it to him.

25 Q All right. Now the banking accounts, where did you

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1 bank?

2 A Bank of America.

3 Q And they were in your name?

4 A Yes.

5 Q Did Devon have access to them at all?

6 A Through the ATM card. And he could transfer money  
7 online. He had access to online banking. But only through  
8 the ATM card could he deposit or withdraw money.

9 Q All right. Now when you worked did your checking,  
10 or excuse me, did your paystub or your paycheck go directly  
11 into the account?

12 A Yes. I had direct deposit.

13 Q Now did you keep a lot of cash in the house?

14 A There was usually cash in the house because -- in  
15 between deposits cash would accumulate at the house.

16 Q So were there a lot of cash deposits made into your  
17 accounts?

18 A Yes.

19 Q And who would be the one to make those cash  
20 deposits?

21 A Most of the time we'd probably be together in the  
22 car.

23 Q Who's "we"?

24 A Devon and I. But sometimes I might have and  
25 sometimes he might have alone, but a lot of the time we were

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1 together.

2 Q When was it that the two of you moved in together?

3 A It was a little before my second daughter turned a  
4 year old, which would have made it around Easter of 2001 I  
5 believe.

6 Q Now did Devon have a job that he went to as well,  
7 like you went to teach?

8 A Only when we first moved in together.

9 MR. HART: Objection, Your Honor.

10 THE COURT: What's the objection?

11 MR. HART: Well the same objections I've been making,  
12 Your Honor.

13 THE COURT: I don't know whether he has a job or not is  
14 relevant. I won't let you go much beyond that. But certainly  
15 after you got together then thereafter he didn't have a job;  
16 is that what you're saying?

17 THE WITNESS: Right.

18 THE COURT: We won't go beyond that.

19 BY MS. DIGIACOMO:

20 Q So from September 2006 through November 2006 did he  
21 have a paying job that he went to every day?

22 A No.

23 Q And the money that you were bringing in, did the  
24 money you made from teaching cover all the bills?

25 A No.

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1 Q On November, or excuse me, on September 24, 2006  
2 were you at home that night?

3 A Yes.

4 Q All right. Did you get a phone call?

5 A Yes.

6 Q In the middle of the night?

7 A Yes.

8 Q Who was that from?

9 A From a patrol officer.

10 Q All right. And was that regarding somebody being in  
11 your minivan?

12 A Yes.

13 Q All right. Later on did you receive a call from  
14 somebody other than the officer?

15 A That same night?

16 Q Yes. Or the next morning.

17 A Well I know that I think the police officer had  
18 called me three times that night. And I'm not sure about -- I  
19 know there was a call after that but I'm not sure if it was  
20 actually the next morning.

21 Q All right. Well at some point did you speak to  
22 Devon after you talked to the officers?

23 A Yeah. I did speak to him maybe even that night, or,  
24 you know, I spoke to him recently after that.

25 Q All right. And do you recall what number he would

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1 call you on; what your house phone number was?

2 A Yeah. It was 413-0333 I think.

3 Q 702 area code?

4 A Yes.

5 Q Now did you have a cell phone at the time?

6 A I had two that I used at that time.

7 Q All right. What was the first one that you used?

8 A It was, I think, 608-6296 maybe. 702 area code.

9 Something like that.

10 Q Okay. So something 608-6296, around there?

11 A Yeah, I think so.

12 Q You don't still have that phone number today?

13 A No.

14 Q Who paid for that cell number?

15 A Carlos Martinez.

16 Q And did you have another cell phone as well?

17 A Yes. There was another one that was prepaid that  
18 was in my name.

19 Q And do you recall what that number was?

20 A I think it was maybe like 600-7625, something like  
21 that, or 6725.

22 Q All right. You're not sure?

23 A Yeah. Because it's been a long time.

24 Q Now with regard to the storage unit at Smoke Ranch  
25 that you said you'd had for a few years --

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1 A Uh-huh.

2 Q -- who was allowed to go in and out of that storage  
3 unit; like, who had the key and who had the gate code?

4 A Devon and I were the only ones that had access to  
5 that. But I don't recall ever going there by myself.

6 Q All right. Did you have some belongings there?

7 A Yes.

8 Q Did Devon have belongings there as well?

9 A Yes.

10 Q Do you know what a hyperbaric chamber is?

11 A Yes.

12 Q Okay. Do you know -- did you have one of those in  
13 that storage unit?

14 A Yes.

15 Q Was there also another storage unit at West Sahara?

16 A Yes.

17 Q All right. Now whose storage unit was that? Whose  
18 name was that storage unit in?

19 A That was under the name Ashton Monroe and it's one  
20 that Devon had rented.

21 Q All right. Now was that rented shortly after the  
22 car stop on November, or excuse me, on September 24th, 2006?

23 A Yes.

24 Q Okay. And did you know why or did Devon ever tell  
25 you why he rented that unit?

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1           A     It was my understanding that he rented it for Bobby  
2     to put some of his belongings in there.

3           Q     And who's Bobby?

4           A     Robert Holmes. But I called him Bobby.

5           Q     But you knew him as Bobby?

6           A     Yes.

7           Q     I'm sorry?

8           A     Yes. His name was Robert Holmes and I called him  
9     Bobby.

10          Q     And what was the name that Devon rented the West  
11     Sahara unit in?

12          A     The Ashton Monroe name.

13          Q     Did he have an I.D. in that name?

14          A     He did.

15          Q     And did you ever see it?

16          A     Yes.

17          Q     Was it at the house?

18          A     I believe so.

19          Q     The day that the officers -- well let me back you  
20     up. So Devon rents a storage unit for Bobby Holmes in the  
21     name of Ashton Monroe?

22          A     Yes.

23          Q     And then at some point you rent a storage unit for  
24     Bryan Ferguson?

25          A     Yes.

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1 Q And why are you rented a storage unit for Bryan  
2 Fergason?

3 A Because Devon wanted to clear all of his belongings  
4 out of his apartment and we needed somewhere to put them.

5 Q And so you were the one that rented that?

6 A Yes.

7 Q Who moved Bryan Fergason's belongings out of his  
8 apartment to that storage unit?

9 A Devon did, but I helped him with some of it.

10 Q Where was Fergason's apartment; do you know?

11 A It was off of Buffalo. And it was maybe Pirates  
12 Cove. It was the name of the apartment, but it's hard to  
13 remember.

14 Q Did you go over there on a regular basis?

15 A Yeah. I'd been there several times.

16 THE COURT: Can you kind of keep your voice up and speak  
17 in that direction, please?

18 THE WITNESS: Yes.

19 BY MS. DIGIACOMO:

20 Q So do you recall approximately when it was that you  
21 helped move Fergason's belongings out of his apartment into  
22 the storage unit with Devon?

23 A I believe it was during the month of October of  
24 2006.

25 Q Towards the end, or the middle or the beginning?

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1 A The end of 2006 -- I mean, the end of October 2006.

2 Q At some point -- well let me ask you, how did you --  
3 did the two of you move all of Ferguson's belongings out of  
4 his apartment to the storage unit?

5 A We moved some of them in are vans, the Plymouth  
6 Grand Voyager and the Chevy Cargo van. And there was also a  
7 truck that we used for some of it that was owned by Robert  
8 Holmes.

9 Q What did that truck look like?

10 A It was a large truck, at least 16 feet probably. It  
11 was white. It was all white basically.

12 Q Did it look more like a moving van or more like your  
13 cargo van?

14 A No. More like a moving van like something you would  
15 rent from U-Haul.

16 Q Was that moving van ever parked out in front of the  
17 Cutler residence?

18 A Yes.

19 Q How many different times during the month of October  
20 if you know?

21 A I'm not sure how many times but there was a period  
22 where it was parked there at least for several days. You  
23 know, it had remained outside of our house for at least a few  
24 days.

25 Q And then when the items were moved into the storage



1 unit on West Charleston, how did that happen?

2 A I went with him at least once, probably at least  
3 twice. But I think we used the truck and maybe the vans also.

4 Q Okay. And when you say "we," is that Devon?

5 A Devon and I.

6 Q All right. So did you actually help move stuff out  
7 of the box truck into the storage unit with Devon?

8 A Yes.

9 Q Did all of Mr. Ferguson's belongings fit in that  
10 storage unit that was rented at West Charleston?

11 A No.

12 Q What happened to the rest of his belongings?

13 A The rest of the belongings were at our residence. .  
14 We had, like, a storage shed that some of the belongings were  
15 in. And we had Bryan Ferguson's car parked on the side of our  
16 house. And so some belongings were inside his car. And I  
17 believe that's -- those two places at our residence, the  
18 storage shed and in his --

19 Q What kind of car did Bryan Ferguson have?

20 A It was a Ford Explorer I think. I believe it was  
21 maybe like a dark green.

22 Q It was darker in color, not the same color as your  
23 white cargo van?

24 A No.

25 Q All right. Now did the Cutler residence -- were

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1 there security cameras?

2 A Yes.

3 Q Okay. Explain the way that they were around the  
4 house?

5 A There were four security cameras. One faced the  
6 front door area, one faced out it showed the driveway and the  
7 street in front of the house, and one showed the side of the  
8 yard where the storage shed was. And that's where we would  
9 park the cargo van, the Chevy Express and then Bryan  
10 Fergason's car was also parked there. And then one faced the  
11 backyard.

12 Q And could you see from inside the house those  
13 screens for the security cameras?

14 A There was one screen split into four sections that  
15 you could see all four views from the four security cameras on  
16 the one screen.

17 Q Where was that located in the house?

18 A It was in the loft which was upstairs.

19 Q So if you were upstairs in the loft area you could  
20 see what all four cameras were angled on?

21 A Yes.

22 Q And the desk that we looked at earlier in a picture,  
23 where were those -- where was the monitor with the four  
24 screens in relation to the desk?

25 A Looking at the picture it would have been just to

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1 the left of the desk.

2 Q So if you come out of the master bedroom, can you  
3 see the monitor with the four screens?

4 A Yes. It would have been directly in front of you  
5 coming out of the master bedroom.

6 Q Were there also on the exterior of the house small  
7 motion sensors?

8 A Yes.

9 Q And what did those do?

10 A They were attached to lights so where if there was  
11 any movement lights would come on and it would give you a  
12 better view looking through security cameras, or else it would  
13 provide light if you were unlocking the front door for  
14 instance.

15 Q Do you recall where those motion sensors were  
16 located on the exterior of the house?

17 A There was one located near the front door that was  
18 like a porch light that would come on. And there was another,  
19 I think two sensors for the two lights that were on either  
20 side of the garage.

21 Q When you moved into the Cutler residence were these  
22 security cameras already set up?

23 A No.

24 Q And who did those?

25 A Devon set those up.

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1 Q Do you know how long after you moved in? Or I guess  
2 I should say, do you know when they were set up around the  
3 residence?

4 A I don't remember exactly when. I know they'd been  
5 up for quite a while. But when during that three years I  
6 don't really remember.

7 Q Now in November, or excuse me, in October of 2006  
8 during this time period after the arrest for the car stop  
9 before the police came to the house in November, was there any  
10 talk by Devon regarding whether or not the police were  
11 watching him?

12 A Yes.

13 Q And what did he say?

14 A Well, I mean, I had received a phone call from a  
15 detective, and so I had told him about that phone call. And  
16 so after that, you know, he figured that they could be  
17 watching him. And then --

18 Q Well the phone call that you received from a  
19 detective, when was that in relation to the car stop on  
20 November, or excuse me, September 24th?

21 A I think it was within a few days or within a week of  
22 that. But I can't remember what day.

23 Q And you have the detective's name?

24 A Yes.

25 Q Do you recall who the detective was that called you?

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1 A Yes. It was Detective Brad Nickell.

2 Q And so then during the next month what did Devon  
3 think about or say about whether or not the police were  
4 following him?

5 MR. HART: Objection, speculation.

6 THE COURT: She can't say what he thought about. So  
7 rephrase that question.

8 MS. DIGIACOMO: I'm sorry.

9 BY MS. DIGIACOMO:

10 Q What did he say regarding whether or not the police  
11 were following him, or looking at him?

12 A Well he was constantly, you know, trying to be aware  
13 of, you know, trying to look to see if anyone was following  
14 him or if anyone seemed to be watching the house.

15 Q Well the security camera that you said kind of faced  
16 towards the outside of the house from the driveway, what angle  
17 did that camera show? Could you see the street or was it just  
18 the driveway in front?

19 A You could see the street also, the street in front  
20 of the house.

21 Q So if a car drove by could you see it on the camera?

22 A Yes.

23 Q All right. And was there one incident in particular  
24 where he -- Devon asked you to get into a car with him?

25 A Yes.

1 Q And what happened at that point?

2 A There was a car that he thought had been either  
3 following him or watching the house. And so he had me get in  
4 the car with him and then he drove in our neighborhood to  
5 where the car was parked. And I believe he might have gotten  
6 out of the car to see if anyone was in the car, or was maybe  
7 going to get out of the car, but then the car took off.

8 So he started following the car until it left our  
9 neighborhood. And then, you know, within a few blocks of our  
10 neighborhood I think he stopped following the car and just  
11 turned around and went back to our house.

12 Q And you were in the car with him?

13 A Yes.

14 Q And what car was it that you were in?

15 A In the Toyota Avalon.

16 Q Do you know what a GPS tracker is?

17 A Yes.

18 Q Okay. And have you ever seen one?

19 A Yes.

20 Q Back between September 24th and November 6th of  
21 2006, did you see a GPS tracker?

22 A Yes.

23 Q And how did you see that?

24 A Devon had noticed it on, like, I think it was on the  
25 back of our Plymouth Grand Voyager, and it was underneath the

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1 car towards the back of the car.

2 Q And the Plymouth Grand Voyager, is that a minivan?

3 A Yes.

4 Q And so Devon showed you it?

5 A Yes.

6 Q Did he take it off or destroy it in any way?

7 A He had discussed with me whether or not he should  
8 take it off or leave it there or, you know, destroy it or  
9 what. But I don't remember that he ever actually did anything  
10 to it other than discuss it.

11 Q All right. I'm showing you State's Exhibit 503, is  
12 that the minivan or the Grand Voyager you're discussing?

13 A Yes.

14 Q All right. So it was on the back-end of this car?

15 A Yes.

16 Q Do you know whether or not photographs were taken of  
17 it?

18 A Yes. Devon had taken photographs.

19 Q With the camera that you both owned?

20 A Yes.

21 Q Do you recall approximately when that was in  
22 relation to when Bryan Ferguson's stuff was moved out, or when  
23 you'd gotten in the car with him and --

24 A It was I think after we had moved the stuff that he  
25 noticed the tracker.

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1 Q Okay. Now does Devon use nicknames when referring  
2 to people?

3 A Yes.

4 Q And what nicknames does he have?

5 A You mean what nicknames do people call him?

6 Q What does he call himself?

7 A Well like I said he always went by Devon with me.

8 Q What about Dinky?

9 MR. HART: Objection; leading, Your Honor.

10 THE COURT: Sustained. Rephrase.

11 BY MS. DIGIACOMO:

12 Q Did he have any other nicknames that he used?

13 A He, from the time I met him when he was -- I mean  
14 when I was 14, there were people that called him Dinky.  
15 Pretty much everyone but me at that time seemed to call him  
16 that.

17 Q All right. But you called him Devon?

18 A Right.

19 Q What about Bryan Fergason, did he have a nickname?

20 A Yeah. We called him JB.

21 Q JB, just the initials JB?

22 A Yeah.

23 Q What about a person by the name of Christopher  
24 Haberland [phonetic]?

25 A He called him Mafia.

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1 Q All right. And you said that Robert Holmes was  
2 called Bobby?

3 A Yes.

4 Q Did he call him anything else?

5 A There were actually a lot of different nicknames he  
6 had for him. Things like darkness or, you know, like a lot of  
7 it was just things regarding, you know, something that was  
8 regarding his race, the fact that he's black. But, I mean,  
9 just, you know, they'd been close friends for a long time so  
10 they had names for each other like that.

11 Q I'm going to show you a couple of photographs.  
12 State's proposed Exhibit 992 and State's proposed Exhibit 994.  
13 Do you recognize what's in these Exhibits?

14 A 992 is a picture of me. And 994 is a picture of  
15 Robert Holmes.

16 Q Okay. And they fairly and accurately depict the way  
17 you both looked back in 2006?

18 A Yes.

19 MS. DIGIACOMO: Your Honor, I'd move for admission of 994  
20 and 992.

21 THE COURT: Any objections?

22 MR. HART: No objection.

23 THE COURT: They'd be admitted.

24 [State's Exhibits 992 and 994 Admitted]

25 BY MS. DIGIACOMO:

1 Q Just for the record 992, this is a picture of you  
2 back in 2006?

3 A Right. I believe it was the day the search warrant  
4 took place.

5 Q Okay. I'm showing you State's Exhibit 993, who is  
6 this?

7 A Bryan Fergason.

8 Q That you called JB?

9 A Yes.

10 Q Now did you call him Brian or JB?

11 A I called him JB.

12 Q And 994, who's that a photograph of?

13 A Robert Holmes and I called him Bobby.

14 Q Did you know a person by the name of Amanda Terry?

15 A Yes.

16 Q How do you know her?

17 A I worked with her at Nova Southeastern University.  
18 And I first knew her by working with her and then we also had  
19 classes together at the university.

20 Q Now was she a friend of yours?

21 A Yes.

22 Q Okay. Did you ever give her things?

23 A I had given her a few things.

24 Q Like what?

25 A I'd given her at least two pictures.

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1 Q Did you give her any other things?

2 A There might have been some small things over the  
3 time I knew her like -- it's hard to remember what I might  
4 have given her, like a wallet or purse. But at least the two  
5 pictures for sure.

6 Q All right. I'm showing you State's Exhibit 459; do  
7 you recognize that?

8 A Yes.

9 Q And what are we looking at there?

10 A It's a picture that had been in our home and then I  
11 gave it to Amanda Terry.

12 Q And having it in your home, had this been hanging in  
13 your residence at one point?

14 A Yes.

15 Q I'm showing you State's Exhibit 460. What are we  
16 looking at there?

17 A Another picture that had been hanging in our  
18 residence and then I gave it to Amanda Terry.

19 Q Did it get -- where these were hanging did you hang  
20 something else there in its place?

21 A Right.

22 Q Okay. I'm going to show you what's been marked as  
23 State's proposed Exhibit 55; do you recognize this?

24 A Yes. It's a bedroom that was on the first floor of  
25 our residence, but we didn't use it as a bedroom. Devon used

1 it as -- like a studio.

2 Q Studio like music room?

3 A A music studio, right.

4 Q All right. So does this picture fairly and  
5 accurately depict the way it looked on November 6th, 2006 when  
6 Defendants came into the house?

7 THE COURT: When the Defendants came into the house?

8 BY MS. DIGIACOMO:

9 Q Sorry. The detectives came into the house.

10 A Yes.

11 MS. DIGIACOMO: Your Honor, I'd move for admission of  
12 State's Exhibit 55.

13 THE COURT: Objection?

14 MR. HART: No, Your Honor.

15 THE COURT: Admitted.

16 MR. HART: Other than the standing objection.

17 [State's Exhibit 55 Admitted]

18 BY MS. DIGIACOMO:

19 Q Had Amanda Terry ever been in the residence at  
20 Cutler?

21 A Yes. A handful of times.

22 Q Now did the residence when she was there look like  
23 it did on November 6, 2006?

24 A Yes.

25 Q Okay. So there was a lot of stuff in the house; is

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1 that fair to say?

2 A Yes.

3 Q And with flat screen TV's and artwork and --

4 A Yes.

5 Q -- music and sound mixing boards and everything.

6 A Yes.

7 Q Did you ever try and explain to her why you had all  
8 those belongings?

9 A Yes.

10 Q What did you tell her?

11 A I told her that --

12 MR., HART: Objection; hearsay.

13 MS. DIGIACOMO: I'm asking what --

14 THE COURT: She's on the stand. She was asking what she  
15 said. Objection overruled. You can cross-examine her about  
16 it. Go ahead.

17 BY MS. DIGIACOMO:

18 Q What did you tell Amanda?

19 A I told her that Devon was self-employed and worked  
20 doing music recording, things like that. And that, you know,  
21 he just made money from that, and that's how we were able to  
22 afford the things in the home.

23 Q Now did he -- was Devon a musician?

24 A He would play music, but he wasn't making any money  
25 from playing music.

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1 Q So he didn't have like a steady gig or anything?

2 A No.

3 Q Now did you receive numerous phone calls from either  
4 Devon or Bryan Fergason from the Clark County Detention  
5 Center?

6 A Yes.

7 MR. HART: Objection.

8 THE COURT: What's the objection?

9 MR. HART: Prejudicial, Your Honor, as to location.

10 THE COURT: Well when the calls are made there's a notice  
11 that goes out and we've already dealt with this. Objection's  
12 overruled.

13 BY MS. DIGIACOMO:

14 Q In the phone calls between Mr. Fergason and Devon  
15 were you on the line sometimes listening?

16 A There were times if Devon wasn't home and Brian  
17 called the house that I would do a three-way call to a cell  
18 phone that Devon had in order for him to be able to talk to  
19 Devon if Devon wasn't home.

20 Q Okay. And so you would have to stay on the line  
21 because if you hung up the call would get disconnected?

22 A Yes.

23 Q So there was quite a few phone calls that you  
24 listened to between the two of them?

25 A Right.

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1 Q Now in one of the calls that Devon made to you after  
2 September 24, 2006 did he talk about, I guess there's a -- he  
3 says a line in there, "take a month off;" --

4 A Uh-huh.

5 Q -- do you recall that?

6 A Yes.

7 Q All right. Now between September 24th, 2006 and  
8 November 6th, 2006 did Devon ever come home with property that  
9 you did not pay for?

10 A Yes.

11 Q Do you recall specifically what it was?

12 A I recall two specific instances.

13 MR. HART: Objection, Your Honor. I believe we're at --  
14 said the charge varies.

15 THE COURT: Yeah. This may be getting far afield.

16 MS. DIGIACOMO: Well I'm just going to the conspiracy,  
17 Your Honor. If we can approach I'll explain.

18 THE COURT: Yeah. You're going to have to tell me  
19 because I think Mr. Hart's on solid ground here.

20 [Bench Conference Not Transcribed]

21 THE COURT: Objection's sustained. Let's move onto  
22 another area.

23 MS. DIGIACOMO: All right. Thank you, Your Honor.

24 BY MS. DIGIACOMO:

25 Q So the belongings that were in the house. Let's

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1 take specifically the furniture such as the furniture in the  
2 family room, the dining room, the living room, did you pay for  
3 any of that furniture?

4 A No.

5 Q All right. Were you with Devon when he bought that  
6 furniture?

7 A No.

8 Q So the furniture that was in the house, do you know  
9 even how much the value was of it?

10 A I'm not sure of the value.

11 Q What about the -- well you were the one that paid  
12 for the bills, correct?

13 A Yes.

14 Q All right. And did you go out shopping, I mean,  
15 like once a week or did you grocery shop? What did you --  
16 what were the things you bought for the house?

17 A We would usually -- Devon and would I go to the  
18 grocery store together once a week and buy things like  
19 produce, milk, you know, maybe some cereals things like that.  
20 And then sometimes we'd get some things from Home Depot, or I  
21 would go to Target and get a few things for the house, or  
22 maybe some clothes for the kids, or for myself.

23 Q Okay. But let's say all the sports memorabilia that  
24 was in the house, did you pay for that?

25 A No.



1 Q And it was your bank account, so if things had been  
2 paid for out of the bank account you would know about it?

3 A Yes.

4 Q You were the only one that was allowed to write  
5 checks?

6 A Yes.

7 Q Did you ever pay for the subzero refrigerator  
8 freezer and freezer that was in the garage?

9 A No.

10 Q What about the spa?

11 A No.

12 Q Ice maker?

13 A No.

14 Q I guess it might be easier, what items in the house  
15 other than what you said about the groceries and the clothes,  
16 what items did you buy for in that house?

17 A I mean, not many. Some clothes, you know, but no --  
18 no furniture that I can recall. There was one or two pieces  
19 of furniture that were in the house when we moved in that had  
20 belonged to either Stephen Forman or his parents. But it was  
21 -- wasn't more than maybe one or two items.

22 Q So the flat screen TVs in the house, did you buy  
23 those?

24 A No.

25 Q Any of the artwork or the cartoon cells in the

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1 house, did you buy those?

2 A No. They were at the time of the search warrant  
3 there were two Winnie the Pooh cells, like, I guess maybe  
4 lithographs or something that belonged to my mother that had  
5 been purchased like while I was a child. But those are the  
6 only two in the house.

7 Q That belonged to you?

8 A Right.

9 Q What about the bedroom furniture, in the master?

10 A I never bought any bedroom --

11 Q You never bought any furniture that was in that  
12 house?

13 A No.

14 Q What about the guitars that were in the house or the  
15 keyboards, did you pay for any of that?

16 A No.

17 Q What about the electronics equipment, speakers,  
18 receivers, DVD players any of that? Did you ever pay for any  
19 of that?

20 A No.

21 Q When you were living in that house between September  
22 24th and November 6th, 2006 did you know that those items or  
23 did you believe those items had been stolen?

24 A Yes.

25 Q When the police came to the house on the morning of

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1 November 6th, 2006 tell us what happened.

2 A I woke up because I could hear that there were  
3 police outside. And there was either bullhorns or recording  
4 or something that I could hear. And so I opened the front  
5 door and I think it was right at the time that they had forced  
6 their way through our screen door.

7 And then I think they took me outside at first and  
8 then they brought me back into the house because all my  
9 children were in the house.

10 Q Were you arrested that day?

11 A Yes.

12 Q And what were you charged with?

13 A I believe it was mostly possession of stolen  
14 property, and then a conspiracy charge I think.

15 Q What happened to your kids when you were arrested  
16 that day?

17 A They were taken to Child Haven.

18 Q Did you get them out of Child Haven?

19 A Yes.

20 Q How did that come about?

21 A There was within a day or two there was a family  
22 court hearing. And I also was able to contact my Mom and she  
23 flew from Texas to Las Vegas so that she would be there to --  
24 if I weren't able to get the kids, she'd hopefully be able to  
25 get the kids. And the Judge at the family court hearing did

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1 release the kids into her custody.

2 Q And then at some point after your arrest when you  
3 get out and get your kids, do you start withdrawing money from  
4 the accounts that you have -- or that you had?

5 A Yes.

6 Q All right. Tell us about that.

7 A There were I know some instances where I removed  
8 money to pay attorney fees. And then there was money also  
9 that I withdrew in cash and gave to Robert Holmes.

10 Q Do you know approximately how much money you  
11 withdrew in cash and gave to Robert Holmes or Bobby?

12 A I believe it was 145,000.

13 Q .And why did you give money to him?

14 A I had -- I believed that -- it's hard to remember  
15 exactly what I had talked about with Devon on the phone. We  
16 had discussed money I think somewhat. Also Bobby thought it  
17 was a good idea to take the money out so that --

18 MR. HART: Objection; speculation.

19 THE COURT: Sustained. Disregard what Bobby thought.  
20 We're not sure what Bobby thought.

21 MS. DIGIACOMO: Okay.

22 THE COURT: Move on.

23 BY MS. DIGIACOMO:

24 Q So before you gave the money to Bobby Holmes did you  
25 have a conversation with him?

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1 A Yes.

2 Q Based upon that conversation you decided to give him  
3 145,000?

4 A Yes.

5 Q Now that 145,000 where did you get that money from?

6 A It was from the bank accounts in my name.

7 Q Okay. And where did that money, I mean, if you're  
8 making \$2,000 a month how did you accumulate all that money?

9 A Most --

10 Q Was that from legitimate means?

11 A Most of it was just cash that was made through  
12 selling the stolen property.

13 Q Okay. And you were part of that?

14 A Right.

15 Q The money that you gave --

16 MR. HART: Objection, Your Honor. Uncharged on the  
17 Defendant count.

18 THE COURT: Overruled.

19 BY MS. DIGIACOMO:

20 Q The money that you gave Bobby Holmes, did you ever  
21 try and get that back from him?

22 A Yes, I did.

23 Q Did you get the money back?

24 A No.

25 Q All right. Did you eventually have a discussion

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1 with detectives regarding this missing money?

2 A Yes.

3 Q And where was that first discussion?

4 A It was in an office in the northwest part of town I  
5 think.

6 Q So it was here?

7 A But I don't remember exactly where the office --  
8 Yeah. It was here in Las Vegas.

9 Q Was that before or after Thanksgiving?

10 A It was -- that was after Thanksgiving.

11 Q Did somebody come to your house on Thanksgiving day?

12 A They came to my Mom's residence.

13 Q In Texas?

14 A In Texas where I was staying for Thanksgiving  
15 weekend.

16 Q All right. And was the topic of conversation where  
17 the money was?

18 A Yes.

19 Q All right. When you -- then did you come back to  
20 Las Vegas after being in Texas for Thanksgiving?

21 A Yes.

22 Q What did you do when you got back?

23 A When I got back on Monday I contacted Detective Brad  
24 Nickell and it was I believe the Monday after Thanksgiving  
25 weekend, and then I met with him that day.

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1 Q. All right. Now did you -- what was the purpose of  
2 meeting with him?

3 A The purpose was just to basically, you know, I mean  
4 he was the contact number, the name and number I had and I  
5 wanted to basically help with the investigation however I  
6 could.

7 Q All right. Now at this point had -- I mean, you had  
8 an attorney at this point?

9 A Yes.

10 Q Okay. And you hadn't been contacted by the  
11 detective you took the initiative and contacted him at this  
12 point?

13 A Yes.

14 Q Even though you'd spoken to him before in the past?

15 A Yes.

16 Q Okay. And based upon that you went in and you  
17 talked to him?

18 A Yes.

19 Q Did you tell the truth about what was going on?

20 A Yes.

21 Q The next day the following Tuesday what happened on  
22 that Tuesday?

23 A I'm not sure just by how you asked that question.

24 Q I'm sorry. Well, had you received notice of a grand  
25 jury hearing?

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1           A     Right. I did. That Monday I did hear about the  
2 grand jury that was scheduled and I guess it was the next day.

3           Q     All right. And then when you heard about the grand  
4 jury is there something that you took initiative on?

5           A     Yes. I was made aware that I had the right to  
6 testify if I wanted to. And so I, you know, took that  
7 opportunity to go and speak to the grand jury that day.

8           Q     And what was your purpose of going in there and  
9 speaking to the grand jury?

10          A     I knew that I had information that, you know, might  
11 affect the outcome and I figured I would just go and basically  
12 talk about whatever I knew.

13          Q     All right. So were you going in there to tell the  
14 truth?

15          A     Yes.

16          Q     All right. And when you went in there did you have  
17 any sort of deal from the State?

18          A     No.

19          Q     Had you even attempted to try and get a deal from  
20 the State before you talked to Detective Nickell or gone and  
21 testified at the grand jury?

22          MR. HART: Objection; foundation. She had counsel at the  
23 time.

24          MS. DIGIACOMO: Which I'm asking her if she --

25          THE COURT: Did you or to your knowledge your counsel

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1 done that?

2 THE WITNESS: No.

3 THE COURT: All right. Overruled. Go ahead.

4 BY MS. DIGIACOMO:

5 Q Okay. So there was no discussion of that before you  
6 testified at the grand jury?

7 THE COURT: Not so far as she knew.

8 BY MS. DIGIACOMO:

9 Q As far as you knew?

10 A Right.

11 Q Okay. And you testified at the grand jury. Did you  
12 later even give another statement to Detective Nickell?

13 A Yes.

14 Q And how long after the grand jury was that?

15 A I think it was maybe a month or two but --

16 Q All right. Now at some point after this were you  
17 offered a deal by the State?

18 A Yes.

19 Q Do you recall approximately how long -- how much  
20 later it was?

21 A No, not really.

22 Q All right. But it was after the second statement  
23 you gave Detective Nickell?

24 A I believe so.

25 Q All right. Now do you know what your deal was that

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1 you were given?

2 A Yes.

3 Q What is it?

4 A I was -- I pled guilty to one felony and one gross  
5 misdemeanor I believe. And all the other charges were  
6 dropped. And then I have not had the sentencing yet for that.  
7 It's been differed.

8 Q And what's part of the deal? What are the specific  
9 terms of the deal that you were given by the State?

10 A That I would come and testify truthfully, and that's  
11 basically it, I guess.

12 Q Okay. Well are you -- is there also an agreement  
13 regarding successful completion of probation?

14 A Yes.

15 Q Okay. What happens if you do complete probation?

16 A The felony charge would be dropped. And so I would  
17 just be left with a gross misdemeanor conviction.

18 MS. DIGIACOMO: Nothing further.

19 THE COURT: Mr. Hart?

20 MR. HART: Okay.

21 CROSS-EXAMINATION

22 BY MR. HART:

23 Q So let's talk about this real quick. You said you  
24 never spoke to anybody about some sort of deal?

25 A No.

1 Q Before you testified?

2 A No.

3 Q You remember talking with Detective Nickell and  
4 giving the taped statement?

5 A Yes.

6 Q At that time he said he couldn't make any promises.

7 A Right.

8 Q But he could speak to the DA and see if he could  
9 help you, right?

10 A Right.

11 Q You'd spoken to your attorney, correct? Prior to --

12 A Right.

13 Q And --

14 A I let him -- well the day that I talked to Brad  
15 Nickell, Brad Nickell had notified my attorney that I was  
16 wanting to come speak with him, because I hadn't talked to my  
17 attorney at that point. So then I did talk to my attorney  
18 and, you know, he wanted to make sure I was aware of my rights  
19 and that I knew that I could have him present. And, you know,  
20 I said that I would go ahead, and you know, speak to the  
21 detective without him there.

22 Q And it's safe to say there was no formal deal made  
23 at that time?

24 A Yes.

25 Q But you did go in there with the idea that hopefully

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1 things would be reduced, correct?

2 A I went in with the idea that I wanted to, you know,  
3 basically do, you know, what was right, tell the truth. And,  
4 you know, I had no idea what the outcome would be. You know,  
5 hopefully of course I didn't want to spend time in prison, or  
6 be away from my kids but I knew going in that I --

7 Q Okay. They'd taken your kids.

8 A Right.

9 Q Your kids had been taken from you. You'd taken out  
10 almost \$250,000 out of the bank shortly before you're  
11 arrested, correct?

12 A Yes.

13 Q \$150,000 or so still hasn't been recovered, correct?

14 A I'm not sure what's been recovered or not.

15 Q Okay. And you're going to get a gross misdemeanor  
16 at the end of this?

17 A Yes.

18 Q Originally you were charged with 26, 27, dozens  
19 of --

20 A That sounds correct.

21 Q Okay. And you gave multiple statements, correct?

22 A Yes.

23 Q Each a little more damning than the next?

24 A I gave two statements to Detective Nickell.

25 Q And you testified?

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1 A Right. At the grand jury.

2 Q It's safe to say that every time your memory got a  
3 little better it was a little more damning as you gave the  
4 statements?

5 A I wouldn't say that my memory got better. I was  
6 maybe asked additional questions.

7 Q Okay. I just want to -- you were concerned about 40  
8 grand in inheritance money though that you'd gotten, correct,  
9 when you were talking to the officers?

10 A When I was asked about money, and you know, the  
11 money being comingled, I -- I did mention that in addition to  
12 any money I made working I had had an inheritance.

13 Q Okay. And you pretty much spent all of it  
14 previously?

15 A Well I -- I said I hadn't ever tracked what was  
16 spent where. It was comingled and I -- I mean, I didn't claim  
17 to necessarily, you know, be owed any of that.

18 Q Okay. Well he did specifically bring it up at least  
19 two times you spoke to the officers. We only have two reports  
20 here it's about --

21 A Okay. So I -- I don't remember, but if that's what  
22 it says in the statements, I believe that.

23 Q You send some money to your mother?

24 A Yes. I had transferred some money to my mother.

25 Q And you were the one that -- let's see. The cars

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1 were your cars, they were in your name?

2 A Yes.

3 Q The accounts were your accounts, they were in your  
4 name?

5 A Yes.

6 Q Could have left at any time?

7 A Yeah. I physically could have left, yes.

8 Q Yeah. You had 250,000, 300,000 getaway fund, right?  
9 A couple different vehicles you could do to drive away.

10 A I have vehicles, I could have driven [sic] away, or  
11 driven away.

12 Q And you gave the paintings to Ms. Terry, Amanda  
13 Terry, correct?

14 A Yes.

15 Q So let's do kind of a breakdown of the timeframe and  
16 what happens here. On the night that the police came to the  
17 place you said when you got there you walked out, were you the  
18 first one out of the house or --

19 A No.

20 Q How far -- okay. Who was the first one out?

21 A Devon was.

22 Q You said by the time you'd gotten there the door had  
23 already been yanked off or whatever?

24 A Yes.

25 Q Okay. Then you came out and you were allowed to go

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1 back in and see the kids?

2 A I was escorted back in to see the kids, yes.

3 Q Okay. And that time Daimon was hauled off, right?

4 A Well when they first brought me out of the house I  
5 saw him handcuffed in a patrol -- like -- or like a car. But  
6 I don't know at one point he was, you know, taken away from  
7 the area.

8 Q Now you testified at the grand jury also that at  
9 least when you were first together you knew that Daimon wore a  
10 uniform and did pressure washing, correct?

11 A When I first moved in with him in 2001.

12 Q Okay. And he still always said he was a pressure  
13 washer, right?

14 A Well, I mean, he maybe told people that. There were  
15 times he told people that.

16 Q Do you remember him coming home with grease?

17 A In his first few months, yes.

18 Q Okay. And it was you in charge of all the accounts?

19 A I was the only name on all the accounts.

20 Q And you -- well you said you basically pay the  
21 bills?

22 A Yes.

23 Q And were -- well like many couples you were in  
24 charge of that, correct?

25 A I mean, there were -- well he's all setup through

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1 online banking. A lot of things are on automatic payment.

2 Q And you have your children back now?

3 A Yes.

4 Q And you're married to somebody else at this point?

5 A Yes.

6 Q You were contacted about possibly speaking with

7 myself, or the defense counsel?

8 A Yes.

9 Q And your statement was you didn't want to talk to

10 anybody?

11 A Yes. I'd asked whether, you know, I was required

12 to. And since I wasn't required to I decided not to.

13 Q So as we sit here today you say you knew everything

14 in the house was stolen?

15 A I know a lot of things were stolen.

16 Q But when this is all said and done you're going to

17 have a gross misdemeanor?

18 A Yes.

19 Q Do you know how much money you're going to get to

20 keep?

21 A I -- I mean, I don't have any money at this point

22 that I had before.

23 Q Did you get the cars?

24 A I did get the cars.

25 Q And the rest of the stuff is just up in the air as

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1 how much comes back?

2 MS. DIGIACOMO: Objection; assuming facts not in  
3 evidence.

4 THE COURT: What rest of the stuff?

5 MR. HART: Well, like I said she --

6 BY MR. HART:

7 Q You're still claiming at least \$40,000 from an  
8 inheritance, right?

9 A I didn't get -- it's not like I got to keep 40,000  
10 in the account or anything. Everything was seized in the  
11 account.

12 Q Okay. And that's not done, said and over yet,  
13 correct?

14 A I believe it is said and over.

15 Q Okay. So you forfeited all that?

16 A Right.

17 Q I just didn't see it that it happened.

18 MR. HART: Nothing further from this witness.

19 THE COURT: One of the jurors has a question and I think  
20 they think they heard and I'm not sure whether it's right or  
21 not. But in the early part of November maybe on about the 9th  
22 there was a wire transfer either into or out of Bank of  
23 America. Did you ever do any of this transferring of money by  
24 wire transfer?

25 THE WITNESS: I did do at least one wire transfer and it

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1 was for an attorney, one of Devon's attorneys at the time.  
2 And so I was taking care of making payment to the attorney.

3 THE COURT: So you did a wire transfer out of a B of A  
4 account and that went to a former counsel of the Defendant?

5 THE WITNESS: Yes.

6 THE COURT: Okay. Thanks. Go ahead.  
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## REDIRECT EXAMINATION

BY MS. DIGIACOMO:

Q So when you signed your deal agreement you did agree to forfeiture all the rest of the money that was seized?

A Yes.

Q Any interest you had you forfeited?

A Yes.

Q Now Defense counsel said, you know, was asking you about, well you could have left at any time, you own the cars, you had the bank accounts with all the money. And you said, "I physically could have left;" is that -- do you recall that?

A Yes.

Q All right. Why didn't you just take the money and go?

A I was -- I mean, I was told --

MR. HART: Objection.

THE COURT: I'm not sure I'd go there. Do you know the answer to that?

MS. DIGIACOMO: I do.

THE COURT: Go ahead.

MS. DIGIACOMO: Well can we approach?

THE COURT: Yeah.

[Bench Conference Not Transcribed]

THE COURT: The objection is sustained.

MS. DIGIACOMO: That's fine, Your Honor.

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1 BY MS. DIGIACOMO:

2 Q And now the money that you transferred to your mom,  
3 you had sent her money to Texas and you were still here?

4 A Yes.

5 Q Was that to take care of your kids?

6 A Yes.

7 THE COURT: How long you going to be with this witness?  
8 They want a restroom break.

9 MS. DIGIACOMO: Oh. Just one more question.

10 THE COURT: One more question, then we'll take a restroom  
11 break.

12 BY MS. DIGIACOMO:

13 Q Have you ever heard Devon talk about doing a  
14 run-through or a walkthrough?

15 A Yes.

16 Q Okay. And that was talked about on the jail calls  
17 too?

18 A Yes.

19 Q What does that mean to do a walkthrough or  
20 run-through?

21 A To, you know, break into a business. Go through  
22 to --

23 MR. HART: Objection, Your Honor.

24 THE COURT: Sustained.

25 MS. DIGIACOMO: Nothing further.

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1 THE COURT: Okay. Anything else?

2 MR. HART: I don't remember what I was going to ask. No,  
3 Your Honor.

4 THE COURT: Okay. Thanks. Appreciate your time. You're  
5 excused.

6 Okay. Let's take a five minute restroom break.

7 [Court Admonishes jury]

8 THE COURT: Five minutes.

9 [Jury Out]

10 [Off the record]

11 [Within the Presence of the Jury]

12 THE COURT: Okay.. Back on the record in case C228752,  
13 State of Nevada versus Daimon Monroe. Let the record reflect  
14 the presence of the Defendant, his counsel, counsel for the  
15 State and all ladies and gentlemen of the jury.

16 Here's where we are ladies and gentlemen. I  
17 understand the State has one long witness, their main  
18 detective, one short detective and two witnesses that will be  
19 recalled for a question or two, and so we're very much on  
20 track to finish our testimony today. The main guy is actually  
21 coming after lunch.

22 So they want to just take an early lunch now. So  
23 why don't we do that. Let's take our lunch now at 11:45 and  
24 pick back up at 12:45, does that work for you, Ms. DiGiacomo?

25 MS. DIGIACOMO: It should, yes.

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1 THE COURT: Okay.

2 [Court Admonishes Jury]

3 THE COURT: We'll pick-up at 12:45. Have a good lunch.

4 [Jury Out]

5 THE COURT: Okay. The record should reflect that the  
6 jury has exited. Let's say we get these instructions settled.  
7 Let's --

8 MS. DIGIACOMO: Do you want to start with Marty's? It's  
9 different than the statute, and I have some issues.

10 THE COURT: Yeah. Tell me what it says, the statute  
11 says.

12 MS. DIGIACOMO: The statute says, a person commits an  
13 offense involving stolen property of the person for his own  
14 gain or to prevent the owner from again gaining his property,  
15 buys, receives, possesses or withholds property knowing that  
16 it is stolen property, or under such circumstances that should  
17 have caused a reasonable person to know that it's stolen  
18 property.

19 THE COURT: Read it again. The Defendant buys,  
20 receives --

21 MS. DIGIACOMO: Possesses or withholds property.

22 THE COURT: Possesses or withholds.

23 MS. DIGIACOMO: Yeah; a) knowing that it's stolen  
24 property.

25 THE COURT: That the Defendant knew or should have known

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1 that the property was stolen.

2 MS. DIGIACOMO: Yeah. But that's not what this says.

3 It's either he knew --

4 THE COURT: Or should have known.

5 MS. DIGIACOMO: -- that it was stolen, or under such  
6 circumstances that would have caused a reasonable person to  
7 know. It's not what he knew it's what a reasonable person  
8 would know.

9 THE COURT: Well you think that "should have known" is a  
10 fair paraphrase of that?

11 MS. DIGIACOMO: Well, no. I think --

12 THE COURT: I'll write it your way.

13 MS. DIGIACOMO: -- you need the reasonable person  
14 standard.

15 THE COURT: The Defendant knew, or a reasonable person --

16 MS. DIGIACOMO: Well it says, "under such circumstances  
17 that should have caused a reasonable person to know that it's  
18 stolen property," which I think is important with all of the  
19 volume of the stuff here.

20 THE COURT: Just give me a Xerox of this. What's the  
21 number?

22 MS. DIGIACOMO: It is 205.275. Your Honor, I have it on  
23 my tablet if you want to just look at it?

24 THE COURT: Well I'll just have Charmane type it.

25 MS. DIGIACOMO: Okay.

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1 THE COURT: Just exactly word-for-word from the statute.  
2 Do you want that in there, Mr. Hart? The statute  
3 word-for-word.

4 MR. HART: Your Honor, I had mine, but --

5 MS. DIGIACOMO: I think his leaves out some things is my  
6 problem with it.

7 THE COURT: I'll type the statute word-for-word and I'll  
8 put it right between, "While it was necessary to show the  
9 product was property of theft and the law recognizes two kinds  
10 of possession," I'll stick it in there. Statute word-for-  
11 word, 205.275.

12 MR. HART: Okay.

13 THE COURT: Now let's start with you Ms. DiGiacomo. With  
14 the correction of the date on instruction number 3 -- and is  
15 there a motion to amend the date on the indictment?

16 MS. DIGIACOMO: Yes, Your Honor. I move to amend the  
17 indictment.

18 THE COURT: Objection, Mr. Hart; it's just a  
19 typographical error?

20 MR. HART: Well, Your Honor, we're at the time now. I'm  
21 thinking we have proved nothing from the 7th. I'm pretty sure  
22 your ruling is going to be.

23 THE COURT: Well they can always correct typographical  
24 errors. Okay. Then I'll change that on number 3 and I'll add  
25 the statute of 205.275 right in front of "the law recognizes

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1 two kinds of possessions."

2 Ms. DiGiacomo, with that, do you have any objection  
3 to any of the instructions in the packet?

4 MS. DIGIACOMO: No. As long as that's word-for-word, the  
5 statute.

6 THE COURT: Think you can handle that Charmane?

7 THE CLERK: I hope so.

8 THE COURT: Any additional instructions for the State to  
9 propose.

10 MS. DIGIACOMO: No.

11 THE COURT: All right. Mr. Hart, the packet with the  
12 addition of the actual statutory language, which is pretty  
13 much what you've proposed, but we'll not quibble over  
14 rhetoric.

15 MR. HART: I'd like to keep mine as an exhibit, Your  
16 Honor, to the proposed exhibit.

17 THE COURT: It isn't any different really than the  
18 statute, is it? You may if you want.

19 MR. HART: Thank you.

20 THE COURT: Okay.

21 MR. HART: I thought I brought it up there, Your Honor,  
22 I apologize.

23 THE COURT: You did but I wrote on it, because I was  
24 trying to make two go into one. All right. But the point is  
25 this rule -- do you have any objection to any of the proposed

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1 packet before we get to the additional ones you want to  
2 propose?

3 MR. HART: My only objection is, Your Honor, is on the  
4 burglary which should be about number 4 if I --

5 THE COURT: Yeah.

6 MR. HART: You know what, I grabbed the wrong -- okay.  
7 Your Honor, he's charged with a conspiracy which is a specific  
8 intent to crime. The only test, as we know we've gone down  
9 here, and when you go through conspiracy to possess which is a  
10 specific intent crime, and then you start putting in language  
11 under possession that is a general intent crime you have an  
12 inherent conflict.

13 THE COURT: Wait a minute.

14 MR. HART: Additionally the --

15 THE COURT: What --

16 MR. HART: -- the way the --

17 THE COURT: Here's what a specific intent crime is: it is  
18 those crimes in the statute books that have the following  
19 words in their definition; with the intent to, with the intent  
20 to. It has to have those four words in it or it's not a  
21 specific intent crime.

22 For example, burglary is entry with the intent to  
23 steal, or with the intent to permanently deprive. If it  
24 doesn't have the words with the intent to, it's not a specific  
25 intent crime. If it does have the words it is a specific

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1 intent crime. Now what's your point?

2 MR. HART: When you go through this the indictment states  
3 that the language is a conspiracy to commit the acts in 2  
4 through 27, which is all possession of stolen property.

5 THE COURT: Let's see. "And each of them willfully  
6 conspire and agreed to commit crime to wit possession of  
7 stolen property and or/burglary." And in further it says:  
8 "Conspiracy, Defendants did commit the acts in 1 to 27 section  
9 X incorporated and defendants committing burglaries at Anku  
10 Crystal Palace and Just For Kids Dentistry."

11 I might add that over the weekend it had just came  
12 into my little pea brain that you might have a double jeopardy  
13 issue with this having been pled in the other case.

14 MS. DIGIACOMO: It wasn't. You all made me take the  
15 conspiracy out.

16 THE COURT: And so -- I know. Well --

17 MR. HART: Well she --

18 THE COURT: So this morning I came in early and I got in  
19 the computer and I can see that it was originally pled that  
20 way. But later before trial --

21 MS. DIGIACOMO: Right.

22 THE COURT: -- the thing was amended, the conspiracy was  
23 taken out so they didn't --

24 MS. DIGIACOMO: Right.

25 THE COURT: -- have it. But I did look up all this stuff

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1 to make sure your --

2 MR. HART: Yeah.

3 THE COURT: -- client was protected.

4 MR. HART: And it wasn't -- it was the District Attorney  
5 that chose to withdrawal that plea.

6 THE COURT: So what is your objection to which one of  
7 these instructions?

8 MR. HART: Well like I said our original indictment --  
9 we've gone with the amended indictment. Our original  
10 indictment only listed the intent to commit the crimes as  
11 listed in the next 26 Counts.

12 THE COURT: Right. And then we --

13 MR. HART: Which were all possession of stolen property.

14 THE COURT: Right. Then the State moved to amend -- they  
15 did amend Counts 1 and 13. Then Ms. Dustin moved to challenge  
16 those two amendments which you joined and I granted the motion  
17 for joinder. And then after argument I granted the motion and  
18 struck the language in 13. I denied the motion and struck the  
19 language in 1, because it was pretty clear to me that that  
20 wasn't any surprise to you or much of a change. That is, sir,  
21 what the --

22 MS. DIGIACOMO: Well it was in the title. It was always  
23 conspiracy to commit burglary and/or possess stolen property.

24 THE COURT: Okay.

25 MR. HART: Well -- okay. So therefore I am objecting to

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1 burglary instructions --

2 THE COURT: Okay. Well if the -- potentially conspiracy  
3 to commit burglary is part of the indictment as is allowed by  
4 the Court then I have to give them the definition of burglary  
5 so they'll know what they're talking about. All right.

6 Okay. I think the record's adequately protected on  
7 that. Other than that is there any objection to the proposed  
8 packet, including in there the one that I agreed that I was  
9 going to give for you, which was the statutory definition?

10 MR. HART: Your Honor, there --

11 THE COURT: Not yet to the ones you want to make record.

12 MR. HART: Okay.

13 THE COURT: Do you have any other objection to this  
14 packet?

15 MR. HART: Not at this time, no.

16 THE COURT: All right. Then I'm going to give that now.  
17 You have three that you submitted to me that you want to make  
18 a record on.

19 MR. HART: Yes.

20 THE COURT: One is the, in essence, sort of paraphrased  
21 version of the definition of possession of stolen property.  
22 The truth of which is I think it's a fair paraphrase and I  
23 don't see that it differs any from the statute itself. On the  
24 other hand I don't think there's any downside in giving the  
25 exact language of the statute itself, because I think it's,

1 you know, six and a half dozen. But --

2 MR..HART: Okay.

3 THE COURT: -- I'm going to give the exact language of  
4 the statute based on the State's objection. But I don't think  
5 it says anything different than yours. And that is, the  
6 Defendant has to have control of the property. He has to know  
7 or should have known that the property was stolen. And he has  
8 to --

9 MS. DIGIACOMO: Right. But this is limited as to only  
10 received or bought not withheld or possessed.

11 THE COURT: No, I understand. I wasn't going to allow  
12 that. Because you don't have to receive it or buy it. You  
13 could --

14 MS. DIGIACOMO: Right.

15 THE COURT: -- actually be the thief. Okay. I will make  
16 that part of Defendant's proposed -- I'll make it Court's  
17 Exhibit A.

18 Now you submitted two others. One says "stolen  
19 property recovered by police officers only relieved by order  
20 of Court," and the other one says that, plus "or upon request  
21 by the rightful owner to the prosecuting attorney." What is  
22 the relevance of those to whether or not this Defendant is  
23 guilty?

24 I mean, I can see the relevance if they wrongfully  
25 release property and then somehow somebody who was actually

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1 the rightful owner wanted to sue the police department if they  
2 violated the statute, but what does this have to do with guilt  
3 or innocence?

4 MR. HART: You do have that, Your Honor. You have at  
5 least two instances where items were later returned.

6 THE COURT: Okay. What does that have to do with the  
7 guilt or innocence of any of the persons charged of possession  
8 of stolen property? It only has to do with whether or not  
9 some other third party citizen might have a civil claim  
10 against the police department.

11 MR. HART: Well, Your Honor, it goes to the procedures  
12 that were used, the identifications. Because the testimony's  
13 been that everything was identified before it was returned.  
14 That's obviously not the situation. It's not available for  
15 inspection because it's been returned, Your Honor. A number  
16 of items are not available for inspection because they've been  
17 returned.

18 THE COURT: What would you do if you inspected for  
19 example Tom Chernine's assembled packet of baseball cards in  
20 the frame?

21 MS. DIGIACOMO: Actually, that is still in evidence.

22 THE COURT: Oh well.

23 MS. DIGIACOMO: How about the flag?

24 THE COURT: I just picked one at random.

25 MS. DIGIACOMO: Yeah.

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1 THE COURT: But what would you -- if you went to inspect  
2 it what would you do?

3 MR. HART: Well like Tom Chernine's monitor that was  
4 returned to him was a Sony monitor. There was never a claim  
5 for a Sony monitor being taken. There was a claim for an LG  
6 monitor.

7 THE COURT: Okay. Well they can't use that against you  
8 if it's not in the indictment.

9 MR. HART: Well it's part of the property that was in the  
10 indictment. It was miscellaneous items from the --

11 MS. DIGIACOMO: It's in the indictment, Your Honor.

12 MR. HART: Yeah.

13 MS. DIGIACOMO: He's just complaining because it had the  
14 wrong brand.

15 THE COURT: Okay. All right. Well I don't think this --  
16 while it may be a fair statement of the statute, I don't think  
17 it has anything to do with this criminal case. So I'm not  
18 going to give it.

19 MR. HART: And when I --

20 THE COURT: Even though it may be a fair statement of the  
21 law, I'll make all three of these Court's Exhibit A, I'll put  
22 them in the record so that if the Supreme Court thinks I'm an  
23 idiot they can tell me why.

24 MR. HART: You'll be retired. You won't --

25 THE COURT: Huh?

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1 MR. HART: By that time you'll be retired, and it won't  
2 matter, right?

3 THE COURT: It doesn't matter even if I'm not retired. I  
4 don't give a damn if they think I'm an idiot.

5 All right. Now the verdict form. Is the verdict  
6 form acceptable to both sides? There are a few instances in  
7 the indictment where the property was charged only as over 250  
8 which is a Class C. But in those instances where it was  
9 charged as a Class B over 2500 there's always -- 250 is a  
10 lesser alternative in case they didn't believe that at the  
11 time and place the property was recovered it had a value.

12 Anybody have any problem with the verdict form?

13 MS. DIGIACOMO: Uh-uh. No.

14 MR. HART: Your Honor, my question is the lesser  
15 includeds.

16 THE COURT: Do you want them or not?

17 MR. HART: Where they dropped the value down.

18 THE COURT: Do you want them or not? If you don't want  
19 them I'll take them out. If you want them I'll leave them in.  
20 It's up to you.

21 MS. DIGIACOMO: Well, Your Honor, the State wants it I  
22 know on one --

23 MR. HART: I believe --

24 MS. DIGIACOMO: -- because there was only the -- the buy  
25 -- what they bought it for instead of the retail value. I

1 know there is one that's less and we want them.

2 THE COURT: Well I'm going to see which ones.

3 MS. DIGIACOMO: We're entitled to them since they are  
4 lesser includeds.

5 MR. HART: I know the spa came in.

6 THE COURT: Well you're going to need one on 2 because in  
7 Desert Rock Sports that looked like that was the case, 6 and  
8 11 -- 6 you didn't even charge it. 11 you're going to need  
9 one because they said the spa was only 2310.

10 MS. DIGIACOMO: But we'd like them on all, Your Honor.

11 THE COURT: And your objection Mr. Hart is?

12 MR. HART: Your Honor, I'd prefer to go as the indictment  
13 is pled, Your Honor.

14 THE COURT: Well I know but let's say they plea open  
15 murder. Aren't they entitled to murder in the first degree,  
16 murder in the second degree, voluntary if it applies. I mean,  
17 aren't they, you know, attempt murder don't they get battery  
18 with a deadly weapon, battery of substantial, misdemeanor  
19 battery all those things. And the jury sort of picks from a  
20 litany of possibilities depending on how they view the  
21 evidence?

22 MS. DIGIACOMO: Well we're entitled to lesser includeds  
23 not lesser relateds. And the value of this it is a lesser  
24 included.

25 THE COURT: Clearly. Okay. That objection is noted and

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1 overruled. I'm giving the verdict form the way it is.

2 Okay. Anything else?

3 MS. DIGIACOMO: No.

4 THE COURT: Okay. I'm going to tell the jury that one of  
5 them pointed out that there was a typographical error. We've  
6 amended the indictment, it now says 2006. Thanks for bringing  
7 that to our attention and off we go.

8 See you at 12:45.

9 [Clerk to Court]

10 THE COURT: Okay. They are given a cover sheet and  
11 actually filed Marty, so they'll be part of the record should  
12 there be an appeal.

13 Okay. See you at 12:45.

14 MR. HART: Thank you.

15 [Recess]

16 [Within the Presence of the Jury]

17 THE COURT: Okay. Back on the record in case number  
18 C228752 State of Nevada versus Daimon Monroe. We got some  
19 chairs. Supposedly they're comfortable. Not sure how well  
20 they --

21 MR. HART: Do they work?

22 THE COURT: Although they go in the decorative scheme.  
23 Monroe's present with counsel, counsel for the State, all  
24 ladies and gentlemen of the jury are back in the box. Chairs  
25 okay?

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1 All right. Ms. DiGiacomo, call your next witness.  
2 Oh, by the way, I want to thank the jury. One of our astute  
3 jurors pointed out that there was a typographical error in  
4 Count 1 on the year, it says 2007, it's supposed to say 2006.  
5 Thank you very much.

6 The rule on typographical errors is you just fix  
7 them when you find them. So we fixed it and that'll be the  
8 way it'll be in the actual original indictment and then in the  
9 instructions you get. But thank you very much for pointing  
10 that out.

11 Ms. DiGiacomo, next witness.

12 MS. DIGIACOMO: The State recalls Allen Hanners.

13 THE COURT: Come on up Officer.

14 THE CLERK: Please remain standing and raise your right  
15 hand.

16 ALLEN HANNERS, STATE'S WITNESS, SWORN

17 THE CLERK: Thank you. You may be seated.

18 THE COURT: Officer, I know you testified before but give  
19 us your name and spell it again for the record.

20 THE WITNESS: It's Detective Allen Hanners, A-l-l-e-n,  
21 H-a-n-n-e-r-s.

22 THE COURT: Go ahead, Ms. DiGiacomo.

23 MS. DIGIACOMO: Thank you.  
24  
25

## DIRECT EXAMINATION

BY MS. DIGIACOMO:

Q Sir, you were one of the detectives that went to Smoke Ranch Storage Facility on November 6th, 2006 to execute a search warrant?

A Yes.

Q Okay. I apologize. I forgot to -- I'm going to show you some photographs. First of all showing you State's proposed Exhibits 978, 980 through 983. If you could just look at those and let me know if you recognize them?

A Yes. This was stuff that was inside the storage unit? Actually this photo's inside the truck. This is what we impounded here.

Q Okay. But you recognize them all?

A Yes. Uh-huh. Yes. They're all the same.

Q And they fairly and accurately depict the way the storage unit was on November 6, 2006?

A Yes.

Q Okay.

MS. DIGIACOMO: I move for admission of 978, 980 through 983.

THE COURT: Any objection?

MS. TRAMEL: No objection, Your Honor.

THE COURT: Admitted.

[State's Exhibits 978, 980 to 983 Admitted]

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