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No. 65935

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**V.**

Respondent.

**APPELLANT'S APPENDIX VOLUME IX PAGES 1597-1820**

STEVE WOLFSON  
Clark County District Attorney  
200 Lewis Avenue, 3<sup>rd</sup> Floor  
Las Vegas, Nevada 89155

**CATHERINE CORTEZ MASTO**  
Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717  
(702) 687-3538

### Counsel for Respondent

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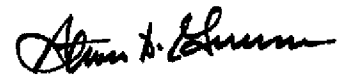
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CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA,	.	CASE NO. C-245739
	.	CASE NO. C-249693
Plaintiff,	.	
	.	DEPT. NO. 5
v.	.	
	.	<b>TRANSCRIPT OF</b>
STEVEN DALE FARMER,	.	<b>PROCEEDINGS</b>
	.	
Defendant.	.	
. . . . .		

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 5**

FRIDAY, FEBRUARY 7, 2014

APPEARANCES:

FOR THE STATE:	JACQUELINE M. BLUTH, ESQ. BRIAN J. KOCHER, ESQ. <i>Chief Deputy District Attorneys</i>
FOR THE DEFENDANT:	JEFFREY S. MANINGO, ESQ. RYAN J. BASHOR, ESQ. <i>Deputy Public Defenders</i>

COURT RECORDER:

LARA CORCORAN  
District Court

TRANSCRIPTION BY:

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Englewood, CO 80110  
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript  
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1       LAS VEGAS, NEVADA, FRIDAY, FEBRUARY 7, 2014, 1:11 P.M.

2       (In the presence of the jury and prospective alternate jurors)

3               THE COURT: Thank you. Please be seated. They're  
4 not seated in the order --

5                       (Pause in the proceedings)

6               THE COURT: All right. We are back in session in  
7 State of Nevada versus Steven Farmer, Case No. C-245739. The  
8 record will reflect the presence of the defendant with his  
9 counsel, the Deputy District Attorneys prosecuting the case,  
10 all officers of the court, our jury, and our proposed four  
11 alternates, as well as the remaining two members of the  
12 venire panel. Good afternoon.

13               ALL JURORS: Good afternoon.

14               THE COURT: And we had left off and seated Ms.  
15 Rossi.

16               PROSPECTIVE JUROR NO. 700: Yes.

17               THE COURT: And you have the microphone?

18               PROSPECTIVE JUROR NO. 700: Yes, I do.

19               THE COURT: Good.

20               THE COURT RECORDER: I don't know if it's on.

21               PROSPECTIVE JUROR NO. 700: Hello?

22               THE COURT: There you go. All right. Have you  
23 ever served as a juror before?

24               PROSPECTIVE JUROR NO. 700: No, I have not.

25               THE COURT: Have you ever been the victim of a

1 crime?

2 PROSPECTIVE JUROR NO. 700: No.

3 THE COURT: Anyone in your family or closely  
4 associated with you been a victim of a serious crime?

5 PROSPECTIVE JUROR NO. 700: No.

6 THE COURT: Have you ever been in law enforcement?

7 PROSPECTIVE JUROR NO. 700: No.

8 THE COURT: Anyone in your family or closely  
9 associated with you in law enforcement?

10 PROSPECTIVE JUROR NO. 700: No.

11 THE COURT: Have you ever been accused of a crime?

12 PROSPECTIVE JUROR NO. 700: No.

13 THE COURT: Has anyone in your family or closely  
14 associated with you been accused of a crime?

15 PROSPECTIVE JUROR NO. 700: No.

16 THE COURT: Do you have any religious or moral  
17 beliefs that would cause you to be unable to be fair and  
18 impartial in this case or judge another person?

19 PROSPECTIVE JUROR NO. 700: No.

20 THE COURT: Can you think of any reason that you  
21 could not be fair and impartial in this case?

22 PROSPECTIVE JUROR NO. 700: No, I cannot.

23 THE COURT: Tell us about yourself.

24 PROSPECTIVE JUROR NO. 700: I have lived in Las  
25 Vegas for six years now. I moved here to work for Cirque du

1 Soleil. I was cast as the lead singer for O. And now I work  
2 at Zarkana as an acrobatic singer and artist for them.

3 I am recently divorced. I am not single, however.  
4 I have a boyfriend who is an acrobat in the show with me.  
5 And I can't think of anything else. I went to Northwestern  
6 University. When I graduated, I moved to Boston where I  
7 worked as a voice over artist for some companies for  
8 commercials and also as a bartender.

9 THE COURT: No kids?

10 PROSPECTIVE JUROR NO. 700: I do not have any kids.  
11 I have two French bulldogs, and they are like my children,  
12 but that's it.

13 THE COURT: When you were in college, when did you  
14 study?

15 PROSPECTIVE JUROR NO. 700: I studied opera  
16 performance, so voice.

17 THE COURT: So and you're using it. One of the few  
18 who --

19 PROSPECTIVE JUROR NO. 700: I am, yes. I'm lucky.

20 THE COURT: -- who actually is. Congratulations on  
21 that. All right. And do you have any quarrel with the  
22 presumption of innocence?

23 PROSPECTIVE JUROR NO. 700: No.

24 THE COURT: Would the state like to inquire  
25 further?

1 MS. BLUTH: Yes, please. All right. What do you  
2 think about our criminal justice system?

3 PROSPECTIVE JUROR NO. 700: Well, I've probably  
4 learned more being here the last three days than I have in  
5 high school and any other time. I think that it is -- I'm --  
6 I think we're very lucky to live in a country that we can be  
7 presumed innocent until proven guilty.

8 MS. BLUTH: Okay. Do you want to serve as a juror?  
9 And I know the time constraints. I understand that. But  
10 besides that.

11 PROSPECTIVE JUROR NO. 700: Yes. I think it's a  
12 privilege and an honor to be able to sit up here. And I  
13 think that it's a very serious thing to go through and to  
14 pass judgment upon another person and affect the lives of not  
15 only the Defendant but the other people involved in the case,  
16 so I take it seriously. But I'm honored to be here, yeah.

17 MS. BLUTH: Okay. The question regarding, you  
18 know, immediate reporting, and have you ever felt yourself in  
19 a situation -- and I'm not necessarily talking about a crime  
20 being committed against you, but a situation where, you know,  
21 you felt like something was off or awkward and later you  
22 think, I wish I would have said something at the time, or I  
23 would have spoken my mind, I wish I would have stood up for  
24 myself. Have you felt yourself in a situation like that?

25 PROSPECTIVE JUROR NO. 700: I cannot think of a

1 situation, and I've obviously been sitting here for a  
2 while --

3 MS. BLUTH: Right.

4 PROSPECTIVE JUROR NO. 700: -- thinking about it,  
5 but no, I can't think of a situation that I -- I've been in  
6 where I wish I would have said something.

7 MS. BLUTH: Can you think of a situation or where a  
8 victim of a crime would not report it until later?

9 PROSPECTIVE JUROR NO. 700: Yeah, absolutely.

10 MS. BLUTH: And what type of situations come into  
11 your mind first?

12 PROSPECTIVE JUROR NO. 700: I think that some  
13 people are afraid of, I guess, the process it would take to  
14 go through when they're reporting something, or I can  
15 understand why someone would feel that way. I think it also  
16 depends on someone's maybe personality of how they're feeling  
17 at the time, so.

18 MS. BLUTH: In regards to the crime shows we've  
19 been speaking of, do you watch any of those?

20 PROSPECTIVE JUROR NO. 700: I don't even have  
21 cable, so I don't watch TV.

22 MS. BLUTH: Okay. And what do you do like in your  
23 spare time when you're not --

24 PROSPECTIVE JUROR NO. 700: I'm also a yoga  
25 instructor. So I do a lot of yoga. I've been doing yoga for



1 probably 18 years. So I teach mostly to artists, like  
2 recovering artists with injuries.

3 MS. BLUTH: Um-h'm.

4 PROSPECTIVE JUROR NO. 700: So I do a lot of yoga.  
5 I am a runner as well. I run marathons. I don't -- I'm a  
6 pretty active person. I don't really sit on the couch very  
7 well watching TV, so.

8 MS. BLUTH: Okay. All right. Can you think of any  
9 negative contacts you've with law enforcement where you felt  
10 you weren't treated correctly or someone like a family member  
11 or close friend?

12 PROSPECTIVE JUROR NO. 700: No. My younger brother  
13 has had a couple run-ins with -- you know, he's smoked some  
14 pot and had some officers -- like, contact with the officers,  
15 but I think that they were perfectly fair, and I think my  
16 brother was definitely at fault for those things, so.

17 MS. BLUTH: Okay. In regards to the question that  
18 I've discussed about, you know, a victim's testimony, do you  
19 have that memorized or do you --

20 PROSPECTIVE JUROR NO. 700: I do, although, this is  
21 morning for me so I'm a little foggy.

22 MS. BLUTH: Oh, okay.

23 PROSPECTIVE JUROR NO. 700. But, yes, I do believe  
24 that if you believe someone's testimony, it's enough to -- if  
25 it's convincing and it's --

1 MS. BLUTH: Sure.

2 PROSPECTIVE JUROR NO. 700: -- fully believed.

3 MS. BLUTH: When you say this is morning, so were  
4 you performing last night?

5 PROSPECTIVE JUROR NO. 700. No, I perform Fridays  
6 through Tuesdays, so I do two shows a night.

7 MS. BLUTH: Okay.

8 PROSPECTIVE JUROR NO. 700: Um-h'm.

9 MS. BLUTH: And so like what time would you get off  
10 of work?

11 PROSPECTIVE JUROR NO. 700: I get out at 11:00.  
12 I'm usually in bed by 12:00.

13 MS. BLUTH: And then --

14 PROSPECTIVE JUROR NO. 700: I'm pretty good about  
15 that.

16 MS. BLUTH: -- so you get a full -- like, if the  
17 earliest we ever started here would be like 9:00 a.m. --

18 PROSPECTIVE JUROR NO. 700: Um-h'm.

19 MS. BLUTH: -- that -- you would be --

20 PROSPECTIVE JUROR NO. 700: I would get like seven  
21 and a half hours of sleep, about that.

22 MS. BLUTH: So you feel like you would be good?

23 PROSPECTIVE JUROR NO. 700: That's what I function  
24 on pretty much all the time, so. I've thought about that as  
25 far as the times. And I've also done other things at other

1 times where I've done yoga certifications where I've been  
2 there all day and then gone to work. I feel like I was sane.  
3 Maybe other people may not have felt that way.

4 MS. BLUTH: Yeah.

5 PROSPECTIVE JUROR NO. 700: No, but, I mean, I'm  
6 pretty good at getting my sleep when I get it.

7 MS. BLUTH: Okay.

8 PROSPECTIVE JUROR NO. 700: Um-h'm.

9 MS. BLUTH: Have you ever known a victim of sexual  
10 assault?

11 PROSPECTIVE JUROR NO. 700: I have not.

12 MS. BLUTH: Okay. Do you know anyone with a  
13 seizure disorder --

14 PROSPECTIVE JUROR NO. 700: No.

15 MS. BLUTH: -- or who suffers from seizures?

16 PROSPECTIVE JUROR NO. 700: Um-um.

17 MS. BLUTH: Have any bumper stickers?

18 PROSPECTIVE JUROR NO. 700: I do not.

19 MS. BLUTH: If the State proved to you beyond a  
20 reasonable doubt that these crimes were committed, could you  
21 walk back in here and say to the defendant, we find you  
22 guilty?

23 PROSPECTIVE JUROR NO. 700: I think that's the  
24 question you had asked before about the -- the testimony or  
25 is this a different --

1 MS. BLUTH: It's a different -- it's a different  
2 question. The question is, is, you know, if you're selected,  
3 you'll listen it all of the evidence --

4 PROSPECTIVE JUROR NO. 700: Um-h'm.

5 MS. BLUTH: -- and you'll go back there, and you'll  
6 discuss with your fellow jurors. And then if you and the  
7 rest of the jurors agree that the State of Nevada has proved,  
8 you know, these charges beyond a reasonable doubt --

9 PROSPECTIVE JUROR NO. 700: Um-h'm.

10 MS. BLUTH: -- then can you come back in here --

11 PROSPECTIVE JUROR NO. 700: Yes.

12 MS. BLUTH: -- and say --

13 PROSPECTIVE JUROR NO. 700: Um-h'm.

14 MS. BLUTH: -- we find you guilty?

15 PROSPECTIVE JUROR NO. 700: Yes.

16 MS. BLUTH: Okay. Thank you. Nothing further.

17 Pass for cause.

18 THE COURT: Thank you. And it's the State's second  
19 peremptory challenge.

20 MR. MANINGO: Your Honor, shouldn't I -- should I  
21 question --

22 THE COURT: Oh, I'm sorry.

23 MR. MANINGO: -- the juror?

24 THE COURT: It must still be morning for me, too.  
25 I had a very long morning in court. I'm sorry, Mr. Maningo.

1 MR. MANINGO: No problem.  
2 THE COURT: Of course, we want you to --  
3 MR. MANINGO: Thank you.  
4 THE COURT: -- question.  
5 MR. MANINGO: Hello, Ms. Rossi.  
6 PROSPECTIVE JUROR NO. 700: Hello.  
7 MR. MANINGO: As a performer/acrobat --  
8 PROSPECTIVE JUROR NO. 700: Um-h'm.  
9 MR. MANINGO: -- what type of things do you do in  
10 the show?  
11 PROSPECTIVE JUROR NO. 700: I'm the lead singer for  
12 Zarkana, so it's a, I guess, you can call it rock opera, but  
13 I am suspended from a harness, so I'm singing upside down and  
14 spinning and flying through the air, I guess you could say,  
15 while I'm singing. It's kind of a unique job, I guess.  
16 MR. MANINGO: Yeah, that's cool.  
17 PROSPECTIVE JUROR NO. 700: Um-h'm.  
18 MR. MANINGO: What about your boyfriend, what  
19 does --  
20 PROSPECTIVE JUROR NO. 700: My boyfriend --  
21 MR. MANINGO: -- he do in the show?  
22 PROSPECTIVE JUROR NO. 700: -- is a two-time  
23 Russian world champion in sport, and he's an acrobat for the  
24 show. So he does what's called Bahan Kain (phonetic), which  
25 is -- it's sort of a form of gymnastics, I guess you could

1 say.

2 MR. MANINGO: Okay. I haven't seen Zarkana. Is  
3 there anything as far as like the tramp work on the --

4 PROSPECTIVE JUROR NO. 700: Trampoline?

5 MR. MANINGO: -- trampoline?

6 PROSPECTIVE JUROR NO. 700: Not in our show, no.

7 MR. MANINGO: Okay. And then you also are a yoga  
8 instructor?

9 PROSPECTIVE JUROR NO. 700: I am, yes.

10 MR. MANINGO: What type of yoga or do you do  
11 different types or?

12 PROSPECTIVE JUROR NO. 700: Well, I'm certified in  
13 Vinyasa Power Flow, which is just a sort of a division of  
14 yoga practice, but I practice Ashtanga as well. And I really  
15 like to teach people who have injuries and are recovering  
16 from injuries because I think it's interesting way to rehab.

17 MR. MANINGO: Um-h'm. Okay. One of the last  
18 questions Ms. Bluth had asked you, I just want to ask you the  
19 converse of that --

20 PROSPECTIVE JUROR NO. 700: Sure.

21 MR. MANINGO: -- that question. If at the end of  
22 this entire trial you find that the State did not meet their  
23 burden and prove each of the charges beyond a reasonable  
24 doubt, will you feel comfortable saying, not guilty?

25 PROSPECTIVE JUROR NO. 700: Yes.

1 MR. MANINGO: Okay. Will you feel comfortable as a  
2 juror working with your other jurors, even if you disagree?

3 PROSPECTIVE JUROR NO. 700: Yes. I come from a  
4 background of, I speak my mind, and I would hope that also  
5 I'm a team player and we could come to a decision together,  
6 but I absolutely have no problem speaking in front of people  
7 or for myself.

8 MR. MANINGO: On average how many people do you  
9 perform in front of on a regular night?

10 PROSPECTIVE JUROR NO. 700: The house seats 1800,  
11 so I sing for 3600 people a night when we perform.

12 MR. MANINGO: I get nervous in front of 18.

13 PROSPECTIVE JUROR NO. 700: I actually get more  
14 nervous in front of small groups than in front of a large  
15 audience.

16 MR. MANINGO: That's great. Do you consider  
17 yourself to be an open minded individual?

18 PROSPECTIVE JUROR NO. 700: Absolutely. And what I  
19 do, I have to be open minded.

20 MR. MANINGO: Okay.

21 PROSPECTIVE JUROR NO. 700: People -- we change our  
22 show all the time, and I work with different people all the  
23 time, and singers can be a little interesting at times. So I  
24 certainly -- I hope that I'm open-minded. I like to think  
25 so, yes.

1 MR. MANINGO: Okay. So if you hear -- let's say  
2 later this afternoon, if you hear from the State first, you  
3 won't just snap to judgment and close down at that point?  
4 You'll be able to reserve judgment until you've heard  
5 everything throughout the entire possibly three, four weeks?

6 PROSPECTIVE JUROR NO. 700: Absolutely. I'm -- I  
7 -- also in practicing yoga, I practice meditation, and I'm --  
8 I like to think that I'm mindful about my decisions. My  
9 parents brought me up that way, and that's how I live my  
10 life. So I like to hear all sides and not speak too quickly,  
11 I guess you could say.

12 MR. MANINGO: Okay. Very good. Any experience  
13 spending time in hospitals with yourself, your family or  
14 friends?

15 PROSPECTIVE JUROR NO. 700: Yes, my brother was  
16 diagnosed with Crohn's Disease, so he was in the hospital for  
17 it was almost three months. So yes, I was there every day.

18 MR. MANINGO: Okay. So you've been around a  
19 hospital environment. Will that -- being around the doctors  
20 or the nurses or that situation, will it cause you to give  
21 any further or greater credibility to people who are on  
22 hospital staff?

23 PROSPECTIVE JUROR NO. 700: No, absolutely not. I  
24 mean, I had a -- it was a great experience. We were in  
25 Boston, a great hospital, and I'm very grateful to the work



1 that was done there for my brother. I think every person is  
2 a person. So people's -- people have more knowledge in some  
3 things, but I wouldn't give more credibility to someone just  
4 because they're a doctor.

5 MR. MANINGO: Okay. Do you feel like you would be  
6 a good judge of credibility?

7 PROSPECTIVE JUROR NO. 700: I do. I -- I spend a  
8 lot of time watching people because of what I do. And in the  
9 artistic world as an actor, I spend a lot of time watching  
10 people to recreate things. So I think I'm a very good job of  
11 body language and temperament and vocal control and all those  
12 things. I think I have a good handle on facial expressions.  
13 And yes, I'd like to think I'm a good judge of credibility,  
14 yes.

15 MR. MANINGO: Good, good. Is there anything I  
16 missed? As I stated before, you've been here for three days  
17 listening to your other fellow jurors, to the attorneys, to  
18 the Court. Is there anything that you heard through those  
19 discussions that raised a red flag for you that you thought  
20 you should share with us?

21 PROSPECTIVE JUROR NO. 700: I can't think of  
22 anything.

23 MR. MANINGO: Thank you, Ms. Rossi.

24 PROSPECTIVE JUROR NO. 700: Thank you.

25 MR. MANINGO: I'll pass (inaudible).

1 THE COURT: Thank you. Now it's the State's second  
2 peremptory challenge.

3 MR. KOCHEVAR: Court's indulgence.

4 (Pause in the proceedings)

5 MR. KOCHEVAR: Yes, Judge, at this point, the State  
6 would thank and excuse the juror in seat 16, Sylvia Aliata,  
7 684.

8 THE COURT: Thank you, Ms. Aliata. If you'll  
9 report across the hall.

10 PROSPECTIVE JUROR NO. 684: Thank you.

11 THE COURT: Thank you.

12 THE CLERK: Badge 711, Maria Serrano.

13 THE COURT: Ms. Serrano, how are you?

14 PROSPECTIVE JUROR NO. 711: I'm fine.

15 THE COURT: Good. Have you ever served as a juror  
16 before?

17 PROSPECTIVE JUROR NO. 711: No.

18 THE COURT: Have you ever been a victim of a crime?

19 PROSPECTIVE JUROR NO. 711: Well, I was  
20 pickpocketed twice.

21 THE COURT: You were what, ma'am?

22 PROSPECTIVE JUROR NO. 711: Like --

23 THE COURT: Pickpocketed?

24 PROSPECTIVE JUROR NO. 711: -- my -- my wallet  
25 was --

1 THE COURT: Oh, yes.

2 PROSPECTIVE JUROR NO. 711: -- taken from my  
3 pocketbook.

4 THE COURT: Yes.

5 PROSPECTIVE JUROR NO. 711: Once in New York,  
6 because I used to live in New York, and once here in Vegas.

7 THE COURT: And how long ago were those things?

8 PROSPECTIVE JUROR NO. 711: Well, the one in Vegas,  
9 it seems like maybe like two years ago.

10 THE COURT: Was your wallet or any of your --  
11 anything in it ever recovered?

12 PROSPECTIVE JUROR NO. 711: No, not at all.

13 THE COURT: Okay, how about in New York? Any  
14 better there?

15 PROSPECTIVE JUROR NO. 711: Yes, it was recovered.

16 THE COURT: Okay. Did they find who had taken it  
17 in New York?

18 PROSPECTIVE JUROR NO. 711: I don't know. I don't  
19 think so.

20 THE COURT: Okay. All right. And same thing here  
21 in Las Vegas, no one was apprehended for that crime?

22 PROSPECTIVE JUROR NO. 711: No, not at --

23 THE COURT: Okay. Do you feel that -- did you  
24 report the crimes --

25 PROSPECTIVE JUROR NO. 711: Yes.

1 THE COURT: -- both places?

2 PROSPECTIVE JUROR NO. 711: Yes.

3 THE COURT: Did you feel that law enforcement did  
4 everything they could to solve it?

5 PROSPECTIVE JUROR NO. 711: I don't know about here  
6 in Vegas. I felt like law enforcement was kind of complacent  
7 about the whole incident, and I didn't even have any faith  
8 that something would -- you know, part of it would be  
9 recovered.

10 THE COURT: Okay. Where were you when that  
11 happened?

12 PROSPECTIVE JUROR NO. 711: I was at the Cannery.

13 THE COURT: Okay. What would you think the police  
14 should have done?

15 PROSPECTIVE JUROR NO. 711: Well, one, they -- if  
16 they wanted to, they could -- security could be running the  
17 -- the tape because I knew that it most likely happened when  
18 I was trying to cash in. But it doesn't seem like it's -- to  
19 them maybe it's just a small incident and whatever.

20 THE COURT: Okay. So you know that they didn't --  
21 they refused to ask to look at the tape?

22 PROSPECTIVE JUROR NO. 711: Oh, yes. Yeah.  
23 Um-h'm.

24 THE COURT: All right.

25 PROSPECTIVE JUROR NO. 711: I didn't really pursue

1 it because it -- I felt that, yeah, maybe it's not, you know,  
2 even a thousand dollars that was lost, but, you know, the  
3 whole thing must -- it's probably around a little over 500.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 711: I feel it's more now  
6 that I think about it.

7 THE COURT: That's a lot of money to lose.

8 PROSPECTIVE JUROR NO. 711: Yeah.

9 THE COURT: So does that make you feel -- do you  
10 have negative feelings about the police department here?

11 PROSPECTIVE JUROR NO. 711: Well, yes and no, but  
12 it actually depends on who I am faced with.

13 THE COURT: Okay. So if you saw the officers that  
14 came in response to your call about the wallet being stolen,  
15 you'd -- you don't like those officers?

16 PROSPECTIVE JUROR NO. 711: Well, I mean, I felt  
17 like they were just lazy.

18 THE COURT: I see. Okay. Do you have negative  
19 impression of all law enforcement here in Clark County?

20 PROSPECTIVE JUROR NO. 711: Well, I couldn't  
21 generalize.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 711: It's not fair.

24 THE COURT: All right. Would you -- if a police  
25 officer testified, would you tend to think less of that

1 testimony?

2 PROSPECTIVE JUROR NO. 711: Not at all.

3 THE COURT: Okay. I was going to say just because  
4 he was a police officer, or she. Okay. Anyone in your  
5 family or closely associated with you that has been the  
6 victim of a serious violent crime?

7 PROSPECTIVE JUROR NO. 711: A victim, no.

8 THE COURT: Okay. All right. And so next question  
9 is, has anyone in your family or closely associated with you,  
10 been accused of a crime or convicted of a serious crime?

11 PROSPECTIVE JUROR NO. 711: Well, my son was  
12 accused of DUI.

13 THE COURT: Okay. Was that here in Clark County?

14 PROSPECTIVE JUROR NO. 711: Yes.

15 THE COURT: And was he prosecuted? Did he have to  
16 go to court?

17 PROSPECTIVE JUROR NO. 711: I think, yeah, he did  
18 go to court.

19 THE COURT: Did you feel that --

20 PROSPECTIVE JUROR NO. 711: Because he had the  
21 lawyer with him.

22 THE COURT: Did you feel that he was -- I think  
23 maybe you need to keep your voice up a little.

24 PROSPECTIVE JUROR NO. 711: Oh, okay.

25 THE COURT: Okay. Because you're holding it at a

1 good place. Yeah. So did you feel like he was treated  
2 fairly?

3 PROSPECTIVE JUROR NO. 711: Yeah, I think so. I  
4 wasn't -- I didn't try to get myself so closely into the  
5 whole thing because he -- he had a really good lawyer.

6 THE COURT: Okay. And so would you hold it against  
7 the prosecutors in this case because they -- because the DA's  
8 Office may have prosecuted your son for DUI?

9 PROSPECTIVE JUROR NO. 711: No. It's totally not  
10 relevant.

11 THE COURT: Okay. Have you, yourself, ever been  
12 accused of a crime or accused of doing something that you --

13 PROSPECTIVE JUROR NO. 711: No.

14 THE COURT: -- didn't do? Okay. Do you have any  
15 religious or moral beliefs that make it difficult for you to  
16 sit in judgment on another person?

17 PROSPECTIVE JUROR NO. 711: Well, I'm very  
18 religious.

19 THE COURT: Um-h'm.

20 PROSPECTIVE JUROR NO. 711: And I have -- I do --  
21 I'm a stickler to my moral beliefs, but think -- I don't  
22 think so.

23 THE COURT: So you can still -- there's nothing in  
24 your religious beliefs that say you're not allowed to judge  
25 another person, that's only -- only God can do that?

1 PROSPECTIVE JUROR NO. 711: Yeah, that's correct.

2 THE COURT: Okay. So you're being called upon to  
3 judge another person in this case, basically. You're going  
4 to have to decide whether the facts, you're the judges of the  
5 facts in the case. I instruct you on the law, and then you  
6 have to apply the facts to the law to come up with a  
7 decision.

8 PROSPECTIVE JUROR NO. 711: Well, it's kind of  
9 based on the testimony, you know, that is brought, the  
10 evidence and all that. And I'm not the only one. You know,  
11 it's got to be like a majority of -- in the decision making.  
12 So, you know, I know that my judgment would affect --  
13 definitely affect, but then again, there's also the rest. I  
14 don't know how to -- you know, I was just --

15 THE COURT: Okay, well, your own opinion is very  
16 important. In other words, you have to be able to voice your  
17 own opinion to the rest of the jurors.

18 PROSPECTIVE JUROR NO. 711: Yes. I would be able  
19 to voice my own opinion.

20 THE COURT: So it still comes back to the question  
21 about can you judge another person or are you telling me, no,  
22 I can't do that --

23 PROSPECTIVE JUROR NO. 711: No, I can --

24 THE COURT: -- I just can't do that?

25 PROSPECTIVE JUROR NO. 711: -- judge another



1 person.

2 THE COURT: Ah.

3 PROSPECTIVE JUROR NO. 711: But what I'm saying is,  
4 I guess, I need more to condemn a person. You know, it's  
5 like who am I to condemn somebody? But to judge based on the  
6 applying facts and circumstances and testimony and evidence,  
7 based on that, of course, I could do a good judgment.

8 THE COURT: Okay. So if you found after you heard  
9 all the evidence that the State had proved the case beyond a  
10 reasonable doubt, you could return a verdict of guilty?

11 PROSPECTIVE JUROR NO. 711: Yes.

12 THE COURT: And if you found that they hadn't  
13 proved, you could return a verdict of not guilty?

14 PROSPECTIVE JUROR NO. 711: Correct.

15 THE COURT: Okay. Is there any reason you think  
16 you couldn't be fair and impartial in this case?

17 PROSPECTIVE JUROR NO. 711: No.

18 THE COURT: Do you have a bumper sticker?

19 PROSPECTIVE JUROR NO. 711: No.

20 THE COURT: Okay. Do you watch any CSI shows on  
21 TV?

22 PROSPECTIVE JUROR NO. 711: Not interested.

23 THE COURT: Okay. Tell us about yourself.

24 PROSPECTIVE JUROR NO. 711: Well, I am -- I always  
25 say retarded.

1 THE COURT: You don't mean that.

2 PROSPECTIVE JUROR NO. 711: I'm retired. I'm 66  
3 years old, and I'm retired, and I do dabble in real estate.  
4 I do have a real estate license in Las Vegas. And pretty  
5 much we just spend time running around and bonding with  
6 friends.

7 THE COURT: That's nice. What did you do before  
8 you retired?

9 PROSPECTIVE JUROR NO. 711: Before I retired,  
10 because of being bored, I was actually working with a company  
11 who's -- who is -- and the owner is the president of PETA.  
12 And prior to that I was doing mortgages for Wells Fargo. And  
13 in New York I was working with the health and hospital care  
14 of -- that's New York City, Health & Hospital Corp., for a  
15 while, and then more than half my career was all publishing.

16 THE COURT: Publishing, okay.

17 PROSPECTIVE JUROR NO. 711: Yeah.

18 THE COURT: So were you ever involved in the  
19 medical field?

20 PROSPECTIVE JUROR NO. 711: Yes, when I was working  
21 for Health & Hospital Corp. for the City of New York.

22 THE COURT: What did you do actually do for them?

23 PROSPECTIVE JUROR NO. 711: I was finance manager  
24 for a couple of New York City hospitals.

25 THE COURT: Okay. So would you interact with the

1 doctors and nurses --

2 PROSPECTIVE JUROR NO. 711: Yes.

3 THE COURT: -- in that role? You would? In what  
4 way?

5 PROSPECTIVE JUROR NO. 711: I want to make sure  
6 that they're bringing the -- the -- the money that they're  
7 supposed to be bringing so that the -- the budget is not  
8 messed up.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 711: What is expected from  
11 each and every clinic in the hospital comes in.

12 THE COURT: Now, as a result of your contact with  
13 doctors and nurses in the past in that role, would you tend  
14 to give the testimony of a doctor or a nurse more weight than  
15 you would other witnesses merely because of their position as  
16 doctor or nurse, but for no other reason?

17 PROSPECTIVE JUROR NO. 711: No, I don't think so.

18 THE COURT: And are you married, single, divorced?

19 PROSPECTIVE JUROR NO. 711: Yes, I am. I'm sorry,  
20 yeah, I'm married.

21 THE COURT: What does your husband do?

22 PROSPECTIVE JUROR NO. 711: My husband was -- is --  
23 or he's also retired but he was an art director for GRP  
24 Records in New York. And then we had our own studio in New  
25 York and here in Las Vegas for a while doing creative design.

1 THE COURT: And are you a member of PETA?

2 PROSPECTIVE JUROR NO. 711: I think everybody that  
3 works in the company was an honorary, whatever, member of  
4 PITA because we do still -- and I still do get the magazine.

5 THE COURT: Okay. Are you an active member? You  
6 pay dues or anything like that?

7 PROSPECTIVE JUROR NO. 711: The company paid for  
8 it.

9 THE COURT: Okay. Lifetime membership or  
10 something?

11 PROSPECTIVE JUROR NO. 711: I -- I don't even know  
12 because I didn't really pay attention to it.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 71: I mean, I happen to love  
15 animals. At one point, I had seven dogs. But as far as, you  
16 know, PETA, and of course, there are just people that don't  
17 want to. We couldn't wear anything with fur --

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 711: -- because we'd be  
20 thrown out.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 711: Not that I care, but --  
23 being thrown out.

24 THE COURT: Okay. All right. Did you disagree  
25 with that? You like fur?

1 PROSPECTIVE JUROR NO. 711: Yeah, I do like fur.  
2 But now they come up with this synthetic, right? Yeah, I  
3 thought it looked --

4 THE COURT: It's pretty -- pretty realistic.

5 PROSPECTIVE JUROR NO. 711: -- kind of elegant and  
6 whatever.

7 THE COURT: Okay. All right.

8 PROSPECTIVE JUROR NO. 711: So.

9 THE COURT: Thank you. Would the State like to  
10 inquire further?

11 MS. BLUTH: Yes, please. In regard to the -- when  
12 you had the publishing position --

13 PROSPECTIVE JUROR NO. 711: Um-h'm.

14 MS. BLUTH: -- what were your job duties in that  
15 record, in that field?

16 PROSPECTIVE JUROR NO. 711: I was managing editor  
17 for Yachting Magazine.

18 MS. BLUTH: For what magazine?

19 PROSPECTIVE JUROR NO. 711: Yachting.

20 MS. BLUTH: What magazine is that?

21 PROSPECTIVE JUROR NO. 711: It's yachts.

22 MS. BLUTH: Oh, yachts?

23 PROSPECTIVE JUROR NO. 711: Boat, yachts, yeah.

24 MS. BLUTH: Oh, yachting, oh, okay.

25 PROSPECTIVE JUROR NO. 711: Um-h'm, yeah.

1 MS. BLUTH: All right. Great. I think that the  
2 main issue was the, you know, sitting in judgment of another.

3 PROSPECTIVE JUROR NO. 711: Um-h'm.

4 MS. BLUTH: So I'm going to keep this very brief.  
5 You know, this process can be very long. Look how long it's  
6 taken us to pick a jury, and so then we're going to do this  
7 trial. So today it's really important that we know that  
8 everybody here can be fair around impartial to both sides,  
9 and everybody feels comfortable sitting in judgment of  
10 another individual.

11 And I know you discussed the differences between,  
12 you know, religiously judging someone --

13 PROSPECTIVE JUROR NO. 711: Yeah.

14 MS. BLUTH: -- and condemning them --

15 PROSPECTIVE JUROR NO. 711: Uh-huh.

16 MS. BLUTH: -- and then being here. So I just want  
17 to know today, as you sit in that chair, do you 100 percent  
18 feel comfortable sitting as a juror and judging these  
19 actions?

20 PROSPECTIVE JUROR NO. 711: Yeah, based on what is  
21 presented and nothing else, yes.

22 MS. BLUTH: Okay. So you can separate that from,  
23 you know, religiously judging someone --

24 PROSPECTIVE JUROR NO. 711: Yes.

25 MS. BLUTH: -- condemning someone?

1 PROSPECTIVE JUROR NO. 711: Definitely.

2 MS. BLUTH: Okay. All right, great. What do you  
3 feel about someone pursuing their rights civilly?

4 PROSPECTIVE JUROR NO. 711: Oh, that's -- you know,  
5 I would do the same thing.

6 MS. BLUTH: Okay.

7 PROSPECTIVE JUROR NO. 711: Yeah.

8 MS. BLUTH: And then the question that you've heard  
9 me ask, you know, about a victim's testimony standing on its  
10 own, if believed beyond a reasonable doubt, is enough to  
11 sustain a conviction of guilty, what are your thoughts when I  
12 say that?

13 PROSPECTIVE JUROR NO. 711: Yeah, I do. You know,  
14 I do believe in that.

15 MS. BLUTH: Okay.

16 PROSPECTIVE JUROR NO. 711: That based -- like I  
17 was saying, based on testimony could be used as a sole  
18 judgment or measure of whether a person is guilty or not.

19 MS. BLUTH: When you were mugged --

20 PROSPECTIVE JUROR NO. 711: Yeah.

21 MS. BLUTH: -- you know, no one came and asked you  
22 for, you know, DNA of your purse or your person, right?

23 PROSPECTIVE JUROR NO. 711: No.

24 MS. BLUTH: There were no fingerprints. But you  
25 know that that happened to you?

1 PROSPECTIVE JUROR NO. 711: Yes.

2 MS. BLUTH: So you can understand that there could  
3 be crimes and that happened --

4 PROSPECTIVE JUROR NO. 711: Yeah.

5 MS. BLUTH: -- but you might not have it?

6 PROSPECTIVE JUROR NO. 711: Um-h'm.

7 MS. BLUTH: -- do you agree with that?

8 PROSPECTIVE JUROR NO. 711: Yeah.

9 MS. BLUTH: Have you ever known a victim of a  
10 sexual assault?

11 PROSPECTIVE JUROR NO. 711: My sister-in-law worked  
12 in a nursing home for many, many years, and I know that there  
13 are sexual assaults that have happened --

14 MS. BLUTH: Okay.

15 PROSPECTIVE JUROR NO. 711: -- because she talks  
16 about it. But then again, you know, I would say that that  
17 doesn't mean that, you know, it happens all that -- in this  
18 instance.

19 MS. BLUTH: You mean just because that happened, it  
20 doesn't --

21 PROSPECTIVE JUROR NO. 711: Yes.

22 MS. BLUTH: -- it doesn't mean that --

23 PROSPECTIVE JUROR NO. 711: Yes.

24 MS. BLUTH: Sure. Okay.

25 PROSPECTIVE JUROR NO. 711: So I don't think that



1 -- I mean, we're talking about a particular case here.

2 MS. BLUTH: Right.

3 PROSPECTIVE JUROR NO. 711: We're not talking about

4 what did happen before or I don't do generalizations because

5 it's really unfair.

6 MS. BLUTH: Do you know anyone who has a seizure

7 disorder or suffers from seizures?

8 PROSPECTIVE JUROR NO. 711: Yes, my brother-in-law.

9 MS. BLUTH: Okay. And do you know what type of

10 disorder it is? What type of seizures he suffers from?

11 PROSPECTIVE JUROR NO. 711: They actually found a

12 little something in his brain, so he had to go for chemo and

13 radiation and all that, and they suspect that that's what

14 causing his seizures.

15 MS. BLUTH: Does he have them on a regular basis?

16 PROSPECTIVE JUROR NO. 711: He used to, but now, it

17 -- I just saw him the other day. He was saying that since

18 that whatever he has in his brain --

19 MS. BLUTH: The tumor.

20 PROSPECTIVE JUROR NO. 711: -- is getting smaller,

21 his seizure is less -- I mean, happens -- hasn't happened --

22 MS. BLUTH: Have you ever --

23 PROSPECTIVE JUROR NO. 711: -- since his brain

24 operation.

25 MS. BLUTH: Okay. Have you ever witnessed him have

1 a seizure?

2 PROSPECTIVE JUROR NO. 711: Yeah.

3 MS. BLUTH: Bless you.

4 PROSPECTIVE JUROR NO. 711: Um-h'm.

5 MS. BLUTH: And when he is done seizing --

6 PROSPECTIVE JUROR NO. 711: Um-h'm.

7 MS. BLUTH: -- is -- when he comes out of it, does  
8 he remember everything?

9 PROSPECTIVE JUROR NO. 711: No.

10 MS. BLUTH: Okay. So you guys kind of have to tell  
11 him what happened?

12 PROSPECTIVE JUROR NO. 711: Yes.

13 MS. BLUTH: Okay. You're going to hear testimony  
14 from several people that suffer from serious seizure  
15 disorders. Is that going to affect you in any way?

16 PROSPECTIVE JUROR NO. 711: No.

17 MS. BLUTH: Okay. Do you want to be a juror?

18 PROSPECTIVE JUROR NO. 711: Yes and no.

19 MS. BLUTH: Why, yes?

20 PROSPECTIVE JUROR NO. 711: Well, I think that  
21 since I've never been a juror, right, and I think that I am  
22 intelligent enough to be able to sit in this chair and also  
23 have the honor of being chosen. My only problem is, and I  
24 just want to be honest with it, I have a difficulty coming in  
25 early. Like, I -- I get my sleep around 2:00, 3:00 o'clock

1 in the morning, and, you know, like waking up in time for  
2 9:00 o'clock is kind of painful for me. It's not even  
3 difficult. It's painful for me.

4 MS. BLUTH: Okay.

5 PROSPECTIVE JUROR NO. 711: But, of course, you  
6 know, I haven't had any occasion where my brain is not  
7 functioning because I am deprived of the number of hours of  
8 sleep that I feel like I need to get.

9 MS. BLUTH: If that did become an issue, could you  
10 maybe go to bed earlier or --

11 PROSPECTIVE JUROR NO. 711: That's if I'm going to  
12 be able to get my sleep. I feel like I have insomnia  
13 sometimes because I --

14 MS. BLUTH: Oh, you can't fall asleep until -- I  
15 understand, I'm sorry.

16 PROSPECTIVE JUROR NO. 711: No.

17 MS. BLUTH: I thought it was a choice.

18 PROSPECTIVE JUROR NO. 711: No. No.

19 MS. BLUTH: Okay.

20 PROSPECTIVE JUROR NO. 711: It's just that I can't  
21 fall asleep. That's my sleep pattern ever since I stopped  
22 working, and it's been two years now.

23 MS. BLUTH: So what time do you normally wake up?

24 PROSPECTIVE JUROR NO. 711: 11:30, 12:00.

25 MS. BLUTH: Okay. So it -- all right.

1 PROSPECTIVE JUROR NO. 711: Like, this is fine with  
2 me. I mean, you know, but if I have to always -- to wake up  
3 like early before 9:00 o'clock -- because in -- also in the  
4 other jobs -- and this is way back even in New York --

5 MS. BLUTH: Uh-huh.

6 PROSPECTIVE JUROR NO. 711: -- I never really have  
7 to come in at 9:00 o'clock in the jobs that I held.

8 MS. BLUTH: Right.

9 PROSPECTIVE JUROR NO. 711: I mean, I stayed late,  
10 9:00, 10:00 o'clock at night, but I never had to come in  
11 early.

12 MS. BLUTH: Sure.

13 PROSPECTIVE JUROR NO. 711: So --

14 MS. BLUTH: As you can imagine, you know, this is a  
15 serious thing, and you have to --

16 PROSPECTIVE JUROR NO. 711: Um-h'm.

17 MS. BLUTH: -- be here and --

18 PROSPECTIVE JUROR NO. 711: Yeah. That's my  
19 only --

20 MS. BLUTH: -- early.

21 PROSPECTIVE JUROR NO. 711: -- concern. Otherwise,  
22 you know, I -- I'm here --

23 MS. BLUTH: So --

24 PROSPECTIVE JUROR NO. 711: -- for the taking.

25 MS. BLUTH: Thank you. If you -- let's say this

1 lasts four weeks, though, and so for four weeks you're in  
2 here and you can't change your sleep patterns -- I mean, have  
3 you been in that situation before? What happens? Do you  
4 start dozing off?

5 PROSPECTIVE JUROR NO. 711: Yes. I start getting  
6 like --

7 THE COURT: But there's only going to be --

8 PROSPECTIVE JUROR NO. 711: -- sleepy.

9 THE COURT: -- three days a week we're not going to  
10 start at 9:00.

11 PROSPECTIVE JUROR NO. 711: Yeah, that's what --  
12 that's what I was telling my husband. I said, you know,  
13 lucky for me the Judge has a different schedule, and we don't  
14 need to be there. So --

15 MS. BLUTH: So you think you'll be okay --

16 PROSPECTIVE JUROR NO. 711: -- there's --

17 MS. BLUTH: -- if we --

18 PROSPECTIVE JUROR NO. 711: Yeah, because if I  
19 didn't get my sleep -- if I'm deprived of sleep, then I have  
20 time to catch up or --

21 MS. BLUTH: Okay.

22 PROSPECTIVE JUROR NO. 711: -- be normal on the  
23 other days where we come in, you know, at noon.

24 MS. BLUTH: Besides that concern, any other  
25 concerns?

1 PROSPECTIVE JUROR NO. 711: No.  
2 MS. BLUTH: Okay. Thank you.  
3 PROSPECTIVE JUROR NO. 711: Nothing.  
4 MS. BLUTH: I'll pass for cause, Your Honor.  
5 THE COURT: Thank you.  
6 MR. MANINGO: Thank you, Your Honor.  
7 THE COURT: Mr. Maningo.  
8 MR. MANINGO: Hi Ms. Serrano.  
9 PROSPECTIVE JUROR NO. 711: Hi.  
10 MR. MANINGO: Welcome to the box.  
11 PROSPECTIVE JUROR NO. 711: Thank you.  
12 MR. MANINGO: So while you've been sitting here for  
13 the last three days or so, have you thought to yourself,  
14 yeah, that guy over there, he's guilty?  
15 PROSPECTIVE JUROR NO. 711: No.  
16 MR. MANINGO: Okay. You're okay to keep your mind  
17 open and wait until you've seen all the evidence?  
18 PROSPECTIVE JUROR NO. 711: Oh, definitely.  
19 MR. MANINGO: Okay. Now, you've been talked to  
20 already a little bit about judging individuals. You  
21 understand that you'll also be judging, in a way, each  
22 witness as they come up --  
23 PROSPECTIVE JUROR NO. 711: Yes.  
24 MR. MANINGO: -- and all the evidence that you  
25 see --

1 PROSPECTIVE JUROR NO. 711: Right.

2 MR. MANINGO: -- you'll have to judge each  
3 individually?

4 PROSPECTIVE JUROR NO. 711: Um-h'm.

5 MR. MANINGO: Do you feel comfortable doing that?

6 PROSPECTIVE JUROR NO. 711: Yes.

7 MR. MANINGO: And you think you can tell if  
8 someone's telling the truth or not telling the truth?

9 PROSPECTIVE JUROR NO. 711. To the best of my how  
10 my -- you know, I perceive it, yes.

11 MR. MANINGO: Okay, sure. Based on your own  
12 experience and common sense?

13 PROSPECTIVE JUROR NO. 711: Yes.

14 MR. MANINGO: Okay. When you had your -- is it  
15 your wallet stolen?

16 PROSPECTIVE JUROR NO. 711: Yes.

17 MR. MANINGO: Okay. When it happened in New York,  
18 did you report it?

19 PROSPECTIVE JUROR NO. 711: Yes.

20 MR. MANINGO: Did you report it right away?

21 PROSPECTIVE JUROR NO. 711: I did.

22 MR. MANINGO: Okay. You didn't wait --

23 PROSPECTIVE JUROR NO. 711: No.

24 MR. MANINGO: -- a few weeks or a month or --

25 PROSPECTIVE JUROR NO. 711: Oh, no.

1 MR. MANINGO: Okay.

2 PROSPECTIVE JUROR NO. 711: No.

3 MR. MANINGO: What about when had happened in Las  
4 Vegas?

5 PROSPECTIVE JUROR NO. 711: I did report it that  
6 same night.

7 MR. MANINGO: The same night?

8 PROSPECTIVE JUROR NO. 711: Yes.

9 MR. MANINGO: Okay. Now, do you watch any news?

10 PROSPECTIVE JUROR NO. 711: Always.

11 MR. MANINGO: Always? Okay. Do you believe that  
12 the media has a certain power?

13 PROSPECTIVE JUROR NO. 711: Yes.

14 MR. MANINGO: Okay. Do you think the media has the  
15 power to cause --

16 PROSPECTIVE JUROR NO. 711: To stir up, yes.

17 MR. MANINGO: Okay. And people to act differently?

18 PROSPECTIVE JUROR NO. 711: Yeah.

19 MR. MANINGO: Okay.

20 PROSPECTIVE JUROR NO. 711: They know how to make  
21 people react.

22 MR. MANINGO: Okay.

23 PROSPECTIVE JUROR NO. 711: They know what to say.

24 MR. MANINGO: It's a business, right?

25 PROSPECTIVE JUROR NO. 711: Yeah. Because I -- I



1 mean, although I was in the magazine business, I know --

2 MR. MANINGO: Oh, okay.

3 PROSPECTIVE JUROR NO. 711: -- how you can stir up  
4 emotion.

5 MR. MANINGO: Okay.

6 PROSPECTIVE JUROR NO. 711: Yeah.

7 MR. MANINGO: Now, from your experience working in  
8 the Hospital Corp. in New York, you came in contact with  
9 doctors, nurses, that kind of thing?

10 PROSPECTIVE JUROR NO. 711: I did.

11 MR. MANINGO: Okay. If you hear from doctors and  
12 nurses on the stand during this trial, are you going to give  
13 them more credibility just because you know doctors and  
14 nurses?

15 PROSPECTIVE JUROR NO. 711: No.

16 MR. MANINGO: You'll be able to judge them just  
17 like you would any other person who's not a doctor or --

18 PROSPECTIVE JUROR NO. 711: Yes.

19 MR. MANINGO: You said that when the incident  
20 happened to you in Las Vegas with your wallet, that you felt  
21 that the police were very complacent?

22 PROSPECTIVE JUROR NO. 711: Yes.

23 MR. MANINGO: Okay. If you hear from police  
24 officers in this case, you're not going to assume --

25 PROSPECTIVE JUROR NO. 711: No.

1 MR. MANINGO: -- that they're the same ones  
2 involved in your case?

3 PROSPECTIVE JUROR NO. 711: Oh, no, no.

4 MR. MANINGO: Okay. In your background or with  
5 family or friends, have you had any experience with people on  
6 strong pain medication like morphine or that kind of thing?

7 PROSPECTIVE JUROR NO. 711: My brother-in-law --

8 MR. MANINGO: Okay.

9 PROSPECTIVE JUROR NO. 711: -- right now.

10 MR. MANINGO: Okay.

11 PROSPECTIVE JUROR NO. 711: You know, he gets  
12 dosages, I think, of morphine every now and then. My -- way  
13 back, my colleague, the -- she was then one of our editors,  
14 she had colon cancer, and we used to visit her in the -- I  
15 guess, I don't know, in the hospital, whatever. She got  
16 dripped with morphine, but then when she is not being dripped  
17 with morphine and she's not in pain, she would help me close  
18 the magazine, you know. Close production on every issue of  
19 the magazine.

20 MR. MANINGO: Okay.

21 PROSPECTIVE JUROR NO. 711: And I do call her.  
22 She's she lucid. It's like nothing is happening to her, but  
23 then, she would tell me, okay, I think they're going to drip,  
24 you know, morphine because I can't bear the pain and all  
25 that. Then I'm out of commission. Like, don't call me, she

1 would tell me.

2 MR. MANINGO: When she was on the morphine?

3 PROSPECTIVE JUROR NO. 711: Yes.

4 MR. MANINGO: Okay.

5 PROSPECTIVE JUROR NO. 711: She would warn me.

6 MR. MANINGO: Okay. Do you believe that there are  
7 people who do make false accusations?

8 PROSPECTIVE JUROR NO. 711: Yes.

9 MR. MANINGO: Okay. And you said that you read a  
10 lot of news, you hear a lot of news. Have you heard those  
11 stories about individuals who have been wrongly convicted --

12 PROSPECTIVE JUROR NO. 711: Yes.

13 MR. MANINGO: -- and then exonerated decades later?

14 PROSPECTIVE JUROR NO. 711: Yes, and it's so  
15 unfair.

16 MR. MANINGO: I agree.

17 PROSPECTIVE JUROR NO. 711: Yeah.

18 MR. MANINGO: Thank you. I'll pass Ms. Serrano for  
19 cause. Thank you.

20 THE COURT: All right, it's the Defense's second  
21 peremptory challenge.

22 MR. MANINGO: Your Honor, we would accept the panel  
23 as is.

24 THE COURT: All right. Thank you.

25 MR. MANINGO: We'd waive our final --

1 THE COURT: You'd waive.

2 MR. MANINGO: -- alternate preempt.

3 THE COURT: All right. Thank you. So, sir, you're  
4 the last man standing, literally and figuratively.

5 PROSPECTIVE JUROR NO. 745: Which honestly is fine  
6 with me. I did have a very good reason to not be on the  
7 jury.

8 THE COURT: All right. Well, thank you.

9 PROSPECTIVE JUROR NO. 745: So it all works out.

10 THE COURT: Thank you, sir.

11 PROSPECTIVE JUROR NO. 745: Thank you.

12 THE COURT: All right. The clerk will swear the  
13 alternates.

14 THE CLERK: Alternates, please stand. Raise your  
15 right hand.

16 ALTERNATE JURORS ARE SWORN

17 THE CLERK: You may be seated.

18 THE COURT: Thank you. All right. Now, I'm not  
19 sure whether I gave this admonition to everybody or, you  
20 know, that's now currently here. So I'll do it again. And  
21 that is, that during the course of the trial, the only way  
22 you can communicate with the Court is through the marshal,  
23 and you can't communicate or have any interaction with the  
24 lawyers or court personnel.

25 And so because we have hallways, and we don't have

1 anyplace to sequester you away from the rest of the public  
2 that may be walking through the courthouse, if you -- you'll  
3 have your jury badges to identify you as jurors, and court  
4 personnel and lawyers certainly know to avoid talking to  
5 people wearing their jury badges. But the thing is, just  
6 don't try and engage them in any conversation or greet them  
7 because they're really great people and they would feel badly  
8 at having to appear rude to you by not greeting you back, but  
9 that's what they would have to do because that's their  
10 ethical obligation.

11 Under normal circumstances, they're all lovely  
12 people and would, of course, greet you and be more than happy  
13 to chat with you, but they can't do it. So please, just  
14 avoid that.

15 Okay. So now, you've been selected as the jury in  
16 this case and the alternates, and so I'm going to take a few  
17 minutes to talk to you about what to expect as we go forward  
18 with the case. And my comments are intended to serve as an  
19 introduction to the trial. At the end of the trial, I'm  
20 going to be giving you more detailed instructions. These  
21 will be in writing and will be read to you. But at this  
22 time, these are just more informal instructions. The  
23 instructions you get at the end will control in your  
24 deliberations.

25 So this is a criminal case brought by State of

1 Nevada against the Defendant, and the case is based upon a  
2 charging document by either an Information or an Indictment.  
3 And so the clerk will now read that charging document and  
4 state the plea, and actually, our court recorder is going to  
5 do that and state the plea of the Defendant. Thank you.

6 (The Information was read, but not transcribed)

7 THE COURT: Thank you. And you should distinctly  
8 understand that the charging document that was just read to  
9 you is simply a description of the charge made by the State  
10 against the Defendant. It is not evidence of anything. It  
11 doesn't prove anything. Therefore, the Defendant starts out  
12 with a clean slate. The Defendant has pled not guilty and is  
13 presumed innocent.

14 This is a criminal case, and there are two basic  
15 rules you must keep in mind. First, the defendant is  
16 presumed innocent unless and until proved guilty beyond a  
17 reasonable doubt. Defendant is not required to present any  
18 evidence or prove his innocence. The law never imposes upon  
19 a defendant in a criminal case the burden of calling any  
20 witnesses or introducing any evidence.

21 Second, to convict, the State must prove beyond a  
22 reasonable doubt that the crime was committed and the  
23 defendant is the person who committed the crime. Now, if  
24 will be your duty to decide from the evidence to be presented  
25 whether the defendant is guilty or not guilty.

1           You are the sole judges of the facts. You will  
2 decide what the facts are from the evidence, which will be  
3 presented. The evidence will consist of testimony of  
4 witnesses, documents and other things that are received into  
5 evidence as exhibits.

6           You must apply the facts to the law, which I shall  
7 give you, and in that way reach your verdict. It is  
8 important that you perform your duty of determining the facts  
9 diligently and conscientiously, for ordinarily, there's no  
10 way to correct an erroneous determination of facts by a jury.

11           You should not take anything I may say or do during  
12 the trial as indicating my opinion as to how you should  
13 decide the case or to influence you in any way in your  
14 determination of the facts. At times I might even ask  
15 questions of witnesses, but if I do that, it's for the  
16 purpose of bringing out matters which should be brought out  
17 and not in any way to indicate my opinion about the facts or  
18 to indicate any weight or the value that you should give to  
19 the testimony of a particular witness.

20           Now, in deciding the facts of this case, you may  
21 have to decide which witnesses to believe and which witnesses  
22 not to believe. You may believe everything a witness says,  
23 only part of it or none of it. In considering the weight or  
24 value of the testimony of any witness, you may consider the  
25 appearance, attitude and behavior of the witness when

1   testifying, and a number of other things, including the  
2   witness's ability to see or hear or know the things the  
3   witness testifies to, the quality of the witness's memory,  
4   the inclination of the witness to speak truthfully, whether  
5   or not the witness has any interest in the outcome of the  
6   case or any motive, bias or prejudice, whether the witness is  
7   contradicted by anything the witness said or wrote before the  
8   trial and how reasonable is the witness's testimony when  
9   considered with other evidence that you believe.

10           In deciding whether or not to believe a witness,  
11   keep in mind that people sometimes forget things. You need  
12   to consider whether a contradiction is an innocent lapse of  
13   memory or an intentional falsehood, and that may depend on  
14   whether it has to do with an important fact or only a small  
15   detail. The weight or the value of the evidence does not  
16   necessarily depend on the number of witnesses testifying for  
17   one side.

18           You've already been told that the defense doesn't  
19   have to present any witnesses. You must consider all of the  
20   evidence and you may decide the testimony of a smaller number  
21   of witnesses on one side has more weight than more witnesses  
22   on another side or even if no testimony is presented on the  
23   other side.

24           There are two kinds of evidence; direct evidence  
25   and circumstantial evidence. Direct evidence is testimony



1 about what the witness personally saw, heard or did.  
2 Circumstantial evidence is indirect evidence. It's the proof  
3 of one or more facts from which you can find another fact.

4           So let me give you an example of that. So maybe  
5 yesterday you woke up in the morning and you saw that the  
6 ground outside your house was all wet and clear down the  
7 street, and maybe there was even some rain coming down your  
8 rain -- or, you know, the water coming down in your rain  
9 gutters. And from that, you might infer that it had rained  
10 during the night. So that was circumstantial evidence that  
11 it rained during the night.

12           Now, if you had gotten up during the night and you  
13 had walked outside and the rain was falling down on your face  
14 and you actually saw it raining, that would be direct  
15 evidence. So that's the difference. But you may consider  
16 both direct and circumstantial evidence in deciding this  
17 case.

18           The law permits you to give equal weight or value  
19 to both kinds of evidence, but it's for you to decide how  
20 much consideration to give to any type of evidence.

21           Certain things, however, are not evidence and you  
22 must not consider them as evidence in deciding the facts of  
23 this case. Statements and arguments by the attorneys are not  
24 evidence. Questions and objections of the attorneys are not  
25 evidence. Testimony I instruct you to disregard, or anything

1 that you may see or hear when court is not in session, even  
2 if what you see or hear is done or said by one of the parties  
3 or one of the witnesses in the case, it's -- that's not  
4 evidence. It has to happen here in court to be evidence.

5           So remember that evidence is sworn testimony by a  
6 witness while court is in session, and documents and other  
7 things that are received and admitted into evidence as  
8 exhibits.

9           Now, there are rules of law which control what can  
10 be received into evidence. When a lawyer asks the question  
11 or offers an exhibit into evidence, and the lawyer on the  
12 other side feels that it should not be admitted or permitted  
13 by the rules, then the lawyer may object. And if I overrule  
14 the objection, then a question that was answered and objected  
15 to may be answered.

16           If I sustain the objection, the question cannot be  
17 answered and the exhibit could not be received. Whenever I  
18 sustain an objection to a question, ignore the question and  
19 don't try and guess what the answer might have been.  
20 Sometimes I may even order that evidence be stricken from the  
21 record and tell you to disregard or ignore that evidence.  
22 And that means when you're deciding the case, you are to  
23 disregard and you may not consider that evidence that I told  
24 you to disregard.

25           Now, it's the duty of a lawyer to object to

1 evidence which the lawyer believes should not be permitted  
2 under the law and rules. You should not be prejudiced in any  
3 way against the lawyer who makes objections on behalf of the  
4 party the lawyer represents. That's their job. That's what  
5 they're supposed to do. And also, I might find it necessary  
6 from time to time to admonish a lawyer. If I do so, you  
7 should not be prejudiced towards the lawyer or the party that  
8 the lawyer represents because I have found it necessary to  
9 admonish a lawyer.

10 Now, you are not to concern yourself in any way  
11 with the sentence which the Defendant might receive if you  
12 should find the Defendant guilty. Your function is to decide  
13 if, and only if, the Defendant is guilty or not guilty of the  
14 charge. Only if you do find that to be the case, then it  
15 would become the duty of the Court to determining the  
16 sentence. But it's not anything you should consider.

17 Now, at the end of the trial, you're going to have  
18 to make up your minds and make your decision on what you  
19 recall of the evidence. You won't have a written transcript  
20 of the testimony to consult, and it's very difficult and time  
21 consuming for us to play back lengthy portions of the  
22 testimony. So I urge you to pay close attention to the  
23 testimony as it's given.

24 Now, if you wish, you may take notes to help you  
25 remember what the witnesses said. All I ask is that if you

1 do take notes, please don't let your note-taking distract you  
2 from listening because if you become too immersed in your  
3 notes, you may miss the next four or five questions and  
4 answers. And so please don't let that note-taking distract  
5 you. You should rely on your own memory of what was said and  
6 not be overly influenced by the notes of other jurors.

7           Now, until the case is submitted to you, do not  
8 talk to each other about it or about anyone who has anything  
9 to do with it until the end of the case when you go to the  
10 jury room to decide on your verdict. Don't talk with anyone  
11 else about the case or anything to do with it or any person  
12 that has any involvement in the case until the trial has  
13 ended and you've been discharged as jurors.

14           Now, when I say, anyone else, that includes members  
15 of your family and friends. They will be very interested in  
16 the fact that you're doing this, and because you're going to  
17 be doing it for so long, it's not like they're going to not  
18 notice that you're on a jury. So please, when they ask you,  
19 and they probably will because they don't know that it's not  
20 permitted, don't tell them anything about it, don't discuss  
21 the case with them. Tell them you're a juror in a criminal  
22 case. That's all you can tell them. And that when it's  
23 over, you might be willing to talk to them about it. But  
24 until you have been discharged by me, do not discuss the  
25 case.

1           If someone should try and talk to you after you  
2 have told them, I don't want to talk to you, or if you're  
3 concerned that someone approaches you and tries to talk to  
4 you about the case and this is somebody you don't know, then  
5 please report it to me immediately by contacting the marshal.

6           Do not read any news stories, listen to any radio  
7 broadcast or watch any television reports about the case or  
8 about anyone who has anything to do with it. It's possible  
9 that media could be present. So in an abundance of caution,  
10 please just try and avoid that. You could even have someone  
11 in your family screen the newspaper for you, and if there's  
12 something in it, then not let you see the matter.

13           Do not research or make any investigation about the  
14 case on your own. You might be tempted to go by the hospital  
15 where this is alleged to have occurred. Do not do that.  
16 Things could change. It would be completely impermissible  
17 for you to do that. Also, don't try and investigate any  
18 other aspect of the case. Don't try and investigate the  
19 lawyers or any of the court personnel because none of that is  
20 relevant, and what will be relevant, and what you need to  
21 decide this case upon will be what you hear in this  
22 courtroom.

23           Finally, a juror may not declare to a fellow juror  
24 any fact relating to the case about which the juror has  
25 knowledge. So if you discover during the trial or after the

1 jury has retired that either you or another juror has  
2 personal knowledge of any fact in controversy in the case,  
3 then the juror should disclose that to me in the absence of  
4 the other jurors.

5           And so the way you would do that would be, you  
6 would report it to the marshal and -- in a note, and he would  
7 bring it to me, and that would be disclosed to the lawyers,  
8 and we would make a decision based upon that after an  
9 investigation or, you know, further inquiry into what the  
10 issue is. So please, either -- and it happens from time to  
11 time that may not be intentional at all, but you thought you  
12 knew nothing and later you discover you did. If that  
13 happens, then you need to report that. And it has also  
14 happened in the past that a juror has disregarded my  
15 admonitions about investigating the case and then tried at  
16 deliberation to bring those things up, and the duty of the  
17 other jurors is to immediately tell that person, we're not  
18 hearing any of that, and immediately report it to the  
19 marshal, and we will take care of that.

20           All right. Don't make up your mind about what the  
21 verdict should be until after you've gone to the jury room to  
22 decide the case and you and your fellow jurors have discussed  
23 the evidence. It's important that you keep an open mind.

24           Now, the trial's going to proceed in the following  
25 manner: The Deputy District Attorney will make an opening

1 statement, which is an outline to help you understand what  
2 the State expects to prove. Next, the Defendant's attorney  
3 may, but does not have to, make an opening statement.  
4 Opening statements serve as an introduction to the evidence  
5 and what that party intends to prove during the case.

6 Now, the State will then present its evidence, and  
7 counsel for the Defendant may cross-examine the witnesses  
8 that are called. Following the State's case, then the  
9 Defendant may present evidence and the Deputy District  
10 Attorneys may cross-examine the witnesses. However, as I  
11 told you before many times, the Defendant is not obligated to  
12 present any evidence and may not.

13 After all the evidence has been presented, I will  
14 instruct you on the law. After the instructions on the law  
15 have been read to you, then each side has the opportunity to  
16 present oral argument. What is said in closing arguments is  
17 not evidence. The arguments are designed to summarize and  
18 interpret the evidence.

19 Since the State has the burden of proving the case  
20 beyond a reasonable doubt, the State has the right to both  
21 open and close the closing arguments. Now, after the  
22 argument has been completed, then you'll retire to deliberate  
23 on your verdict.

24 All right. Ladies and gentlemen, the State is  
25 entitled to present the first opening statement.

1 MS. BLUTH: May we approach, Your Honor?

2 THE COURT: Yes.

3 (Bench conference begins)

4 MS. BLUTH: A couple of questions. Jacqueline  
5 Bluth.

6 THE COURT: Keep your voice up.

7 MS. BLUTH: Couple questions, Your Honor. Are they  
8 given notebook -- are they given notebooks for openings? I  
9 didn't know when you did that.

10 THE COURT: Well, I got a brand new marshal. I  
11 think he's --

12 MS. BLUTH: And I also really -- I'm so sorry, but  
13 I have to use the restroom before I go, and I'm going to go  
14 like an hour.

15 THE COURT: Not a problem. Okay, thanks for giving  
16 me that warning.

17 MS. BLUTH: Okay. Thank you.

18 THE COURT: Thank you.

19 (Bench conference concluded)

20 THE COURT: Okay. We're going to go ahead and pass  
21 out the notebooks, and then we're also going to take --  
22 actually, we'll take the break first. We're going to take a  
23 restroom break because the opening statements may be lengthy,  
24 and we don't want anybody squirming in their seats. So  
25 ladies and gentlemen, we're going to take a ten minutes -- is



1 that -- how's that for --

2 MS. BLUTH: Yeah.

3 THE COURT: Ten minute recess. During this recess,  
4 it is your duty not to converse among yourselves or with  
5 anyone else on any subject connected with the trial or to  
6 read, watch or listen to any report of or commentary on the  
7 trial by any person connected with the trial or by any medium  
8 of information, including without limitation, newspaper,  
9 television, radio or Internet. That includes smartphones.  
10 And you are not to form or express an opinion on any subject  
11 connected with this case until it is finally submitted to  
12 you.

13 We'll be in recess until, looks like, 2:30.

14 THE MARSHAL: Rise for the jury, please.

15 (Outside the presence of the jury)

16 THE COURT: The record will reflect we're outside  
17 the presence of the jury. Are there any matters outside the  
18 presence before we recess?

19 MS. BLUTH: No, Your Honor.

20 MR. MANINGO: No, Your Honor.

21 THE COURT: Thank you. I'll see you in ten  
22 minutes.

23 MR. MANINGO: Thanks.

24 (Court recessed at 2:20 p.m. until 2:32 p.m.)

25 THE MARSHAL: Rise for the jury, please.

1 (In the presence of the jury)

2 THE COURT: Thank you. Please be seated. All  
3 right, the record will reflect we are back within the  
4 presence of all 12 members of the jury as well as the four  
5 alternates. Defendant is present with his counsel. The  
6 Deputies District Attorney prosecuting the case are present,  
7 as are all officers of the court. Will counsel so stipulate?

8 MS. BLUTH: Yes, Your Honor.

9 MR. MANINGO: Yes, Your Honor.

10 THE COURT: Thank you. And, Ms. Bluth, are you  
11 going to make the opening statement?

12 MS. BLUTH: I am. Thank you, Judge.

13 THE COURT: Thank you.

14 STATE'S OPENING STATEMENT

15 MS. BLUTH: In 2008, five women were taken to  
16 Centennial Hills Hospital for treatment, for care and for  
17 help. And what these five women did not know and what they  
18 could not have known is that while there, they would be  
19 inappropriately touched, they would be indecently exposed,  
20 and two of them would be sexually assaulted.

21 The person who committed those crimes against these  
22 victims is the Defendant, Steven Farmer. This is a picture  
23 taken of the Defendant on May 16th of 2008, shortly after he  
24 was arrested for these crimes that you're about to hear  
25 about.

1           During this time period, Mr. Farmer was working as  
2 a certified nursing assistant at Centennial Hills Hospital.  
3 This is where he gained access to the patients that he  
4 victimized. The first individual that had contact with the  
5 Defendant is Ledahlia Spurlock, who you see in this picture.  
6 And Ledahlia will testify, and she will testify you that  
7 recently she had gone through some very serious personal  
8 struggles.

9           She and her long-time partner and husband had just  
10 recently separate. She had moved to Las Vegas by herself  
11 from California. She was in severe financial distress, and  
12 it all became too much for her and she attempted to take her  
13 life on April 26th of 2008. From there, luckily her family  
14 found her and took her to Centennial Hills Hospital for  
15 treatment, where she was in the emergency room and she stayed  
16 through the 26th into the 27th.

17           Ledahlia will tell you that in the evening hours of  
18 April 27th, Ledahlia's two aunts came to visit her. And  
19 you'll hear from those individuals. Their names are  
20 Ernestine Smith and Ada Dotson. While she was staying at the  
21 hospital, during that time period, the Defendant came in and  
22 introduced himself as Steven Farmer to her and her aunts.

23           He let Ledahlia know that he was the individual  
24 that would be taking care of her, and he started small talk  
25 with they on subjects like his beard. They commented on his

1 beard. He told them that he was -- he always had his beard.  
2 He liked playing Santa Claus and just normal conversation.  
3 But as he was speaking, Ledahlia and her aunt started  
4 noticing him doing inappropriate things.

5           And they will tell you that at one point he grabbed  
6 onto Ledahlia's feet at the bottom of the bed. And her aunts  
7 could see that she felt visibly uncomfortable with that, so  
8 she attempted to pull her feet away to bring them into her  
9 body, but he hung tightly on to them.

10           Then she would attempt to move her body physically  
11 up in the bed as to move her feet away from him, but he still  
12 would hold on. So she didn't know what to do at that point.  
13 So she kept her feet where they were.

14           Then the Defendant grabbed onto the rails on the  
15 side of the bed, and he held his groin area, his penis  
16 against her feet. And Ledahlia will tell you that as he was  
17 talking, and as he held his penis to her feet, he started  
18 moving in a very slow circular motion against her feet and  
19 side to side.

20           This made her feel very uncomfortable. He was  
21 smiling at her, smirking at her, and she didn't know what to  
22 do. She was embarrassed because she was there for attempting  
23 to take her life, so she didn't want to act erratic or scare  
24 somebody or, you know, kick him because she didn't know what  
25 would people think if she did that. They probably already,

1 you know, had some doubts about her since she had attempted  
2 to take her life.

3 So she kind of sat there, stayed calm. When the  
4 Defendant was done, he left the room and Ledahlia immediately  
5 turned to her aunts, and she all discussed the inappropriate  
6 behavior that the Defendant had just committed upon Ledahlia.

7 Ledahlia asked her aunts to please stay until the  
8 Defendant was gone from the room or gone from treating her  
9 because she no longer felt comfortable, and she no longer  
10 felt safe, and her aunts agreed to stay in the hospital room  
11 with her.

12 Now, the Defendant returned the room -- returned to  
13 the room and told Ledahlia that she needed to change her gown  
14 because she was being moved to a different facility. And he  
15 told her that he would assist in putting that gown on. Now,  
16 Ledahlia did not want him to do that, did not feel  
17 comfortable. So she told him no, she could do it or her  
18 aunts could do it.

19 The Defendant still walked behind Ledahlia and  
20 positioned himself, and Ernestine Smith will tell you that he  
21 positioned himself in a way so that he could see the back of  
22 Ledahlia's exposed body. Shortly thereafter, Ledahlia was  
23 transported to a different facility, and she didn't have any  
24 further contact with the Defendant.

25 Ledahlia will tell you that she did not immediately

1 report. And there are several reasons why she did not do so.  
2 Number one, like I've stated, she was very embarrassed and  
3 ashamed that she had attempted to take her own life. This  
4 was already a very difficult time in her -- a period in her  
5 life, and she didn't want to bring more onto herself.

6 Number two, she was confused, and she was shocked  
7 about what had happened, wondering, you know, why would  
8 someone do that, and what was going on in the Defendant that  
9 made him do that to her. She will also tell you that she was  
10 very concerned about her overall health. She was leaving the  
11 facility that night, and she figured she never had to deal  
12 with him again, so she didn't tell anybody.

13 You will hear the testimony of Marcia Petersen, and  
14 you will hear that Marcia Petersen had a really good life  
15 until she fell in early 2008. She was an interior designer.  
16 While at work, she fell and hit her head. And ever since  
17 that fall, her entire life changed.

18 She started suffering from what's called  
19 uncontrollable sensory overload and a very severe seizure  
20 disorder. And Marcia's seizure disorder is in such a way  
21 that she can have up to multiple seizures in a day, and  
22 during one of her seizures -- during any one of her seizures,  
23 her body can seize up to 42 times. And so what it will be  
24 explained is that she will begin to -- she will begin to  
25 seize, and then her body will curl up, it will clench and

1 then it will relax and then it will clench and then it will  
2 relax. And that can happen up to 42 times.

3 You'll also hear that after one of Marcia's  
4 seizures, it can be up to 24 to 48 hours before she's able to  
5 walk, before she's able to talk and before she's able to  
6 function. So after one of her seizures, she pretty much has  
7 to sit there or lie there unable to communicate, unable to do  
8 anything for herself from anywhere from 24 to 48 hours.

9 On May 12th of 2008, Marcia suffered a seizure in  
10 the Smith's parking lot after grocery shopping. She was  
11 rushed by ambulance to Centennial Hills Hospital, and during  
12 her -- during the ambulance ride, they placed what -- on her  
13 body what's called leads, and these were placed in several  
14 areas, and you'll hear about the placement of those wires and  
15 these leads and what the purpose of them is.

16 When Marcia wakes up in the hospital, the Defendant  
17 comes in. He introduces himself as Steven, and he states  
18 that he will be taking care of her. Now, remember, Marcia's  
19 state after this seizure, along with all of her seizures, she  
20 cannot move, she cannot talk, she comes in and out of sleep.  
21 She can feel pain, so if you were to go up to her and pinch  
22 her, she can feel that pain, but she cannot react to it. She  
23 can't do anything about it.

24 You will hear that the Defendant came in multiple  
25 times during this time that she was in the hospital, took

1 advantage of her disability and violated her.

2           Initially, the Defendant came in and acted as  
3 though he was fixing her bed sheets. However, she noticed  
4 that when he would pull up the bed sheets, he would also pull  
5 the hem of her gown up, and he would look under her gown,  
6 which her naked body was underneath. She did not have a bra  
7 on and she did not have underwear on. And she saw that  
8 happening multiple times.

9           She will also tell you that she woke up on two  
10 different occasions to find the Defendant's hands underneath  
11 her gown rubbing her breasts and pinching her nipples. When  
12 she woke up, this was happening to her. She saw the  
13 Defendant look up at her, see that she recognized what he was  
14 doing, and then he told her that he was fixing the leads on  
15 her body, fixing and working with the wires.

16           But you will hear that Marcia didn't notice that  
17 anything was wrong with any of the leads or any of the wires.  
18 She didn't hear any of the beeping on the monitors, which  
19 usually happens and, you know, indicates to her and to the  
20 nurses that something's wrong with the machine. She didn't  
21 notice that. But she couldn't do anything about it. She  
22 couldn't tell anybody about it. She just had to sit there  
23 and take it.

24           Then the Defendant walked around the right side of  
25 Marcia's bed and told her that she had some feces under her.



1 Marcia thought again, this was weird because she hadn't felt  
2 herself go to the bathroom. He didn't bring anything to  
3 clean her. She never felt him wiping her or cleaning her.  
4 He didn't change her sheets, he didn't bring her new pads.

5 The Defendant then grabs Marcia's leg and places up  
6 in the air about at a 45 to 55 degree angle. All of a  
7 sudden, she felt something very uncomfortable and then she  
8 recognized that the Defendant had placed his thumb, his  
9 entire thumb, all the up her anus.

10 Again, she knew what was doing, but could do  
11 absolutely nothing about it. But he still wasn't done. The  
12 Defendant then told her while he had her legs still up that  
13 he needed to check on her catheter. And so she felt him rub  
14 his finger down there and then she felt a pressure on her  
15 vagina and she could feel his finger inside of her vagina.  
16 Again, knew what was going on but could do nothing about it.

17 It was about 24 hours later that Marcia regained  
18 the ability to speak, but shortly after regaining that  
19 ability, she went into Afib. She had a heart issue. And  
20 because of that, she was moved to a different floor because  
21 of her condition.

22 Twenty-four hours after her heart issue, she  
23 regained the ability to speak, and she told her sons, Marshal  
24 and Micah Petersen, what the Defendant had done to her. And  
25 you will hear from Marshal Peterson, which is Marcia's oldest

1 son, and he will tell you that while his mom was recovering  
2 from the seizure, he was sitting beside her, and she kept  
3 clenching and digging into his arm and trying to tell him  
4 something. But because of her seizure disorder, she could  
5 not get it out, and she kept trying and kept trying and kept  
6 stuttering and kept stuttering, but she could not tell him  
7 what was going on. So he waited patiently.

8           Eventually, after about 24 hours, she tried to tell  
9 him, and it was difficult, but she was able to get it out in  
10 sections. And she told him what the Defendant did to her  
11 while she was in her seizure -- her post-seizure state.  
12 Marshal will tell you he didn't know what to think. He had a  
13 myriad of concerns and of worries. His mom's health was so  
14 bad, she was suffering so much from her seizure disorder, he  
15 thought could somebody really do that to someone? Could  
16 someone really do that so someone in his mom's state in a  
17 hospital setting? And he talked to his mom about saying  
18 something about what the Defendant had done to her.

19           But besides telling her sons, Marcia chose not to  
20 tell anyone about what had happened. She was incredibly  
21 embarrassed, she was ashamed, she was humiliated, and on top  
22 of all that, Marcia's health took a turn for the worse a  
23 couple weeks later in May of 2008, and she was hospitalized  
24 every month after that until December of 2008.

25           Marcia Petersen will not walk through those doors

1 during this trial. You will not see her on this stand  
2 because she took her own life in July this last summer. What  
3 you will hear -- and that's Marcia here -- is a court  
4 deposition that she took on January 20th of 2012. And so you  
5 will hear Marcia in her own words through that video tell you  
6 what Steven Farmer did to her.

7           This is Heather Shank. Heather had a seizure at  
8 her home on May 16th of 2008. And because of that seizure,  
9 she was taken by ambulance to Centennial Hills Hospital.  
10 During the ambulance ride, just like you've heard before,  
11 those leads were placed on Heather's body, on her chest, top  
12 of her breasts, under her breasts and her under her arms.

13           Heather's boyfriend, Tim Lehan, who is now  
14 Heather's husband, met her at the hospital in the emergency  
15 room, and both of them will discuss with you their medical  
16 backgrounds. Both of them have been working for a very long  
17 time at Steinberg Diagnostics. So they're very familiar with  
18 the type of policies and procedures of EKG machines, leads  
19 and wires.

20           Heather will tell you that she received treatment  
21 from the Defendant while in the emergency room, and she even  
22 believed the Defendant to be what she will call a breath of  
23 fresh air. She was astounded at how completely attentive he  
24 was to her. He was always at her bedside, always asking her  
25 if she needed anything. Can I get you another blanket? Can

1 I get you a warm blanket? Can I get you a drink? Can I get  
2 your boyfriend a drink? Always there. Always paying very  
3 close attention to her.

4 His actions made them believe that they could trust  
5 him. There came a point in time when Heather, because of the  
6 effects of the medication, she needed time -- I'm sorry, she  
7 needed assistance to use the bathroom. And so Tim assisted  
8 her to the bathroom because she was heavily medicated. And  
9 Heather had one of those gowns that instead of opening in the  
10 back, it opened in the front. So Tim made sure as they were  
11 going to the bathroom, he made sure that it stayed closed.

12 When they left the bathroom, Defendant was -- the  
13 Defendant was right there waiting for them and asked Tim if  
14 he could assist them, and Tim felt like it wasn't necessary.  
15 He didn't need his help, and he wanted to make sure that  
16 Heather's gown stayed closed, so he told him no. But the  
17 Defendant insisted on staying with them.

18 When they got back to the -- excuse me, when they  
19 got back to the hospital room, Heather's gown had gotten  
20 mixed up with the blankets and the wires had gotten tangled,  
21 and so Tim sat down and let the Defendant do what he needed  
22 to do in order to assist Heather in that position. But when  
23 he looked up from sitting down, he saw that the Defendant had  
24 ripped open Heather's entire gown so that everything from,  
25 you know, the bottom of her chin all the way down to her

1 belly button was completely open, and her breasts were  
2 completely exposed.

3 Tim asked the Defendant what he was doing? And the  
4 Defendant stated that the EKG wires had gotten tangled. But  
5 Tim could see that the Defendant's hands were in Heather's  
6 breasts and clavicle area, and he offered to help the  
7 Defendant because he clearly felt uncomfortable on what was  
8 going on. But the Defendant told him that this was his job,  
9 and he was the one that was going to do it.

10 Tim kind of sits back for a second, and then with  
11 his medical background, he recognized that, no, this is  
12 wrong, I'm not going to let this go on. First of all, he  
13 shouldn't be touching the leads on Heather's body. If the  
14 wires got tangled, it was Tim's opinion that they should be  
15 taken from the box, instead of off of Heather's breasts.

16 There was absolutely no need to have Heather's  
17 entire upper body exposed so that not only Tim and the  
18 Defendant could see it but other people. And there was no  
19 need for him to be looking at Heather's breasts. So Tim had  
20 had enough. He got up, he told the Defendant that he should  
21 have used a blanket to cover Heather's upper body, but the  
22 Defendant still insisted that it was his job, and he was  
23 going to do it. But Tim had had enough, he stepped -- he  
24 asked the Defendant to step aside, and he fixed the wires and  
25 made Heather comfortable on his own.

1           Now, once the Defendant saw that Tim knew what he  
2 was doing and that he had this knowledge, you know, he  
3 immediately got nervous, uncomfortable and left the room.  
4 Now, during this entire transaction, Heather is not  
5 conscious. She was dizzy. She was medicated, and so she was  
6 in the bed, and she has no idea that this is happening to  
7 her.

8           However, the following morning, Heather was checked  
9 into the hospital, and she was moved to a different room.  
10 And so the Defendant was the one responsible for transporting  
11 her to that room. Tim was not there at this point in time.  
12 Tim was at work. So it was just Heather and the Defendant.

13           Heather thought everything was fine, but as soon as  
14 they got into the elevator, the Defendant told Heather that  
15 the electrodes, the sticky things that the leads are attached  
16 to, needed to come off of Heather's chest. Heather thought  
17 that this was odd. First of all, they were in a public  
18 elevator, so she felt uncomfortable having her entire gown  
19 open and her breasts exposed. She had been in hospitals  
20 before. She had never had anyone do this to her. And it was  
21 clearly inappropriate, like I stated, to do it in the  
22 elevator.

23           The Defendant then proceeded to open up her gown,  
24 fully exposed her, again, from her chin all the way down to  
25 her belly button, and then she noticed that the Defendant was

1 staring at her breasts, and then he lightly grazed over one  
2 of them.

3 At that point, Heather knew that this was  
4 inappropriate, so she very quickly ripped off all the  
5 electrodes herself and closed her gown and would not let the  
6 Defendant touch her anymore. When Heather get aggressive  
7 about it, the Defendant then backed off, and Heather will  
8 tell you he got incredibly nervous, and he started  
9 stuttering. The elevator doors opened, he took her to her  
10 room, and that was it.

11 Now, Tim didn't tell anyone right away about what  
12 he had witnessed, including Heather, because he was confused  
13 by the Defendant's actions, and he also wondered, well, maybe  
14 did I overreact. So he left it alone. Heather didn't tell  
15 anyone because she recently had found out she was having  
16 seizures. That was only the second seizure she had had, and  
17 so she was focusing on her health.

18 She was also confused by the Defendant's conduct,  
19 and she had no idea that the same thing had happened to her  
20 the night before. She didn't know what it happened twice.  
21 She only thought it happened once. So they left it at that.

22 This individual is Denise Hanna. Denise Hanna  
23 suffers from asthma attacks, very severe asthma attacks. On  
24 May 15th of 2008, she went to the urgent care for chest pain  
25 in the evening hours. And because she still had some of

1 those chest pains and because of her test results, they sent  
2 her -- they transported to her via ambulance to Centennial  
3 Hills later that evening.

4           Now, there was a nurse on shift who treated Denise  
5 at Centennial Hills, and that individual's name is Margaret  
6 Wolfe. And Margaret Wolfe was treating Denise throughout the  
7 night. And Denise will tell you that Margaret was providing  
8 Denise with very good care. You know, nothing was wrong, she  
9 was feeling better, she was getting the treatment that she  
10 felt she needed.

11           All of a sudden, the Defendant enters the room. He  
12 walks in, he introduces himself as Steven Farmer, and he  
13 states that he needs to check things out. Denise thought  
14 that this was odd because number one, Margaret had just been  
15 in the room and nothing had changed. Number two, nothing was  
16 beeping. None of the machines were beeping, indicating that  
17 something was wrong, and she felt fine.

18           But she, you know, assumed that the Defendant  
19 needed to do something, so she let him do what she thought he  
20 needed to do. The Defendant ripped open her gown so that her  
21 entire upper body, her breasts were exposed. He never asked  
22 her if he could open up the gown. He never told her that he  
23 was going to do that or told her what he needed to do. He  
24 just did it. And then he began pressing on the leads around  
25 her breasts and her stomach and then he touched her right



1 breast.

2 Now, as this was going on, Denise was very  
3 embarrassed, and she kind of sat there in shock, and she  
4 looked around to see if anybody could see what the Defendant  
5 was doing. And she saw that Margaret Wolfe, her nurse, was  
6 at the nursing station watching what the Defendant was doing  
7 to her.

8 Defendant then closed the gown very quickly and  
9 hurried off. Margaret came into the room and asked Denise if  
10 she was okay. Denise told her, yes, and the two didn't talk  
11 any more about that. Denise was very embarrassed about what  
12 had just occurred. Margaret made sure Denise was okay, and  
13 then she immediately went to her supervisor and reported what  
14 she thought was inappropriate contact with that patient and  
15 told her supervisor what she had witnessed the Defendant do  
16 to Denise Hanna.

17 This is Roxanne Cagnina. You will also hear from  
18 Roxanne Cagnina. Ms. Cagnina fell while working in 2000, and  
19 shortly after her fall she also started suffering from  
20 seizures. And in 2008, she was suffering from seizures on  
21 somewhat of a regular basis. So she had been dealing with  
22 this seizure disorder for eight years.

23 On May 15th of 2008, she felt a seizure coming on  
24 at home, and she and her -- or she can tell you that the  
25 signs of when she knows a seizure is about to hit. She

1 starts getting a funny taste in her mouth, her speech will  
2 start to slur, and she knows when they're coming on, and so  
3 they have a system in her home if she's home alone and no  
4 one's with her, she walks over -- if she can't get to 911,  
5 she walks over, hits a button on their home protection  
6 program, and it alerts the police that that's what's going  
7 on. So that's what happened on that day. And the ambulance  
8 arrived, took her to the emergency room at Centennial Hills  
9 Hospital.

10           While being treated in the ER, she will tell you  
11 that she received what she believed to be excellent treatment  
12 from the Defendant and a nurse called Nurse Goodhart. And  
13 she'll tell you that the Defendant was very attentive to  
14 every single thing she needed. He was always around. She'll  
15 even tell you every time she opened her eyes, she was there,  
16 like she was the only patient that he had. Always offering  
17 -- if her blanket got cold, he immediately ran and got a new  
18 blanket that was for her.

19           His care was so above average and so excellent that  
20 she asked him for his personal information so when she left  
21 the hospital, she could write him a letter of recommendation,  
22 and the Defendant agreed, and he left with her his personal  
23 information.

24           However, things quickly changed. Roxanne was  
25 admitted into the hospital in the early morning hours of May

1 16th of 2008. So when someone goes into the emergency room,  
2 technically, they're not admitted in the hospital, they're  
3 being treated. But if you get admitted from the emergency  
4 room, then you get a hospital room. So that's what happened  
5 in the early morning hours of May 16th.

6 And the Defendant was the individual who  
7 transported Roxanne to her hospital room. As soon as they  
8 got into the elevator, the Defendant's demeanor changed. And  
9 Roxanne will tell you that the Defendant was repeatedly  
10 telling her over and over again, you should be tired, should  
11 be asleep by now. You're on a lot of medications, should be  
12 feeling the effect of that. You need to sleep. You need to  
13 sleep.

14 She thought it was odd. Then they get in the  
15 elevator. He's saying these things to her. And then he acts  
16 as though he's adjusting her blankets. And as he's doing  
17 that, he slips one hand in underneath her blanket, underneath  
18 her gown and rubs her inner thigh. Roxanne will tell you she  
19 shifted. She moved, and he took his hand out. She thought,  
20 okay, that was weird, but she let it go. Then she felt it  
21 again. She felt him adjusting the blankets, felt his hand  
22 come under underneath the gown inside her thigh.

23 She kind of hit his hand away, and she tucked the  
24 blankets and her gown underneath her so as to protect herself  
25 from this conduct. And the Defendant told her, you can't

1 have your gown and your blankets tucked like that because we  
2 need to make sure we have access to you. So you need to  
3 untuck it. And at that point, she knew something was wrong.  
4 She started getting nervous, and she felt like this transport  
5 to her hospital room was taking forever.

6 When they got into the hospital room, the Defendant  
7 became much more aggressive. Again, he started acting like  
8 he was fixing the bed sheets. She felt his hand go  
9 underneath, underneath her gown, up her thigh, and this time  
10 he inserted his finger or fingers into her vagina.

11 He continued to do it, and as he continued to do  
12 it, he started getting more and more rough until the point he  
13 was jamming his fingers into her vagina. At one point, he  
14 takes his fingers out, he holds them up to Roxanne's face.  
15 He tells her to look at his fingers, look how big and fat  
16 they were. She was going to enjoy this, and I was going to  
17 make her come.

18 Whenever Roxanne would attempt to make him stop, he  
19 would tell her that she needed to relax. She was supposed to  
20 be really tired. She should be sleeping now. The medication  
21 should be kicking in. She shouldn't be awake, and that this  
22 was all procedure. That he was supposed to do these things  
23 to try and help her relax.

24 He stopped penetrating her vaginally for a while --  
25 for a little bit, and when he came up to her face, he started

1 rubbing her first repeatedly with the back of his hand  
2 telling her, you're so beautiful, you're so beautiful. He  
3 then told her to place her hands behind her head, which she  
4 did what he said, and then he proceeded to look at her  
5 breasts and rub her breasts, telling her that she had  
6 beautiful breasts.

7 After he was done with her upper body, he returned  
8 back down, penetrated her again with his fingers, again  
9 jamming repeatedly, and he also stuck his face underneath her  
10 gown and licked and kissed her vagina.

11 Roxanne will tell you at that point in time, she  
12 was paralyzed with fear. She had no idea what to do. She  
13 couldn't move. She couldn't scream. She was in shock.  
14 After the Defendant was done victimizing her, he told her, I  
15 will be back at 7:00 a.m. when he get off, I'll be back to  
16 check on you.

17 When he left, she'll tell you that she sat there in  
18 fear. She didn't move. She didn't talk. She was afraid  
19 that he was standing right outside of that door. So she sat  
20 there for what seemed to be hours because she was scared he  
21 was still there.

22 Now, eventually, she fell asleep, and she'll tell  
23 you that the medications, yeah, they did have an effect on  
24 her, and she fell asleep. But as soon as she woke up, it was  
25 around 6:50, she makes a telephone call to her husband. And

1 she tells her husband that he needs to come down immediately,  
2 a nurse had touched her, and she was telling him, you have  
3 got to get back here before 7:00. He have going to be back  
4 at 7:00 o'clock, be back here.

5 Right around 7:00, shortly after the phone call to  
6 her husband, a female nurse comes into the room, and the  
7 Defendant walks in right afterwards. And then Roxanne says  
8 immediately, she asks for the first -- she asks for the nurse  
9 in charge. Now, the nurse that had walked in turns and looks  
10 at the Defendant, and asks him, are you this patient's  
11 husband? And the Defendant says no, no, no, I'm the nurse  
12 that was treating her last night. I just came to check up on  
13 her, and then he knows that Roxanne asked for the nurse in  
14 charge so he walks away. But as he's walking away, Roxanne  
15 will tell you, he looked at her and he glared at her as if to  
16 threaten her to not tell anyone.

17 Roxanne spoke with the nurse in charge. They  
18 brought the nurse in charge to the room. Her name is  
19 Lorraine Wescott, and she came, and she spoke to Roxanne.  
20 Roxanne told her what the Defendant had done to her.  
21 Roxanne's husband arrives at the hospital shortly thereafter,  
22 and immediately calls 911.

23 The police report to the hospital. Roxanne speaks  
24 to the police. She talks to them about -- you know, she's  
25 interviewed. She tells them what the Defendant did to her.

1 She provides the police with that information, that personal  
2 information, the Defendant had given her, and then she she's  
3 taken for what's called a sexual assault nurse examination.

4           You will hear testimony from an individual by the  
5 name of Linda Ebbert. Ms. Ebbert is what's called a sexual  
6 assault nurse examiner. She has been a registered nurse for  
7 over 40 years. She has been a SANE nurse for 19 years and  
8 has conducted over 4,000 sexual assault nurse examinations.

9           She will tell you that she was called to the  
10 hospital on May 16th of 2008, by the police to do the  
11 examination on Roxanne. And in her report, she will tell you  
12 that she noted Roxanne was very upset during the exam, during  
13 the testing. She was weeping, she was in pain. Now, when  
14 you have -- when you do these types of examinations on a  
15 victim of sexual assault who is female -- it's somewhat --  
16 for those of us that are females, it's somewhat like going to  
17 the gynecologist. You have to lay down, you have to place  
18 your legs -- you know, holds your knees up, place your legs  
19 up in the air and expose your vagina to the individual that  
20 is doing the examination. And there are certain tools that  
21 Ms. Ebbert brings to do these examinations. One of those  
22 things is a light to make sure that she can completely see  
23 the area she's examining. She brings a camera so that she  
24 can photograph and document any injuries to the vagina, and  
25 then she brings what's called -- it's a blue dye. And what

1 she does is if you cannot see the tears or the lacerations to  
2 the vagina with why you are bare eye, then she pours the blue  
3 dye on it, and it makes it easier to see.

4 But in Roxanne's case, she did not need the blue  
5 dye. She could see what you see here. She could see more  
6 than five crescent shaped lacerations to Roxanne's vagina  
7 between the 5:00 and 7:00 o'clock positions. And what she'll  
8 tell you about this specific injury to this portion of the  
9 vagina is that the shaping, the type of -- it's called  
10 crescent-shaped lacerations, and those types of lacerations  
11 are consistent or indicative of someone jamming their  
12 fingernails into your vagina, because if you look at your own  
13 fingernails they're somewhat crescent shaped. And if you jam  
14 someone hard enough, you will leave the indentation of your  
15 fingernails in that person's vagina. And that is what Linda  
16 Ebbert found on Roxanne Cagnina when she did the sexual  
17 assault nurse examination on May 16th of 2008.

18 Detectives used that phone number, that personal  
19 information that the Defendant had supplied Roxanne. They  
20 took it, and they used a method of what's called  
21 triangulation. And basically, what they do is they use  
22 satellites, they input your number and they can use  
23 satellites to get an idea of where your phone is located.  
24 They did that. They found the Defendant at his home, and  
25 they arrested him for the open or gross lewdness counts as



1 well as the sexual assault of Roxanne Cagnina.

2       After the Defendant's made this arrest, they sent  
3 out what's called a media release, and they sent out this  
4 media release on May 16th of 2008 at 10:00 p.m., and on that  
5 media release it had the picture of the Defendant, it had his  
6 age, his height and his weight. It stated that he had been  
7 accused of sexually assaulting a victim at a local hospital.  
8 It did not say what hospital, but a local hospital, and they  
9 asked people with any information or concerns to immediately  
10 contact the detective assigned to the case, and they gave a  
11 number that any other victims or any other witnesses could  
12 contact if they have information.

13       Margaret Wolfe. You've heard a lot of victims and  
14 a lot of witnesses already, but Margaret Wolfe was the  
15 individual who was working as the nurse at the nursing  
16 station when the Defendant opened up Denise Hanna's gown.  
17 And so you'll hear that Detective Mike Saunders was at  
18 Centennial Hills Hospital conducting the Roxanne Cagnina  
19 investigation when Nurse Wolfe approached him and asked him  
20 to speak with him somewhere other than work. She felt  
21 uncomfortable speaking about this in front of her employees  
22 or her employers at work, so she asked if she could meet with  
23 him right around the street -- across the street at a local  
24 bagel shop, and he agreed.

25       When they got there, she tells the detective what

1 she witnessed the Defendant do to Denise Hanna. She talked  
2 about how inappropriate that contact was and how she had  
3 reported it to her supervisors, and from there, the Defendant  
4 -- or excuse me, the detective contacted Denise Hanna.

5 Denise Hanna had not seen anything on the news, so  
6 she had no idea this was going on. And on May 30th of 2008,  
7 a detective just arrives at her office and asks to speak to  
8 her. And she's scared. When a police officer comes to your  
9 work and asks you to come outside, you're thinking that's  
10 something happened to one of your loved ones.

11 But as soon as he gets outside, he asks her, were  
12 you recently a patient at Centennial Hills Hospital, and as  
13 soon as he asked that question, she knows exactly why he's  
14 there. And she tells him his name was Steven Farmer. He  
15 introduced himself to me, and she told him exactly what it  
16 was that the Defendant did to her. And so the Defendant was  
17 charged with open or gross lewdness for exposing and touching  
18 Denise's breasts.

19 Ledahlia Spurlock. Ledahlia's aunt saw the story  
20 on the news about Mr. Farmer. And so she alerts Ledahlia  
21 that the Defendant, you know, was arrested and that he had  
22 done something to someone else, and she gives Ledahlia the  
23 number to contact the detective. And Ledahlia will tell you  
24 that she needed time to think about whether or not she wanted  
25 to go through this process. And that was a decision that

1 weighed on her heavily.

2           She had moved on, she was in a better state, she  
3 was embarrassed that she had tried to take her life, and she  
4 knew that was going to get drug through all of this, and she  
5 was going to have to explain it to people, and she wanted to  
6 focus on her health. But she knew that she had to do this  
7 because she didn't want this to happen in anybody else. And  
8 so she chose to dial that number, and she called the  
9 detective on May 31st of 2008. She and her aunts, Ernestine  
10 Smith and Ada Dotson were interviewed. She gave the  
11 Defendant's name because he had told them his name was Steven  
12 Farmer, as well as his physical description, his height, his  
13 weight, his white hair, his beard. And the Defendant was  
14 charged with open or gross lewdness for the touching of his  
15 genitals on Ledahlia's feet.

16           Heather Shank. Heather and her boyfriend, now  
17 husband, Tim, they had never spoken to one another about what  
18 each of them had had happen at Centennial Hills Hospital.  
19 However, Heather's grandmother called her and told her that  
20 she had seen something on the news about a male nurse at  
21 Centennial Hills, and Heather will tell you that as soon as  
22 she heard that, immediately a red flag went into her brain,  
23 and she knew that it was the Defendant.

24           And so she told Tim what had happened to her, what  
25 the Defendant had done to her, and Tim was shocked. And Tim

1 told her what he had witnessed the Defendant do to her. And  
2 so after speaking with one another, they both agreed that  
3 they needed to contact the detective and tell them what had  
4 happened.

5 So both Heather and Tim gave interviews to the  
6 detective. Each of them were presented with what's called a  
7 six pack, like kind of like you see on television. Piece of  
8 paper with six individuals on that piece of paper, and then  
9 they identified and circled the Defendant as the individual  
10 who had been working on Heather at Centennial Hills Hospital.  
11 The Defendant was then charged with open and gross lewdness  
12 and indecent exposure of Heather Shank.

13 Lastly, Marcia Petersen. Her son, Marshal, her  
14 oldest son, saw the news -- saw the story on the news.  
15 Immediately went to his mom with what he had seen. Marcia  
16 felt very scared. She was still embarrassed. She was very  
17 worried about her health. Like I said, she had been in and  
18 out of the hospital every month. But again, she knew that  
19 this couldn't happen to anybody else, so she made the  
20 decision to contact the detective.

21 Because Marcia's health was so poor, the detective  
22 went to her home and interviewed her there. She gave a full  
23 statement of what had happened to her, and she gave a  
24 description and the name of the Defendant because he had told  
25 her, my name is Steven Farmer. She gave the detective the

1 dates that she was at the hospital. The detective then took  
2 those dates, went to the hospital, made sure that the  
3 Defendant was working during that time period and during --  
4 on that floor when Marcia was there. He confirmed that, and  
5 then the Defendant was arrested for open or gross lewdness  
6 and the sexual assault both anally and vaginally of Marcia  
7 Petersen.

8 At the conclusion of this trial, after you have  
9 seen all of the evidence presented to you and after you have  
10 heard these women come and talk about what the Defendant did  
11 to them, the State will ask that you find him guilty of the  
12 crimes we have charged him with. Thank you.

13 THE COURT: Thank you. Mr. Boschee (sic). Bashor,  
14 Mr. Bashor. I'm sorry.

15 DEFENDANT'S OPENING STATEMENT

16 MR. BASHOR: Thank you. Ladies and gentlemen, this  
17 case is about three things. It's about money, it's about the  
18 media, and it's about what makes sense. Steven Farmer was  
19 doing his job as a certified nursing assistant. You're going  
20 to come to learn a phrase throughout this trial called  
21 intimate care. Certified nursing assistants, they do the  
22 dirty work. They do the hard job. And they are assigned and  
23 are supposed to touch patients and clean patients in areas  
24 where oftentimes you're going to feel uncomfortable.

25 Included in intimate care is the dressing and

1 undressing, toileting, catheter care, cleaning of the genital  
2 area. These are routine tasks that certified nursing  
3 assistants do in every hospital across the country.

4 We intend to call in our case-in-chief, after the  
5 State has concluded theirs, Sandra Higelin. She's an expert  
6 who has quite expensive credentials and experience with  
7 certified nursing assistants, and she will come to explain to  
8 you the intimate care is any activity that is required to  
9 take care of the personal needs of the patient.

10 That's what Mr. Farmer was doing. Mr. Farmer was  
11 attentive. Went above and beyond. Patients liked him.  
12 Patients in this case like him because he went above and  
13 beyond, because he was good at his job. And that's exactly  
14 what he did.

15 He routinely encountered patients that were in  
16 discomfort, sometimes medicated, sometimes heavily medicated.  
17 It's the nature of the business. People come in sick,  
18 they're treated, they're medicated, they're transferred from  
19 the emergency room to other floors in the hospital.

20 Where this case starts is not with any other person  
21 you've heard about so far, other than Roxanne Cagnina. She  
22 is what this case starts with. She's transferred to the ER  
23 8:20 p.m., she signed in, she's assigned a room.  
24 Mr. Farmer's assigned to her, and what does Mr. Farmer do?  
25 He does a good job, he takes care of her. He's attentive.

1           She's given all kinds of different types of  
2 medications throughout the evening, anxiety medications,  
3 seizure convulsion medications, some painkillers, nausea,  
4 convulsions, a pretty long list throughout the night.

5           Notes are often taken in an emergency room at  
6 regular clips -- regular times. And here's an example of  
7 some of the ones you'll hear about as observations of  
8 Mr. Cagnina. She was confused as to time. She has slow  
9 speech, she was sleepy, she kept asking the same question  
10 over and over again, and she appeared very drowsy. And this  
11 3:45 a.m. appearing very drowsy is important.

12           Now, throughout the evening, Mr. Farmer, along with  
13 another nurse, took excellent care of her. She was very much  
14 impressed with their services and wanted to write letters of  
15 recommendation, and asked Mr. Farmer before any of the  
16 alleged conduct that is purported to have occurred, for his  
17 personal information. He provides it. He writes out his  
18 name and his phone number in her checkbook.

19           Now, hospitals, as you probably were wondering  
20 while Mr. Bluth and Mr. Maningo were asking so many questions  
21 about hospital experience, these are very busy places. It's  
22 the nature of the business. I believe one potential juror  
23 described it as chaos. There are nurses, there are doctors,  
24 there are orderlies, there are visitors. People going in and  
25 out of rooms on every floor of every hospital constantly.

1           At one point in the evening it is Mr. Farmer's  
2 responsibility to transfer Ms. Cagnina from the emergency  
3 room to the seventh floor, and they enter an elevator. At  
4 this point, they enter the elevator and it's at this point  
5 that Ms. Cagnina states that Mr. Farmer began to touch her  
6 inappropriately.

7           The evidence will show that on this elevator ride  
8 and in this elevator there was another woman nurse in the  
9 elevator for the majority of the trip. You will hear her  
10 describe the conduct as uncomfortable. That she knew that it  
11 was happening, and that she pulled away. All the while in  
12 this same confined environment, another person was right  
13 there.

14           She will allege multiple acts occurred, multiple  
15 touchings in this short period of time in this confined space  
16 with company. She then states that upon approval on the  
17 seventh floor, she's wheeled into her room, and at this time,  
18 as when any new patient arrives to a floor, a nurse is  
19 assigned. You will hear that Christine Murray was assigned  
20 to be the nurse for Ms. Cagnina on the seventh floor.

21           Ms. Cagnina describes that she's wheeled into a  
22 seventh floor hospital room, and for 15 minutes uninterrupted  
23 sexually assaults her. Kisses her, licks her, digitally  
24 penetrates her. The seventh floor is just like the ER, it's  
25 a busy place. There are doctors, there are nurses, there are



1 orderlies, there's security. But Ms. Cagnina alleges that  
2 over a 15-minute, uninterrupted period, she's sexually  
3 assaulted by Mr. Farmer.

4           What else do we know about hospitals? Well,  
5 hospital rooms have mechanisms to alert other people. It's  
6 kind of important. If you're in distress and the room's  
7 empty, you're out of luck. So hospitals, in their ingenious  
8 way of designing the rooms, come up with methods that you can  
9 contact people quickly. So hospital rooms often have a  
10 phone, they often have a call button, which alerts the  
11 nursing station that you're in distress.

12           You also hear evidence that Ms. Cagnina had her  
13 cell phone with her. She utilizes none of this during this  
14 15-minute period where she describes an assault.

15           Now, there's a timeline. At 4:45 a.m., which is  
16 about the time Ms. Cagnina describes all of this happening,  
17 the nurse's notes reveal patient on floor in stretcher,  
18 heavily sedated, she needed assistance to the bathroom and  
19 quoted, my headache is still not gone.

20           You will also hear evidence that Ms. Cagnina  
21 attempted to photograph Mr. Farmer during this alleged  
22 assault. And she will state that she attempted to take  
23 pictures with her phone at these two times, 4:47 and 4:50.  
24 And you'll see that there are blank dark photos showing  
25 nothing when her phone is impounded and looked at by the

1 police officers.

2 She describes a 15-minute, uninterrupted, invasive  
3 sexual assault by Mr. Farmer and falls asleep. Nurse's notes  
4 corroborate this. After this assault, this discomfort, after  
5 Mr. Farmer has left the room at 5:30 a.m., patient sleeping.  
6 At 5:40, less than an hour after this alleged assault, Ms.  
7 Murray, a registered nurse, does a pain assessment and notes  
8 it in her chart.

9 She has to have a conversation with Ms. Cagnina in  
10 order to do so. Ms. Cagnina does not describe any assault,  
11 any inappropriate behavior by Mr. Farmer at this time. At  
12 5:47, seven minutes later, a whole different person comes  
13 into the room. Why? Because this is a busy place. Why?  
14 Because this is a hospital. And takes the vitals. 6:00  
15 o'clock pain assessment, again, you have to have a  
16 conversation.

17 At 7:54 a.m., you will hear evidence that three  
18 hours after the alleged assault, Ms. Cagnina attempts to call  
19 911. She calls 911 and hangs up. And you'll hear that her  
20 reason was that she was scared and didn't know what to do.  
21 And the report will realize that this call's about 25 seconds  
22 in length where there's not an actual connection or  
23 conversation.

24 It's not until 8:40, four hours, four hours after  
25 the alleged assault that 911 is called and police get

1 involved.

2 Now, you heard and saw a picture, and you heard  
3 about what a SANE exam is. Evidence will show that SANE  
4 exams are important and that they, you know, have something  
5 conclusions, but these conclusions are not certain. There's  
6 no certainty in them. There's indicative, things like that.  
7 There's no certainty. And so you'll hear that you cannot age  
8 the lacerations that were found. That you can't determine  
9 the cause and that Ms. Cagnina had sexual intercourse with  
10 her husband days before the alleged assault.

11 You actually will hear a little bit about DNA. And  
12 tests were done, swabs were taken, and there was profiles  
13 taken of everyone, and some DNA that possibly, possibly --  
14 you'll hear from the DNA expert in this case -- could be  
15 attributed to Mr. Farmer was found on her face.

16 Given the description of what occurred, where she  
17 was touched and where swabs were taken, you will hear that  
18 DNA was found where it should have been. And this is why Ms.  
19 Cagnina is so important. Because from the hospital she calls  
20 Channel 8 news, the day of the assault. But not just one  
21 time. She's still in the hospital, and at 6:16 p.m. she  
22 calls, at 6:16 she calls again, at 6:53 p.m. she calls. They  
23 just -- there's a conversation that occurs for 11 minutes.

24 There's an incoming call for five minutes, another  
25 call incoming. Two days later, she's calling Channel 8 news

1 in the middle of the night. She gets the media involved.  
2 And the evidence will show that once this happens, and only  
3 after this happens, four other women come forward.

4 What you will also hear is that Ms. Cagnina around  
5 this time was in financial distress. She had filed for  
6 bankruptcy the year before. She was currently in bankruptcy  
7 proceedings in 2008, when this occurred. That she had  
8 multiple foreclosures. That she was unemployed and seeking  
9 public assistance.

10 And then money gets involved. Neil Hyman. Neil  
11 Hyman is a civil litigator here in Las Vegas who was  
12 contracted by Ms. Cagnina to file a lawsuit against  
13 Mr. Farmer, American Nursing Services, who you will hear was  
14 his direct employer, and Centennial Hills Hospital.

15 He's contacted the Monday after the alleged  
16 assault. The alleged assault occurs on a Friday. But Monday  
17 afterwards, at 12:41 p.m., he's contacted by Ms. Cagnina to  
18 begin litigation process. But they don't immediately go file  
19 a lawsuit. They go on the news together, and they appear in  
20 an interview where Mr. Hyman asks the other victims come  
21 forward. Where Mr. Hyman, because Mr. Hyman has a financial  
22 interest in a successful lawsuit, places the hospital on  
23 notice that a suit is forthcoming, and most importantly, the  
24 public is shown a picture of who? Mr. Farmer.

25 You will also hear that Ms. Cagnina took out a loan

1 on the eventual settlement or judgment in her lawsuit to the  
2 tune of \$80,000 with interest.

3           What is this case about? It's about money, the  
4 media and what makes sense.

5           Marcia Petersen. She was in the hospital from May  
6 13th to May 20th, 2008. She was recovering from seizures and  
7 atrial fibrillation. I knew I'd mess that up. She's also on  
8 medications, anti-depressants, sedatives, anti-seizures, pain  
9 medications. She alleges more than one incident of  
10 inappropriate touching and sexual behavior on behalf of  
11 Mr. Farmer. She does not tell the doctors, the nurses, she  
12 does not call the police. However, she has two teenage sons  
13 with her, who are at her bedside, and midway through her  
14 stay, she tells them what had occurred. That she was touched  
15 and sexually assaulted by a nurse in the facility,  
16 description Mr. Farmer.

17           The sons hear this story, hear what their mom is  
18 telling them mid-stay, teenage sons, not tykes. They hear  
19 this information, they're mortified that their mother could  
20 be attacked and assaulted, so they tell nobody. Nobody at  
21 all. Not only do they tell nobody, she continues her stay at  
22 Centennial Hills Hospital for a few more days.

23           She's released on May 20th, 2008. She had already  
24 told her sons. She's no longer in this environment where she  
25 will describe she was afraid to say something or afraid to

1 alert people within the hospital for fear and embarrassment.  
2 She's been separated from that environment on May 20th, she's  
3 in the sanctity of her own home, a safe place. So who does  
4 she tell? Nobody. Nobody at all.

5 What happened to Ms. Petersen was intimate care.  
6 Mr. Farmer was doing his job. He saw some feces around her  
7 leg, he cleaned it up. He saw that her catheter needed  
8 adjusting. He did that. He did his job. That's what  
9 certified nursing assistants do. It's a dirty job. Not a  
10 job I'm going to sign up for, but it's a job that he does,  
11 and he does it well, exceedingly well.

12 Not until a month later does one of Ms. Petersen's  
13 sons see Mr. Farmer on the news. You can thank Ms. Cagnina.  
14 Nobody is told in the meantime. Police aren't called.  
15 Complaints at the hospital aren't made. And after seeing him  
16 on the news, finally, the police are called.

17 Ms. Cagnina's not the only person who files a  
18 lawsuit because this case is about money, media and making  
19 sense. Ms. Petersen files a lawsuit against Mr. Farmer,  
20 American Nursing Services, his direct employer, and  
21 Centennial Hills Hospital. That's what this case is about.

22 Ms. Shank. She's the evening of May 15th, 2008.  
23 And the reason I emphasize that date is that three of these  
24 people are going to tell you that on the same evening, on the  
25 same shift, that Mr. Farmer was going from room to room

1 committing these acts in a hospital that I described, that  
2 are busy places with doctors, nurses, orderlies, security.

3 Another trademark of Mr. Farmer is because he's so  
4 good at his job and because he's so friendly, he introduces  
5 himself by his real name prior to committing these alleged  
6 assaults. It's the first thing he does when he enters the  
7 room, and he provides them with care and attention. That's  
8 his job.

9 Provides her with a warm blanket. Even brews a  
10 fresh pot of coffee for her boyfriend. Going above and  
11 beyond. She uses the bathroom. Farmer was helping her get  
12 back into the bed. The heart monitor's got tangled, so  
13 because they were tangled, what Mr. Farmer did, what you  
14 should do, and that is -- and you'll from Ms. Higelin with  
15 what he did was perfectly appropriate, is that he would  
16 untangle the leads and reattach them. That's exactly what he  
17 did. And it made Timothy Lehan, her boyfriend, very  
18 uncomfortable.

19 Now, Mr. Lehan was a radiological technologist at  
20 the time, and so he has some medical training and background.  
21 He's familiar with some of the machines and that sort of  
22 thing that are common in hospitals and common for treatment.  
23 He is made uncomfortable, covers up -- he's not happy with  
24 Mr. Farmer. He doesn't think Mr. Farmer's doing things  
25 correctly. He doesn't think that his girlfriend's breasts

1 should be exposed. He's uncomfortable and doesn't like what  
2 he sees, so he takes it upon himself to intervene, say I'll  
3 do it, and put the blanket back over her.

4 So being so offended by what he saw and being so  
5 uncomfortable with the entire situation, not liking what he  
6 saw, having the medical experience and background, Mr. Lehan  
7 immediately tells no one.

8 Now, the reason why this case is about the media  
9 and money and making sense, it's not until after Shank's  
10 grandmother hears the story about an arrest of an employee at  
11 Centennial Hills Hospital that they're driving to work and  
12 they discuss what -- Ms. Shank mentions what she alleges  
13 occurs in the elevator. Mr. Lehan describes what he alleged  
14 to have occurred in the emergency room, and immediately upon  
15 getting to work, Timothy Lehan does a search, finds the  
16 article on the news, sees a picture of Mr. Farmer, and it is  
17 Timothy Lehan, not Ms. Shank, who then after seeing this  
18 story calls Metro. And they're not interviewed by police  
19 until June 4th, 2008, about three weeks after this allegedly  
20 occurs.

21 In three weeks no one was told. Police weren't  
22 called, hospital complaints weren't made, nothing. It's not  
23 until after seeing Mr. Farmer on the news did they say  
24 anything about what made them both very uncomfortable.

25 Ms. Spurlock. She's transported to Centennial



1 Hills Hospital. It's unfortunate, she had attempted suicide.  
2 She had ingested several pills. Mental health issues  
3 obviously exist there. She's eventually transferred to  
4 another facility that specializes in that sort of thing. And  
5 she's visited by two of her aunts, Ada Dotson and Ernestine  
6 Smith.

7           And they visit -- they're each kind of stationed on  
8 each side of her bed, and what does Mr. Farmer do? He does  
9 what he always does, he introduces himself by name, he's  
10 friendly, he says, hello. That he'll be there to check in on  
11 her and take care of her. He again, goes above and beyond.  
12 Doesn't need to do this, but offers beverages or some kind --  
13 you know, some water to the two aunts. He gets them a drink.  
14 They chitchat, being friendly.

15           And this is where they allege that he stands at the  
16 base of the bed with a patient in front of him, with an aunt  
17 on each side, and he either, depending on which of these  
18 three people we're talking to, presses his groin against her  
19 feet or pulls her feet to his groin and while carrying on a  
20 conversation where he's making eye contact and chitchat,  
21 decides to do a circular motion with his groin, after  
22 introducing himself by name in front of three adults.

23           He leaves the room, and again, there's this  
24 discussion, well, that was -- that's uncomfortable. Please,  
25 I'm scared, Ms. Spurlock says. I'm scared, don't -- don't

1 leave me. Please stay until I'm transferred to the other  
2 facility. They all discuss it, that was weird, that's  
3 inappropriate, that's uncomfortable. So being that they're  
4 all in agreement that this is incorrect procedure and weird  
5 and uncomfortable they tell nobody. Don't call the police,  
6 don't complain, they tell no one.

7 Farmer returns before she's transferred, notifies  
8 the other facility's there to pick her up. Again, he's being  
9 attentive. So from April 27th, 2008, he tells nobody, he's  
10 seen on the news, and then there's an interview with the  
11 detective on May 31st, 2008. Over a month has past, and  
12 finally police are contacted by what they thought was  
13 uncomfortable and weird but told no one over a month before.

14 Now, Ms. Dotson is one of the aunts. She says that  
15 she's in the room when Mr. Farmer enters. He say he  
16 introduces himself, he's talking with all three, he's holding  
17 the feet trying to scoot it up. There's -- she doesn't  
18 describe any thrusting or groin pushing or hips moving, and  
19 she does not actually see the feet make contact with the  
20 groin area.

21 After Farmer leaves, she's asked to stay. They  
22 discuss what, you know, that just occurred, like I said, and  
23 she tells no one. The Dotson timeline, same thing,  
24 4/27/2008, told nobody, Farmer's seen on the news, interview  
25 with the detective over a month later, and only after being

1 seen on the news.

2 Ms. Smith, the other aunt, in the room when he  
3 enters, introduces himself, talking with all three, holds  
4 feet up, trying to -- as she sees Spurlock trying to scoot  
5 backwards, moves her feet with his hands. And what's  
6 interesting about Ms. Smith is Ms. Smith has a nursing  
7 background. Ms. Smith was a nurse in California. Person  
8 perfectly trained to know appropriate versus inappropriate  
9 touching of a patient. He leaves the room, she discusses.  
10 And despite that background, despite knowing what she alleges  
11 to have seen was inappropriate, she tells nobody.

12 Timeline, 4/27, same as the other aunt. Doesn't  
13 tell anybody until the news are called. That's why this case  
14 is about money, media and making sense.

15 Ms. Hanna. Now, Margaret Wolfe will come in and  
16 testify. Margaret Wolfe was the nurse assigned to Ms. Hanna  
17 on that name night, which is the third person. Ms. Cagnina,  
18 Ms. Hanna and Ms. Shank, all that same night. And two weeks  
19 pass. The detective's around the hospital, and he is  
20 approached by Ms. Wolfe. Ms. Wolfe approaches him and says,  
21 by the way, two weeks ago I was in the care of a patient, and  
22 I saw something that you should know about Mr. Farmer.

23 Now, what she describes happening is that she's  
24 assigned to Ms. Hanna. She watches Farmer pull aside the  
25 curtain for privacy. Most people who have been in hospital's

1 aware they got to sweeping curtain that goes all the around  
2 the bed. That was closed. What she states is that  
3 Mr. Farmer walks into that area, opens the curtain, doesn't  
4 close it, opens the curtain, leaves it open, and for all to  
5 see, he then opens the front of her gown, exposing her  
6 breasts, and for several seconds stood over her in a crowded  
7 hospital where there's doctors and nurses, orderlies and  
8 security going in and out all around all the time.

9 She states that Farmer sees this, that he's being  
10 watched. He turns to the area that he attempts to cover her.  
11 Wolfe soon after goes in to check on Ms. Hanna and says to  
12 Ms. Hanna the following. Ms. Hanna describes Farmer enter in  
13 the room, pushes aside the curtain, identifies himself by  
14 name, examines the leads and electrodes and the IV. She  
15 described her breasts being exposed. So when Ms. Wolfe  
16 enters, Ms. Hanna immediately says; Detective Saunders  
17 contacts Hanna. Hanna did not report to the police until the  
18 police contact her. And by now this same detective has  
19 interviewed and been involved with four other women.

20 This case is about money and media and what makes  
21 sense. Now, as we discussed, and you'll be charged by Her  
22 Honor and be at length talked about from both sides during  
23 our voir dire process is that you have a very important  
24 decision to make. And that we ask that you keep in mind  
25 throughout this process that Mr. Farmer enjoys the

1 presumption of innocence. He still does right now because  
2 you have heard no evidence. What we say is not evidence.

3 The burden of proof rests with the State. And that  
4 burden is to prove these charges beyond a reasonable doubt, a  
5 definition Her Honor will give you before you enter that  
6 door, go back down the hall and go into a room and discuss  
7 this case.

8 But when making that important decision, we ask  
9 that you keep these three things in mind. Mr. Farmer was  
10 doing his job. He was good at his job. He went above and  
11 beyond. People liked him. Patients liked him. Patients in  
12 this case liked him. It's a dirty job involving intimate  
13 care. And in the end, we would submit that based on the  
14 evidence, making sense, common sense, human experience, the  
15 State will not be able to meet their burden, and we'd be  
16 asking you to find him not guilty of all counts. Thank you  
17 for your time.

18 THE COURT: Thank you, Mr. Bashor. Ladies and  
19 gentlemen, it is quarter to 4:00. The State is going to  
20 begin presenting the witnesses in this case on Monday because  
21 we weren't sure how long it was going to take to finish  
22 picking the jury because if we had not gotten our alternates,  
23 we would have to brought in 20 new jurors and started over to  
24 get that last alternate.

25 So we weren't sure, and we don't like to have the

1 witnesses waiting for hours outside the courtroom  
2 unnecessarily. And so additionally, we wanted to get you out  
3 so you could get paid for the week. And so what is going to  
4 happen now is the marshal's going to escort over to the Jury  
5 Commissioner so you can get your vouchers for the week.

6 We will start on Monday at 1:00 o'clock because, of  
7 course, I'll have my criminal calendar in the morning. So  
8 we'll be back here again at 1:00 o'clock on Monday.

9 So ladies and gentlemen, over this weekend recess,  
10 it is your duty not to converse among yourselves or with  
11 anyone else on any subject connected with the trial or to  
12 read, watch or listen to any report of or commentary on the  
13 trial by any person connected with the trial or by any medium  
14 of information, including without limitation, newspaper,  
15 television, radio or Internet, and you are not to form or  
16 express an opinion on any subject connected with this case  
17 until it is finally submitted to you. Have a lovely weekend.  
18 I'll see you Monday.

19 THE MARSHAL: Leave your notebooks behind.

20 THE COURT: If you'd just leave them on the chair.

21 THE MARSHAL: Rise for the jury, please.

22 THE COURT: Leave your notebooks on the chair.

23 (Outside the presence of the jury)

24 THE COURT: The record will reflect that the jury  
25 has left the courtroom. Are there any matters outside the

1 presence?

2 MS. BLUTH: I have a clean copy, Your Honor, of the  
3 Power Point because I know you want to make it as a court  
4 exhibit.

5 MR. BASHOR: Same.

6 THE COURT: All right. We'll mark those next in  
7 order as court exhibits. Mr. Bashor, I apologize for calling  
8 you by another lawyer's name. There's another lawyer with  
9 that name and --

10 MR. BASHOR: Well, frankly, Your Honor, I was so  
11 nervous I didn't hear you.

12 THE COURT: You didn't? Oh, good. All right,  
13 we'll be in recess, then, until Monday at 1:00. Thank you.

14 (Court recessed at 3:46 p.m., until Monday,  
15 February 10, 2014, at 1:04 p.m.)

16 \* \* \* \* \*

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**CERTIFICATION**

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

**AFFIRMATION**

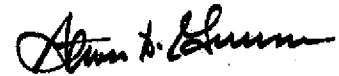
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8-22-14  
DATE





CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA,	.	CASE NO. C-245739
	.	CASE NO. C-249693
Plaintiff,	.	
	.	DEPT. NO. 5
V.	.	
	.	<b>TRANSCRIPT OF</b>
STEVEN DALE FARMER,	.	<b>PROCEEDINGS</b>
	.	
Defendant.	.	
.....	.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 6**

MONDAY, FEBRUARY 10, 2014

APPEARANCES:

FOR THE STATE:	JACQUELINE M. BLUTH, ESQ. BRIAN J. KOCHVAR, ESQ. <i>Chief Deputy District Attorneys</i>
FOR THE DEFENDANT:	JEFFREY S. MANINGO, ESQ. RYAN J. BASHOR, ESQ. <i>Deputy Public Defenders</i>

COURT RECORDER:

LARA CORCORAN  
District Court

TRANSCRIPTION BY:

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Englewood, CO 80110  
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.

INDEXWITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
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STATE'S WITNESSES:

Heather Shank	4	31	41	44	
Tim Lehan	45, *83, 103	*87, 107			

*\*Testimony outside presence of the jury*

\* \* \* \* \*

EXHIBITS

<u>DESCRIPTION:</u>	<u>ADMITTED</u>
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STATE'S EXHIBITS:

Exhibit 9 . . . . .	11
Exhibit 14 . . . . .	28
Exhibit 16 . . . . .	27

1       LAS VEGAS, NEVADA, MONDAY, FEBRUARY 10, 2014, 1:04 P.M.

2                   (In the presence of the jury)

3           THE COURT: Thank you, please be seated. This is  
4 the continuation of State of Nevada v. Steven Farmer, Case  
5 Number C-245739.

6           The record will reflect the presence of the  
7 defendant with his counsel, the Deputies District Attorney  
8 prosecuting the case, all officers of the Court, all 12  
9 members of the jury as well as the four alternates. Will  
10 counsel so stipulate?

11           MS. BLUTH: Yes, Your Honor.

12           MR. MANINGO: Yes, Your Honor.

13           THE COURT: Thank you. Good afternoon, ladies and  
14 gentlemen, how are you? Did you have a good weekend? Good.

15           All right. We are at the part of the trial where  
16 we're going to start hearing testimony. The State may call  
17 it's first witness.

18           MR. KOICHEVAR: Thank you, Judge. The State would  
19 call Heather Shank.

20           THE CLERK: Remain standing.

21           HEATHER SHANK, STATE'S WITNESS, SWORN

22           THE CLERK: Please be seated and then please state  
23 your name and spell it for the record.

24           THE WITNESS: My name is Heather Shank,  
25 H-e-a-t-h-e-r, S-h-a-n-k.

1 THE CLERK: Thank you.

2 THE COURT: You may proceed.

3 MR. KOCHVAR: Thank you, Judge.

4 DIRECT EXAMINATION

5 BY MR. KOCHVAR:

6 Q Good afternoon, Heather.

7 A Hi.

8 Q Heather, can you tell us where you are currently  
9 working?

10 A I'm currently working at Steinberg Diagnostic.

11 Q And how long have you worked at Steinberg  
12 Diagnostics?

13 A I have been there for, now, seven years.

14 Q Currently what's your position at Steinberg?

15 A I'm an office manager for one of the locations.

16 Q And as an office manager, what are your duties  
17 generally?

18 A I kind of just oversee the facility, help with  
19 patients, kind of like a jack-of-all-trades.

20 Q Have you been an office manager during the entire  
21 time that you've been with Steinberg Diagnostics?

22 A No.

23 Q What other positions did you have with them?

24 A I started out in the file room and then went to tech  
25 aide.

1 Q Okay. Tell us what a tech aide does. What were  
2 your responsibilities as a tech aide?

3 A You just assist the patient, bring -- assist the  
4 tech, I'm sorry, bring patients back, give them their preps  
5 for exams, just help the tech any way they can.

6 Q The procedures that are performed at Steinberg  
7 Diagnostics, do they ever include performing EKGs on a  
8 patient?

9 A Putting leads on a patient, yes.

10 Q And as a tech aide, when you were working as a tech  
11 aide, were you ever involved in assisting or observing the  
12 placement or the removal of the EKG leads?

13 A I would observe, yes.

14 Q Okay. Are you currently married, single?

15 A Currently married.

16 Q Okay. And what's your husband's name?

17 A His name is Timothy Lehan.

18 Q Okay. When did you guys get married, what year?

19 A 2012.

20 Q Okay. And how long have you known Tim?

21 A I've known Tim for almost eight years.

22 Q Okay. Back in early 2008, did you begin  
23 experiencing some medical problems and medical issues?

24 A Yes.

25 Q What sort of medical issues did you start

1 experiencing?

2 A Seizures.

3 Q Okay. Prior to early 2008, had you ever had any  
4 seizures before that?

5 A No.

6 Q Okay. When, approximately, was the first time in  
7 early 2008 did you experience a seizure?

8 A I believe it was March.

9 Q Okay. As a result of that, where were you when that  
10 first seizure happened?

11 A I was at home.

12 Q Okay. Was anybody else at home with you?

13 A Tim was.

14 Q Okay. Now you guys -- you said you were married in  
15 2012. So you guys were boyfriend/girlfriend living together  
16 at that time?

17 A Um-hum.

18 Q Is that a yes?

19 A Yes.

20 Q Okay. As a result of that seizure episode in March  
21 of 2008, did you end up going to the hospital?

22 A Yes, I did.

23 Q What hospital was that?

24 A Centennial Hills.

25 Q Okay. Was that the first time you had ever been to,

1 as a patient, to Centennial Hills Hospital?

2 A Yes.

3 Q Were you taken to the hospital -- did Tim take you  
4 or were you taken by ambulance? How did you get there?

5 A Ambulance, I believe.

6 Q Okay. In your treatment in March for the first time  
7 you experienced the seizures, part of your treatment, did they  
8 perform an EKG test on you?

9 A Yes.

10 Q Did that include the placement of the patches and  
11 leads --

12 A Yes.

13 Q -- on your chest? Was that the first time you would  
14 ever experience an EKG test yourself?

15 A Yes.

16 Q Okay. As a result of that seizure, were you  
17 prescribed any sort of medication to start taking to help with  
18 the seizures?

19 A I was.

20 Q And what medication was that?

21 A Dilantin.

22 Q Okay.

23 A I believe.

24 Q Did you start taking the Dilantin regularly after  
25 being prescribed that after your hospital stay?

1 A I did initially.

2 Q Okay. You say initially, so at some point in time,  
3 did you stop taking it?

4 A I did stop taking it.

5 Q And how come?

6 A I don't like the way it made me feel and I just  
7 stopped taking it.

8 Q Can you say how -- can you describe for us how it  
9 was making you feel?

10 A It kind makes you feel a little spacey.

11 Q Okay. Do you know approximately how long you took  
12 it? If you had the seizure in March about how long did you  
13 take it before you decided to stop?

14 A I -- I don't remember how long I took it.

15 Q Okay. Did there come a point in time in early 2008  
16 when you had a second seizure episode?

17 A Correct.

18 Q Was that on May 15th of 2008?

19 A Yes.

20 Q Were you at home again when this seizure happened as  
21 well?

22 A Yes, I was.

23 Q Was anybody else at home with you at that time?

24 A Tim was.

25 Q Okay. Do you know approximately what time of day it



1 was when that seizure happened?

2 A I know it was late evening. I was getting ready for  
3 bed.

4 Q Okay. Had you -- tell me what you and Tim were  
5 doing as part of your process of getting ready for bed that  
6 night when you experienced the seizure.

7 A It's always just changing, brushing teeth. I mean,  
8 I don't recall exactly what I did, but I knew we were getting  
9 ready for bed.

10 Q Okay. Do you have -- a clear memory of everything  
11 that happened that night after experiencing the -- the second  
12 -- your second seizure?

13 A I have a -- I have a pretty good memory about what  
14 happened that evening.

15 Q Okay. Had you guys been drinking any alcohol at all  
16 that night prior to your seizure?

17 A We had a couple of glasses of wine.

18 Q Okay. Your glasses of wine, did you have that just  
19 at home? Or were you out someplace prior to that?

20 A Just at home with dinner.

21 Q Okay. Do you recall at all the circumstances under  
22 which you started experiencing this second seizure?

23 A No.

24 Q Okay. What's the first thing you remember after the  
25 seizure?

1 A I remember waking up in the emergency room.

2 Q Okay. Do you know which hospital you were in?

3 A Centennial Hills Hospital.

4 Q Okay. So you were taken to Centennial Hills  
5 Hospital again?

6 A Um-hum. Yes.

7 Q Was there Tim there with you?

8 A He was, yes.

9 Q Okay. Do you see anybody else in the courtroom that  
10 was there in the hospital with you on that day when you woke  
11 up in the hospital?

12 A I do, yes.

13 Q Could you point to that person and describe an  
14 article of clothing that person is wearing today?

15 A He's right here with a blue tie.

16 MR. KOCHEVAR: Your Honor, let the record reflect  
17 the witness has identified the defendant.

18 THE COURT: It will.

19 BY MR. KOCHEVAR:

20 Q Does the defendant look any different today than he  
21 did back on May 15th of 2008?

22 A Yes, he does look different.

23 Q And how so?

24 A He's thinner, looks a little older.

25 THE COURT: Your Honor, may I approach the witness?

1 THE COURT: Yes.

2 BY MR. KOCHEVAR:

3 Q Heather, I'm showing you what's been marked as  
4 State's Proposed Exhibit Number 9. Do you recognize what that  
5 proposed exhibit is?

6 A Yes, I do.

7 Q And what is it?

8 A It's the defendant.

9 Q Okay. Is it a picture of the defendant?

10 A Yes, it is.

11 Q Does it accurately -- fairly and accurately depict  
12 how he appeared back in May of 2008?

13 A It does.

14 MR. KOCHEVAR: Your Honor, at this point, I'd move  
15 for the admission of State's Proposed Exhibit 9.

16 THE COURT: Any objection?

17 MR. BASHOR: No objection, Your Honor.

18 THE COURT: It will be admitted.

19 (State's Exhibit 9 is admitted)

20 MR. KOCHEVAR: Permission to publish, please?

21 THE COURT: Granted.

22 BY MR. KOCHEVAR:

23 Q During your treatment in the emergency room, tell us  
24 what you remember after waking up and becoming aware that you  
25 were in the emergency room. Tell us what you remember about

1 that experience, and in particular, how the defendant was  
2 helping or assisting.

3 A I was very frustrated. Being in the hospital isn't  
4 an enjoyable experience. I was hungry, I wanted to get into  
5 my room. Mr. Farmer was very attentive during that time. It  
6 was almost as if he was a breath of fresh air. He brought me  
7 pillows, he brought Tim coffee. He just seemed to be helping,  
8 helping ease my frustration.

9 Q When you -- when you say he was a breath of fresh  
10 air, was this in comparison to another treatment that you'd  
11 had or another experience?

12 A Well, I hadn't seen him for -- in the beginning  
13 parts of my stay. So I was just frustrated, it was that stay.

14 Q Okay. You said you just wanted to get to your room.  
15 Were you -- did the doctors admit you to the hospital to stay  
16 for an extended period of time?

17 A They did.

18 MR. BASHOR: Your Honor, may we approach?

19 THE COURT: Yes.

20 (Bench conference begins)

21 MR. BASHOR: Ryan Bashor. Your Honor, I would ask  
22 that the picture's not being utilized concurrently with the  
23 examination, that it come down. It's a photograph of him  
24 after his arrest. I mean, granted he's not in handcuffs and  
25 stuff, but if it's being used, I have no objection.

1 Otherwise, I would object with throughout the examination.

2 THE COURT: Okay --

3 MR. KOCHEVAR: Brian Kochevar, I have no objection  
4 to that, I can take it down.

5 THE COURT: That's fine, thank you.

6 MR. BASHOR: Thank you.

7 (Bench conference ends)

8 THE COURT: You may continue.

9 MR. KOCHEVAR: Thank you, Judge.

10 BY MR. KOCHEVAR:

11 Q So ultimately were you admitted to a hospital room  
12 at Centennial Hills?

13 A Yes, I was.

14 Q On May 15th. How did you get from the hospital room  
15 -- from the emergency department to the room where you were  
16 being admitted for your stay?

17 A I was transported on the bed.

18 Q Okay. And do you recall who pushed you or  
19 transported you from the emergency department to your room in  
20 the hospital?

21 A Yes, the defendant.

22 Q Okay. Was anybody else assisting him? Or was he  
23 doing it all by himself?

24 A All by himself.

25 Q Okay. When you were being transported from the

1 emergency department to your room in the hospital, was Tim  
2 present at the hospital at that time?

3 A No, he wasn't.

4 Q So describe for us what happened during that  
5 transport process, after leaving the emergency department and  
6 being transported to your room?

7 A I was transported on my bed and then brought up  
8 through an elevator.

9 Q To your recollection, was this an elevator that was  
10 open to the public? Or was it an elevator that was  
11 exclusively being used by the medical personnel?

12 A That I don't know.

13 Q Okay. During the elevator ride, was there anybody  
14 else in the elevator besides yourself and the defendant?

15 A No.

16 Q Okay. You said you were being transported on a  
17 gurney.

18 A Gurney.

19 Q Were you laying down on the gurney?

20 A I was laying down on the gurney.

21 Q Okay. During this -- I think I asked you about your  
22 first stay in the hospital in March, you had your EKG test.  
23 During your second stay in May, May 15th of 2008, did they  
24 perform an EKG exam on you again?

25 A Yes, they did.

1 Q Was that -- were those -- the leads and the patches  
2 placed on you in the emergency room? Or did that happen later  
3 on in your room?

4 A In the emergency room.

5 Q Okay.

6 A Or possibly the ambulance, I don't know who placed  
7 them.

8 Q Okay. So when you were transported from the  
9 emergency department to your room by the defendant, did you  
10 have the leads or the patches still on your body?

11 A I still had the patches on, yes.

12 Q Okay. Can you tell us approximately where those  
13 patches were located to your recollection?

14 A I think there was some up here and then down the  
15 side area.

16 MR. KOCHVAR: And for the record, Judge, she  
17 indicated her upper chest and then some on her sides below her  
18 breast line.

19 THE COURT: Thank you, it will so reflect.

20 MR. KOCHVAR: Thank you.

21 BY MR. KOCHVAR:

22 Q So describe for us what happened after you got into  
23 the elevator and it was just you and the defendant in the  
24 elevator.

25 A He stated that we should take off the patches

1 because the longer that they're on, it will hurt more when  
2 they come off.

3 Q Okay. In your experience from your first time in  
4 the hospital, did they remove those leads, the patches, in the  
5 hospital the first time you were there in March?

6 A No, they didn't.

7 Q When you went home after your stay in March, did you  
8 still have the patches on?

9 A I did.

10 Q Okay. What did you think when the defendant told  
11 you we needed to -- that he needed to remove those patches?

12 A I wasn't sure what to think until he did what he  
13 did.

14 Q Okay. Where was the defendant standing in  
15 relationship to your bed that you were laying on in the  
16 elevator? Where was he standing?

17 A Above me by my head.

18 Q Okay. So at the top of the bed?

19 A Correct.

20 Q Okay. And you're laying on your back on the bed at  
21 this point?

22 A Yes, I am.

23 Q Okay. So after he tells you that he needs to remove  
24 the patches or the leads, what happens then?

25 A He opened my gown and started removing the leads.



1 Q Okay.

2 A Or the patches.

3 Q And how far did he open the gown? How far open did  
4 it -- did he move the gown?

5 A It was all the way open to my waist.

6 Q Okay.

7 A Like my belly button area.

8 Q Underneath the gown, did you have any undergarments  
9 on?

10 A I had underwear on.

11 Q Did you have any sort of bra on to cover your  
12 breasts?

13 A No, I didn't.

14 Q Okay. So when he opened -- when the defendant  
15 opened up the gown, were your breasts fully exposed at that  
16 point?

17 A Yes, they were.

18 Q Were there any -- do any of the leads or the patches  
19 cover any portions of your breasts?

20 A No.

21 Q Tell us what you were thinking at that point when  
22 the defendant opened up your gown?

23 A Kind of shock. I couldn't -- I'm not really saying  
24 confused, just it was a little shocking. I was nervous.

25 Q Did he ever -- at any point in time before opening

1 your gown, did he ever advise you that that's what he was  
2 going to do or what he needed to do?

3 A No, he didn't.

4 Q Did he ever ask you for permission to open your gown  
5 and expose your breasts?

6 A No, he didn't.

7 Q So after he opened your gowns -- opened your gown  
8 and your breasts were exposed, then what does he do?

9 A He proceeded to take off some of the patches.

10 Q Okay.

11 A And then --

12 Q Were there any of the patches in particular that he  
13 removed?

14 A The ones, I believe, on my upper chest and maybe  
15 below. I don't quite remember which ones he tried to remove.

16 Q Okay. Did he remove all of the patches?

17 A No, he did not.

18 Q Approximately how many did -- do you recall how many  
19 he removed?

20 A Maybe two or three he removed.

21 Q Okay. At any point in time, did you notice him  
22 staring at you or staring at any particular part of your body?

23 A I don't recall, no.

24 Q Okay. At any point in time, did he -- in the  
25 process of removing those patches, did he ever touch your

1 breasts?

2 A Yes. His forearm grazed across my breasts as he was  
3 trying to remove the patches.

4 Q As a result of your breasts being exposed and now  
5 this touching of your breasts with his forearm, what did you  
6 do?

7 A I quickly closed my gown.

8 Q Did you say anything to the defendant at that point?

9 A No, I did not.

10 Q Before closing your gown?

11 A No.

12 Q Did you say anything to him after closing your gown?

13 A No, I did not.

14 Q What was the defendant's reaction when you quickly  
15 closed your gown?

16 A He recognized, I think, me being nervous. So he  
17 kind of, like, stuttery laugh, nervousness, like he wasn't  
18 comfortable.

19 Q Okay. And at this point in time, it's just -- it's  
20 still just the two of you in the elevator?

21 A Correct.

22 Q Did the elevator doors, from the time that you  
23 entered the elevator from when you first got on to the time  
24 where you got off to go to your room, did the elevators ever  
25 stop at any of the floors and the doors open?

1 A No.

2 Q Do you know how many floors you traveled in the  
3 elevator?

4 A I -- I don't know.

5 Q Okay. The remaining leads, you said the defendant  
6 removed a couple of the leads.

7 A Um-hum.

8 Q The remaining leads, were they ever removed at any  
9 point in time before you left the hospital?

10 A No.

11 Q So on your second stay in the hospital, you still  
12 left the hospital again with some of the leads or patches  
13 still in place?

14 A Yes.

15 Q And did you ultimately have to remove them yourself  
16 at home?

17 A Yes, I took them off myself.

18 Q So what happens when you arrive on the floor and you  
19 were taken to your hospital room, what happens at that point?

20 A At that point, we're in the room, I get off the bed  
21 and I proceed to the bed in the hospital room.

22 Q Okay. Did the defendant say anything to you or do  
23 anything when you attempted to move yourself from the gurney  
24 to the bed?

25 A He said that it was his job to move me or to help me

1 get into the other bed.

2 Q Okay. And why did you -- why did you want to get  
3 off the bed and get into the -- or get off the gurney and get  
4 into the bed all by yourself?

5 A I knew I could do it myself and I just -- I wanted  
6 to just get to my bed.

7 Q At some point in time after arriving to your room,  
8 was your -- did the defendant continue to take care of you now  
9 that you were in your room in the hospital or did someone else  
10 take over your care?

11 A No, I had a new nurse.

12 Q Okay. How long was the defendant there with you in  
13 the room assisting you before he left?

14 A Not very long. Less than a minute, I think.

15 Q Did he say anything to you or to the nurse that took  
16 over your care before leaving the room, do you recall?

17 A No.

18 Q Did you ever see him again after he left the  
19 hospital room after transporting you?

20 A I did not.

21 Q You recall how long you were in the hospital that --  
22 on that stay?

23 A I don't remember. I get the two stays confused. I  
24 think maybe a couple of days.

25 Q Okay. Did you ever tell anybody, any nurses or any

1 doctors, after this incident in the elevator, did you ever  
2 tell any -- any other hospital personnel about what had  
3 happened?

4 A No, I did not.

5 Q How come?

6 A I wasn't sure what to think of it. I was confused,  
7 I couldn't believe something like this was happening. I just  
8 -- I was -- I just didn't say anything.

9 Q Did you ever tell -- during the time that you were  
10 in the hospital, did you ever tell your then boyfriend, now  
11 husband, Tim what had happened in the elevator?

12 A No, I did not.

13 Q Okay. At some point later, after your hospital  
14 stay, did you decide that you wanted to tell -- or needed to  
15 tell Tim about what had happened?

16 A Yes.

17 Q And how did that process come about? How did you  
18 come to the decision you wanted to tell Tim?

19 A My grandmother had mentioned to me seeing something  
20 on the news about Centennial Hills Hospital. She didn't say  
21 what. I looked into it myself and at that point, I realized I  
22 just needed to tell somebody something.

23 Q Okay. So it was your grandmother first that came to  
24 you about issues at Centennial Hills Hospital. And as a  
25 result of that, in your own investigation, you decided you

1 needed to speak to somebody and was that person Tim?

2 A That person was Tim, yes.

3 Q Okay. And where did you have this conversation with  
4 Tim?

5 A I believe we were in the car --

6 Q Okay.

7 A -- speaking to each other and I told him.

8 Q And what did you tell him?

9 A I told him what happened in the elevator and he was  
10 upset.

11 Q Okay. During this conversation with Tim, did --  
12 were you advised by Tim about another incident during your  
13 stay?

14 A Yes.

15 Q Did you have any independent recollection of the  
16 incident that Tim was relating to you that had happened during  
17 your stay?

18 A No, I don't.

19 Q After talking to Tim, did you immediately report  
20 things to the police?

21 A Tim did.

22 Q Okay. Was there anytime after talking with Tim  
23 about what had happened and reporting it to the police where  
24 you took some time to think about whether you wanted to go  
25 forward and report things to the police?

1 A Yes.

2 Q Explain to us what you were thinking during that  
3 time and why you weren't sure if you wanted to go to the  
4 police?

5 A I just -- I couldn't believe that what had happened,  
6 happened in a hospital. It was a little confusing, a lot to  
7 wrap your mind around. And I had to be willing to go through  
8 everything.

9 Q When you say go through everything, are you talking  
10 about, like, having to come to court and testify like you are  
11 here today?

12 A Correct.

13 Q Ultimately, when you decided to call the police, did  
14 you have to talk to a police officer and give them a formal  
15 statement?

16 A Yes, I had talked to a detective.

17 Q When you gave that statement to the detective, where  
18 did that take place? Was that at your house or was it at a  
19 police station?

20 A At a police station.

21 Q Okay. And you gave a formal recorded statement to  
22 the detective about the things you're testifying here to  
23 today?

24 A Yes.

25 Q Okay. During that time when you were giving a



1 statement, were you also show some photographs to see if you  
2 could identify the person that had done these things to you?

3 A Yes.

4 MR. KOCHEVAR: May I approach, Judge?

5 THE COURT: Yes.

6 BY MR. KOCHEVAR:

7 Q Heather, I'm showing you what's been marked as  
8 State's Proposed Exhibit 14 and 16. Would you look at those  
9 and tell me if you recognize what those documents are?

10 A Yeah. It's a lineup and then I don't really know  
11 what this is.

12 Q Okay. So State's Proposed Number 16 you said is a  
13 lineup.

14 A Um-hum.

15 Q A photograph lineup?

16 A Yes.

17 Q Were these the photographs you were shown by the  
18 detective when he asked you if you could identify the  
19 individual that had done these things to you at Centennial  
20 Hills Hospital?

21 A Yes, it is.

22 Q And were you able to identify one of those  
23 individuals in this photographic lineup?

24 A Yes.

25 Q And how did you identify on the lineup which

1 individual you recognized?

2 A Initial.

3 Q You put your initials on there? Is that your  
4 handwriting?

5 A That, I think, is Tim's signature.

6 MR. KOCHVAR: Court's indulgence.

7 (Pause in the proceedings)

8 THE COURT: I have a --

9 MR. KOCHVAR: Court's indulgence.

10 THE COURT: -- microphone, cordless, has shown up.  
11 Is that because we need -- are you trying to wear it, Madame  
12 Court Recorder?

13 THE COURT RECORDER: (Inaudible).

14 (Pause in the proceedings)

15 BY MR. KOCHVAR:

16 Q You've identified Tim's handwriting on here. Does  
17 this appear to be the same photograph lineup as far as the  
18 same photographs that you were shown?

19 A Yes.

20 Q And were you able to identify the same individual  
21 that Tim placed his signatures on?

22 A I was able to, yes.

23 Q And was -- is that the defendant who sits here in  
24 court today?

25 A Yes.

1 MR. KOCHEVAR: Your Honor, I'd move for the  
2 admission of State's Proposed 16.

3 MR. BASHOR: No objection, Your Honor.

4 THE COURT: All right, it will be admitted.

5 (State's Exhibit 16 is admitted)

6 BY MR. KOCHEVAR:

7 Q State's Proposed 14, when you were -- when the  
8 detective came to you and showed you those photographs, did he  
9 read some instructions to you before showing you the  
10 photographs about how this process was going to work?

11 A Yes.

12 Q And did he ask you, after looking at those  
13 photographs, to sign a document to indicate your observations  
14 of those photographs?

15 A Yes.

16 Q Does this appear to be that document?

17 A Yes, sir.

18 Q Does it have your signature on it?

19 A Yes.

20 Q And does it indicate your identification of  
21 photograph number three in those photographs?

22 A Yes, it does.

23 MR. KOCHEVAR: Your Honor, I move for the admission  
24 of State's Proposed Exhibit 14.

25 THE COURT: Any objection?

1 MR. BASHOR: No, Your Honor.

2 THE COURT: It will be admitted.

3 (State's Exhibit 14 is admitted)

4 MR. KOCHEVAR: Thank you.

5 BY MR. KOCHEVAR:

6 Q So let's talk a little bit about your experience  
7 with the performance of EKG exams. You've now testified that  
8 you had some experience at Steinberg Diagnostics with  
9 observing and/or assisting the performance of an exam. And  
10 you've also testified that you had one EKG exam at Centennial  
11 Hills Hospital in March, another one in May. Did you ever  
12 have another EKG exam after your incident in May?

13 A Yes, I've had, I believe, two.

14 Q Okay. During any of those exams that you  
15 experienced yourself or that you observed at Steinberg  
16 Diagnostics, did you ever -- were you ever exposed like you  
17 were by the defendant in the elevator at Centennial Hills  
18 Hospital?

19 A No, I wasn't.

20 Q During any of those exams, were you -- did they  
21 expose both of your breasts completely and fully during either  
22 the placement or the removal of the patches or leads?

23 A No.

24 Q I'd like to talk a little bit now about how this  
25 incident or defendant's actions back in May of 2008 affected

1 you or impacted you. Can you tell us a little bit about that?

2 A It's --

3 MR. BASHOR: Objection, Your Honor, relevance.

4 THE COURT: Do you want to respond?

5 MR. KOCHEVAR: Yes, Your Honor. I think it goes to  
6 her credibility and actually having gone through this and  
7 experienced this, the subsequent impact of that lends  
8 credibility to her story.

9 THE COURT: I'll allow it.

10 MR. KOCHEVAR: Thank you.

11 BY MR. KOCHEVAR:

12 Q Did you ever have any subsequent hospital stays  
13 after your stay on May 15th?

14 A Yes, I have.

15 Q And what hospital was that at?

16 A Summerlin Hospital.

17 Q Was that by choice?

18 A No, it wasn't.

19 Q Describe for us your experience and how this  
20 incident with the defendant impacted your stay at Summerlin  
21 Hospital.

22 A I was transported to the hospital via ambulance and  
23 soon as I got into a room, three male nurses or people that  
24 worked at the hospital were in there and I literally freaked  
25 out. It wasn't good. Freaked out to the point where I

1 actually had to be restrained.

2 Q And why was it -- what was it about having the three  
3 male attendants or nurses that caused you concern?

4 A Being alone with them, my previous experience just  
5 made me snap, I freaked out.

6 Q Did you ever have any issues with emotionally trying  
7 to deal with this incident and trying to medicate those  
8 emotions?

9 A I did.

10 MR. BASHOR: Again, Your Honor, I object and renew  
11 on the same basis.

12 MR. KOCHEVAR: Be the same response, Judge.

13 THE COURT: Sustained.

14 BY MR. KOCHEVAR:

15 Q How has this impacted you in regards to your  
16 experiences in coming to court? Tell us how you feel when you  
17 have to come to court to testify about this.

18 MR. BASHOR: Objection, relevance.

19 THE COURT: Sustained.

20 BY MR. KOCHEVAR:

21 Q Heather, do you know any of the other victims in  
22 this particular case?

23 A I do not.

24 Q Have you ever met them prior to 2008 or subsequent  
25 to 2008?

1 A No.

2 MR. KOCHEVAR: Court's indulgence.

3 (Pause in the proceedings)

4 MR. KOCHEVAR: Nothing further, Judge.

5 THE COURT: Cross.

6 MR. BASHOR: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. BASHOR:

9 Q Good afternoon, Ms. Shank.

10 A Hi.

11 Q And I apologize, do you still go by Ms. Shank?

12 A I do.

13 Q Okay, very good. I'm going to ask you some  
14 questions about kind of your physical and mental state when  
15 you arrived at the hospital in May, okay?

16 A Okay.

17 Q You had suffered a seizure, correct?

18 A I did, yes.

19 Q It was late in the evening, correct?

20 A Correct.

21 Q And upon arrival, you were given Ativan; is that  
22 correct?

23 A Yes, sir.

24 Q And the Ativan made you drowsy?

25 A Yes.

1 Q Kind of sleepy?

2 A Correct.

3 Q It stayed in your system for what you would describe

4 as a pretty long time?

5 A I believe so, yes.

6 Q And you're also in a state of -- I think you

7 testified on direct, you were frustrated, right?

8 A Yes, sir.

9 Q As you had said, hospitals are not enjoyable places

10 to be?

11 A Right.

12 Q You were also hungry, correct?

13 A Yes, sir.

14 Q Now when you had arrived at the hospital, were leads

15 already attached to your body?

16 A I don't recall.

17 Q When do you first recall in your stay having leads

18 on your body?

19 A I don't know. I don't know how to answer that

20 question.

21 Q Okay. So you don't know who placed them?

22 A I don't recall exactly when, no.

23 Q No. So you don't know who placed them or how they

24 were placed?

25 A I do not.



1 Q Okay. Now Mr. Farmer was attending to you in the  
2 emergency room; is that correct?

3 A Yes.

4 Q And you described him as a breath of fresh air,  
5 correct?

6 A Yes.

7 Q He was pretty nice?

8 A He was.

9 Q You had just wanted to get to your hospital room,  
10 correct?

11 A Correct.

12 Q He retrieved coffee for your boyfriend at the time?

13 A Yes, he did.

14 Q Provide you with blankets?

15 A Um-hum.

16 Q Yes?

17 A Yes.

18 Q Sorry.

19 A No, that's okay.

20 Q It's just because we have to record the um-hum,  
21 um-um.

22 A Yeah.

23 Q And you would describe -- it's fair to say his  
24 bedside manner was pretty good?

25 A Yes, it was.

1 Q Now from the emergency room, you finally were  
2 admitted to a different room in the hospital, correct?

3 A Yes.

4 Q And you were assigned a room. And would it be fair  
5 to say that you were assigned a room on the seventh floor?

6 A I wouldn't know what floor.

7 Q And when you enter the elevator, you're not attached  
8 to any machine, correct?

9 A No, I'm not.

10 Q And the electrodes or the leads themselves are not  
11 currently in use?

12 A No, they're not.

13 Q Now in the elevator, you would describe this as an  
14 elevator, fair to say, one that fits a hospital bed, correct?

15 A Correct.

16 Q So a little larger than your average elevator, but  
17 nonetheless, a pretty confined place, would you agree?

18 A I would agree.

19 Q And you testified that this elevator arrived, there  
20 were no stops, correct?

21 A No stops.

22 Q So you entered the elevator on the emergency room  
23 floor. Did the elevator go up or down?

24 A I would -- I don't recall.

25 Q Okay. And do you recall about how long the elevator

1 ride was?

2 A No.

3 Q Now other than yourself and Mr. Farmer, was there  
4 anybody else in the elevator?

5 A No, there was not.

6 Q And when you entered the elevator, is your gown  
7 fully close? Closed, excuse me.

8 A It is closed.

9 Q And how is -- can you describe the gown? Did it  
10 have snaps? Did it have ties?

11 A The gown was really big. I believe it had ties and  
12 it was tied around this way.

13 MR. BASHOR: And by this way, for the record, Your  
14 Honor, she's showing across the top of her chest in the front.

15 THE COURT: The record will so reflect.

16 BY MR. BASHOR:

17 Q So it was fully closed when you entered the  
18 elevator?

19 A Yes.

20 Q And at -- in the elevator, this is when Mr. Farmer  
21 and you began have a discussion about these lead patches on  
22 your body, correct?

23 A Yes, sir.

24 Q And is it at this point that Mr. Farmer opens your  
25 gown, correct?

1           A     Yes, he opens my gown.

2           Q     And when he opens this gown, he unties what is in  
3 the -- towards the front of your body?

4           A     I don't believe there was a tie.

5           Q     Oh, so he just moved it?

6           A     He just opened it.

7           Q     Okay. Did he rip it?

8           A     No, he did not.

9           Q     And you had some of these lead patches around your  
10 chest as you previously described, right?

11          A     Yes.

12          Q     And you've had experience with these. They're very  
13 sticky patches that are designed to really adhere to your  
14 body, correct?

15          A     They're sticky, yes.

16          Q     Okay. And he begins to take them off, correct?

17          A     Yes.

18          Q     And you found that strange?

19          A     I found my gown being open strange.

20          Q     And would you agree that part of the reason why you  
21 felt that that was strange is that he was a male, correct?

22          A     I -- I would feel uncomfortable if anybody did it  
23 that way.

24          Q     Fair enough. Would you -- also would it be fair to  
25 say that you feeling it's strange because it was occurring in

1 an elevator?

2 A I wouldn't recall that, no.

3 Q In addition to it feeling strange, it made you feel  
4 uncomfortable, right?

5 A Yes, sir.

6 Q And to the tune of being very uncomfortable?

7 A I just wanted to cover myself up.

8 Q And at some point, you start to take these patches  
9 off yourself, correct?

10 A I did.

11 Q Now when he -- after he opened his gown, did you ask  
12 him to close it?

13 A I closed it myself.

14 Q And did you ask him to stop removing the patches?

15 A I was quiet and closed my gown.

16 Q So the answer is no, you didn't ask him?

17 A No.

18 Q And you covered yourself?

19 A Yes.

20 Q The elevator doors opened?

21 A Yes.

22 Q Correct?

23 A Yes, sir.

24 Q And you were then wheeled by Mr. Farmer to the room  
25 on the -- your destination floor?

1 A Correct.

2 Q Now when you arrived at your room and your  
3 destination floor, there's a woman in the room, correct?

4 A There is, yes.

5 Q And was this -- did this woman appear dressed in  
6 nurse person?

7 A I believed she was a nurse.

8 Q Fair enough, okay. And at this point, you have to  
9 get up off the gurney and get into the hospital bed, correct?

10 A I did, yes.

11 Q And you did that yourself?

12 A Correct.

13 Q And at this point, Mr. Farmer leaves the room?

14 A Yes.

15 Q And you don't see him again for the remainder of  
16 your stay?

17 A Correct.

18 Q Now did you tell the nurse that was in the room what  
19 had happened in the elevator?

20 A No, I did not.

21 Q And you've given reasons for why you didn't tell  
22 anybody until you told your boyfriend, correct?

23 A Correct.

24 Q And those reasons were that you didn't know what was  
25 really going on, correct?

1 A I couldn't believe what was going on.

2 Q Do you recall testifying at a preliminary hearing in  
3 this matter?

4 A I do not recall.

5 Q Would it refresh your recollection if I were to  
6 approach you with a transcript of that preliminary hearing  
7 about that answer?

8 A Yes.

9 MR. BASHOR: May I approach, Your Honor?

10 THE COURT: Yes.

11 MR. BASHOR: And for the record, I'm referring Ms.  
12 Shank to page 124 of the transcript.

13 THE WITNESS: I recall that.

14 BY MR. BASHOR:

15 Q So it's fair to say that you had said that you  
16 didn't really know what was going on, correct?

17 A Yes.

18 Q Is that -- is that what you said?

19 A Correct.

20 Q And that you were very confused?

21 A Correct.

22 Q And that you really weren't sure what to think about  
23 what had happened?

24 A Correct.

25 Q Now we had heard that you exited the hospital a

1 couple days later, is that fair?

2 A Yes, it is.

3 Q And about how much time elapses between when you  
4 leave the hospital and when you had this conversation with  
5 your boyfriend in the car?

6 A I'd say about a week or so.

7 Q And you had, as we heard, heard from your  
8 grandmother that there was an incident involving somebody at  
9 Centennial Hills Hospital, right?

10 A Yes.

11 Q And that I believe you testified at that point, you  
12 checked on it yourself?

13 A I did.

14 Q How did you do that?

15 A I believe I went online.

16 Q Okay. And would it be fair to say you found an  
17 article? A news article?

18 A Yes.

19 Q And did that article have a picture?

20 A Yes.

21 Q And is that the picture of Mr. Farmer?

22 A Yes.

23 Q And that you had a discussion with this about a week  
24 later with Tim, correct?

25 A Yes.



1 Q And Tim's reaction was that he was upset?

2 A Correct.

3 Q Angry?

4 A He was upset.

5 Q Now some time elapses between the conversation in  
6 the car and when the detective was actually contacted,  
7 correct?

8 A I don't know how much time, but yes.

9 Q But some time?

10 A Correct.

11 Q And, in fact, it's Tim who contacts the detective?

12 A Yes.

13 Q And the detective is the one that contacts you?

14 A Yes.

15 Q And then you are interviewed by the detective on  
16 June 4th, 2008?

17 A Yes.

18 MR. BASHOR: Court's indulgence.

19 (Pause in the proceedings)

20 MR. BASHOR: Thank you, Your Honor, I pass the  
21 witness.

22 THE COURT: Redirect.

23 MR. KOCHEVAR: Thank you, Judge.

24 REDIRECT EXAMINATION

25 BY MR. KOCHEVAR:

1           Q     Heather, you were shown that statement -- or that  
2 testimony that you made at the preliminary hearing where you  
3 said, "I didn't really know what was going on, I was very  
4 confused."

5           A     Yes.

6           Q     Can you explain that for us?

7           A     By being confused, not a confused state of mind,  
8 confused as something like this happened. I don't know what  
9 to do about it, more along those lines.

10          Q     Okay. You testified there were some questions about  
11 when you got to the hospital, you were given some medication,  
12 that the reports indicate that you were drowsy. At the time  
13 when you were transported from the emergency department to the  
14 floor to be admitted --

15          A     Yes.

16          Q     -- what was your state of mind at that point? Were  
17 you still drowsy?

18          A     I was --

19          Q     Were you still --

20          A     No, I was alert.

21          Q     Okay. And how long had you been in the emergency  
22 department waiting to be transported to your room?

23          A     I would say at least almost a full day.

24          Q     Okay.

25          A     I didn't get transported until later that evening.

1 Q Was that part of the frustrations that you were  
2 talking about before?

3 A Yes.

4 Q You were frustrated about having to wait in the  
5 emergency room for so long?

6 A Yes.

7 Q Okay. This -- I'd asked you some questions about it  
8 and then Mr. Bashor asked you some questions about it. The  
9 time that you took between the conversation that you had with  
10 Tim and then your decision to report it to the police, how  
11 long of a time period are we talking about? Are we talking  
12 about days, weeks, months?

13 A I'm talking about days.

14 Q Okay. A couple days?

15 A I don't recall.

16 Q Okay. And again, what was your thoughts during that  
17 time period?

18 A My thoughts were, am I ready to go through this? I  
19 knew it wasn't going to be something small. If something else  
20 happened to somebody else, I wanted to be supportive. It was  
21 scary, but I finally decided to do it.

22 Q Okay. And just to be clear, you testified  
23 previously you gave the detective a recorded statement where  
24 you described all these things?

25 A Yes.

1 Q You testified previously at a previous hearing about  
2 -- in this case about the things that happened to you?

3 A Yes.

4 Q And now you're here today testifying. So on at  
5 least three separate occasions, you've given this story; is  
6 that correct?

7 A Correct.

8 MR. KOCHVAR: I have nothing further, Judge.

9 THE COURT: Recross.

10 MR. BASHOR: Very briefly, Judge.

11 RECROSS EXAMINATION

12 BY MR. BASHOR:

13 Q I promise we're almost done, Ms. Shank.

14 A That's okay.

15 Q You were -- you had described your state of mind in  
16 the elevator as alert; is that correct?

17 A Correct.

18 Q Would you characterize your mind set as being of  
19 clear thought?

20 A Yes.

21 Q So it's not like some sort of medication had  
22 prevented you from saying something to that nurse in that  
23 room, correct?

24 A Correct.

25 MR. BASHOR: Thank you. Nothing further.

1 MR. KOCHEVAR: Nothing further.

2 THE COURT: May this witness be excused?

3 MR. KOCHEVAR: Yes, Judge.

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

5 THE WITNESS: Thank you.

6 THE COURT: You may call your next witness.

7 MS. BLUTH: Thank you, Your Honor. State calls Tim  
8 Lehan.

9 TIMOTHY LEHAN, STATE'S WITNESS, SWORN.

10 THE CLERK: You may be seated. And would please  
11 state your name and spell it for the record?

12 THE WITNESS: Timothy, T-i-m-o-t-h-y, Lehan,  
13 L-e-h-a-n.

14 THE COURT: Thank you. You may proceed.

15 MS. BLUTH: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. BLUTH:

18 Q Mr. Lehan, are you married?

19 A Yes, ma'am.

20 Q And what is the name of your wife?

21 A Heather Shank.

22 Q Is that the individual who just left the courtroom?

23 A That's correct.

24 Q And how long have the two of you been married?

25 A Just over a year, year and a half maybe.

1 Q And when did you meet Heather?

2 A I met her in roughly '07 of 2008.

3 Q And how did you meet her?

4 A I work with her.

5 Q Where do the two of you work?

6 A Steinberg Diagnostic Medical Imaging.

7 Q And what is your current position at Steinberg  
8 Diagnostics?

9 A I'm a manager of interventional radiology.

10 Q And what does that mean to us lay people?

11 A I'm in charge of all surgical procedures that we do  
12 in our facility, minor to major. We do biopsies, we do  
13 chemoports for chemo patients. We do everything from wrist  
14 arthrograms just to see if your wrist is damaged. So anything  
15 that's invasive, we handle.

16 Q Okay. And you actually do those procedures  
17 yourself?

18 A Currently, yes.

19 Q Okay. And what type of medical background,  
20 education and training do you have in order to do those  
21 things?

22 A I have a four-year undergraduate degree from  
23 college, it was Concordia in radiology. I also have an extra  
24 year internship at Penn State, Geisinger Campus for  
25 interventional radiology, I did a year there learning that

1 part of the field.

2 Q And before this current position that you hold right  
3 now, and let me ask you, how long have you had this current  
4 position?

5 A It's going on three years in March.

6 Q Before you had that position, were you still working  
7 at Steinberg Diagnostics?

8 A No. I was working for Nevada Cancer Centers. I was  
9 in charge of nuclear medicine.

10 Q And what is that?

11 A Basically, we put radioactive isotopes in people's  
12 bodies looking for cancer, anything that we can find that  
13 other -- other modalities in radiology you can't find.

14 Q Okay. So how long have you been working in the  
15 medical field total?

16 A This year it will be 17 years.

17 Q And so in those 17 years, you -- I would think that  
18 you worked a lot with both male and female patients; is that  
19 fair to say?

20 A Correct. Correct.

21 Q Okay. I would now like to turn your attention to  
22 the spring of 2008.

23 A Okay.

24 Q During that time period, did Heather start having  
25 some health issues?

1 A Yes. She started having seizures.

2 Q And the -- had she had any seizures before that that  
3 you are aware of?

4 A Before we met?

5 Q Correct.

6 A No, not -- no, not at all. Not that I know of.

7 Q So were you present when she had her first seizure?

8 A I was.

9 Q And was that in early spring 2008?

10 A Yeah, maybe closer to February, but it was during  
11 that time frame.

12 Q All right. And walk me through the first seizure.

13 A Basically, we were sitting on the couch. I decided  
14 I wanted to go to bed, so I went to bed first. She fell  
15 probably right behind me to bed. I remember her in the  
16 bathroom getting ready. She came in the bed, she always  
17 turned the TV on, that's what she does, so she turned the TV  
18 on. I was kind of going to sleep and she shook me and she was  
19 -- she sat herself up very quickly, like almost Indian-style  
20 in the bed and started grasping for air and she told me  
21 something didn't feel right, something was going to happen.  
22 And within, I don't know, 15, 20 seconds, she was seizing on  
23 the bed.

24 Q What did you do when you saw that happening to  
25 Heather?



1           A     I tried to get her to the floor, but our bed was too  
2 high. So eventually, she was seizing so bad that she was  
3 falling off the bed anyway, so I just kind of pushed her a  
4 little bit, you know, slide her down off the side and got to  
5 the floor. I just put her on her right side in case she  
6 vomited or something so she wouldn't aspirate or put it into  
7 her lungs. I put her on her right side and she -- the seizure  
8 itself didn't last too long, but she was very incoherent by  
9 the time the paramedics came.

10          Q     Okay. And so you did -- you called for help?

11          A     Yes, correct.

12          Q     And the paramedics came?

13          A     Correct.

14          Q     And they transport her -- transported her to where?

15          A     I don't recall. I want to say it was Centennial  
16 because of where we live, but I do not recall that first one.

17          Q     Okay. And during that stay, do you remember whether  
18 or not Heather was hooked up to EKG machines and the sort?

19          A     Yeah, of course.

20          Q     And were you present during parts of her stay in  
21 that hospital?

22          A     Correct, I was.

23          Q     Now shortly thereafter, I'd like to turn your  
24 attention to May 15th of 2008.

25          A     Okay.

1 Q Did Heather have a seizure on that day?

2 A She did, yes, correct.

3 Q Okay. Can you walk me through that seizure?

4 A Sure. It was very similar, although she -- she was  
5 on the couch, we were watching TV. And again, I decided I was  
6 ready for bed. She always slept -- I mean, she always stayed  
7 up later than I always have. Didn't think anything of it, she  
8 was watching the show.

9 She got up from the chair and she started walking,  
10 she was fine. And she told me, she goes, I think it's  
11 happening again, Tim, and I didn't know what she was talking  
12 about because, you know, it only -- the seizure only happened  
13 once before. I said, "What are you talking about?" She goes,  
14 "I don't feel right." And at that point, she kind of fell to  
15 her knees, I kind of grasped her. I didn't have my cell phone  
16 on my hands at that time, but when she fell, I put her, again,  
17 onto the floor and she started seizing even worse this time  
18 than the first time. At some point, I didn't feel a pulse or  
19 respiration, so I began CPR.

20 Q Okay.

21 A I did CPR for approximately 30 seconds till I  
22 regained respiration again. She was not at all coherent, she  
23 was unconscious at that time. Her pulse rate was very low.  
24 So I was concerned, so I picked her up and carried her down  
25 two flights of stairs because I could hear the ambulance

1 coming. So I carried her out to the front door and our  
2 neighbors had come out at that point and asked if, you know,  
3 they could do anything for us as they were hooking her up to  
4 the EKG and blood pressure and all of that.

5 Q Okay. And so you're obviously present when  
6 paramedics arrive?

7 A Um-hum, I was.

8 Q And you see them -- you said the EKG, so I would  
9 imagine they put leads on her body?

10 A Um-hum. Um-hum.

11 Q And stickies. And for those of us who don't have a  
12 medical background --

13 A Sure.

14 Q -- can you explain kind of, you know, what the  
15 stickies are, what the leads are so we know?

16 A Sure. The stickies are basically, you can look at  
17 it as a conductor. If you know anything about electricity,  
18 you need something to conduct. The leads have a gel-like foam  
19 on the back of them and they're attached to a cable. And the  
20 gel-foam allows the signal from the heart to reach the gel and  
21 transmits a signal and that gets put onto a screen for them.

22 Q Okay. And so you were there when the paramedics  
23 placed the stickies and the leads on her body?

24 A Correct.

25 Q Now did you ride in the ambulance with Heather to

1 the hospital?

2 A No, ma'am. I figured she was going to have to stay  
3 in the hospital, so I grabbed her a bag, just a few things.  
4 And then I drove myself.

5 Q Okay. And which hospital did you --

6 A That was Centennial Hills.

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

8 A That's correct.

9 Q Okay. When you arrived at Centennial Hills, well,  
10 which department did they take Heather to?

11 A To the ER.

12 Q And did you stay with Heather throughout that night?

13 A When they allowed me to come back, I did. So  
14 probably about -- I don't recall the exact time, but it was  
15 definitely around midnight by the time they let me come back  
16 and sit with her.

17 Q Okay. And were you able to stay the night at the  
18 hospital?

19 A I sure did, yes.

20 Q When the morning came, did you stay at the hospital  
21 or did you go to work?

22 A I went to work that morning.

23 Q And after you worked, at some point did you go back  
24 to the hospital?

25 A Yes. Early afternoon, can't recall the exact time.

1 I want to say before 2:00, but it was early. Early afternoon,  
2 I got off. My last patient was 11:30 at that time, so that's  
3 my best guess, around 2:00.

4 Q Okay. So yeah. So the following afternoon,  
5 probably around 2:00 o'clock.

6 A Um-hum.

7 Q And I know it's been six years, so I'm not expecting  
8 you to be perfect.

9 A Okay.

10 Q But you know it was after work?

11 A It was, correct.

12 Q Now when you arrived, Heather's still in the  
13 emergency room?

14 A Yes. They moved her to a slightly different room,  
15 but it was more of a room so they could bring more emergent  
16 patients in. It was kind of a step-down because she was down  
17 the hallway a little bit from where I last saw her. But they  
18 were -- they took me to her right away.

19 Q All right. And when you arrived, was she being  
20 treated by someone you see here in the courtroom today?

21 A Yes.

22 Q Can you please point to that person and describe an  
23 article of clothing that he or she is wearing?

24 A Yes. It's the defendant in that gray suit topped  
25 with a striped blue tie.

1 MS. BLUTH: Okay. Your Honor, may the record  
2 reflect the witness has identified the defendant.

3 THE COURT: It will.

4 MS. BLUTH: Thank you.

5 BY MS. BLUTH:

6 Q Now does the defendant look the same today as he did  
7 on May 15th of 2008?

8 A Physical appearance-wise, yes. He looks a bit  
9 skinnier, but physical attributes, yes.

10 Q Okay. And when you say a bit skinnier, this is  
11 already in evidence as State's Proposed 9 and let me zoom in.  
12 This is -- I haven't used this one before, so it might take me  
13 a second. Now is this more accurately reflect his stature at  
14 that time?

15 A Correct.

16 Q Okay. It's a little bit fuller shall we say?

17 A Correct. Correct.

18 Q Okay.

19 MS. BLUTH: And I don't know if I said it, Your  
20 Honor, but State's 9 is already admitted.

21 THE COURT: Yes.

22 MS. BLUTH: Thank you.

23 BY MS. BLUTH:

24 Q Now did he introduce himself to you or greet you?

25 A He greeted me, yes.

1 Q Okay. And do you remember how he greeted you?

2 A I -- I don't recall exactly how he greeted me. I  
3 just know that he greeted and said he would be taking care of  
4 Heather.

5 Q Okay. And do you recall if he gave you a name?

6 A I recall him giving me a name, but when I spoke to  
7 my brother about it, trying to find out more about the case  
8 later on, I don't remember him giving me Steven because I had  
9 a hard time finding his name. So he did give me a different  
10 name than Steven, but I don't recall what he gave me.

11 Q And have you testified previously, before in another  
12 courtroom?

13 A Yes.

14 Q And do you remember what name you believe he gave  
15 you?

16 A I want to say David, but I don't recall entirely.

17 Q Okay. Did he reference his beard in any way?

18 A Yes. He just referenced that, you know, he's a very  
19 jovial kind of guy and that most people think he's Santa  
20 Claus.

21 Q Did you find him to be attentive to Heather while he  
22 was treating her?

23 A Absolutely.

24 Q And can you explain to the jury why you felt that  
25 way?

1           A     Prior to meeting Mr. Farmer at that time, Heather  
2 had a very rough stay. We -- she wasn't fed, very  
3 inattention, no pillow, no blanket. So when I arrived, he had  
4 taken care of those things or at least had addressed some of  
5 them.

6                     And when I got there, when he first met me, he said,  
7 is there anything, you know, I can do for you, talking to  
8 Heather. She said, I didn't have a pillow, so he got her a  
9 pillow. It was much more than received the night before. And  
10 he ask if there was anything he could get for me and I said,  
11 well, you know, I'm just going to walk down to the gift shop  
12 and get a cup of coffee, and he said, don't worry about it,  
13 I'll get you some. When he came back he told me it would be a  
14 few minutes because it was empty and he would make me a fresh  
15 pot.

16           Q     Okay. Did you find him to be kind of always in the  
17 area?

18           A     Yeah. I always saw him walking past the room,  
19 always just looking in. I took that as attentiveness as  
20 opposed to anything else. But, I mean, at least -- I can  
21 remember four incidences where he was definitely in the room  
22 where it almost became awkward because I was trying to console  
23 Heather. So -- but again, I took it as attentiveness. Maybe  
24 he felt something I didn't, so I just took it as that.

25           Q     Okay. During this time period, after you arrived,



1 did Heather at any point need to go to the restroom?

2 A Yeah. She asked me if I could take her to the  
3 restroom and I said, sure, no problem. So we got up, she had  
4 IV pole, so I pushed the IV pole and she kind of held onto it  
5 and we went down the hallway. Out of that room, you make a  
6 left and the bathroom's on the left-hand side. And kind of in  
7 the hallway between that was where, like, the nurses have  
8 their ice and coffee maker and a little station right there.

9 Q Okay.

10 A We walked past that and I take her to the bathroom  
11 and she needs some help getting in and out, so I helped with  
12 that.

13 Q All right. And now -- so you help Heather in the  
14 bathroom.

15 A Correct.

16 Q After she's done in the bathroom and --

17 A Correct.

18 Q -- you're walking back, can you see the defendant?

19 A Not initially when I brought Heather out, but  
20 because of the way it was situated. But when I looked and I  
21 went to the left, I did see him kind of in that T area.

22 Q Okay. And what was he doing?

23 A Just looking, nothing --

24 Q Looking at you or looking somewhere else?

25 A No, looking directly at us, yes.

1 Q Okay. And as you start to walk back to the room,  
2 does he approach you?

3 A Yeah. He asked me if we needed any help with  
4 anything and I -- I just said, no, I think we're good.

5 Q And after you told him no, did he still insist on  
6 following you?

7 A Yeah. He came in and he said, well, you know, let  
8 me at least walk you into the room and he walked into the  
9 room. And that's when he let me know that the cable -- EKG  
10 cable was tangled up. Or loose, kind of in shambles. So he  
11 just said, you know, let me help you with that. So I went  
12 down and sat down.

13 Q Okay. So when you walk into the room -- I want to  
14 make sure I get this straight. When you walk into the room,  
15 the defendant mentions that there's something wrong with the  
16 EKG cables?

17 A Correct.

18 Q And so he says he's going to take care of it and you  
19 sit down?

20 A Yeah. He goes to the right side of the bed. They  
21 had a chair sitting next to me -- probably from me to the jury  
22 where the bed was.

23 Q Okay. And so does he assist Heather into the bed?

24 A Correct.

25 Q And you sit down?

1 A Correct.

2 Q When you sit down and look up, what do you see?

3 A I see both of Heather's breasts exposed.

4 Q Okay. And what -- what's going through your mind  
5 when you see that?

6 A I just didn't believe it. I just -- I go -- I  
7 didn't know what was going on to be honest with you. He was  
8 fidgeting with something on the left side of her. I didn't  
9 really know exactly what he was doing, so I stood up. I could  
10 see his hands in the area of her breasts but not exactly  
11 touching, but in that area. But when I stood up, I did see  
12 one underneath the left breast.

13 Q Okay. When -- I want to back up. So when -- when  
14 you have the conversation, was the conversation about her  
15 wires and the blanket?

16 A Yes.

17 Q Or what was the conversation about?

18 A Correct. I'm sorry, I should -- yeah. It was  
19 definitely -- it was tangled within the blanket. She walked  
20 from her room to the bathroom with the blanket over her  
21 shoulders. I don't know if it was the blanket he had --  
22 already been placed on the bed or he had with him that he was  
23 tangled up in, but when I got over to the bed, there was  
24 nothing tangled up in a blanket.

25 Q Okay. So the blanket that he had discussed, did he

1 ever touch that blanket?

2 A I don't recall.

3 Q So did it look to you like the blanket was an issue?

4 A No. No, ma'am.

5 Q When you say you looked up and you saw both of  
6 Heather's breasts --

7 A Um-hum.

8 Q -- could you see how far down the gown was open?  
9 Either where you were or when you stood up?

10 A Waistline.

11 Q Waistline?

12 A Um-hum.

13 Q When you -- now why did you stand up? Why did you  
14 choose to stand up?

15 A I don't know why exactly I chose to stand up. I  
16 just knew it wasn't right and I wanted to cover her up.

17 Q Okay. So when you stood up and, you know, you got  
18 close enough to see, walk me through what you saw.

19 A When I first stood up, I couldn't really tell much.  
20 But as I got closer to the bed, I had realized that he had  
21 taken off one of the leads by her left breast, underneath.  
22 And I just didn't understand why because at the time, the  
23 monitor was working. So every time that we -- you know, when  
24 I was present there, the EKG monitor was working. So if one  
25 of those leads wasn't working, then it would ring an alarm and

1 a nurse should have come in and said, you know, wait a minute,  
2 what's going on. So I didn't --

3 Q But that didn't happen?

4 A Nothing happened. He -- he was removing a lead,  
5 placing it back and right underneath her -- the crease of her  
6 right breast.

7 Q Okay.

8 A And, you know -- left breast, I'm sorry.

9 Q That's okay. Now when you said what he was doing  
10 didn't make any sense to you, if you're treating a patient and  
11 I imagine wires get crossed up?

12 A Yeah, all the time.

13 Q I imagine that happens --

14 A All the time.

15 Q -- in a hospital setting. When that happens, what  
16 do you do?

17 A What I was trained to do and taught by people, one,  
18 if you're going to mess with leads on a female, always have a  
19 witness because it's just what you do. Secondly, if you can  
20 cover the patient up, by all means, cover the patient up, do  
21 not have anything exposed. It's just out of courtesy to the  
22 patient, too, as well. When the leads are tangled up, if  
23 they're not -- the way it works is there's a box with a bunch  
24 of wires that clip into the box. So it would be very hard for  
25 the wires that clip into the box to tangle because they're

1 already hooked up to something. So they're leading off of the  
2 actual leads.

3 If one of the leads fell off -- two of them fell off  
4 and got tangled in each other, I could understand that, but  
5 all of them were present at the time. When I worked at Valley  
6 Hospital, I would just disconnect the box, pull the leads  
7 through the arm or wherever -- wherever it was caught at and  
8 then reconnect. I would never touch them because there was no  
9 reason to.

10 Q Okay. So instead of touching the patient,  
11 especially a female patient --

12 A Correct.

13 Q -- in the breast area --

14 A Correct.

15 Q -- you prefer to disconnect the wire from the box --

16 A Correct.

17 Q -- untangle and then put it back in?

18 A Yes.

19 Q Okay. So when you looked up and saw what was going  
20 on, you felt like that was an improper way --

21 A Correct.

22 Q -- to do that?

23 A Correct.

24 Q Did you say anything to him?

25 A I just asked him what he was doing and he -- I don't

1 recall the exact conversation back to me, but it was along the  
2 lines of this is what we -- this is how we do this here.

3 Q Okay.

4 A And I just said, "Well, it's not." And he just  
5 walked away, I'm the one who ended up connecting the box and  
6 covering her back up.

7 Q Okay. When he said "this is how we do it here," was  
8 he still kind of insisting on working on her?

9 A Yes. Yes, yes, ma'am.

10 Q Even though he was insistent, did you become more  
11 aggressive?

12 A I became more persistent.

13 Q And how so?

14 A I just grabbed the blanket, covered her up and took  
15 the box.

16 Q Okay. Did you -- did you move the leads around or  
17 -- or work with the wires at all?

18 A No, no. He had already -- he had already connected  
19 the lead back to the halter monitor and clipped it back to  
20 that lead by the time I got there.

21 Q Okay. Did you have a conversation with him in  
22 regards to like this isn't -- this is not how you do it?

23 A I just -- I just said, "Why didn't you cover her  
24 up," you know, because I was very -- I was very upset that she  
25 wasn't covered up. I just didn't feel it was appropriate. So

1 that -- if I said anything, it was along those lines.

2 Q And after you stood up and you voiced these concerns  
3 to him, did he leave?

4 A Yes, very quickly.

5 Q Did you ever see him again after that?

6 A No, ma'am.

7 Q So, you know, after he leaves and you kind of sit  
8 down and have the opportunity to think about, you know, just  
9 what you witnessed, what's -- what's going through your mind  
10 at that point?

11 A I just was kind of just dumbfounded. I didn't -- I  
12 didn't really understand why he did what he did. I had also  
13 been on lack of sleep. I mean, I -- you know. So I was just  
14 kind of worried about Heather. I wanted to make sure she was  
15 good. I was a little bit sitting there.

16 And then I started thinking about it. Hey, you  
17 know, this doesn't seem right. I just never, you know, really  
18 thought anybody would do that in that setting, especially with  
19 me sitting there. But again, I was more concerned about  
20 Heather. She was having, still, blood pressure problems. I  
21 didn't want to leave the room just in case because now I  
22 hadn't seen anybody walk in the room and we were very far down  
23 the ER. It made me worry that if something did happen to her,  
24 I was going to be the one to initiate something because I  
25 hadn't seen a nurse after that, forever after that.



1 Q Okay. When you did see a nurse or, you know, the  
2 next medical personnel, did you tell them what you observed?

3 A No, ma'am, I did not.

4 Q And why not?

5 A Again, I don't know why I didn't at that time. All  
6 I can tell you is that I was very, very concerned and I -- it  
7 didn't dawn on me. Maybe I didn't think about it. It wasn't  
8 until a few days later when I started replaying back in my  
9 head and talking to Heather, after she came to me about what  
10 happened to her, that I realized that, okay, yeah, something's  
11 not right here.

12 Q Okay. And you touched upon it a little bit earlier  
13 in regards to, you know, when you work with female patients  
14 and you said, number one, you prefer to always have another  
15 individual in the room?

16 A Absolutely.

17 Q And then you also prefer to keep them covered?

18 A Correct.

19 Q So when you're doing, you know, diagnostics or any  
20 type of X-rays or -- do you -- what is the method you use to  
21 make sure those things are done?

22 A Well, if I have to move anything on a female in the  
23 breast area, I never touch them, I use the gown to force over  
24 the breast if I have to do that. I occasionally do that in my  
25 job as of, you know, today, yesterday, the day before. I

1 mean, we're always having to get around those issues.

2 More importantly, for instance, we do angiograms  
3 which we go into the groin with a needle and do diagnostic  
4 studies. With a female, I always have a female nurse with me  
5 and they cover the patient's genitalia. I don't ever cover  
6 them.

7 Q When you do those things, do you walk the patient  
8 through what you're doing?

9 A Yes.

10 Q Do you try to discuss --

11 A Yes.

12 Q -- so they feel comfortable?

13 A Um-hum, absolutely. Before the procedure,  
14 pre-procedural interview, right before they're on the table  
15 before we give the sedative, and then, you know, post-  
16 procedure just to make that they're okay.

17 Q Okay. So you said it was a few days later when  
18 Heather comes to you and discussed what happened to her?

19 A Correct.

20 Q And I don't want to get into exactly what Heather  
21 said because that's hearsay, but where are you when she  
22 discussed this with you?

23 A We're driving now down the 95, I'm dropping her off  
24 at work because she can't drive at that time.

25 Q Because of the seizures?

1           A     Yes. They took her license.

2           Q     Okay. And so you're driving to work and she tells  
3 you what happens.

4           A     Um-hum. Yes.

5           Q     And then what are you thinking when she tells you  
6 that?

7           A     That it's pretty much the exact type of scenario  
8 with the leads and the EKG. And the story that she gave me,  
9 it was pretty much what I saw. So she gave the story of what  
10 -- in words, but to what I saw. And it was the same  
11 fascination with these EKG leads.

12          Q     And so after you get done speaking to Heather about  
13 it, what do you do?

14          A     I call my brother in Pennsylvania. Her -- she had  
15 told me her grandmother told her that it was on the news and  
16 they were looking for victims. So I knew I could pick him --  
17 his picture out so I asked him to pull that up on the website  
18 to see if it was him.

19          Q     Okay.

20          A     And I -- go ahead.

21          Q     I'm sorry, I interrupted you. So you're -- you're  
22 talking to your brother who is in Pennsylvania?

23          A     Correct.

24          Q     And so he's -- I don't know if you want to say  
25 Googled the article.

1 A Correct.

2 Q And then you explain to your brother the person?

3 A Yes. I told him, first, give me his name. And  
4 that's when it was confusing because that's something that I  
5 got. But then I said, I can describe him to you to a tee and  
6 let me know if that's what you see. And he said, Yes. And I  
7 said, Well, what's the bottom of the article say? And he  
8 said, Well, to call Metro. And I said, Okay, thanks.

9 Q Okay. So did he read you the article or --

10 A He read me the first few sentences, I didn't need to  
11 hear anymore, I knew exactly who it was.

12 Q Okay. But he read you the name Steven Farmer?

13 A Correct, he did.

14 Q But you knew that was not the name that --

15 A I was having a hard time. I asked my brother, are  
16 you sure that's the name on the TV? And he said, yes, that's  
17 the only name on there. So I do vividly remember that because  
18 I was confused why this -- this had to be the guy.

19 Q But you knew that wasn't the name he gave you.

20 A Correct. That's why we were having a hard time with  
21 that.

22 Q Okay. So then do you and Heather decide to call the  
23 police?

24 A I called her at work. I had a less stringent  
25 department where I could get away from work, she did not. I

1 just asked if she wanted me to call Metro and she said, yes.  
2 So, I did. The detective told me that he couldn't do anything  
3 without her calling. So I called her back and said, you know,  
4 you have to call. So she made that call.

5 Q Okay. And was --

6 A And we went down.

7 Q I'm sorry.

8 A Then we went down to -- I don't know what day we  
9 went down, but we went down shortly after that.

10 Q Okay. So when you called Heather back and say, you  
11 know, they want you to call, was that all done on the same  
12 day?

13 A Oh, it was all done in the same half hour.

14 Q Okay. And so then at another point, you go down and  
15 you speak with the detective?

16 A She does initially, correct.

17 Q Okay. And then did you also meet with the  
18 detective?

19 A Correct.

20 Q And was that, then, then same day as well? I'm not  
21 saying the same day as the conversation --

22 A It was the same day.

23 Q -- but it was the same day as Heather?

24 A It was the same day.

25 Q Okay.

1 A Yeah.

2 Q And the two of you, were you interviewed separately?

3 A Correct.

4 Q So you weren't in the room when Heather was  
5 speaking?

6 A No, no, ma'am.

7 Q Now during that interview, did you tell the  
8 defendant what you -- excuse me, did you tell the detective  
9 what you witnessed the defendant do to Heather?

10 A I did.

11 Q And did the detective show you a group of six  
12 pictures to see if you could identify the individual you saw  
13 do these things?

14 A Yes.

15 MS. BLUTH: Okay. Your Honor, may I approach the  
16 witness?

17 THE COURT: You may.

18 BY MS. BLUTH:

19 Q I'm showing you -- showing you what's been marked  
20 for purposes of identification -- actually, I think this is in  
21 evidence now by Mr. Kochevar. This is State's 16. Do you  
22 recognize that, what we call a six-pack?

23 A Um-hum.

24 Q Okay. Is that a yes?

25 A Yes. I'm sorry, yes.

1 Q That's okay, it's hard to get used to. And is this  
2 the six-pack that the detective showed you on June 4th?

3 A Yes, ma'am.

4 Q Okay. And do you recognize your initials?

5 A Yes, ma'am.

6 Q And the date as well?

7 A Yes, ma'am.

8 Q Okay. And what number are your initials and the  
9 date on?

10 A Three.

11 Q And is that the individual you told the detective  
12 did these things to Heather?

13 A Yes. Yes, ma'am.

14 Q And then were you also given a piece of paper that  
15 explains to you the process of, you know, doing these types of  
16 identifications?

17 A Yes, ma'am.

18 Q And then did you mark which individual you said did  
19 these things?

20 A Yes. In my statement I did.

21 Q And that's State's Proposed 15. Is that your  
22 signature?

23 A Yes, ma'am.

24 Q And what did you state was your certainty?

25 A Number three is the man in question, 100 percent

1 sure.

2 Q Okay. And is this a fair and accurate copy of the  
3 statement that you filled out that day?

4 A Yes, ma'am.

5 MS. BLUTH: Okay. Your Honor, I'd move to admit  
6 State's evidence -- into evidence State's Proposed 15.

7 THE COURT: Any objection?

8 MR. BASHOR: No, Your Honor.

9 THE COURT: May I see Exhibit 16, please?

10 MS. BLUTH: Yes.

11 (Pause in the proceedings)

12 THE COURT: All right. Counsel approach for a  
13 minute.

14 (Bench conference begins)

15 THE COURT: When I wrote it down befor the other  
16 six-pack, is 16, as well, but that's -- so did you change the  
17 numbers?

18 MR. BASHOR: Ryan Bashor, Your Honor. There's -- I  
19 don't think the State has the other six-pack with them, so  
20 they just used the same six-pack twice which I don't have an  
21 objection to because this is not an identification case.

22 THE COURT: (Inaudible).

23 MS. BLUTH: Jacqueline Bluth. And, Judge, I just  
24 wanted to get up here because I -- I know an objection's  
25 coming in regards to some of the follow up questions I'll



1 have. In regards to shortly after this happened, Heather --  
2 sorry, I'm so scared they're going to hear. Shortly after  
3 this happened, Heather started drinking alcohol to an extent  
4 that Tim felt was unnecessary. And they sat down and, you  
5 know, worked through it and that's where Mr. Kochevar was  
6 going with Heather.

7 But one thing we have to prove is the credibility of  
8 these witnesses and that these things happened to them. And  
9 so it's not being offered to show, you know, feel bad for  
10 them, this is what happened to them. But they were affected  
11 by it, this really happened. She turned to alcohol and she's  
12 -- she's fine now. She's not -- I'm not going to act like  
13 she's, you know, needs to go to the hospital. But that's  
14 something that they had to deal with, as well as several of  
15 the other victims. And so it definitely goes to the  
16 credibility of these things happening to them. I mean,  
17 victims have things happen to them and they, you know, deal  
18 with them in different ways. But I don't think --

19 THE COURT: I understand that, but credibility  
20 (inaudible), that's character, right? He couldn't talk about  
21 this before. And so I can't put on evidence of her good  
22 character (inaudible) like basically rehabilitate her  
23 (inaudible).

24 MS. BLUTH: Sorry, she's talking to us, Judge.

25 THE COURT: Oh, all right. I think we should take a

1 break.

2 MS. BLUTH: That's fine, yeah. That's better so  
3 we're not doing this.

4 (Bench conference ends)

5 THE COURT: All right. Ladies and gentlemen, we're  
6 going to take a short recess, like 10 minutes. This is  
7 probably a good time to do it anyway, it's almost 2:30. And  
8 of course during this recess, it is your duty not to converse  
9 among yourselves or with anyone else on any subject connected  
10 with the trial, or to read, watch or listen to any report of  
11 or commentary on the trial by any person connected with the  
12 trial or by any medium of information including, without  
13 limitation, newspaper, television, radio or internet. And you  
14 are not to form or express any opinion on any subject  
15 connected with this case until it is finally submitted to you.  
16 We'll be in recess 10 minutes.

17 (Outside the presence of the jury)

18 MS. BLUTH: Your Honor, should Mr. Lehan step down  
19 as well?

20 THE COURT: Yes.

21 MR. ELLIOTT: Okay, thank you.

22 THE COURT: Thank you. And you'll remain under oath  
23 and --

24 THE WITNESS: Okay.

25 THE COURT: -- we'll call you when we're ready.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you.

3 MR. BASHOR: And, Your Honor, has he been instructed  
4 to not speak to Ms. Shank during this recess?

5 THE COURT: Yes. Please don't discuss your  
6 testimony with any other person.

7 THE WITNESS: Sure.

8 THE COURT: Thank you.

9 THE WITNESS: You got it.

10 THE COURT: All right. The record will reflect that  
11 we're outside the presence of the jury and the witness has  
12 also departed after being admonished

13 At the bench it was brought up that we're  
14 anticipating coming into some testimony about the witness's  
15 credibility or the -- okay. So it's anticipated there's going  
16 to be an objection. We discussed the issue of character  
17 evidence before, right? So, 50 -- NRS 50.085 says, and of  
18 course the only way you can get in evidence of truthfulness,  
19 credibility of a witness is opinion, right. Opinions as to  
20 the truthful character?

21 MS. BLUTH: Right.

22 THE COURT: So it says that, "Opinion evidence as to  
23 the character of a witness is admissible to attack or support  
24 the witness's credibility, but opinions are limited to  
25 truthfulness or untruthfulness and opinions of truthful

1 character are not admissible" -- or -- "are admissible only  
2 after introduction of evidence of untruthfulness or other  
3 evidence impugning the witness's character for truthfulness.

4           So what I'm anticipating is they're going to object  
5 to this line of questioning about her response afterwards, her  
6 -- as you've indicated --

7           MS. BLUTH: The defense is objecting, yes.

8           THE COURT: Right. As to her use of alcohol  
9 inappropriately after this incident. And your argument is  
10 that it goes to her credibility.

11           MS. BLUTH: Well, I'm definitely not trying to get  
12 into any -- any character evidence and I'm not asking him his  
13 opinion on that matter. I don't think this has anything to do  
14 with character.

15           THE COURT: Okay. But how is it relevant then if  
16 it's not.

17           MS. BLUTH: Sure. Any --

18           THE COURT: I thought it was credibility of the  
19 witness.

20           MS. BLUTH: Right. But credibility can -- can be  
21 all -- all sort of things can be offered for the credibility  
22 of a victim, but to disallow a victim from saying, you know,  
23 how this has -- how a crime has affected -- has affected them,  
24 I'm not sure I understand. You know, we have to prove that  
25 these things happened and how they dealt with them. And like

1 Ms. Shank said, when she went to the hospital, she had to be  
2 physically put in restraints because she got three nurses,  
3 three male nurses. Well, shortly after this incident, she  
4 turns to alcohol to deal with these types of anxiety, much  
5 like Roxanne Cagnina turned to pills because she didn't want  
6 to deal with this anymore.

7 Showing how a crime impacts a victim can go to their  
8 story, can go to the credibility of what they're saying  
9 happened. Someone who calls Rape Crisis Center multiple times  
10 day in and day out is another way to show how a crime impacted  
11 them, how a crime really happened.

12 So it would be one thing if I was using it in order  
13 to be, like, feel badly for them. That's not why it's being  
14 offered. It's being offered, this happened to them,  
15 especially when the defense has brought in they never told  
16 anybody, they never cared. They just went on their life. No,  
17 they didn't go on with their lives. They chose to cope with  
18 it in different ways that some might find inappropriate. But  
19 they still tried to cope with it in different ways.

20 THE COURT: Okay. Defense.

21 MR. BASHOR: Your Honor, I don't think victim impact  
22 statements are appropriate on a witness stand in front of a  
23 jury. I mean -- I mean, for the future, if this is the ways  
24 go, I'll be cross-examining robbery victims, say, hey, you  
25 didn't go to therapy did you? I would never be allowed to

1 attack their credibility in that regard.

2 Even the instruction about credibility that Your  
3 Honor's eventually going to give to this jury doesn't discuss  
4 things like how months later they've turned -- you can  
5 consider what they've done months after the incident as to  
6 whether or not -- what they saw and what had happened on the  
7 day in question is credible or not. I think credibility's  
8 limited to exactly what the -- that particular instruction  
9 describes. Demeanor, the ability to recollect, the  
10 consistency, things that we talked about in voir dire, Your  
11 Honor.

12 I think it's extremely prejudicial. I also would  
13 question the cause, you know, that -- for instance, and this  
14 is a particularly good example. Ms. Shank's medical records  
15 indicate themselves, alcohol intake, alcohol intoxication.  
16 These are words used in her medical records from that day. So  
17 I think it's kind of a leap to then say, well, now she's an  
18 alcoholic.

19 It's extremely prejudicial, it's not relevant.  
20 Credibility should be limited to exactly what that instruction  
21 talks about. If it were bias or something like that, that's  
22 different; motive, different. But, Your Honor, this is, I  
23 would submit, inappropriate.

24 THE COURT: All right. So essentially, this -- it  
25 seems to me that this testimony is not relevant at this point

1 in time. In other words, how it affected her afterwards is  
2 not necessarily relevant when you're -- you're arguing it's  
3 relevant because it proves her credibility as a witness. So  
4 credibility or a character trait that she is being truthful,  
5 is that what you're arguing?

6 MS. BLUTH: No, I'm not. Well, I'm not --

7 THE COURT: No.

8 MS. BLUTH: Well, I'm not --

9 THE COURT: Okay.

10 MS. BLUTH: I'm sorry, I think that credibility and  
11 character evidence are completely different.

12 THE COURT: All right. So I guess I'm not seeing  
13 how --

14 MS. BLUTH: For -- may I ask --

15 THE COURT: -- the fact that -- that this witness is  
16 going to testify that after this happened, she started  
17 drinking more than before.

18 MS. BLUTH: She couldn't deal with it, so she  
19 started drinking, yeah. And I'm not going to act like she was  
20 an alcoholic for five years. No, they sat down, they had a  
21 talk. They got her on a schedule to knock it off and then she  
22 didn't do it anymore.

23 But when I have the burden to prove these things  
24 happened to someone and she's coping with what happened to her  
25 with a certain, you know, method, I don't understand why the

1 State wouldn't be able -- it's like saying to a victim of  
2 sexual assault, did you -- did you seek therapy after that.  
3 And then you go how -- how often did you go, are you still  
4 going. Just because it's not a doctor and it's alcohol  
5 doesn't make it any less relevant. It's incredibly relevant  
6 to a victim who has been, you know, assaulted or open and  
7 gross lewdness, indecent exposure.

8 MR. MANINGO: And, Your Honor --

9 THE COURT: All right. Yes.

10 MR. MANINGO: And the State takes a big leap here  
11 also and -- and makes really an unqualified opinion onto why  
12 Ms. Shank starts drinking after this event. I mean, if this  
13 is the case, if they get to go into that, then does that mean  
14 we get to now investigate and say, well, look, isn't it  
15 possible that the reason for her drinking is because you  
16 cheated on her, Mr. Lehan?

17 THE COURT: Well, yeah, if --

18 MR. MANINGO: Or isn't it possible that the reason  
19 she's drinking is because she lost someone in her family? Or  
20 isn't it possible that because, let's say Ms. Cagnina, the  
21 reason that you were so upset about it that you went into porn  
22 movies.

23 THE COURT: Well, we're talking about this witness  
24 now.

25 MR. MANINGO: Right. Right. And what I'm saying



1 is --

2 THE COURT: Yes. If the State opens the door.

3 MS. BLUTH: Sure.

4 THE COURT: Now you can't just start accusing  
5 somebody of things that you have no good faith belief in.  
6 But, I mean, if you have some evidence or you have medical  
7 records for that matter that indicate she drank before, you  
8 could ask the witness isn't it true that he -- that she drank  
9 before this time. I mean -- so, yes --

10 MR. MANINGO: Well --

11 THE COURT: -- when you open the door on that, yes,  
12 you could cross-examine as to that.

13 MR. MANINGO: Right, Your Honor, but it's not fair  
14 for the State to just open that door because we don't know  
15 what the real reasons are why she's drinking more. We don't  
16 know how much she was drinking.

17 Ms. Bluth has talked about, well, she started  
18 drinking more than what was normal. Well, we don't know what  
19 was normal before. And the reason we don't know any of this  
20 and we have no information on this is because none of it is  
21 relevant. None of it affects whether or not what she's  
22 telling today on the stand is -- is truthful or not.

23 It has nothing -- the fact that she drank more wine  
24 a month afterwards and then she and her boyfriend had a talk  
25 and then she doesn't drink as much wine now, none of that

1 makes any difference as to whether or not she was able to  
2 perceive what happened on that day and recount it the way she  
3 did and whether that's truthful or not.

4 THE COURT: Well, it does -- I mean, you -- in  
5 opening statement, you certainly indicated that this is just a  
6 case about greed and -- you know, nobody told anybody anything  
7 and this is just all about greed. So you've told the jury  
8 that in opening statement. And so it's really incumbent upon  
9 the State to prove the case. They've got to prove that she  
10 doesn't have some other motive here. And if she can -- you  
11 know, if they've got some evidence to show that, in fact, she  
12 was affected by this afterwards, it goes to her credibility.  
13 I mean --

14 MR. MANINGO: What does drinking more wine weeks  
15 later have to do with anything regarding her motivation? It  
16 doesn't. It --

17 THE COURT: Well --

18 MR. MANINGO: It has nothing to do with it. I mean,  
19 it's still --

20 THE COURT: It may.

21 MR. MANINGO: -- the basic relevance argument.

22 THE COURT: It may, but I want to hear -- outside  
23 the presence of the jury --

24 MS. BLUTH: Okay.

25 THE COURT: -- what his testimony's going to be.

1 MS. BLUTH: Sure.

2 THE COURT: And then we'll see whether I think it's  
3 relevant or not. What's the problem here if it's outside the  
4 presence? I can make a --

5 MR. MANINGO: No, no, no. That's -- that's fine.

6 THE COURT: -- more informed decision.

7 MS. BLUTH: Okay.

8 THE COURT: All right. You need some time for your  
9 own break.

10 MS. BLUTH: Okay.

11 THE COURT: All right. So we'll be in recess.

12 (Court's in recess at 2:30 p.m. until 2:38 p.m.)

13 (Outside the presence of the jury)

14 THE COURT: Thank you. The record will reflect we  
15 are outside the presence of the jury. The defendant is  
16 present with his counsel, the Deputies District Attorney  
17 prosecuting the case, all officers of the court are present.  
18 The witness has resumed the witness stand and is still under  
19 oath.

20 MS. BLUTH: Thank you.

21 THE COURT: We're going to take some testimony  
22 outside the presence of the jury.

23 BY MS. BLUTH:

24 Q Tim, we're just going to talk about, you know, one  
25 specific topic while we're outside the presence of the jury.

1 A Okay.

2 Q After this incident happened with the defendant --

3 A Okay.

4 Q -- did Heather turn to alcohol shortly thereafter?

5 A Yes.

6 Q Okay. Can you explain to Her Honor how that  
7 happened?

8 A Basically, after this incident, she wasn't sleeping  
9 at night. So it started off by a nighttime, you know, a  
10 cocktail or something, and she thought that that would allow  
11 her to sleep. When that didn't work, she would wake up and  
12 have another one, but realized she had to go to work, so she  
13 was able to constrain herself in that sense, it was  
14 work-related. But unfortunately, it was just a 10:30 glass of  
15 wine to put me to sleep, but then it started at 8:00 o'clock,  
16 7:30, that kind of thing.

17 I tried to control it in-house, so to speak, you  
18 know, and it didn't really work. So she promised me she would  
19 stop, so we let it go for a little while. And then she -- I  
20 would find just random cans per se. And so I realized that  
21 she was not telling me anymore that, you know, she was  
22 drinking, she drinking still.

23 So at one point, I did catch her, and she just told  
24 me that she -- she could not -- every time she -- she tried to  
25 fall asleep, he would -- she would see his face, she would --

1 it was just very, almost like nightmares. But I don't know  
2 how to explain it, she just was very scared at that time. But  
3 when she drank, she claimed to me that all that went away and  
4 she could sleep and she could function and she did. I mean,  
5 honestly, she never fell down stairs, she never did anything.

6 So she was functioning and she was getting up for  
7 work. She -- matter of fact, that whole year, the only thing  
8 she missed was from going to the hospital those two times, if  
9 it was one or two. But that's the only days of work she  
10 missed. So she always went to work, she always showed on  
11 time, she was never tardy. But it was coming home, you know,  
12 it would start.

13 Probably three months after it, I sat down, I said,  
14 you know, there's no way we can move on in our relationship if  
15 this is going to be what's going to happen because this is not  
16 healthy for anybody. And we just promised each other that we  
17 would both work on it together, and we did. And eventually --  
18 it took -- it took a while. It's not like -- it wasn't  
19 overnight. But a year later, about a year and a half later, I  
20 could trust her again, there was no -- there was none of those  
21 issues. It was only going to the hospital or a doctor that  
22 was the problem.

23 And around those time frames, if she knew she had to  
24 go do something at a hospital or a doctor's office, I know she  
25 fell off the wagon, she would drink a little more, I could

1 tell because when someone's on it for so long and then goes  
2 off of it and then comes back on it for those instances, I  
3 could just tell. So, I mean, that's basically -- and now she  
4 -- you know, we both lead a healthy lifestyle. We eat very  
5 healthy, we -- all of that stuff is out of our system. And I  
6 even asked her today, I mean, she was very nervous, but she  
7 said it's different this time, so.

8 Q Had --

9 MS. BLUTH: I'm sorry, were you going to ask  
10 questions? Or can I --

11 THE COURT: No.

12 MS. BLUTH: Okay.

13 THE COURT: You can -- please.

14 BY MS. BLUTH:

15 Q Have you ever had any of those issues that you've  
16 just discussed pre- this instant with the defendant?

17 A Not, no. No, no, no. Not --

18 Q Did you -- I'm sorry.

19 A Nothing at all, to this extent at all.

20 Q Okay. Now, Heather testified before you, and she  
21 had stated that she had had a few drinks that night, the night  
22 of the seizure.

23 A Correct.

24 Q And you told people at the hospital or the  
25 paramedics that she had had a few drinks, correct?

1 A Correct.

2 Q Now is that fall-down-drunk drinks? You know, fall  
3 down?

4 A That would be up to those guys to decide. To me, I  
5 can only tell you what I witnessed and it was not a fall-down  
6 drunk thing.

7 Q Okay. Did you -- and I all ready asked this. You  
8 had no concerns about her alcohol intake --

9 A No.

10 Q -- or use before this incident happened?

11 A No, not at all.

12 Q But shortly thereafter you did?

13 A It was very bad.

14 MS. BLUTH: Okay. Nothing else.

15 THE COURT: All right. Well, I want to hear some --  
16 what the cross would be to see.

17 CROSS-EXAMINATION

18 BY MR. BASHOR:

19 Q Well, sir, you testified that shortly thereafter she  
20 began to drink, correct?

21 A Not began. I mean, we always drank socially, but  
22 she became more along the lines of a heavy drinker, yes.

23 Q And she had trouble sleeping, right?

24 A Correct, sir.

25 Q And you kind of described what was a progression,

1 correct? At first it was sneak an extra cocktail, right?

2 A Sure.

3 Q And then over time you started to notice that she'd  
4 wake up and have another, right?

5 A Correct.

6 Q And then it would get a little worse, correct?

7 A After we had a conversation, after she told me that  
8 she wasn't going to drink anymore, correct.

9 Q Right. And that conversation occurred three months  
10 after this incident?

11 A With -- I mean, do I recall an exact date, no. But  
12 it was after this incident. That --

13 Q Would -- does three months sound about right?  
14 That's what you testified once.

15 A Sure. Three months sound about right, sure.

16 Q And that's where you had to sit her down, correct?

17 A Yes. We sat down and talked about this.

18 Q And this whole process lasts about a year before  
19 she's able to kick it?

20 A A year and a half, I would say. I mean, it was  
21 2008. I mean, it wasn't much before -- a little before 2010  
22 because that's when we decided to get married and that's -- I  
23 wouldn't marry her until this was resolved.

24 Q Fair enough. Did you notice the increase in  
25 drinking before you spoke with the detectives in this case?



1           A     I don't recall. It was very shortly thereafter, so.  
2 Did she drink or increase? Maybe an extra two glasses of wine  
3 that she used to be, sure I can go that far. But other than  
4 that, I don't recall.

5           Q     When -- at what point after this incident did you --  
6 did it -- like an alarm go off in your head?

7           A     It was probably July 4th weekend.

8           Q     Okay.

9           MR. BASHOR: I would like to be heard, Your Honor,  
10 on --

11           THE COURT: All right, thank you. You may step down  
12 and out in the hall again.

13           THE WITNESS: Sure.

14           THE COURT: Just don't discuss your testimony.

15           THE WITNESS: I won't.

16                     (Witness exits courtroom)

17           MR. BASHOR: Your Honor had indicated in the prior  
18 argument that your concern with my opening statement discussed  
19 the fact that they didn't tell anybody and that sort of thing,  
20 but actually my opening statement did say that. But on June  
21 4, 2008, they're interviewed by detectives.

22                     What he just described is a year and a half process,  
23 a progression of drinking more and more alcohol, not sitting  
24 her down till three months later. I don't see the nexus  
25 between that and the three-week delay that I identified in my

1 opening statement, what took so long to come forward.

2 I would submit that beyond that, what we heard was  
3 -- we've really started the slippery slope here because he's  
4 testified on direct to nightmares, being scared, incidents in  
5 hospitals, coming to court. And say that these are all ripe  
6 in Your Honor's ruling, which we obviously will respect. So  
7 then if the next victim gets up there and I ask the question,  
8 you weren't scared to come here today, do I then have the  
9 opportunity to argue this inference in closing argument that,  
10 look, this person is not credible because they're perfectly  
11 comfortable in court.

12 I would submit that maybe, if something had  
13 absolutely, immediately had happened, say she was found in the  
14 bathroom with a needle in her arm, near death the week later  
15 before reporting, something different. But what this man has  
16 described was a year and a half, he had to actually sit her  
17 down three months later, it's a progression, the change in  
18 behavior. I don't think that there's a nexus between that. I  
19 don't think he's qualified to say that that is, in fact, the  
20 reason why she turned to alcohol. It could be just the  
21 insomnia. It could be a lot of things. And I would submit  
22 that the prejudice here would be extreme and that it's truly  
23 offered to have sympathy for these victims.

24 THE COURT: Yes.

25 MS. BLUTH: Your Honor, Mr. Bashor's opening over

1 and over and over again was, it's about the media, it's about  
2 the money and it's about making sense. And every time he'd  
3 click -- and who did they tell, and he'd click on the screen  
4 and it was nobody, making it look like these victims, this  
5 happened to them, they went on their merry way, it didn't  
6 impact them at all. And then the media comes on and now they  
7 think it's this big deal and that they've put it in their  
8 heads that it's this big deal.

9           That is not what happened here and Heather Shank is  
10 the perfect example. This happened to her. She didn't know  
11 how to deal with it. She had nightmares, she couldn't sleep,  
12 she turned to alcohol. And I think that the -- her husband's  
13 recollection and he could be the proper person to discuss the  
14 changes in her behavior. And I'm not going to go on, it was a  
15 year and a half and, you know, I'm not going to drag it out.

16           The point is, is that she struggled with what  
17 happened to her. It was very scary to her, she felt very  
18 threatened. She turned to alcohol, she dealt with it. It's  
19 -- it is hard to come in here and come to court.

20           So it's not about the media, it's not about money  
21 that drove these people. This really happened to them, this  
22 is how they dealt with it, this impacted them. It's not a  
23 victim impact statement like they're trying to make it seem,  
24 that's not what it's about. But it's about saying that this  
25 happened to you and showing that you dealt with it.

1           You know, all the times in sex assault cases,  
2 especially with children, we have to talk about the therapist  
3 they went to or how because of this, they start perping on  
4 another child in the home or they start, you know, touching  
5 themselves. Those things go to the credibility of the witness  
6 to show, yeah, this happened to me and because of that, this  
7 is how I react to it. It's no different with adults and it's  
8 no different with a substance abuse issue.

9           THE COURT: All right. So when I -- I allowed you  
10 on Ms. Shank to have her testify about the subsequent incident  
11 when she went to the hospital and freaked out when the male  
12 nurses. And then I sustained two objections. What were the  
13 questions that I sustained?

14           MS. BLUTH: Mr. Kochevar was asking, you know, how  
15 -- I think the question was how this impacted her or how she  
16 dealt with it, and Mr. Bashor objected and you sustained it.  
17 And then at that point, we really should have approached and  
18 discussed this so we could let you know, you know, our  
19 reasoning of what was going through that, which is why, when  
20 we were up there, I, you know, took the first opportunity to  
21 do so.

22           THE COURT: Okay.

23           MS. BLUTH: And I'm not asking to bring -- we're not  
24 asking to recall Heather Shank.

25           THE COURT: Well, my concern is there may be

1 objections during his testimony as to hearsay as well as to  
2 what Heather told him because it -- I thought you were about  
3 rise to your feet and make an objection during --

4 MR. BASHOR: Yes.

5 THE COURT: It looked like it.

6 MR. BASHOR: And that was because of the two glasses  
7 thing which he has personal knowledge of anyway because he was  
8 with her that evening. So that's why I sat back down.

9 THE COURT: Okay.

10 MR. BASHOR: But I could see -- and also, Your  
11 Honor, if we're going to entertain this, this -- this guy  
12 talks a mile a minute and is kind of dangerous up there.

13 MS. BLUTH: Well, we can confine his testimony.

14 MR. BASHOR: If we go beyond -- again, I'm objecting  
15 to the fact that we go into this to begin with, but I'm  
16 especially concerned about -- I mean, the things that weren't  
17 about alcohol itself, when you -- just in that very small time  
18 period was quite a few things.

19 THE COURT: Well, I think at this point your  
20 objection is relevance, right? It does seem -- you know, I've  
21 got to admit that when Ms. Bluth says we allow it with child  
22 victims, we allow testimony about -- from parents how do we  
23 see -- did you see any change in your child and what's the  
24 purpose of that? The purpose of that is to show that this  
25 child is not making up the story.

1 MS. BLUTH: Right.

2 THE COURT: And sometimes we even allow expert  
3 witnesses to testify about the reaction of children when  
4 they've been sexually abused. So I'm going to allow this, but  
5 it needs to be pretty limited. And you also realize, of  
6 course, you know, it does open the door if they have something  
7 they -- I mean, they can cross-examine him about her alcohol  
8 use prior to this time, of course.

9 MS. BLUTH: Sure. But as far as Mr. Maningo when he  
10 stood up and said isn't it true you cheated on her, isn't it  
11 true -- and I think he was just using those as examples. But  
12 unless they have concrete evidence, I want some offer of proof  
13 before you just start throwing out allegations like that. And  
14 I think that was just an example, but I want to make sure the  
15 record's clear.

16 MR. BASHOR: And --

17 MR. MANINGO: Well, and we can't have anything  
18 concrete on that because we wouldn't go out and investigate  
19 that because we wouldn't anticipate --

20 THE COURT: Well --

21 MR. MANINGO: -- that this kind of evidence would  
22 come in. The fact that --

23 THE COURT: Well, wait a minute.

24 MR. MANINGO: -- a year later she's drinking more  
25 than she did beforehand.

1 THE COURT: Didn't you have -- I don't know if this  
2 particular victim is part of the lawsuit that you've brought  
3 up.

4 MR. MANINGO: No.

5 THE COURT: Okay.

6 MS. BLUTH: In her medical records, which I -- I'm  
7 sure they're going to cross her on, it's stated -- Ryan, what  
8 are the exact words? Don't you have it tabbed out?

9 MR. BASHOR: Alcohol intake and alcohol  
10 intoxication.

11 THE COURT: I know that you did go get, like,  
12 several banker's boxes worth of depositions and -- because  
13 that's why this case got continued. So was the --

14 MR. BASHOR: Yes, Your Honor. And it --

15 THE COURT: -- were the depositions taken of these  
16 witnesses?

17 MR. BASHOR: No. These witnesses have nothing to do  
18 with -- Ms. Cagnina and Ms. Petersen were involved in civil  
19 litigation. Several of the witnesses ancillary to them were  
20 obviously deposed, the nurses, security officers, et cetera,  
21 but not these.

22 Your Honor, we have -- beyond the medical records,  
23 the fact that that night, we knew about the two glasses wine,  
24 that they noted some alcohol intoxication on that day.  
25 There's been nothing in discovery that indicates that, you

1 know, subsequent to this time she turned to any of this. This  
2 is the first we're hearing of it. We would not have thought  
3 to investigate it because we didn't think it would come in.

4 MR. MANINGO: And they are not part of the lawsuit,  
5 Ms. Shank is not. She is part of -- if we want to go back to  
6 Mr. Bashor's opening, she's part of what we addressed in the  
7 media frenzy afterwards where she hears about something  
8 afterwards from a third party which is her husband's  
9 grandmother, I think --

10 MR. BASHOR: Her grandmother.

11 MR. MANINGO: Or her grandmother and then they  
12 Google it on the -- on the internet and they find the article  
13 and then they decide to disclose after that. But as far as  
14 the financial motivation, that's -- that wasn't even part of  
15 Mr. Bashor's cross on Ms. Shank. That's not part of this  
16 witness at all. So we're not attacking her credibility  
17 regarding any kind of financial motives or anything like that  
18 anyways. So that plays no part with this witness.

19 MS. BLUTH: But that's the point. They're attacking  
20 her credibility on she listened to it on the media and it  
21 created this frenzy in her mind which was all the voir dire  
22 questions of, do you believe the media can create hysteria,  
23 which is why they think that these victims have come forward.  
24 They saw it on the news, it created something that didn't  
25 really happen to them, but they think it happened to them. So



1 why is this girl turning to alcohol and sneaking it behind her  
2 to-be husband's back? Because the media has tricked her into  
3 thinking it? That's ridiculous.

4 MR. MANINGO: And that's the problem, Your Honor, is  
5 that we don't know why. None of us, including her husband,  
6 are qualified experts to talk about why she's drinking, and we  
7 certainly don't know enough about the individual's life.  
8 There could be a number of reasons why someone starts drinking  
9 more. It could be the fact that, for example, another --  
10 another one of the alleged victims in this case, Marsha  
11 Petersen, they suffer a lot depression when they find out that  
12 they have a seizure disorder. It changes their lives. It --  
13 it, you know, being completely uncertain about what you're  
14 able to do now because of your own brain working against you.  
15 Her license is taken away from her because of her seizure  
16 disorder.

17 THE COURT: Okay. You can cross-examine him about  
18 that.

19 MR. MANINGO: But he's not qualified to answer those  
20 questions. He doesn't know why, and that's why we shouldn't  
21 even open this Pandora's box because he can't go into her head  
22 and say this is what's making her drink more or --

23 THE COURT: That's correct. But he can give the --  
24 if the State says -- asks him, did she change, did you notice  
25 change in her behavior after this incident and what was it?

1 And that's the kind of testimony it is, and you can cross-  
2 examine him as to what other did -- did he see other changes.  
3 Did she appear to be, for instance, depressed about the --  
4 losing her license or -- I mean, you're free to cross-examine.

5 MR. MANINGO: But --

6 THE COURT: I think it does go to the overall --  
7 it's relevant as to her motivation in coming forward.

8 MR. BASHOR: My only additional comment, Your Honor,  
9 would be that what Ms. Bluth said earlier is true, and that  
10 is, when I ask a question, I have to have a good faith basis  
11 for asking it.

12 THE COURT: Right.

13 MR. BASHOR: If -- because we did not know that (a)  
14 this occurred, that she's -- went to drinking more, (b) that  
15 it took this amount of time, a year and a half start to  
16 finish, where is dealing with the issues, I haven't  
17 investigated any of that and didn't have reason to because I  
18 was unaware of it. Now I don't have a good faith basis to  
19 take shots in the dark and what I speculate to believe, well,  
20 if this was true, you should be depressed; if this is true,  
21 you should be anxious when alone around men; if this is true,  
22 you should be, you should be, you should be. That's my own  
23 speculation. I would not have a good faith basis to go in to  
24 further examination.

25 THE COURT: Well, I mean, you do know certain things

1 because he's already testified that she wasn't -- she -- like  
2 you pointed out, she lost her license so she couldn't drive  
3 and was dependent upon him. You know, you --

4 MR. MANINGO: But we're really just guessing because  
5 there could be so many issues that could create this. I mean,  
6 if the State wants to say, look, after this happened -- and I  
7 think they already have done this with both Ms. Shank and her  
8 husband, if they're going to say, look, she was upset  
9 afterwards, okay. Her demeanor afterwards is she was upset;  
10 well, of course. That's -- that's appropriate and that would  
11 be consistent with their theory and that's testimony that's  
12 already been brought up.

13 But to now say, well, look, her drinking schedule  
14 and this and -- the whole maybe alcoholism, but we had a talk  
15 and we wouldn't get married beforehand, none of that is  
16 relevant. None of it has anything to do with whether or not  
17 she was telling the truth on May 16th or regarding May 16th,  
18 but weeks later. He even says himself, the husband, that he  
19 notices all this drinking and so on and so forth after the  
20 disclosure is done. I mean, maybe there was like an extra  
21 drink here or there, maybe there was, you know, this and that.  
22 But he's talking about a year and a half time span.

23 He just -- they disclosed three weeks later, so  
24 we're not saying that they never told anyone until today and  
25 that is not what was said in opening. In fact, we -- we were

1 very clear of the fact that, yeah, of course they had to tell  
2 someone or we wouldn't be here in the first place, if they  
3 never made any accusation.

4           It's just that being upset about a situation and  
5 then, of course, arguing that it's because it really happened  
6 and us saying, well, look, we're saying it happened because  
7 she misunderstood what went on during that small time frame,  
8 those are valid arguments. But now we're just -- it gets so  
9 messy now if we start talking about well, you know, a year and  
10 a half later, she was kind of an alcoholic. And, you know,  
11 who knows what happened during that time.

12           THE COURT: So I want this testimony to be limited  
13 to after this, he then -- did you notice changes in her  
14 behavior.

15           MS. BLUTH: Okay.

16           THE COURT: And, yeah, I think that defense's point  
17 on that is well taken. We don't need to hear details --

18           MS. BLUTH: Sure.

19           THE COURT: -- about how -- yes, you know, he  
20 threatened to not marry her and all of that.

21           MS. BLUTH: Right.

22           THE COURT: That's more prejudicial than probative.

23           MS. BLUTH: Okay.

24           THE COURT: Okay. But did he see evidence, and so  
25 you need to talk to him before you put him on to make sure

1 his --

2 MS. BLUTH: Sure.

3 THE COURT: -- he doesn't go beyond that.

4 MS. BLUTH: So I just want to make clear because I  
5 don't want anything, you know, coming out that's not supposed  
6 to come out.

7 THE COURT: Right.

8 MS. BLUTH: So he can testify to the fact that, you  
9 know afterwards she had issues with sleeping, she started  
10 turning to alcohol and then it progressively got worse, they  
11 had a conversation and dealt with it?

12 THE COURT: Right.

13 MS. BLUTH: I'm not going to use a time frame, just  
14 going to use --

15 THE COURT: Yes. Or -- or the fact that he refused  
16 to marry her --

17 MS. BLUTH: Right.

18 THE COURT: -- until she dealt with it or how long  
19 it took, but basically what -- to me the only thing that's  
20 relevant is after this, immediately after this happened, did  
21 he notice a change in her behavior, when, and what was it and  
22 that's all.

23 MR. BASHOR: So I would -- I would state that the  
24 talk, then, should -- the sit-down conversation is not  
25 contemporaneous enough. It's three months later.

1 THE COURT: The -- you mean the talk about alcohol  
2 and how she's got to stop?

3 MR. BASHOR: Um-hum.

4 THE COURT: That's true. Yeah, don't -- I mean,  
5 that's not what -- what is relevant is the behavior change --

6 MS. BLUTH: Sure.

7 THE COURT: -- that he observed and that's all.

8 MS. BLUTH: But I think they should know that six --  
9 six years later, she's still not an alcoholic, you know. And  
10 I think that he should be able to say, you know, we dealt with  
11 it and it's taken care of. I'm not going to say what time  
12 frame, but they should know that six years later, she's not a  
13 drunk.

14 MR. MANINGO: Well.

15 THE COURT: Well, I'm envisioning that he's --  
16 you're going to ask him after this incident, were you just,  
17 you know, shared with each other what you had observed or  
18 frankly, when she came home from the hospital, did you notice  
19 any behavioral changes? When did you first notice them? What  
20 were they? I noticed that she couldn't seem to get to sleep  
21 without having an extra cocktail and -- and did she eventually  
22 get -- you know get past that? Yes. And that's all.

23 MS. BLUTH: Sure, that's fine. But may I have a  
24 moment to speak with him to make sure that nothing --

25 THE COURT: Yes, yes.

1 MS. BLUTH: Okay. Anything else, Ryan? Okay.

2 (Off the record from 3:02 p.m. to 3:04 p.m.)

3 (Outside the presence of the jury)

4 THE COURT: -- under oath.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: And please listen carefully to the  
7 questions that the District Attorney asks you and answer those  
8 only, don't volunteer things that aren't responsive to the  
9 question.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Let's bring in our jury.

12 (In the presence of the jury)

13 THE COURT: Thank you, please be seated. The record  
14 will reflect that we are back within the presence of all 12  
15 members of the jury as well as the four alternates. The  
16 defendant is present with his counsel, the Deputies District  
17 Attorneys prosecuting the case are present as are all officers  
18 of the court. Will counsel so stipulate?

19 MS. BLUTH: Yes, Your Honor.

20 MR. BASHOR: Yes, Your Honor.

21 THE COURT: You may continue.

22 MS. BLUTH: Okay, thank you.

23 DIRECT EXAMINATION (RESUMED)

24 BY MS. BLUTH:

25 Q Mr. Lehan, I think where we stopped, I was showing

1 you what's in evidence now as State's Proposed 16.

2 MS. BLUTH: The Elmo please, when you have a chance.

3 BY MS. BLUTH:

4 Q Let me zoom out for you, one second. And is this  
5 the six-pack that you were shown?

6 A Yes, ma'am.

7 Q And are these your initials and the date on number  
8 three?

9 A Yes, ma'am.

10 Q And that's the individual you identified?

11 A Yes.

12 Q And then on State's 15, this is the directions that  
13 were given to you to do the photo lineup, correct?

14 A Correct.

15 Q And this is your signature?

16 A Yes.

17 Q And the date?

18 A Yes.

19 Q And you stated number three is the man in question  
20 100 percent sure?

21 A Yes, ma'am.

22 Q Okay. After meeting with the detectives were you  
23 contacted by civil attorneys?

24 A Yes, ma'am.

25 Q And on how many occasions do you think you were



1 contacted by civil attorneys?

2 A At least four.

3 Q Four?

4 A Um-hum.

5 Q Okay. Did you ever -- did you or Heather ever  
6 pursue a civil lawsuit in this case?

7 A No, ma'am.

8 Q And why not?

9 A Just was not in Heather's -- she did not want to  
10 proceed that way. She just felt that whatever our legal  
11 system was set up, that's how it should be handled. And so  
12 she had no intentions of a civil lawsuit.

13 Q Okay. And so you never pursued any money in this  
14 case?

15 A No, ma'am.

16 Q Okay. I'm going to name some individuals to you and  
17 if you could let me know if you know them. Ledahlia Spurlock?

18 A No, ma'am.

19 Q Denise Hanna?

20 A No, ma'am.

21 Q Marcia Petersen?

22 A No, ma'am.

23 Q Roxanne Cagnina?

24 A No, ma'am.

25 Q Have you ever spoken to any of those individuals?

1 A No, ma'am.

2 Q After this incident happened with Heather, were you  
3 ever present during any of her other hospital stays?

4 A Yes, ma'am.

5 Q Okay. Do you remember an incident at Summerlin  
6 Hospital?

7 A Yes, ma'am.

8 Q How did Heather react to the treatment she received  
9 at Summerlin?

10 A Well, she had a seizure. She was taken via  
11 ambulance once again. I arrived at the ER pretty quickly  
12 after. I lived across the street in an apartment complex, it  
13 didn't take me long to get there. As I entered the ER, I  
14 could hear her screaming through the doors. She just said,  
15 "Get Tim, get Tim," the entire time. They never got me.  
16 Eventually someone did come and get me. Time-wise I couldn't  
17 tell you, but it -- it was at least 15, 20 minutes I sat in  
18 that waiting room.

19 When I got there, she was being restrained by two  
20 very large males and as soon as she saw me and grabbed my  
21 hand, she actually physically went to sleep almost  
22 instantaneously.

23 Q After -- again, going back to the incident on May  
24 16th of 2008. After that incident, did Heather deal with what  
25 happened to her -- strike that. Did she cope with it in a

1 certain way?

2 A Yes, ma'am.

3 Q And how was that?

4 A Alcohol.

5 Q And when would she turn to alcohol?

6 A Typically at night so she could sleep.

7 Q Did she have problems sleeping?

8 A Yes, ma'am.

9 Q Did you see her having those problems?

10 A Yes, ma'am.

11 Q And after you started knowing -- noticing the  
12 problems with alcohol, did you guys sit down and take care of  
13 that issue --

14 A Yes, ma'am.

15 Q -- in the proper way?

16 A Yes, ma'am.

17 MS. BLUTH: I'll pass the witness.

18 THE COURT: Cross.

19 MR. BASHOR: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. BASHOR:

22 Q Good afternoon.

23 A Good afternoon, sir.

24 Q When you first came in contact with Mr. Farmer, that  
25 was in the emergency room at Centennial Hills; is that right?

- 1 A Correct, sir.
- 2 Q And you recall him introducing himself to you,  
3 correct?
- 4 A I recall him introducing, yes, correct.
- 5 Q And you know for sure that the last name was Farmer?
- 6 A Absolutely sure.
- 7 Q And your recollection is that the first name may  
8 have been David?
- 9 A That's what I remember. It was different than what  
10 I was asking my brother to find, correct.
- 11 Q And it's fair to say you described Mr. Farmer during  
12 that time as being pretty attentive to your girlfriend at the  
13 time, now wife?
- 14 A Yes, sir.
- 15 Q And to you as well?
- 16 A Yes, sir.
- 17 Q He provided you -- brewed you a fresh cup --
- 18 A Um-hum.
- 19 Q -- fresh pot of coffee?
- 20 A Yes, sir.
- 21 Q And you know, said, anything you need, let me know.
- 22 A Um-hum.
- 23 Q Is that a yes?
- 24 A Yes, I'm sorry.
- 25 Q And provided your girlfriend with a blanket,

1 correct?

2 A Yes, sir.

3 Q A pillow?

4 A Yes, sir.

5 Q And Mr. Farmer, you saw that picture in evidence

6 earlier. He's kind of a easily identifiable individual, would

7 you agree?

8 A Yes, sir.

9 Q He's got a beard, correct?

10 A Sure, yes, sir.

11 Q He was a lot bigger then?

12 A Um-hum.

13 Q Correct?

14 A Yes, sir.

15 Q And yet you described him as jovial, right?

16 A Yes.

17 Q Now when you see Heather in the emergency room, it's

18 fair to say she's pretty out of it, correct?

19 A Yes. I mean, she did not have a coherent

20 conversation with me until the next evening or that -- the

21 evening following her admission.

22 Q And by that, you mean, after she had already been

23 admitted to --

24 A No, no, I'm sorry. When she was into the --

25 admitted to the ER.

1           Q     Very good.

2           A     And following evening, when she was still in the ER

3 is when the very first coherent conversation we had.

4           Q     Okay. So fair to say she was pretty drowsy,

5 correct?

6           A     Correct, sir.

7           Q     She attempted to tell you things and have a

8 discussion with you, but they were hard to comprehend?

9           A     I didn't know where she was coming from, correct.

10          Q     Okay. And that she wasn't making any sense at all?

11          A     None. The only thing she made sense was that she

12 was hungry.

13          Q     Fair enough. And she was asking the same questions

14 over and over again?

15          A     Always, yes. Yes, sir.

16          Q     Now it comes a time where you escort her to the

17 bathroom, correct?

18          A     Yes, sir.

19          Q     And that's down a hallway?

20          A     Yes, sir.

21          Q     And she returns -- as you're returning to the room,

22 you see Mr. Farmer follow, correct?

23          A     He's behind us, yes. Is he following, I don't know.

24 He is behind us walking toward the general direction of the

25 room.

1 Q Okay. And once you entered the room, how quickly  
2 after you enter the room does Mr. Farmer enter the room?

3 A I would guess five, six steps.

4 Q Okay. And he notices that the wires that are  
5 connected between the leads and the machine are tangled?

6 A He -- he just -- he described her as, let me help  
7 you with that. He never said the wires right at that time.  
8 It was only when she was laying -- being laid down, he said,  
9 "The wires are tangled."

10 Q Okay. And at this point, after she's already in the  
11 bed, Mr. Farmer opens her gown?

12 A I did not see him open the gown. I was -- I was  
13 walking back to my chair. When I sat down and looked up, I  
14 noticed it was open.

15 Q Very good. And are you -- this was kind of awkward  
16 for you, right?

17 A And considering the door was completely wide open to  
18 the ER, so anybody walking by could see.

19 Q Oh, so the door was open, correct?

20 A Oh, yes. Yes, sir.

21 Q And from what you testified to in your experience,  
22 this is not something you're used to seeing either?

23 A Yes, sir.

24 Q You decide to help?

25 A Yes.

1 Q Because you're uncomfortable?

2 A Correct, sir.

3 Q And it's you that actually covers her up, correct?

4 A Correct, sir.

5 Q And this exposure lasts for approximately a minute;  
6 would you agree?

7 A If I had to put a time on it, it would be a minute,  
8 yes.

9 Q Now -- and actually, you, at first, offer to help  
10 and Mr. Farmer says this is kind of what he gets paid to do?

11 A Yeah, yes. Yes, sir.

12 Q And the second time you insist?

13 A Correct, sir.

14 Q And at this point, Mr. Farmer backs away?

15 A Correct, sir.

16 Q Now we've heard a lot about you've got experience in  
17 this kind of field, correct?

18 A Correct, sir.

19 Q You have a Bachelor's degree and some professional  
20 experience?

21 A Correct, sir.

22 Q And you -- it fair to describe what you saw is very  
23 inappropriate, for a certified nursing assistant to be doing  
24 it that way?

25 A For the gown to be opened I find inappropriate, but



1 I couldn't understand why his hands were around the breast to  
2 fit the lead. That was more of a concern for me. The breast  
3 exposure was a concern, but once I stood up and saw what I was  
4 looking at, the hand was more my concern as opposed to the  
5 breast being exposed.

6 Q Sure. So you had a little bit of concern and then  
7 it increased when you saw his hand?

8 A Yeah. It might -- yes. Yes, sir.

9 Q And it -- you knew that it wasn't right?

10 A Correct, sir.

11 Q And you knew that it didn't make any sense?

12 A Correct, sir.

13 Q And that you were trained that you always have a  
14 witness there, correct?

15 A And/or take precautions, yes, sir.

16 Q And those precautions are keeping them covered?

17 A Correct, sir.

18 Q And you felt that it was improper?

19 A The exposing the breasts, yes, sir.

20 Q And -- and the hand?

21 A And the hand was, yes, appalling, yes.

22 Q Now the emergency room where this -- or the area  
23 where this occurred, this was in relatively close proximity to  
24 the nursing station?

25 A You -- if you made a right out of the room, it was

1 -- it was a -- not a long way and when I say fair, I mean it  
2 wasn't five steps. So it was more like 10, 15 steps down the  
3 hallway.

4 Q Okay. This upsetted you? You were upset?

5 A Yes, sir. Yes, sir.

6 Q Now at some point, you have to return home and then  
7 to work or straight to work, correct?

8 A Before this incident?

9 Q No, after this incident.

10 A Yeah. After this incident I went home to get some  
11 sleep, yes.

12 Q Okay. And when you leave her, is she still in the  
13 emergency room?

14 A Yes, sir.

15 Q And so it's fair to say that you left the hospital  
16 before she was moved to another floor?

17 A Because it was visiting hours, correct, were over.

18 Q Okay. And on your way out, you -- do you pass the  
19 nursing station?

20 A No. You can make a left and go out that way. I  
21 went -- made a left.

22 Q But you could take the 10 to 15 steps to the nursing  
23 station if you had a question or needed something, correct?

24 A Sure.

25 Q So for instance, did you ask for another nurse?

1 A No, I did not.

2 Q Did you ask for a supervisor?

3 A No, I did not.

4 Q Did you call security?

5 A No, I did not.

6 Q Did you call the police?

7 A No, I did not.

8 Q Now days later, Ms. Shank is out of the hospital and  
9 you -- you described driving her to work one day about a week  
10 afterwards?

11 A I don't think it was a full week, but if you want to  
12 call it a week, sure. I don't recall the exact time frame.

13 Q Sometime, days?

14 A It was -- it was days, it was not a week.

15 Q Okay. And this is where you learned about the  
16 incident in the elevator?

17 A With her, correct.

18 Q And you learned that Mr. Farmer has been seen by her  
19 grandmother on the news?

20 A At that time, he was told about a -- you know, an  
21 incident at Centennial. I didn't know it was Mr. Farmer.  
22 They never said the name.

23 Q Fair enough. Thank you for correcting me.

24 A But there was -- there was an incident at Centennial  
25 and they gave the dates.

1 Q Okay. And that was a concern to you?

2 A Well, because -- yes. Because then I realize what I  
3 witnessed and then what she had told me, it started making  
4 more sense.

5 Q Okay. And when you get -- do you then go to work  
6 after dropping her off?

7 A Yes, I proceed to work.

8 Q And when you get to work, do you do some  
9 investigation on your own?

10 A No, I did it in the car via cell phone.

11 Q Oh, okay.

12 A You know, I did not -- after my brother had told me  
13 the information I needed to hear, I didn't need to hear  
14 anymore.

15 Q Okay.

16 A I went to work and called Heather immediately when I  
17 got there because she could not take calls from inside the  
18 office. I had to call the extension. It was just a policy  
19 they had.

20 Q Fair enough. And to your knowledge, she was  
21 reviewing a local news station's internet article?

22 A Yeah, the KVVU, yes.

23 Q And the article had mentioned that they were looking  
24 for other victims?

25 A If he was in question, yes, that's what I understand

1 it as.

2 Q And at this point, you call Heather?

3 A I call Heather from my office and I said, you  
4 know --

5 Q Okay. At some point later then, you contact a  
6 detective in this case, correct?

7 A Yes, I contact a detective, yes.

8 Q And do you get the number for that detective from  
9 the article?

10 A Yeah, my brother gave me the number, yes.

11 Q Okay. And you're interviewed on June 4th of 2008?

12 A Um-hum.

13 Q Is that a yes?

14 A Yes, I'm sorry.

15 Q And that's the same day you called the detective?

16 A I do not believe so. I believe -- I think we called  
17 the day before because my birthday's on the second, I believe  
18 we called the day after my birthday and then we went down the  
19 evening of the following day.

20 Q So as far as you recollect, you called him on June  
21 3rd and spoke with him June 4th?

22 A Yeah.

23 Q Okay. And just briefly, prior to this incident, it  
24 would be customary for Ms. Shank to -- to have or drink some  
25 alcohol, correct?

1           A     We both did, but it was very, you know, with dinner  
2 or after dinner.

3           Q     So, yes?

4           A     Yes.

5           Q     And that night, the night that she had the seizure  
6 in May, she'd also had something to drink that evening,  
7 correct?

8           A     Yes, sir.

9           MR. BASHOR: Court's indulgence.

10                   (Pause in the proceedings)

11           MR. BASHOR: Pass the witness, Your Honor.

12           THE COURT: Redirect?

13           MS. BLUTH: Nothing further, thank you.

14           THE COURT: Thank you. May this witness be excused?

15           MS. BLUTH: Yes, Your Honor.

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

17           THE WITNESS: Thank you, Your Honor.

18           THE COURT: Ladies and gentlemen, it's only 3:20,  
19 but unfortunately there were some witness scheduling issues  
20 beyond the control of the lawyers and so we don't have any  
21 other witnesses for you today. And so we're going to be --  
22 normally, of course, we'd be going to 5:00, but we can't  
23 present anything because we don't have a witness available to  
24 present.

25                   We will start tomorrow at 9:00 o'clock and we'll be

1 going until noon, we'll break for lunch for an hour at noon or  
2 thereabouts. I don't like to interrupt testimony if we -- you  
3 know, we try and break at logical stopping places. And then  
4 we'll be continuing till 4:00 when we'll recess for the  
5 evening. That will be tomorrow. Wednesday we'll be back to  
6 our 1:00 o'clock start schedule because of my morning calendar  
7 on Wednesday.

8 So that's kind of our anticipated schedule. We had  
9 anticipated going to till 5:00, but unforeseen circumstances  
10 occasionally happen.

11 So, ladies and gentlemen, I'm going to read to you  
12 the admonition. Ladies and gentlemen, we're going to take an  
13 overnight recess. During this recess, it is your duty not to  
14 converse among yourselves or with anyone on any subject  
15 connected with this trial, or to read, watch or listen to any  
16 commentary or report of or on the trial by any person  
17 connected with the trial or by any medium of information  
18 including, without limitation, newspaper, television, radio or  
19 internet, which includes your smartphones. And you are not to  
20 form or express an opinion on any subject connected with this  
21 case until it is finally submitted to you. We will be in  
22 recess until 9:00 o'clock tomorrow morning.

23 (Outside the presence of the jury)

24 THE COURT: Thank you. The record will reflect the  
25 jury has departed the room. Are there any matters outside the

1 presence?

2 MS. BLUTH: Not on behalf of the State.

3 MR. MANINGO: No, Your Honor.

4 THE CLERK: State, can you bring me those exhibits  
5 you have?

6 MS. BLUTH: Oh, yeah.

7 THE CLERK: I think there's some here.

8 THE COURT: Thank you. Any exhibits will be  
9 returned to the Clerk for overnight and we'll see you in the  
10 morning.

11 MR. BASHOR: Thank you.

12 MR. MANINGO: Thank you, Your Honor.

13 MR. KOICHEVAR: Thank you, Judge.

14 (Court recessed at 3:21 p.m., until Tuesday,  
15 February 11, 2014, at 9:03 a.m.)

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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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*8-22-14*

DATE

STEVEN DALE FARMER, ) No. 65935  
 )  
 Appellant, )  
 )  
 vi. )  
 )  
 THE STATE OF NEVADA, )  
 )  
 Respondent. )

BY \_\_\_\_\_  
Employee, Clark County Public Defender's Office