

1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**  
2                                   \_\_\_\_\_

3       MATTHEW WASHINGTON,

4                                   Appellant,

5                                   v.

6       THE STATE OF NEVADA,

7                                   Respondent.  
8       \_\_\_\_\_

No. 65998

Electronically Filed  
Jun 02 2015 08:25 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

9                                   **APPELLANT'S APPENDIX VOLUME VII PAGES 1324-1493**

10       PHILIP J. KOHN  
11       Clark County Public Defender  
12       309 South Third Street  
13       Las Vegas, Nevada 89155-2610

14       Attorney for Appellant

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

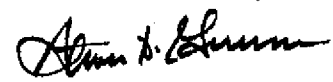
Counsel for Respondent

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CLERK OF THE COURT

TRAN

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

THE STATE OF NEVADA,	.	CASE NO. C-294695-1
	.	
Plaintiff,	.	DEPT. NO. I
	.	
vs.	.	
	.	
MATTHEW WASHINGTON,	.	TRANSCRIPT OF
	.	PROCEEDINGS
Defendant.	.	
.....	.	

BEFORE THE HONORABLE KENNETH CORY, DISTRICT COURT JUDGE

JURY TRIAL - DAY 4

THURSDAY, APRIL 10, 2014

APPEARANCES:

FOR THE STATE:

DANIELLE K. PIEPER, ESQ.  
BARBARA F. SCHIFALACQUA  
Chief Deputy District Attorneys

FOR THE DEFENDANT:

DAVID J. OTTO, ESQ.  
ROBERTA OHLINGER-JOHNSON, ESQ.

COURT RECORDER:

BEVERLY SIGURNIK  
District Court

TRANSCRIPTION BY:

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Englewood, CO 80110  
(303) 798-0890

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<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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1 LAS VEGAS, NEVADA, THURSDAY, APRIL 10, 2014, 9:20 A.M.

2 (Outside the presence of the jury)

3 (In the presence of the Juror No. 1)

4 THE COURT: Yes, on the record.

5 THE MARSHAL: Juror's in.

6 THE COURT: Good morning, Mr. Ennis.

7 JUROR NO. 1: Good morning.

8 THE COURT: Would you have a seat right over here,  
9 please?

10 THE CLERK: In front of a microphone, please.

11 THE COURT: Yeah. Would you take one near a  
12 microphone?

13 THE MARSHAL: Right here, sir, if you would.

14 THE WITNESS: Is this one okay, Your Honor?

15 THE COURT: That -- yeah. Good morning, Mr. Ennis.

16 JUROR NO. 1: Good morning.

17 THE COURT: Thank you for coming back today.

18 JUROR NO. 1: Um-hum.

19 THE COURT: Our bailiff reported to us at the close  
20 of business yesterday that you had indicated you think you  
21 might be related to the defendant?

22 JUROR NO. 1: Yes.

23 THE COURT: You saw -- when you saw his family, you  
24 recognized them from --

25 JUROR NO. 1: Yes.

1 THE COURT: -- a hospital, was it?

2 JUROR NO. 1: Yes. The necklace his father had on  
3 is actually -- was my necklace, but I gave it to my uncle, but  
4 my uncle gave it to him.

5 THE COURT: I see, I see.

6 JUROR NO. 1: So, we kind of --

7 THE COURT: So, that makes it pretty certain then?

8 JUROR NO. 1: Yeah.

9 THE COURT: All right. Well, we appreciate your  
10 bringing that to our attention. We are going to excuse you  
11 from the jury. What I'm going to do is ask you when you leave  
12 right now to just go out this door, and our other court  
13 officer will escort you to the middle doors to exit.

14 JUROR NO. 1: All righty.

15 THE COURT: Now, the only other thing is, you know  
16 how important it is to us that nobody in the jury be contacted  
17 by anybody else?

18 JUROR NO. 1: Yes.

19 THE COURT: Now, sometimes, as soon as the jury  
20 forms, they start -- they get pretty friendly with each other  
21 and exchange phone numbers, et cetera. You wouldn't have any  
22 reason to be contacting --

23 JUROR NO. 1: No.

24 THE COURT: -- any of the rest of the jury?

25 JUROR NO. 1: No.



1 THE COURT: Okay. Well, we would ask you to -- and  
2 I really have to order you not to --

3 JUROR NO. 1: Oh, yeah.

4 THE COURT: -- contact any of the other members of  
5 the jury until this is over.

6 JUROR NO. 1: Fully understood.

7 THE COURT: Once this is over, then there's no  
8 prohibition. Do you have any questions about any of this?

9 JUROR NO. 1: No.

10 THE COURT: All right.

11 JUROR NO. 1: That was it.

12 THE COURT: Well, we're going to excuse you now.  
13 Counsel, any questions before we excuse Mr. Ennis?

14 MR. OTTO: No, Your Honor.

15 MS. SCHIFALACQUA: Not by the State, Judge.

16 THE COURT: All right. Thank you, sir.

17 JUROR NO. 1: All right.

18 THE COURT: If you'll go with the court officer  
19 there, they'll escort you out. Are we ready then to bring in  
20 our jury, folks?

21 MS. SCHIFALACQUA: Judge, I just need to check on  
22 our doctors out there, and then we should be ready to go, Your  
23 Honor.

24 THE COURT: Okay.

25 MS. SCHIFALACQUA: And as I said, I apologize for

1 our lateness. We had some persons that were actually outside  
2 of our court yesterday. One has been sick all night,  
3 vomiting.

4 THE COURT: Uh-huh.

5 MS. SCHIFALACQUA: And another crime scene analyst  
6 unfortunately who was supposed to come in today, her mother  
7 was hospitalized. So, we're shuffling and trying to move  
8 things around, but I wanted to make a record of that. We may  
9 have to end early and then stack them up tomorrow --

10 THE COURT: Okay.

11 MS. SCHIFALACQUA: -- just by nature of kind of  
12 these life events happening, Judge.

13 THE COURT: Yeah. Okay.

14 (Pause in the proceedings)

15 (Court recessed at 9:24 A.M. until 9:30 A.M.)

16 (Outside the presence of the jury)

17 THE MARSHAL: All rise for the jury, please.

18 (Jury reconvene at 9:341 a.m.)

19 THE MARSHAL: The jury's in, Your Honor.

20 THE COURT: Thank you. Will counsel stipulate to  
21 the presence of the jury?

22 MS. PIEPER: Yes, Your Honor.

23 MR. OTTO: Yes, Your Honor.

24 THE COURT: All right. Thank you. Ladies and  
25 gentlemen, you may have noticed that we are missing one juror,

1 Mr. Ennis. You'll recall the Court's questions about whether  
2 any of you knew any of the parties or the attorneys, or any of  
3 the witnesses whose names were read off.

4 Occasionally, this happens where we get actually  
5 into a trial before a juror realizes some connection with a  
6 party, or attorneys, or witnesses, and for that reason, we  
7 have excused Mr. Ennis.

8 We are ready to proceed then. The State may call  
9 your next witness.

10 MS. PIEPER: State calls Detective Bob Rogers.

11 THE MARSHAL: Detective, sir, can you just take the  
12 stand for us?

13 THE WITNESS: Certainly.

14 THE MARSHAL: Please remain standing. Face our  
15 clerk. Raise your right hand, sir.

16 DETECTIVE ROBERT ROGERS, STATE'S WITNESS, SWORN

17 THE CLERK: Please be seated.

18 THE WITNESS: Good morning, Your Honor.

19 THE COURT: Good morning.

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

22 THE WITNESS: Detective Robert Rogers. R-o-b-e-r-t,  
23 R-o-g-e-r-s.

24 MS. PIEPER: May I proceed?

25 THE COURT: You may.

## DIRECT EXAMINATION

1  
2 BY MS. PIEPER:

3 Q How are you employed?

4 A With the Las Vegas Metropolitan Police Department.

5 Q And how long have you worked with Metro?

6 A It will be 30 years this September.

7 Q And what is your current assignment?

8 A Assigned to the homicide section.

9 Q And how long have you been in homicide?

10 A A little over 11 years.

11 Q I want to draw your attention to November 5th, 2013.

12 Were you working on that day?

13 A Yes.

14 Q And in regard to homicides, you guys get called out,  
15 correct?

16 A Correct.

17 Q In regard to this case, did you guys -- did you get  
18 called out?

19 A Yes, I did.

20 Q And when a call comes out, is it just you, or is it  
21 a squad of people?

22 A It's typically a group of us, anywhere from three to  
23 six.

24 Q Okay. In regard to this case, do you know how many  
25 people got called out?

1 A No, off-hand, I don't. No.

2 Q Okay. But more than just yourself got called out?

3 A Oh, certainly.

4 Q Do you get called out to a location, or how does  
5 that happen?

6 A We're typically told to respond to the initial  
7 scene, but on occasion we'll be sent to secondary scenes, such  
8 as a hospital.

9 Q Okay. In regard to this case, you knew that the  
10 main crime scene was at 2655 Sherwood Avenue here in Las  
11 Vegas, Clark County, Nevada, correct?

12 A That's correct.

13 Q Where did you respond, however?

14 A I respond to the intersection of Eastern and Ogden  
15 Avenue.

16 Q And why did you respond to that location instead of  
17 the 2655 Sherwood?

18 A Well, the primary detectives went to the Sherwood  
19 address, whereas I was sent to this address inasmuch as a  
20 vehicle had been stopped there.

21 Q Okay. And do you remember what time you actually  
22 went out to the Eastern and Ogden location?

23 A I think I arrived right around 6:00 in the morning.

24 Q Okay. Once you arrived, what's the first thing that  
25 you do?

1           A     Speak to the officers who were there, just to get a  
2 feel for the circumstances of the stop in this case.

3           Q     When you arrive on scene, can you explain to the  
4 members of the jury sort of what the scene basically looks  
5 like?

6           A     Well, all the scenes are different. At the other  
7 address it would be --

8           Q     I'm sorry, that was a badly worded question. When  
9 you arrived on the Eastern and Ogden scene, what -- can you  
10 explain to the members of the jury what that looked like when  
11 you showed up?

12          A     Oh, certainly. There was a silver 2005 Dodge Magnum  
13 parked on the east side of the street facing northbound on  
14 Eastern Avenue. Both of the driver side doors were open, and  
15 I believe all four of the windows were rolled down.

16          Q     Okay. Once you arrive on scene, you speak to patrol  
17 just to get basic information; is that correct?

18          A     Yeah, to have them brief me on the circumstances of  
19 the stop.

20          Q     And what happens next?

21          A     Well, typically, you converse with the detectives  
22 that are at the other scene to find out the progress of the  
23 case and to see, you know, what the next step would be.

24          Q     And in regard to this case, who were you speaking to  
25 that was at the primary location, the 2655 Sherwood; do you

1 remember?

2 A Not off-hand. Possibly Sergeant Darr, who was my  
3 supervisor at the time.

4 Q Okay. Once you are out there, you speak to the  
5 group that's at the 2655 Sherwood Avenue address. What is it  
6 that you do next at the Eastern and Ogden crime scene?

7 A Say that again, about the officers at the Sherwood  
8 address.

9 Q Once you finish speaking to the people -- so you're  
10 on -- I'm -- let me back up. You're on the phone speaking to  
11 people at homicide at the 2655 Sherwood; is that correct?

12 A Yes, I believe so.

13 Q You don't drive over there and drive back to Eastern  
14 and Ogden?

15 A No, I never left.

16 Q When you're at Eastern and Ogden, what is it you do  
17 next after you speak to patrol officers and get a briefing?

18 A Well, I was apprised that our ID personnel would be  
19 en route to my location. At that point, it's to ensure the  
20 integrity of the scene doesn't change, the doors to the  
21 vehicles aren't closed, nobody goes into the vehicles; just to  
22 kind of maintain the scene pending the next step in the  
23 investigation.

24 Q And what was the next step in the investigation at  
25 Eastern and Ogden?

1           A     Would have been to secure a search warrant for the  
2 vehicle.

3           Q     And in regard to this case, was a search warrant  
4 secured?

5           A     Yes.

6           Q     Once the search warrant is secured, is it brought  
7 down to the crime scene, or is that something that you are  
8 told about over the phone?

9           A     Both. I was told over the phone that the -- we  
10 typically call it, the search warrant was in pocket, meaning  
11 that we had a valid search warrant. And then, at some point  
12 after that, Sergeant Darr drove to my location to actually  
13 physically give me a copy of the warrant.

14          Q     And the warrant of course is for the 2005 Dodge  
15 Magnum, is that correct?

16          A     That's correct.

17          Q     Once you secure the search warrant, what happens  
18 next?

19          A     I apprised our ID personnel. I believe it was Crime  
20 Scene Analyst Cromwell and Taylor. And at that point, they  
21 went into the vehicle to initiate the search and processing  
22 the vehicle.

23          Q     So, they start to process the vehicle, and you just  
24 sort of stand back, is that correct?

25          A     Yes, I witness what they do.



1 Q When you were on the scene, and you arrived at  
2 around 6:00 o'clock in the morning, did you walk around the  
3 car or look into the car at all?

4 A Yes, I did.

5 Q And when you walked around the car and you looked  
6 into the car, was there anything of significance that you  
7 noticed?

8 A Yes, there was.

9 Q And what was that?

10 A Well, looking through the open door on the right  
11 left passenger's door, I could see what appeared to be a  
12 handgun under the front passenger seat.

13 Q Okay. And at that time, did you go into the car to  
14 get the handgun?

15 A No.

16 Q You waited for the search warrant?

17 A Correct.

18 Q Once the search warrant is obtained and the crime  
19 scene analysts are processing the car, what do you do on  
20 scene?

21 A I'm watching them do that. I witnessed I think it  
22 was Crime Scene Analyst Cromwell recovered the gun under the  
23 seat and unload it.

24 Q Okay. And then what happens next?

25 A The -- well, the reason that we did that was so

1 we're not driving a vehicle to the crime lab with a loaded gun  
2 in it. At that point, they -- I believe they rolled up the  
3 windows. They put evidence seals on all the doors and the  
4 trunk, and made arrangements for a flatbed tow truck to come  
5 to our location so it could have been driven to the crime lab.

6 Q Let me ask you this question. In regard to the  
7 vehicle, once you secured the search warrant, did you know or  
8 not know whether the car was going to be towed to another  
9 location?

10 A I don't believe that we knew at that point.

11 Q Okay. But at some point, the decision is made to  
12 take the car to another location, is that correct?

13 A Yes. I think one of the considerations would have  
14 been it was a busy street. We were kind of blocking traffic,  
15 narrowed traffic down to one lane northbound, so it just  
16 seemed more advantageous to move the vehicle.

17 Q And the processing that is done at Eastern and Ogden  
18 then is not complete at that point?

19 A Oh, far from it. No.

20 Q The car is then taken to Metro's crime -- Metro's  
21 garage, for lack of a better term, and then what happens once  
22 the car's taken there? Do you follow the car, or do you go to  
23 another location?

24 A No, I drove out there as well.

25 Q Okay. Once you get out to that location where the

1 car has been towed and the seals are intact, what happens  
2 next?

3 A Well, that's ID's job. They essentially tear the  
4 seals to get back into the vehicle. They start the  
5 processing, which would be additional photographs taken,  
6 search the car for any potential evidence.

7 Q Okay.

8 A I believe that they attempted to recover any latent  
9 fingerprints on the vehicle.

10 Q And during this time, are you helping them to do  
11 this, or are you sort of standing back and watching?

12 A I'm merely watching.

13 Q Okay. But you still are in contact with people that  
14 are at the 2655 Sherwood Avenue address, correct?

15 A I don't know if they were at that address at that  
16 point, but initially they were, yes.

17 Q But you're still talking to the other detectives  
18 that are sort of on your homicide squad, is that correct?

19 A That's correct.

20 Q After the car is processed, what happens next? Does  
21 it get sealed back up?

22 A Yes, and we requested a tow truck to come take the  
23 vehicle to a tow lot.

24 Q Okay. Prior to the car being taken to another tow  
25 lot, do you get information in regard to this investigation?

1           A     Yes, I did.

2           Q     And what's the -- and did you -- and what  
3 information did you learn?

4           A     I was apprised that there was another handgun  
5 concealed in the vehicle.

6           Q     Okay. Once you learn that information, do you then  
7 open the car back up, or do you wait for the crime scene  
8 analyst to open the car back up?

9           A     Well, the crime scene analysts had gone to lunch at  
10 that point, and knowing that a tow truck was en route to tow  
11 the vehicle, I thought it would be prudent if I looked into  
12 the vehicle which I did.

13          Q     Okay, so what did you do?

14          A     Well, I was -- I was informed that the area to  
15 search would have been the pedals -- essentially, the pedals  
16 of the driver's side of the vehicle.

17          Q     Okay.

18          A     I looked in all the obvious spots. I couldn't see  
19 anything. I had a flashlight, couldn't see anything  
20 whatsoever. I noticed there was a plastic panel below the  
21 steering column that I was able to pull away, I think it was  
22 held by clips. And looking inside, I could see what appeared  
23 to be the -- another handgun.

24          Q     So, you see another handgun, and then what do you do  
25 next?

1           A     I immediately contact our ID personnel and have them  
2 respond back to their lab so that they could recover the  
3 weapon.

4           Q     Okay. Once they come back to the lab, are you still  
5 there watching them?

6           A     Oh, yes.

7           Q     Okay. And as you're watching them, what do you see  
8 them do in regards to the second gun?

9           A     Recovered the same gun that I had seen, that I had  
10 found.

11          Q     And then you saw -- did you see that they impounded  
12 the gun?

13          A     No, but I saw them collect it, recover it.

14          Q     Okay. And once -- I apologize. Once they collected  
15 and recovered, do they make the gun safe?

16          A     Oh, yes.

17          Q     And do you see them sort of take the magazine out,  
18 and then take bullets out of the chamber if there are any?

19          A     Yes, certainly.

20                MS. PIEPER: Your Honor, may I approach the witness?

21                THE COURT: You may.

22 BY MS. PIEPER:

23          Q     Showing you what's been marked as State's proposed  
24 Exhibit numbers 34 through 43, can you look at those and tell  
25 me if you recognize them?

1 A Yes.

2 Q And are those pictures of the cars, along with some  
3 -- the interior of the 2005 Dodge, as well as some pictures of  
4 people on the scene, as well as some pictures of the car with  
5 some evidence tags on there?

6 A Yes, they are.

7 Q And is that how it looked on November 5th, 2013?

8 A Yes.

9 MS. PIEPER: Your Honor, State moves for the  
10 admission of 34 to 43.

11 MR. OTTO: No objection, Your Honor.

12 THE COURT: 34 to 42, did you say?

13 MS. PIEPER: 43.

14 THE COURT: 43. Will be admitted.

15 (State's Exhibits 34 through 43 are admitted)

16 BY MS. PIEPER:

17 Q Showing you what's been marked as State's proposed  
18 Exhibits number 62 through 65, can you look at those and tell  
19 me if you recognize those?

20 A Yes.

21 Q And are those pictures of the interior of the car on  
22 November 5th, 2013, sort of near the driver's area, steering  
23 wheel column?

24 A Yes.

25 Q And is that how it looked when you saw it --

1 A Yes.

2 Q -- on November 5th, 2013?

3 MS. PIEPER: State move for the admission of 62  
4 through 65.

5 MR. OTTO: No objection.

6 THE COURT: 62 to 65 will be admitted.

7 (State's 62 through 65 are admitted)

8 BY MS. PIEPER:

9 Q Earlier, you had described how you went down to the  
10 Eastern --

11 MS. PIEPER: Your Honor, permission to publish some  
12 of these pictures?

13 THE COURT: You may.

14 BY MS. PIEPER:

15 Q Earlier, you --

16 THE COURT: Just let us know, if you would, which  
17 ones are being shown as they go up.

18 BY MS. PIEPER:

19 Q Earlier, you testified that you went down to the  
20 east -- the crime scene at Eastern and Ogden. Do you recall  
21 that?

22 A Yes.

23 Q Showing you what's been admitted as State's 20, do  
24 you recognize that?

25 A Yes, I do.

1 Q And what is that a photograph of?

2 A That is the vehicle that I had previously described  
3 that was parked on the east side of the road facing northbound  
4 on Eastern.

5 Q Okay. You also said that when you walked around the  
6 vehicle, you could see a gun, and you described the location  
7 of the gun. Do you remember that?

8 A Yes.

9 Q And you said that it was -- where was it, actually?

10 A It was under the front passenger seat.

11 Q Okay. Would the front passenger, if they were  
12 sitting in that seat, have access to the gun?

13 A Not easily, I wouldn't think. No.

14 Q Okay. Who would have had better access to the gun  
15 where the location was?

16 A Presumably someone sitting in the back seat.

17 Q Show you what's been admitted as State's 32. Do you  
18 recognize that?

19 A Yes, I do.

20 Q Okay. And this is a picture taken from behind the  
21 driver's door, is that correct?

22 A Yes. It would have been from the back seat  
23 passenger compartment with that door open.

24 Q Okay. And can you show us the location of where you  
25 saw that handgun?



1 A It would --

2 Q Oh, you know what? I'm sorry. Our little screens  
3 aren't working.

4 A Okay.

5 Q So, I need you to actually come down.

6 A Come over here? Certainly.

7 MS. PIEPER: And Your Honor, may the witness step  
8 down?

9 THE COURT: You may. Um-hum.

10 THE WITNESS: It would essentially be in this --

11 MR. OTTO: Your Honor, if I could interrupt for a  
12 moment. If we could position the screen in such a way that we  
13 can see what the witness is pointing at, and the --

14 THE COURT: Certainly.

15 MR. OTTO: -- State's attorney as well.

16 THE CLERK: Okay, well I don't have too much --

17 MR. OTTO: That's good. I think we can all --

18 THE CLERK: Because the cord's not that long.

19 MR. OTTO: A little more so the jury can see it.

20 Going back toward the jury a little bit. Okay, that --

21 MS. SCHIFALACQUA: Does Mr. Otto want to stand up  
22 and turn to what he wishes?

23 MR. OTTO: I think that should be good.

24 MS. SCHIFALACQUA: Oh, okay. I didn't -- I didn't  
25 know if you wanted it --

1 MR. OTTO: Thank you.

2 THE COURT: All right.

3 THE MARSHAL: Can the jury see this?

4 UNKNOWN JUROR: Yes.

5 THE MARSHAL: Okay.

6 THE COURT: Thank you. You may proceed.

7 THE WITNESS: Essentially, it would be in this area  
8 here, just under this seat.

9 BY MS. PIEPER:

10 Q Bob, I hate to ask you to redo that, but do you  
11 think you can go on that side of the TV so that defense  
12 counsel can see?

13 A Oh, I'm sorry. I didn't mean to block your view.

14 Q It's okay.

15 A Essentially, it would be in this area here. This  
16 would be the front passenger seat, this is the rear seat, and  
17 the area I'm alluding to is this area. Right in this area  
18 here.

19 Q Okay. Now, looking at the picture, can you see the  
20 gun there?

21 A No, I can't.

22 Q Okay. But on November 5th, 2013, could you see it?

23 A Yes, I could.

24 Q Thank you. Showing you what's been admitted as  
25 State's 35, can you see what is depicted in that picture?

1 A Yes.

2 Q Okay. Now, this is obviously the opposite side of  
3 the car? This is the passenger side of the vehicle?

4 A Correct.

5 Q And in front of that, obviously you can see the  
6 front passenger seat?

7 A Correct.

8 Q I'm actually going to -- I lied. I need you to come  
9 down and show the members of the jury what is significant in  
10 this picture. And can you go on that side, please, so --

11 A This would be with the right rear passenger door  
12 open. This would have been after we obtained the search  
13 warrant. ID personnel photographed the same front passenger  
14 seat from a different angle. And once again, the handgun  
15 would have been up in this area here.

16 Q Okay. Did you speak to any of the occupants that  
17 were in the vehicle?

18 A Yes.

19 Q Okay. Showing you what's been marked and admitted  
20 as State's 37, do you recognize that person?

21 A Yes, I do.

22 Q And is that somebody that you spoke to on November  
23 5th, 2013?

24 A Yes, it was.

25 Q And who was that?

1 A Matthew Washington.

2 Q And do you see Matthew Washington in the courtroom  
3 today?

4 A Yes, I do.

5 Q And can you point to him and describe an article of  
6 clothing that he's wearing?

7 A He's at the defense table, wearing a long-sleeved  
8 pinkish shirt.

9 Q Okay.

10 THE COURT: The record will reflect the  
11 identification of the defendant.

12 MS. PIEPER: Thank you, Your Honor.

13 BY MS. PIEPER:

14 Q Did you speak to the other occupant that was also in  
15 the car?

16 A Yes.

17 Q Showing you what's been admitted as State's 40, do  
18 you recognize that person?

19 A Yes, I do.

20 Q And who is that person?

21 A I believe his name is Martell Moten.

22 Q Okay. And he was the other person in the vehicle  
23 that day, is that correct?

24 A That's correct.

25 Q Showing you what's been admitted as State's 42, can

1 you explain to the members of the jury what this is a picture  
2 of?

3 A This is a view of the passenger side of the same  
4 2005 Dodge Magnum as it's parked, once again, on the side of  
5 the roadway with the evidence seals placed on the vehicle.

6 Q Earlier, you testified that the crime scene analysts  
7 had sort of taken some pictures of the vehicle, taken the gun  
8 out of the car, and then they sort of kind of locked the car  
9 back up. Is this what you were describing?

10 A Yes. You can see here that the windows are rolled  
11 back up. That would have been done by them prior to  
12 transporting the vehicle to our lab.

13 Q And those orange stickers that we see on the  
14 vehicle, are those put on by the crime scene analysts?

15 A Yes, they are.

16 Q And are those the seals that you had earlier  
17 described?

18 A Yes, they are.

19 Q The car is then loaded onto the flatbed and taken  
20 out to the crime lab, is that correct?

21 A That's correct.

22 Q You then described how you got some information, the  
23 crime scene analysts went out to eat lunch, and then you ended  
24 up calling them back. Do you remember that?

25 A Yes. They seemed hungry at the time, and for

1 whatever reason, I wasn't -- you know, I was fine waiting for  
2 the tow truck, so that's why I was there waiting for the tow  
3 truck to arrive when I got the -- when I was apprised of the  
4 updated information.

5 Q Okay. Showing you what's been admitted as State's  
6 62, do you recognize this photograph?

7 A Yes, I do.

8 Q And can you explain for the members of the jury what  
9 is significant in regard to this photograph?

10 A Certainly. This is the plastic panel I alluded to  
11 earlier that was essentially mounted below the steering  
12 column. I believe it's held in with clips or something to  
13 that effect where you can remove it to access internal  
14 components to the car.

15 Q When you sort of were -- I think you talked earlier  
16 how you were kind of looking in the pedal area, and then you  
17 got to that plastic area. Did you sort of -- how did you sort  
18 of pull that down?

19 A Well, like I said earlier, I looked underneath the  
20 -- this -- the plastic part where the pedals would be, the gas  
21 and brake pedals would be with a flashlight. I couldn't see  
22 anything. And I just essentially pulled the panel away to be  
23 able to see behind it, and it was at that point that I saw the  
24 handgun.

25 Q Okay. Showing you what's been admitted as State's

1 63. I tried doing this yesterday. Let me see if I can  
2 (inaudible). Can you show us what is significant in regard to  
3 this picture?

4 A Yes. This is the -- I believe this down here would  
5 be they plastic panel that I pulled away. This is the  
6 internal parts of the dash, essentially. These would be metal  
7 pieces, and in this area here, you can see what appears to be  
8 a handgun.

9 Q Okay. Showing you what's been admitted as State's  
10 65. Let me zoom-out just a little. Can you explain to us  
11 what is significant in regard to this picture?

12 A I believe this is the same, but maybe closer. The  
13 same plastic panel down here, the same metal interior piece,  
14 and then the same handgun.

15 Q Okay. And the handgun was removed, is that correct?

16 A That's correct.

17 Q Okay. When the firearm was removed on the scene, do  
18 you know what caliber that was?

19 A Yes.

20 Q What was it?

21 A A .40 caliber.

22 Q Okay. And was it a .40 caliber or a 9 millimeter on  
23 the scene, I'm sorry, at Eastern and Ogden?

24 A Oh, I'm sorry. That was a 9 millimeter.

25 Q That was a badly worded question. At Eastern and

1 Ogden, the gun that was removed from underneath the front  
2 passenger seat was what?

3 A A Smith and Wesson 9 millimeter.

4 Q And the gun that was removed from the driver's sort  
5 of steering column area, what was that?

6 A A Glock .40 caliber handgun.

7 MS. PIEPER: Pass the witness, Your Honor.

8 THE COURT: Cross-examination?

9 MR. OTTO: Thank you, Your Honor. I do have a few.

10 CROSS-EXAMINATION

11 BY MR. OTTO:

12 Q Detective, you can sit down if you like.

13 A Oh, thank you.

14 Q Hold on to the microphone and pen. We might get  
15 back up again.

16 Drawing your attention to the morning of November  
17 5th, 2013, you arrived at approximately 6:00 A.M. at Ogden and  
18 Eastern, correct?

19 A That's correct, sir.

20 Q And when you got there, where was Mr. Washington?

21 A He was seated in the back seat of a patrol vehicle.

22 Q And where was Mr. Moten?

23 A Sitting in a separate patrol vehicle.

24 Q After 6:00 A.M., you waited for the arrival of what  
25 you've described as the ID team? ID, is that correct?



1 A Crime scene personnel. Yes, sir.

2 Q And what does "ID" stand for?

3 A It's abbreviation for identification.

4 Q Oh, I see. Um-hum.

5 A Yeah.

6 Q So, while you were waiting for the ID team to  
7 arrive, did you do anything with the evidence besides stand  
8 there?

9 A No.

10 Q Did you -- at any time, did you -- are you familiar  
11 with gunshot residue?

12 A Oh, yes, sir.

13 Q Or GSR?

14 A Yes, sir, I am.

15 Q And GSR and gunshot residue are the same thing, is  
16 that correct?

17 A Yeah, I believe the one's just an abbreviation for  
18 the other.

19 Q Could you describe to us what gunshot residue is?

20 A Yeah. Essentially, when a person's in the vicinity  
21 of a gun that's been fired, a particulate matter is expelled  
22 from the gun, and depending upon how close you are, there may  
23 or may not be remnants on a person, their clothing, those kind  
24 of things.

25 Q And a person who fires a handgun in their hand will

1 get gunshot residue on their hand, is that correct?

2 A Presumably, yes, sir.

3 Q At any -- and many times, there are precautions or  
4 steps taken by police departments to preserve the gunshot  
5 residue on an individual's hands, is that correct?

6 A Oh, yes, sir.

7 Q And in this case, were any of -- what are those  
8 precautions? How is that done to preserve the gunshot  
9 residue?

10 A Well, you want to ensure that no one washes their  
11 hands, ideally, rub their hands to get this particulate matter  
12 off of their hands. And then ID -- our crime scene personnel  
13 have little swabs that they use to swab, in this case, a  
14 person's hand to recover that matter, and then ultimately it's  
15 sent to a lab for examination.

16 Q Do you sometimes bag the hands, put paper bags on a  
17 subject's hands in order to preserve the gunshot residue?

18 A Typically that would be with a decedent, but I  
19 suppose you could, yes.

20 Q In this case, do you know of any precautions that  
21 were taken to preserve or collect gunshot residue, if any,  
22 from Mr. Washington's hands?

23 A No, I don't.

24 Q And in your experience as a police officer, you've  
25 gone to a firing range many times, I imagine?

1 A Yes, sir, I have.

2 Q And when you fire a handgun, have -- in your  
3 experience, does the gunshot residue come off in your hand --  
4 onto your hand when you're firing a handgun at the range?

5 A Yes, you'll have soot or matter on your hand from  
6 that. Yes, sir.

7 Q Kind of a black or gray smudge, correct?

8 A Yeah, yeah.

9 Q And the -- really, the only effective way in --  
10 would it be correct for me to say that the most effective way  
11 to get that off is to go in a bathroom and wash your hands  
12 with soap and water?

13 A Yes, that's what I do after I qualify. Yes, sir.

14 Q Did -- were you involved in the collection of  
15 fingerprints in this case?

16 A No, sir, I wasn't.

17 Q Were you involved in the collection of DNA evidence?

18 A No, sir, I wasn't.

19 Q Could you explain just briefly, if you would, what  
20 DNA refers to?

21 A Well, it's essentially evidence that we can use to  
22 eliminate or place someone with some particular evidence.  
23 What we do is we'll get a buccal swab from a person, which is  
24 typically like a toothbrush that they use to swab the inside  
25 of their mouth, and then our forensic lab will compare that to

1 any evidence that they've recovered to see if someone could be  
2 tied to evidence.

3 Q You had no involvement in any collection of DNA from  
4 Mr. Washington, is that correct?

5 A No, sir.

6 MR. OTTO: Could I have the pictures? Thank you.

7 MS. SCHIFALACQUA: Not all of them are in, so you're  
8 going to -- look at the numbers.

9 MR. OTTO: If I could have a moment, Your Honor,  
10 to --

11 THE COURT: Sure.

12 (Pause in the proceedings)

13 BY MR. OTTO:

14 Q While I'm going through these pictures, Detective,  
15 the plastic panel below the steering column that you described  
16 pulling down, did you ever try to put it back up?

17 A No, I never did. No.

18 Q To the best of your knowledge, has anybody ever  
19 tried to put that back up?

20 A To the best of my knowledge, no, sir.

21 Q Do you know if it would go back up if you had pulled  
22 it down and put something in there, and then pushed it back  
23 up?

24 A I would assume so. I've worked on cars myself over  
25 the years, and I've had to do that -- I have a Mustang I've

1 had to do that with on occasion. Yes, sir.

2 Q This isn't a Mustang?

3 A No, it isn't. It's a Dodge Magnum, I believe.

4 Q All right, thank you. Detective, if you look at  
5 your small screen, please, drawing your attention to what's  
6 been marked as State's Exhibit 32, you've described this as  
7 the back seat of the Dodge Magnum in question, is that  
8 correct?

9 A The back -- yeah, part of this is the back seat.

10 Q Back seat and under the front seat?

11 A Yes, sir. Yes, sir.

12 Q And you can actually see my pen. My pen there is  
13 pointing to a blue something, is that correct?

14 A Yes, sir.

15 Q Do you know what that is?

16 A Yes, sir.

17 Q And what is that?

18 A That's a blue latex glove.

19 Q And did you ever examine that personally in any way?

20 A No, sir.

21 Q In this photograph, can you see the handgun there at  
22 all?

23 A No, I don't believe I can.

24 Q Calling your attention to what's going to come up on  
25 your screen, it is marked and admitted as State's Exhibit 36.

1 And that's a slightly different view, and my pen again is  
2 pointing to a blue item, and is that the same latex glove?

3 A It appears to be. Yes, sir.

4 Q They also described that substance as nitrile, do  
5 you know?

6 A I don't know, sir.

7 Q Calling your attention now to State's Exhibit 35,  
8 and we're looking at the -- my pen again is referring --  
9 showing you the blue item, the nitrile or latex glove. And  
10 above that, is the handgun sitting on top of part of that  
11 glove?

12 A It appears to be, yes.

13 Q Did the handgun move during transport of the vehicle  
14 in your memory from where it was on the street to where it was  
15 when you got to the -- no, these were all on the street,  
16 correct?

17 A Yes, sir.

18 Q Oh, okay. It's just hard to see it there is all.

19 A Yes.

20 Q Calling your attention to what's marked as State's  
21 Exhibit 65, my pen you can see is pointing to a yellowish  
22 substance. Do you see that?

23 A Yes, sir, I do.

24 Q And is -- do you know what that is?

25 A No, sir, I do not.

1 Q And are these, if you recall, remnants of the same  
2 substance here?

3 A No, I really wouldn't --

4 Q Below the blinker switch?

5 A Yeah, I really wouldn't know what that is.

6 Q And my pen here is pointing to -- is that the  
7 handgun?

8 A I believe so. Yes, sir.

9 Q And is that the rear sight?

10 A Yes.

11 Q And that is a .40?

12 A .40 caliber. Yes, sir.

13 Q And what make?

14 A A Glock.

15 Q Did you ever collect the -- excuse me, the serial  
16 number off that handgun?

17 A I know it was -- it was memorialized once it was  
18 taken out of the vehicle. I believe I rode it down to apprise  
19 the senior detective about the gun. Yes, sir.

20 Q All right. And showing you now what's been marked  
21 as State's Exhibit 64, is that the same, but a more close-up  
22 view of the rear sight of that handgun?

23 THE COURT: We can't --

24 MS. SCHIFALACQUA: Can't see.

25 THE COURT: -- really see it, counsel.

1 MR. OTTO: Oh, I'm sorry.

2 THE WITNESS: A little low.

3 MR. OTTO: I can see it.

4 THE WITNESS: Yes, sir, that's it.

5 MR. OTTO: All right, thank you very much.

6 BY MR. OTTO:

7 Q You were asked by the State's attorney whether there  
8 was better access or you described a presumption in your mind  
9 that there was better access to the 9 millimeter in the rear  
10 area of the car, to a passenger in the rear area, is that  
11 correct?

12 A Yes, I would assume so. Yes, sir.

13 Q But you don't know who may have had access to that  
14 handgun, is that correct? You don't know for sure?

15 A For sure, no. I know who was sitting in the back  
16 seat, but no.

17 Q Yes. Mr. Moten was sitting in the back seat, is  
18 that correct?

19 A That's correct.

20 Q And the same question to the area under the steering  
21 column. You don't know who may have had access to the area  
22 under the steering column, is that correct? I mean, you don't  
23 know for sure. You didn't see anybody access the steering  
24 column, except for yourself?

25 A No, but I'm assuming that the driver of the vehicle



1 would have the easiest access to that area. Yes, sir.

2 Q While he was sitting in that seat, at any rate?

3 A Or prior to sitting in the seat. Yes, sir.

4 MR. OTTO: All right. I don't believe I have  
5 anymore. And just one last one.

6 BY MR. OTTO:

7 Q It was the ID team, and you believe that's Taylor  
8 and Cromwell, their last names, who removed the handguns from  
9 the vehicle, is that correct?

10 A Yes. I believe it was Mike Cromwell who removed the  
11 Smith and Wesson 9 millimeter and examined it in my presence.  
12 I don't recall who in particular took the Glock out of the  
13 dash area.

14 MR. OTTO: All right, thank you very much. I have  
15 no further questions.

16 THE WITNESS: Thank you, sir.

17 THE COURT: Redirect?

18 MS. PIEPER: Sure.

19 REDIRECT EXAMINATION

20 BY MS. PIEPER:

21 Q I just want to ask you a couple of follow up  
22 questions. You are a detective with the Las Vegas  
23 Metropolitan Police Department, correct?

24 A Yes, I am.

25 Q What's the difference between what you do, what an

1 ID tech does, and what a crime scene analyst does?

2 A Well, a crime scene analyst and an ID is essentially  
3 the same person, just different vernacular for their jobs.

4 Q And a crime scene analyst -- I hate to use this  
5 example, but are they similar to the TV show CSI?

6 A I've only seen the show once, so I would think not.  
7 From what I've learned about the show, no.

8 Q They don't make \$5 million, they don't have hair and  
9 makeup people, correct?

10 A No.

11 Q Okay.

12 THE COURT: And that's not required viewing for all  
13 Metro police officers?

14 THE WITNESS: No, fortunately, it's not.

15 THE COURT: Okay.

16 BY MS. PIEPER:

17 Q But crime scene analysts essentially process  
18 vehicles, take fingerprints, take photographs, make guns safe  
19 to some extent, unless of course you're there and there's no  
20 other crime scene analyst, is that correct?

21 A That's correct.

22 Q Okay. You were asked some questions in regard to  
23 the gun. Do you remember those questions?

24 A Yes, ma'am, I do.

25 Q Okay. And Mr. Otto asked you if anything had been

1 moved or anything to that extent. Do you remember those  
2 questions?

3 A Yes.

4 Q While you were on scene at least, you know that  
5 nobody went into the car and moved anything, correct?

6 A Absolutely.

7 Q And everybody waited until there was a search  
8 warrant, correct?

9 A Absolutely.

10 Q Showing you what's been marked as State's Exhibit  
11 35. You were asked some questions in regard to the latex  
12 glove, which is sort of the blue thing that's in the picture,  
13 is that correct?

14 A That's correct.

15 Q You were also asked some questions about the gun  
16 that was on top. Do you remember those questions?

17 A Yes, I do.

18 Q Was the gun moved or anything to that effect, is  
19 that correct?

20 A That's correct.

21 Q Looking at State's admitted Exhibit 36. And this is  
22 a bad -- let me see if I can --

23 (Pause in the proceedings)

24 BY MS. PIEPER:

25 Q Would you agree with me in regard to State's 36 that

1 this is the blue latex glove?

2 A Correct.

3 Q And this is the gun?

4 A Yes.

5 Q At this point now, we know that this picture is  
6 taken from the passenger side of the vehicle with the door  
7 open, correct?

8 A Correct.

9 Q Meaning that, at this point, the search warrant has  
10 been obtained?

11 A Correct.

12 Q Would you agree with me that, although the pictures  
13 may look a little bit different, it's just a more close-up  
14 shot of what is depicted in State's 35?

15 A Yes.

16 Q You were asked some questions in regard to putting  
17 back the panel on the Dodge Magnum. Do you remember those  
18 questions?

19 A Yes, I do.

20 Q You don't work for Dodge, correct?

21 A No, ma'am, I do not.

22 Q But you could probably safely assume that Dodge  
23 would not have a gun in the steering column of a vehicle,  
24 correct?

25 A Absolutely.

1 Q Okay. So, somebody had to have put the gun there,  
2 correct?

3 A Correct.

4 Q Closed it at some point, correct?

5 A Correct.

6 Q Because then we know that at least you opened it?

7 A Correct.

8 Q Sometime after the shooting had happened, correct?

9 A That's correct.

10 Q You were asked some other questions in regard to  
11 access that I had asked you to the guns. Do you remember  
12 those questions by defense counsel?

13 A Yes.

14 Q If I'm sitting in let's say the front passenger  
15 seat, and the driver is to the left of me, where would the 9  
16 millimeter gun be?

17 A It would be behind your seat.

18 Q Okay. So, in order to access it, I would probably  
19 have to turn around, because it's clearly under the seat,  
20 correct?

21 A Yes.

22 Q And then, the photographs that we just looked at,  
23 State's 35 and 36, it's actually closer to sort of the door on  
24 the passenger side, correct?

25 A That's correct.

1 Q So, either way, the front passenger seat would have  
2 to either go around this way, or go around that way to get the  
3 gun, is that correct?

4 A That's correct.

5 Q Let's say I change positions. I am now sitting in  
6 the backseat of the vehicle, the driver is in front of me. Do  
7 you get my orientation?

8 A Sure.

9 Q Okay. Wouldn't it be easier to just grab the gun  
10 that is behind the front passenger seat?

11 A Oh, certainly.

12 Q Okay. Let's say I'm now the driver of the vehicle.  
13 You actually found the .40 caliber gun that was in the column,  
14 is that correct?

15 A That's correct.

16 Q So, the panel is actually right in front of you, is  
17 that correct --

18 A Yes.

19 Q -- if I'm sitting in the driver seat? So, if I pull  
20 the panel down and I put the gun in -- or put the gun in or  
21 pull it out, the driver has better access, correct?

22 A Certainly.

23 Q The person that is sitting behind the driver, so  
24 let's say I'm the back passenger, would have to reach over the  
25 driver like this in order to get the gun, is that correct?

1 A Correct.

2 Q Is that why you answered the way you did in regard  
3 to who had better access to the gun?

4 A Yes.

5 Q You were asked some questions about DNA. Do you  
6 remember that?

7 A Yes.

8 Q By defense counsel?

9 A Yes.

10 Q And you explained that DNA can sometimes exclude  
11 people, but it can also sometimes say whether someone was at a  
12 crime scene or not?

13 A Correct.

14 Q But you're not a DNA expert, correct?

15 A No, ma'am.

16 Q And DNA doesn't necessarily date when somebody is at  
17 a place or not?

18 A That's correct.

19 Q It just tells us whether they may have been there or  
20 not?

21 A That's correct.

22 Q You were asked some questions in regard to gunshot  
23 residue, do you remember that, by defense counsel?

24 A Yes, I do.

25 Q Okay. And you were asked whether in this case the

1 Las Vegas Metropolitan Police Department took any steps in  
2 regards to either this defendant or the other person, Martell  
3 -- whether they had done any gunshot residue testing, or  
4 bagging of the hands. Remember those questions?

5 A Yes, I do.

6 Q And you actually testified that bagging of the hands  
7 is normally done on a decedent, or somebody that has passed,  
8 is that correct?

9 A That's correct.

10 Q And in your 30 years of experience, would that be  
11 consistent?

12 A Yes.

13 Q In regard to gunshot residue, and in this case, do  
14 you have an opinion why or why not gunshot residue tests would  
15 be good?

16 A Yes, certainly.

17 Q Okay, and what is that?

18 A To see if someone was in proximity to a gun when it  
19 was fired.

20 Q And in this case, why would the Las Vegas  
21 Metropolitan Police not do or do a gunshot residue test?

22 A In this particular case, we'd be precluded from  
23 doing the test inasmuch as the defendant was placed in  
24 handcuffs and put in the back seat of a patrol car, the  
25 mindset being that it could be contaminated.



1 Q Okay. And could it be contaminated because  
2 handcuffs on police officers come into contact with let's say  
3 gunshot residue on a maybe daily basis?

4 A They could, yes.

5 Q That putting somebody in the back of the patrol car  
6 where let's say there's other gunshot residue back there?

7 A Potentially.

8 Q So, we could get a false positive?

9 A Certainly.

10 Q Thank you. Is there anything by putting cuffs on a  
11 person -- just the nature of that alone, would that preclude  
12 doing a gunshot residue test?

13 A Yes, it would.

14 Q And what is that?

15 A I'm sorry?

16 Q Why would that preclude a gunshot residue test being  
17 done?

18 A Out of concern that you would be contaminating the  
19 person's hands with foreign potential gunshot residue.

20 Q And is that because police officers go to the range  
21 and they shoot their gun? Their gun is usually on the same  
22 belt that their handcuffs are on?

23 A Certainly.

24 MS. PIEPER: Thank you. No further questions.

25 THE COURT: Recross?

1 MR. OTTO: None, Your Honor.

2 THE COURT: Thank you. You may step down. May this  
3 witness be excused?

4 MS. PIEPER: Yes, Your Honor.

5 THE COURT: And from the defense as well, excuse the  
6 witness?

7 MR. OTTO: Yes, Your Honor.

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

9 THE WITNESS: Thank you, Your Honor.

10 MS. SCHIFALACQUA: Judge, Court's indulgence.

11 THE COURT: All right.

12 MS. SCHIFALACQUA: And Judge, the State would call  
13 LaRoy Thomas.

14 THE COURT: Okay.

15 THE MARSHAL: Go ahead and have a seat, sir. We'll  
16 swear you in from the sitting position, okay? Take your time.  
17 Face that lady right there.

18 THE COURT: Just face her right here, sir.

19 THE CLERK: Please raise your right hand.

20 LARoy THOMAS, STATE'S WITNESS, SWORN

21 THE CLERK: Please state your name and spell it for  
22 the record.

23 THE WITNESS: My name is LaRoy Thomas. L-a, capital  
24 R-o-y, T-h-o-m-a-s.

25 THE CLERK: Thank you.

1 MS. PIEPER: Thank you.

2 MS. SCHIFALACQUA: May I, Your Honor?

3 THE COURT: You may proceed.

4 MS. SCHIFALACQUA: Thank you.

5 DIRECT EXAMINATION

6 BY MS. SCHIFALACQUA:

7 Q Mr. Thomas, I want to turn your attention back to  
8 November 5th of 2013. Do you remember that day?

9 A Yes.

10 Q And on that day -- and I'm going to have you speak  
11 up into the mic that's right before you. On that day -- well,  
12 actually, I'm going to actually talk to you about the day  
13 before. On November 4th of 2013, were you here in Las Vegas?

14 A Yes.

15 Q Okay. And had you been living in Las Vegas at that  
16 time?

17 A No.

18 Q Describe for the members of the jury kind of why it  
19 is you were in town.

20 A I was initially in town to visit my son.

21 Q Okay. And does your son currently reside in Las  
22 Vegas?

23 A Yes.

24 Q Does also the mother of your son reside in Las  
25 Vegas?

1 A Yes.

2 Q Is that your ex-wife?

3 A Yes.

4 Q What is her name?

5 A Rosa Kincaid (phonetic).

6 Q Okay. So, we'll refer to her, if it's all right  
7 with you, as Rosa, so that we know. Were you trying to visit  
8 your son and stay with Rosa?

9 A Yes.

10 Q Did that work out?

11 A No.

12 Q Okay. Can you briefly describe, without getting  
13 into too many details, but why it is you couldn't stay with  
14 her any longer?

15 A Well, when I came down here, she told me I'm going  
16 to help you -- well, her husband is in the Army.

17 Q Okay.

18 A So, that's how I end up (indiscernible) to stay with  
19 her. She (indiscernible). When I got down here, it didn't  
20 work out that way.

21 Q Okay. At some point, did you kind of get into some  
22 arguments maybe?

23 A Yes.

24 Q Were there some past coming up --

25 A Yes.

1 Q -- issues?

2 A Exactly.

3 Q And then did you thereafter not stay with her any  
4 longer?

5 A Correct.

6 Q When it came to that time frame, November 4th or  
7 November 5th, specifically, on November 5th, were you -- did  
8 you have plans to leave Las Vegas?

9 A Yes.

10 Q Where were you going to go?

11 A Back home.

12 Q Where is home? The jurors don't know.

13 A Oh, I'm sorry. Tampa, Florida.

14 Q Okay. So, how long approximately had you been in  
15 town?

16 A About -- approximately about three weeks.

17 Q And with regard to where you were staying on  
18 November 4th to November 5th, who did you know in Las Vegas  
19 that you were staying with?

20 A I just knew a partner.

21 Q You knew who?

22 A Just a friend.

23 Q Okay, and what's that friend's name?

24 A Marque.

25 Q Okay. Is his name Marque Hill?

1 A Yes.

2 Q Did you actually go stay at a residence that was  
3 located at 2655 Sherwood Street?

4 A Yes.

5 Q Was that a particular apartment?

6 A Yes.

7 Q Was it apartment number 18?

8 A Yes.

9 Q On November 4th -- let's back up and talk to the --  
10 let the jurors know. How did you get to apartment 18 -- or  
11 what time did you get there?

12 A Repeat that again. I didn't.--

13 Q And I'm sorry, because that was not worded -- when  
14 did you get -- when did you get to apartment 18? What day?

15 A I can't remember.

16 Q How long had you stayed there? Let me ask you that.

17 A I would say about two weeks.

18 Q Okay. Approximately two weeks, you were at  
19 apartment 18, and your friend, Marque Hill, was there, is that  
20 correct?

21 A Correct.

22 Q With regard to November 5th, 2013, was that the day  
23 you were supposed to get on a plane and leave back to Florida?

24 A Yes.

25 Q Were you able to make that flight?

1 A No.

2 Q Okay. I want to kind of back up then and talk to  
3 you about Marque Hill.

4 MS. SCHIFALACQUA: For the jurors' purposes, Judge,  
5 permission to republish?

6 THE COURT: You may.

7 MS. SCHIFALACQUA: Thank you.

8 BY MS. SCHIFALACQUA:

9 Q I'm going to show you what's been already admitted  
10 as State's Exhibit 9. Do you recognize that person?

11 A Yes.

12 Q Who is that?

13 A Marque Hill.

14 Q Okay. How long did you know Marque?

15 A 20 years.

16 Q Okay. Had you grown up with him?

17 A Yes.

18 Q What state?

19 A Chicago, Illinois.

20 Q Okay. And on November 4th, was he at the residence,  
21 2655, number 18?

22 A Yes.

23 Q Who else was there?

24 A Of course, myself. Nathan Rawls, the deceased.  
25 Ashely Stewart.

1 Q Let me back up. On November 4th, that evening, were  
2 the persons that you just mentioned -- were they all at the  
3 apartment?

4 A Yes.

5 Q Okay. And with regard to Nathan Rawls, did -- how  
6 did you know him?

7 A I met him through my ex-wife.

8 Q Okay. And how long -- or -- you know, how long did  
9 you know him for?

10 A A few weeks.

11 Q Okay. And had you been -- because of this situation  
12 with your ex-wife, had you been staying at apartment 18 for  
13 that approximately two weeks?

14 A Yes.

15 Q Okay. Had there come a time that Nathan Rawls  
16 stayed at that apartment?

17 A How long did he stay at the apartment?

18 Q Yes.

19 A Nathan was probably at the apartment about a week.

20 Q Okay. And did you know where Nathan was from?

21 A Yes.

22 Q Where is that?

23 A Memphis, Tennessee.

24 Q Okay. Did you know if he had a residence in Las  
25 Vegas?



1 A No.

2 Q He was staying there. Did you know why?

3 A I don't know exactly why, but I know his girl was  
4 trying to get subsidized housing down here, and the reason why  
5 he was at the apartment, because she needed more paperwork so  
6 she had to go back home, and he didn't go back home with her.

7 Q Okay. So, your understanding at least is that  
8 Nathan Rawls' girlfriend went back to Tennessee, is that  
9 correct?

10 A Correct.

11 Q Was he waiting for her to return to get housing  
12 together with her?

13 A Correct.

14 Q That's your understanding of why he was staying at  
15 the residence?

16 A Right.

17 Q Okay. With regard to that evening, November 4th,  
18 describe for the members of the jury what happened that night.  
19 What were you doing?

20 A Watching TV. We had just ate.

21 Q Okay, and who's "we"?

22 A Me, and Nathan, and Ashely.

23 Q Okay. With regard to Ashely, or Ashely --

24 A Right.

25 Q -- does -- how did you know her?

1 A I met her through the neighborhood.

2 Q Okay. And did there come a time where you had an  
3 intimate encounter with Ashely, without getting too much into  
4 detail?

5 A Yes.

6 Q Okay. Is it fair to say she was not your girlfriend  
7 and you didn't have a dating relationship though?

8 A Correct.

9 Q Okay. With regard to Ashely, yourself, and Nathan,  
10 you indicated that you went and got something to eat. I want  
11 to back you up and have you tell the members of our jury kind  
12 of how the night went. Did you go get something to eat up  
13 front? Or describe for them kind of how the evening went.

14 A Well, we was playing a game. We was playing the  
15 Xbox.

16 Q Okay.

17 A And of course our stomachs got hungry. It was about  
18 2:00 something in the morning. So, we walked to a restaurant  
19 called -- a bar and grill, whatever you call it, called PT's  
20 right up the street, and we went in there.

21 Q Who went to PT's?

22 A Me and Nathan Rawls.

23 Q Okay. What did you do when you got to PT's with you  
24 and Nathan?

25 A We ordered some cheeseburgers. I had me a beer

1 while the food was getting ready.

2 Q Okay. Did you stay there, or did you go back to the  
3 apartment?

4 A Once our food was ready, we left and went back to  
5 the apartment.

6 Q Okay. Before you went to the apartment, did you  
7 stop anywhere and get anything?

8 A The gas station across the street from the store --  
9 from the restaurant.

10 Q Okay, and what did you get at the gas station,  
11 LaRoy?

12 A Black and Mild cigars and a beer.

13 Q Did Ashely go with you and Nathan to PT's?

14 A No.

15 Q With regard to your friend Marque Hill, did he go  
16 with you to PT's?

17 A No.

18 Q When you got back to the apartment, what did you do?

19 A We ate our food. I drank my beer. We was talking,  
20 last thing I remember.

21 Q Prior to that -- let me ask you this. Do you  
22 remember what time Ashely got to the apartment, if you  
23 remember?

24 A She was there already, so she could have been there  
25 around 8:00, 9:00 o'clock that evening.

1 Q In the evening?

2 A Yeah.

3 Q Is that a, yes?

4 A Yes.

5 Q Okay. With regard to 8:00 or 9:00 o'clock in the  
6 evening, can you tell the members of the jury, were you  
7 watching a particular game that evening?

8 A Yes, I was.

9 Q And what game was that?

10 A Chicago versus the Packers.

11 Q Okay, and who won that game?

12 A The Bears.

13 Q Was that accurate?

14 A Yes.

15 Q No, I'm just -- with -- are you a Bears fan? That's  
16 what I'm getting at.

17 A Yes, I am.

18 Q Okay. So, had everybody kind of been watching the  
19 game?

20 A Yes.

21 Q And at some point, when you leave to go to PT's,  
22 around what time is that? Is the game over?

23 A The game's over.

24 Q Okay. And when you come back, you said Marque  
25 wasn't eating the food. Do you know where he was in the

1 apartment?

2 A He was in the room asleep.

3 Q Okay. Can you describe for the members of our jury

4 kind of how the apartment is set up?

5 A All right. Say I'm the door.

6 Q Okay.

7 A Once you come in the door, it's the front room. The  
8 kitchen's connected to the front room.

9 Q There's no walls between the kitchen and the living  
10 room area?

11 A No, it's just a wide open area.

12 Q Okay.

13 A Take a few more feet, it's the bedroom -- it's two  
14 bedrooms that's catty-corner, and the bathroom.

15 Q Okay.

16 A So, it's a two-bedroom apartment.

17 Q Okay. With regard to the living room, can you  
18 describe where the furniture was located?

19 A It was a long couch, just as long as some chairs  
20 right there, by the window. It was --

21 Q And --

22 A It was --

23 Q Let me stop you there --

24 A Go ahead.

25 Q -- just so I can make it clear. When you say by the

1 window, did the back of the couch go against the windows that  
2 are at the front of the apartment?

3 A Yes.

4 Q Continue on. Where is the rest of the furniture?

5 A There's a cocktail table in between that and the  
6 love seat, which me and Ashely were sitting on.

7 Q The love seat, was that against the wall of the  
8 living room, directly across the other couch?

9 A Yes.

10 Q So, the couch -- the long couch and the love seat,  
11 did they face each other?

12 A Yes.

13 Q Was the cocktail table in between?

14 A Yes.

15 Q Where if anywhere was a television? You said you  
16 were watching a game.

17 A It was against the wall -- the back wall.

18 Q Okay. With regard to where you and Ashely were on  
19 the love seat, does that love seat go against one of the  
20 bedrooms?

21 A Yes.

22 Q Who was in that bedroom?

23 A Marque.

24 Q Okay. There was another bedroom however that is not  
25 buttressed -- or not against the living room area, is that

1 right?

2 A Right.

3 Q Okay. And is there a bathroom kind of in between?

4 A Yes.

5 Q On November 4th and into November 5th, eventually,  
6 do you fall asleep?

7 A Yes.

8 Q Before you fall asleep, where is everyone in the  
9 apartment?

10 A Nathan's sitting on the long couch, me and Ashely  
11 are sitting on the love seat.

12 Q Okay. And do you remember if Nathan was still awake  
13 when you last -- when you were still awake, or had he fallen  
14 asleep first?

15 A I fell asleep first.

16 Q Describe for the members of the jury what happens  
17 after you fall asleep, LaRoy.

18 A After I fall asleep, about 4:00 something in the  
19 morning, I wake up to a bunch of gunfire.

20 Q Describe where you are positioned when you wake up  
21 to the gunfire.

22 A I'm sitting in the love seat.

23 Q Is anybody beside you?

24 A Ashely is.

25 Q Describe -- how many gunshots do you hear?

1 A I hear at least five or six.

2 Q What do you do?

3 A I just -- I scrambled and tried not to get hit, but  
4 (indiscernible) I was already hit.

5 Q Did the gunshots continue after you woke up?

6 A Yeah.

7 Q Is that a yes?

8 A Yes.

9 Q What do you do? Describe for the members of the  
10 jury what happens.

11 A After the gunshots came through the windows and  
12 stuff like that, I just hit the ground, because it's dark in  
13 the house so I can't see nothing. After the gunfire was over  
14 with, that's when I realized what happened.

15 Q Did you realize you were shot right away?

16 A Not right away.

17 Q When you first wake up and there's gunfire, did you  
18 have to orient yourself?

19 A I still was in disbelief, so I guess, yeah.

20 Q Did you see where Ashely was?

21 A She was right next to me.

22 Q Okay. Did you go to the ground?

23 A Yes.

24 Q Did you direct her to go to the ground?

25 A Yes.



1 Q Describe for the members of the jury what you do  
2 after you go to the ground.

3 A After I go to the ground, I headed towards the back  
4 of the house.

5 Q By head, are you crawling?

6 A Crawling.

7 Q Can you hear anything when the gunfire is coming  
8 through?

9 A No.

10 Q What direction is it coming from?

11 A I just noticed it coming through the window.

12 Q How do you know that?

13 A Where else could it come from?

14 Q Did you ever hear glass breaking?

15 A No.

16 Q When you crawl, where do you crawl to?

17 A I crawled to the back room. Not the room Marque was  
18 in, but the empty room.

19 Q Okay. At any point, do you make contact with  
20 Marque?

21 A Yeah. Yes.

22 Q Describe for the members of the jury what happens.

23 A After I'm shot and Ashely's shot, and we get to the  
24 back of the house and I realize my partner Nathan's dead,  
25 that's when I told Marque to call 911 because we hit.

1 Q Okay. Was it -- is it fair to say that it was kind  
2 of a frantic scene?

3 A Yes.

4 Q Okay. Did things happen quickly or slowly when it  
5 was happening?

6 A It was happening fast.

7 Q Okay. When you said that you realized Nathan wasn't  
8 breathing anymore, how do you know that? Describe what you  
9 saw.

10 A I went over there and I shook him, and I smacked  
11 him, and I jerked at him. No response.

12 Q Did you hear him breathing?

13 A Yeah, I did.

14 Q At some point, does he stop?

15 A Yeah. Yes.

16 Q Describe that.

17 A Took his last breaths.

18 Q How?

19 A It's like if you was taking your last breath.

20 Q Did you at some point yell out that you were hit?

21 A Yes.

22 Q Did you see Marque calling 911?

23 A Yes.

24 Q After you heard Nathan taking the last breaths, did  
25 you check on Ashely?

1 A Yes.

2 Q Describe for the members of the jury, where was she?

3 A Ashely was almost inside the closet, scared to death  
4 in the empty room.

5 Q Not in the room Marque was in, but in this other  
6 room?

7 A Yes.

8 Q She was in the closet? Did you observe any injuries  
9 on her?

10 A Yes.

11 Q Where?

12 A She had got shot in the foot.

13 Q Okay. Where did you get shot?

14 A In my ankle.

15 Q What foot -- what ankle?

16 A My left foot.

17 Q With regard to Marque calling the police, did the  
18 police arrive on scene?

19 A Yes.

20 Q Quickly? Long time? Describe for us the --

21 A Quickly.

22 Q Okay. Describe what happened when they got on  
23 scene.

24 A Once they got to the scene, they banged on the door.

25 Q Did they announce that they were Metro Police?

1       A     Yes. Marque opened the door, and they came in and  
2 did what they had to do.

3       Q     Describe to the members of our jury what it is they  
4 actually did.

5       A     They came in with their guns drawn, their  
6 flashlights. They wanted the doors opened. They yelled in,  
7 is anybody else in the house, is any weapons in the house? No  
8 weapons in the house. I scream out, I'm shot, my partner's  
9 shot, and my female friend's shot. And at that time, they  
10 took us outside into the courtyard.

11       Q     Do they -- do you see the officers kind of clear the  
12 house?

13       A     Yes.

14       Q     Okay. Are you outside -- when you say you go  
15 outside to the courtyard, do you go outside?

16       A     Yes.

17       Q     Does Ashely go outside?

18       A     Yes.

19       Q     Does Marque go outside?

20       A     Yes.

21       Q     Where's Nathan?

22       A     On the floor.

23       Q     And I want to ask you, where on the floor was he  
24 specifically when you last saw him breathing?

25       A     Same couch he was sitting on when I left -- when I

1 alive, just flipped over on the floor.

2 Q Was there other furniture that was kind of  
3 disturbed?

4 A The cocktail table.

5 Q Is that flopped over as well?

6 A Yes.

7 Q Do you recall whether or not the television was left  
8 on?

9 A It was on, last that I remember.

10 Q Okay. You didn't turn it off, is that fair to say?

11 A Yes.

12 Q Okay. When you go outside, at some point, do  
13 ambulance personnel start arriving and --

14 A Yes.

15 Q -- do they check you out?

16 A Yes.

17 Q And are you ultimately transported?

18 A Yes.

19 Q Where do you go?

20 A Sunrise Hospital.

21 Q Okay. Do you see if Ashely is also being kind of  
22 tended to by ambulance personnel?

23 A Yes.

24 Q And do they also take her in an ambulance to a  
25 hospital?

1 A Yes.

2 Q Okay. Now, when you get to the hospital, describe  
3 for the members of the jury what happens.

4 A Once I get to the hospital, they take me in the back  
5 room. And CSI came and did their thing, and --

6 Q By CSI, do you mean that officers or people from  
7 Metro took pictures of you?

8 A Yes.

9 Q Okay. Did they take pictures of your injuries at  
10 the time?

11 A Yes.

12 Q While you were in the hospital?

13 A Yes.

14 Q At some point, do detectives come and speak to you?

15 A Yes.

16 Q Do they do what's called a taped interview?

17 A Yes.

18 Q And so they record basically an interview of the  
19 encounter of the night, is that right?

20 A Yes.

21 Q Okay. Is that all while you were at the hospital?

22 A Yes.

23 Q Do you have any surgeries?

24 A Yes.

25 Q Describe for the members of the jury kind of what

1 you go through.

2 A I had immediate surgery. They did my surgery maybe  
3 two hours after I got shot, and they put screws in my legs, so  
4 I have screws -- I got pins in my legs.

5 Q Okay. And did you stay at the hospital, or were you  
6 released that day?

7 A I was there for a couple days.

8 Q Okay. After those couple of days, how long did you  
9 have the screws in your leg?

10 A 90 days.

11 Q And when you say you stayed a couple of days, we  
12 started this off by you were getting ready to leave to go home  
13 to Florida, is that right?

14 A Yes.

15 Q Could you go home to Florida?

16 A No.

17 Q When is it you were able to go home?

18 A Almost two weeks after the shooting.

19 Q Did you have to get what's referred to as medically  
20 cleared to fly?

21 A Yes.

22 Q Okay. Eventually, are you able to be medically  
23 cleared to fly?

24 A Yes.

25 Q And thereafter, do you go back to your home in

1 Florida?

2 A Yes.

3 Q In Florida, have you had to continue to have medical  
4 attention to your injuries?

5 A Yes.

6 Q Describe that for the members of our jury, please.

7 A Well, I got to go through intensive therapy at least  
8 two, three times a week.

9 Q And do you do that in Florida?

10 A Yes.

11 Q Did you have the screws taken out of your leg?

12 A Yes.

13 Q Was that also done in Florida?

14 A Yes.

15 Q Are you currently still in therapy?

16 A Yes.

17 Q Clearly, you have some crutches, is that right?

18 A Right.

19 Q Are you able to do the same things that you were  
20 able to do prior to the shooting?

21 A No.

22 Q Like what? Describe for our jurors.

23 A I can't go to work.

24 Q Have you had any information given to you as how  
25 long the therapy will have to last?



1 A No, it's just -- it's just a long road to recovery.

2 Q Okay. Now --

3 MS. SCHIFALACQUA: Court's indulgence. We'll do  
4 some of this. May I approach, Judge, the witness with State's  
5 proposed Exhibits 103 to 109, having previously been shown to  
6 Mr. Otto and provided in discovery?

7 THE COURT: You may.

8 MS. SCHIFALACQUA: Thank you.

9 BY MS. SCHIFALACQUA:

10 Q LaRoy, I'm going to show you what's been marked as  
11 State's proposed Exhibits 103 to 109. If you could look at  
12 each one of those, and when you're done, go ahead and look up  
13 at me. Do you recognize what's depicted in those photos? Let  
14 me say it this way. Do you know who these are pictures of?

15 A Yes.

16 Q Who?

17 A Me.

18 Q Is that -- where are they pictures of you at?

19 A At the hospital.

20 Q Okay, do they show your injuries?

21 A Yes.

22 Q Do they fairly and accurately show your injuries  
23 that you got on November 5th of 2013?

24 A Yes.

25 MS. SCHIFALACQUA: I'd move for admission of State's

1 proposed Exhibits 103 to 109.

2 MR. OTTO: No objection, Your Honor.

3 THE COURT: 103 to 109 will be admitted.

4 (State's 103 through 109 are admitted)

5 MS. SCHIFALACQUA: Permission to publish, Judge?

6 THE COURT: You may.

7 MS. SCHIFALACQUA: Thank you.

8 BY MS. SCHIFALACQUA:

9 Q Okay, LaRoy. I'm showing you what's been admitted  
10 as State's Exhibit 103. What are we looking at in this  
11 photograph?

12 A I was at the -- not even hours, maybe 40 minutes  
13 after I got shot, I'm in the hospital.

14 Q And that's you in the hospital bed, is that right?

15 A Yes.

16 Q That's at Sunrise Hospital?

17 A Yes.

18 Q Showing you Exhibit 104, is that also you?

19 A Yes.

20 Q Did you have an injury on your arm?

21 A Yes.

22 Q Describe that for the jury.

23 A It's pretty hard to describe. I mean, it came  
24 through --

25 Q Where -- which arm? Yeah. Which arm?

1 A Right. My right arm.

2 Q Okay. And what I mean by describe it is, before the  
3 shooting occurred, did you have that injury?

4 A No.

5 Q Describe how you got the injury.

6 A Scrambling for my life.

7 Q Okay. And is this a close-up of that -- State's  
8 105, is that a close-up of what you're referring to, right  
9 here?

10 A That's one of them, yes.

11 Q Is that a yes?

12 A Yes.

13 Q Okay. And I know -- I wanted to orient to be clear.  
14 104 kind of shows you back away, is that right?

15 A Yes.

16 Q And then 105 is the close-up?

17 A Yes.

18 Q You said that you were scrambling for your life.  
19 Did you also get some injuries to your knee?

20 A Yes.

21 Q Which knee was that?

22 A My right knee.

23 Q Showing you what's been admitted as State's 106, are  
24 we looking at that here in the photograph?

25 A Yes.

1 Q Do you remember going to the ground when the shots  
2 were being fired?

3 A No. No.

4 Q Did you, after it was over, realize you had the  
5 injury?

6 A Yes.

7 Q Okay. Showing you a close-up of that injury, is  
8 that what's depicted in State's 107?

9 A Yes.

10 Q Did you have that injury prior to the shooting on  
11 November 5th, 2013?

12 A No.

13 Q You indicated that it was your ankle that was shot,  
14 is that correct?

15 A Yes.

16 Q Which ankle was it?

17 A My left.

18 Q Showing you what's been admitted as State's 108, are  
19 we looking at your -- the injury there?

20 A Yes.

21 Q Do you see the bullet entry on your left foot  
22 depicted in that photograph?

23 A Yes.

24 Q And showing you 109, is that a close-up of the entry  
25 of that shot?

1 A Yes.

2 Q Okay. I wanted to talk to you -- or show you some  
3 of the things we've been talking about.

4 MS. SCHIFALACQUA: Your Honor, permission to  
5 republish --

6 THE COURT: You may.

7 MS. SCHIFALACQUA: -- some of the photographs that  
8 have been admitted?

9 THE COURT: You may.

10 MS. SCHIFALACQUA: Thank you.

11 BY MS. SCHIFALACQUA:

12 Q Showing you what's been admitted as State's Exhibit  
13 1, is that the apartment complex we were talking about, 2655?

14 A Yes.

15 Q Okay. And the outside of the apartment, do you have  
16 to -- do you have to walk through to get to that courtyard?

17 A Yes.

18 Q Okay. So, this is the outside on the street, is  
19 that accurate?

20 A Yes.

21 Q But the door of apartment 18, you have to walk  
22 through and in a courtyard to get to, is that right?

23 A Yes.

24 Q Okay.

25 MS. SCHIFALACQUA: Court's indulgence.

1 BY MS. SCHIFALACQUA:

2 Q At the front of the apartment 18, are there a number  
3 of windows on the outside?

4 A Yes.

5 Q Okay. Do you know how many?

6 A Some -- two windows in the front, and two windows on  
7 the side. And when you get to the back of the -- when you get  
8 to the door, it's one big -- it's two -- it's one big picture  
9 window, and by the refrigerator is another one.

10 MS. SCHIFALACQUA: Showing Mr. Otto -- I believe I  
11 showed it to him, but -- so it's -- let me get the numbers.

12 (Pause in the proceedings)

13 MS. SCHIFALACQUA: If I may approach, Your Honor, to  
14 show the witness what's been marked as State's proposed  
15 Exhibits 110 through 125.

16 THE COURT: You may.

17 MS. SCHIFALACQUA: Thank you.

18 BY MS. SCHIFALACQUA:

19 Q LaRoy, I'm going to show you what's been marked as  
20 State's proposed Exhibits 110 to 125. I'm going to have you  
21 look through each one of them, and after you look at them, go  
22 ahead and look up at me, okay? Did you get through all of  
23 them?

24 A Yes, I did.

25 Q Okay. Do you recognize what's depicted in State's

1 proposed Exhibits 110 through 125?

2 A Yes.

3 Q Is that -- are those photographs of the apartment at  
4 2655, apartment number 18?

5 A Yes.

6 Q Are these photographs pictures of how the apartment  
7 looked after the shooting occurred on November 5th of 2013?

8 A Yes.

9 Q And do they fairly and accurately depict how the  
10 scene was?

11 A Yes.

12 MS. SCHIFALACQUA: I'd move for admission of State's  
13 proposed Exhibits 100 through 125.

14 THE COURT: Any objection to Exhibits 110 through  
15 125?

16 MR. OTTO: No, Your Honor.

17 THE COURT: 110 to 125 will be admitted.

18 (State's 110 through 125 are admitted)

19 MS. SCHIFALACQUA: Permission to publish, Judge?

20 THE COURT: You may.

21 BY MS. SCHIFALACQUA:

22 Q I'm going to -- actually, let's start with 110,  
23 LaRoy. And is this the living room?

24 A Yes.

25 Q And I'm sorry. I know that some of these photos

1 depict Nathan in them, but we need to show the jury kind of  
2 how the scene was, okay? If we need to stop at any point,  
3 please signal to myself or to the Judge and we'll take a  
4 break. Showing you State's 111, is that how the doorway is,  
5 the kitchen and the living room?

6 A Yes.

7 Q Showing you 112, is that the kitchen?

8 A Yes.

9 Q Behind that sheet, and it looks like there's some  
10 curtains, is that the other window you were describing that  
11 was in the kitchen?

12 A Yes.

13 Q When it comes to the love seat that you were on, I'm  
14 showing you State's 113, is that the love seat --

15 A Yeah.

16 Q -- that you were talking about?

17 A Yes.

18 Q The wall that that love seat is resting against, on  
19 the other side of that wall, is that the bedroom?

20 A Yes.

21 Q Is that the bedroom that Marque Hill was in?

22 A Yes.

23 Q That love seat, would you agree with me the top part  
24 of it is patterned?

25 A Yes.



1 Q Okay. And I don't know if this will help us. It  
2 looks like it won't really. Sorry. Showing you State's 114,  
3 is that the top of that love seat?

4 A Yes.

5 Q Okay. Are there some markings or entries on that  
6 wall?

7 A Yes.

8 Q Had those entries on that wall been there prior to  
9 the shooting?

10 A No.

11 Q Showing you State's 115, what are we looking at  
12 here?

13 A Controller to the Xbox. Some woofers.

14 Q Okay.

15 A And some --

16 Q Are those speakers?

17 A Speakers, right.

18 Q Okay. Is that positioned directly next to the love  
19 seat that you and Ashely were on?

20 A Yes.

21 Q You indicated that there had been a coffee table  
22 that had been knocked over during the shooting. Do you  
23 remember that?

24 A No.

25 Q Okay. Showing you State's 116 that's been admitted;

1 what are we looking at there?

2 A That's the coffee table.

3 Q Okay. Do you -- when you fell asleep, was the  
4 coffee table in that position?

5 A No.

6 Q Okay. You indicated that you'd gotten some burgers  
7 from PT's. Do you see kind of remnants of that in that  
8 photograph?

9 A Yes.

10 Q Okay. Showing you 117, does that also depict the  
11 coffee table?

12 A Yes.

13 Q In this photograph, can you also see the entryway  
14 into access to either of the bedrooms?

15 A Yes.

16 Q Okay. So -- and we don't have our screen working,  
17 but maybe I can assist. Does this doorway right here --

18 A Yes.

19 Q -- give you access to either bedroom?

20 A Yes.

21 Q Okay. The bedroom -- there were two bedrooms in the  
22 house, is that right?

23 A Yes.

24 Q Showing you State's 118, is this a photograph of one  
25 of the bedrooms?

1 A Yes.

2 Q And showing you 119, is that that same bedroom?

3 A Yes.

4 Q And showing you 120, is that also one of the  
5 bedrooms?

6 A Yes.

7 Q That was not the bedroom that Marque Hill was in,  
8 correct?

9 A Correct.

10 Q Okay, that was the other bedroom?

11 A Yes.

12 Q And that bedroom, showing you 121, had a closet, is  
13 that right?

14 A Correct.

15 Q Or is that -- is that where Ashely went to?

16 A Correct.

17 Q Okay. The closet in this bedroom?

18 A Correct.

19 Q Oh, I'm sorry. Thank you. Showing you 121 again,  
20 to be fair, is this the -- can you tell from this photograph  
21 which closet that is? Could that be the closet that Marque  
22 Hill's room was in?

23 A Yeah.

24 Q Okay, and I apologize for that. Let me show you  
25 what's been marked -- or excuse me, admitted as State's 123.

1 Is that the bedroom that Marque Hill was in?

2 A Yes.

3 Q Okay. And showing you 124, is that the bed that was  
4 in that bedroom?

5 A Yes.

6 Q And a wider shot out of that 125, is that also the  
7 bed?

8 A Yes.

9 Q Did that bed have -- it just has a box spring and a  
10 mattress, is that right?

11 A Correct.

12 Q Okay. Some of these are -- these have been  
13 admitted. It's State's 13. What are we looking at here,  
14 LaRoy?

15 A The front room and the window curtains, drapes.

16 Q Were the curtains closed?

17 A They were just like they are right now. Yes.

18 Q Okay. As well as you talked about where it is you  
19 saw Nathan take his last breaths. Showing you what's been  
20 admitted as State's 12, is that the location where you last  
21 saw him?

22 A Yes.

23 Q I want to make it very clear to this jury. At any  
24 point, did you have any weapon on you during this incident?

25 A No.

1 Q Okay. Did you ever observe anyone in the house have  
2 any weapon?

3 A No.

4 Q From your understanding, when you woke up, had other  
5 people in the house also been sleeping?

6 A Say that again.

7 Q When you woke up, had other people in the house also  
8 been sleeping, or everybody had just gotten up when this  
9 occurred?

10 A I don't know.

11 Q Okay. Can you only say what you were doing?

12 A Right.

13 Q And what was that?

14 A I was asleep.

15 Q Okay.

16 MS. SCHIFALACQUA: Court's indulgence.

17 THE COURT: Um-hum.

18 BY MS. SCHIFALACQUA:

19 Q LaRoy, I want to ask you if you're a convicted  
20 felon?

21 A Yes.

22 Q Have you been convicted of possession of a  
23 controlled substance in July of 2005 out of Cook County,  
24 Illinois?

25 A Yes.

1 Q Have you also been convicted in March of 2004 for  
2 possession of a controlled substance with intent to sell out  
3 of Cook County, Illinois?

4 A Yes.

5 Q And have you also been convicted of a possession of  
6 a controlled substance in 2002 out of Cook County, Illinois?

7 A Yes.

8 Q With regard to the time that you were at the  
9 residence and the time that Nathan Rawls was at the residence,  
10 did you observe any problems with anyone?

11 A No.

12 Q Did you ever have any fights with anyone?

13 A No.

14 Q Did you ever see Nathan Rawls have any fights with  
15 anyone?

16 A No.

17 Q What about Marque Hill? At the time that you were  
18 at the residence, did you see Marque Hill have any fights with  
19 anyone?

20 A No.

21 Q What about Ashely? At any time that -- the short  
22 time you were there, did you see her have any fights with  
23 anyone?

24 A No.

25 Q Did you ever know of or any occasion to know of any

1 beefs going on between anybody that was in that residence on  
2 November 5th of 2013?

3 A No.

4 MS. SCHIFALACQUA: I'd pass the witness, Judge. But  
5 I don't know if counsel wants to --

6 MS. OHLINGER-JOHNSON: Your Honor, approach?

7 THE COURT: Do you anticipate some --

8 MR. OTTO: Could we approach, Your Honor?

9 MS. SCHIFALACQUA: Yes.

10 THE COURT: Yes. Um-hum.

11 (Off-record bench conference)

12 THE COURT: Ladies and gentlemen, we'll take a  
13 ten-minute recess, during which you will contemplate the  
14 meaning of the following admonition.

15 You are admonished not to talk or converse among  
16 yourselves, or with anyone else on any subject or any person  
17 connected with this trial. Do not form or express any opinion  
18 on any subject connected with the trial until the case is  
19 finally submitted to you.

20 The jury will be excused for ten minutes. Court  
21 will remain in session.

22 THE MARSHAL: All rise, ladies and gentlemen,  
23 please.

24 (Jury recessed at 10:59 a.m.)

25 THE COURT: Mr. Thomas, you can wait in this little

1 anteroom right outside this courtroom. They'll show you --  
2 the bailiff will show you where it is.

3 THE WITNESS: Okay.

4 THE COURT: Thank you.

5 (Outside the presence of the jury)

6 THE COURT: And will you show him where the little  
7 conference room is right there?

8 THE MARSHAL: Yes, Your Honor.

9 THE COURT: All right, thank you. All right. Mr.  
10 Otto?

11 MR. OTTO: Yes. If we can quickly just do this and  
12 then --

13 MS. SCHIFALACQUA: Sure.

14 MR. OTTO: -- you can take your break.

15 MS. SCHIFALACQUA: I would just wait until the  
16 witness is out of --

17 MR. OTTO: All right.

18 THE COURT RECORDER: Could you be near a microphone,  
19 please, Mr. Otto?

20 MR. OTTO: Oh, I'm sorry. Your Honor, the question  
21 has come up regarding impeachment evidence, which I believe is  
22 somewhere in NRS 50. And the next witness has a -- Marque  
23 Hill, who is going to come up sometime today, has a  
24 conviction, I believe, for second degree murder in Florida,  
25 or?



1 MS. PIEPER: In --

2 MS. SCHIFALACQUA: In Cook County, Illinois.

3 MS. PIEPER: -- Cook County, Illinois.

4 MR. OTTO: Cook County, Illinois.

5 THE COURT: Okay.

6 MR. OTTO: May I ask, as the State, just did of the  
7 controlled substance convictions of this witness, for  
8 impeachment purposes, may I ask Mr. Hill about the nature of  
9 the offense that he was convicted of? I believe he was  
10 convicted but released just seven years ago.

11 MS. PIEPER: Well, Judge, he only did seven years in  
12 prison. Under the statute, and my understanding is it's in  
13 the impeachment section under the 48. I can't remember what  
14 it is.

15 THE COURT: Um-hum.

16 MS. PIEPER: The only thing that's -- that can be  
17 asked of a witness in regard to their felony conviction is the  
18 year -- the conviction, what it is, the year, and the  
19 jurisdiction. If the defendant were to take the stand today,  
20 that's the only three things we could ask him. We can't go  
21 into the underlying offenses. We can't get into any of that.  
22 So, the fact that Mr. Otto thinks that he can ask --

23 MS. SCHIFALACQUA: If he went to prison, or --

24 MS. PIEPER: -- about Mr. Hill's conviction in  
25 Florida in -- or conviction in Cook County, the underlying

1 things in second degree murder, he cannot do that. He's  
2 prohibited by law.

3 THE COURT: In other words, your understanding of  
4 that section is that you can't ask the witness what the  
5 conviction was for?

6 MS. PIEPER: No, you can ask, what's the conviction  
7 for.

8 THE COURT: Okay.

9 MS. PIEPER: The year of the conviction.

10 THE COURT: Okay.

11 MS. SCHIFALACQUA: And the jurisdiction.

12 MS. PIEPER: And the jurisdiction. So, it's --

13 THE COURT: Okay.

14 MS. PIEPER: -- second degree murder --

15 THE COURT: What's the part that you --

16 MR. OTTO: Oh, that's --

17 THE COURT: -- that you don't want him to ask?

18 MR. OTTO: That -- that's -- that is the--

19 THE COURT: I thought that's what he wanted to ask  
20 him.

21 MR. OTTO: I thought we -- yeah, I thought you  
22 had --

23 MS. PIEPER: No. My understanding is you said you  
24 wanted to get into the underlying facts.

25 MS. SCHIFALACQUA: That he went to seven years

1 prison.

2 MR. OTTO: Oh, no, no. I just wanted to get to --

3 THE COURT: No.

4 MR. OTTO: -- what the conviction was for, and I  
5 thought --

6 THE COURT: Yeah.

7 MR. OTTO: -- you were telling me I couldn't do  
8 that.

9 MS. PIEPER: No.

10 MR. OTTO: Ah, it's clarified. I'm just trying not  
11 to make any errors --

12 THE COURT: Yeah.

13 MR. OTTO: -- in this record at all, Your Honor.  
14 Yes.

15 THE COURT: Well, I appreciate it. So, you can ask  
16 the year, what the conviction was for.

17 MS. PIEPER: And the jurisdiction.

18 MR. OTTO: And the jurisdiction.

19 THE COURT: And the jurisdiction.

20 MR. OTTO: Just as the State just did now.

21 THE COURT: Yeah.

22 MS. PIEPER: Yes.

23 MS. SCHIFALACQUA: We'll be doing that --

24 THE COURT: Okay.

25 MS. SCHIFALACQUA: -- as well, Judge. I mean,

1 we're --

2 MR. OTTO: That was --

3 THE COURT: All right.

4 MS. PIEPER: Yeah, okay.

5 MR. OTTO: Right, you'll do that ahead of time. All  
6 right.

7 MS. PIEPER: Judge, we're going to do my  
8 understanding is, cross of LaRoy, and then my medical examiner  
9 is now here, so I would try to -- I would like to get him off  
10 and on so that he can go back to --

11 THE COURT: All right.

12 MS. PIEPER: -- his thing.

13 THE COURT: Carving up bodies or some such thing.  
14 All right. We'll take, what, five minutes more? Can we do it  
15 in five?

16 MS. PIEPER: Sure. Yes.

17 MS. OHLINGER-JOHNSON: Yeah.

18 MR. OTTO: Yes.

19 THE COURT: Five-minute recess.

20 (Court recessed at 11:03 A.M. until 11:16 A.M.)

21 (Outside the presence of the jury)

22 THE COURT: Are we ready for our jury?

23 MS. SCHIFALACQUA: Yes, Your Honor.

24 MS. PIEPER: We are, Your Honor.

25 THE COURT: Let's bring our jury.

1 THE MARSHAL: All rise for the jury.

2 (Jury reconvened at 11:17 a.m.)

3 THE COURT: Counsel, stipulate to the presence of  
4 the jury?

5 MS. PIEPER: Yes, Your Honor.

6 MR. OTTO: Yes, Your Honor.

7 THE COURT: Thank you.

8 MS. OHLINGER-JOHNSON: Yes, Your Honor.

9 THE COURT: Please be seated. Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. OTTO:

12 Q Mr. Thomas, as you may remember, I'm David Otto. I  
13 represent Mr. Washington in this case. I just have a few  
14 questions for you. Whose apartment was number 18 at 2655  
15 Sherman (sic) Street?

16 A I don't know -- I don't know her personally, so I  
17 don't know.

18 Q All right. But it wasn't leased to Nathan Rawls, or  
19 Ashely Scott, or Marque Hill?

20 A No.

21 Q Or you?

22 A Right.

23 Q And the -- is the window -- the picture window, as  
24 you've described, where the couch was sitting against the  
25 picture window, is that window glass -- or was it glass, do

1 you know?

2 A It's glass.

3 Q It's glass? And it didn't break?

4 A No.

5 Q Is there a -- was there at that time a closed  
6 curtain in front of -- or drape in front of the window?

7 A Yes.

8 Q You couldn't see out?

9 A No.

10 Q And somebody outside couldn't see in, is that  
11 correct?

12 A Correct.

13 Q Do you know Mr. Washington?

14 A No.

15 Q Do you know Martell Moten?

16 A No.

17 Q Do you know of any reason why anyone would shoot at  
18 you?

19 A I have no clue.

20 Q Are you now living in Florida?

21 A Yes.

22 MR. OTTO: I -- I have nothing else, Your Honor.

23 Thank you.

24 THE COURT: Okay. Redirect?

25 MS. SCHIFALACQUA: None by the State, Your Honor.

1 THE COURT: All right, thank you. You may step  
2 down. May this witness be excused?

3 MS. SCHIFALACQUA: Yes, Judge.

4 MR. OTTO: Yes, Your Honor.

5 THE COURT: Thank you, sir. You're excused. State  
6 may call your next witness.

7 MS. PIEPER: Judge, the State calls Dr. Larry Simms.

8 THE MARSHAL: Sir, if you would please step up on  
9 the stand. Remain standing. Face our clerk. Raise your  
10 right hand, sir.

11 DR. LARRY SIMMS, STATE'S WITNESS, SWORN

12 THE CLERK: Please be seated. Please state your  
13 name and spell it for the record.

14 THE WITNESS: My first name is Larry, spelled  
15 L-a-r-r-y. My last name is Simms, spelled S-i-m-m-s.

16 MS. PIEPER: May I proceed?

17 THE COURT: You may.

18 DIRECT EXAMINATION

19 BY MS. PIEPER:

20 Q How are you employed?

21 A I'm a forensic pathologist at the Clark County  
22 Coroner's Office.

23 Q And how long have you worked with the coroner's  
24 office?

25 A A little over 15 years.

1 Q Can you tell us some of your training and experience  
2 to be a medical examiner?

3 A Well, I went to a medical school. I graduated from  
4 Oklahoma State University in 1978. I did a year of internship  
5 at Dallas Memorial Hospital. Then I was a general  
6 practitioner for ten years, and then I went back into  
7 pathology training at Michigan State University.

8 And then I did a one-year fellowship at the Cook  
9 County Medical Examiner's Office in Chicago, and I stayed  
10 there for some years. I'm board certified in anatomic  
11 pathology, clinical pathology, and forensic pathology. I've  
12 done about 10,000 autopsies.

13 Q And in regard to this case, did you perform an  
14 autopsy on Nathan Rawls on November 6th, 2013 at approximately  
15 10:20 A.M.?

16 A Correct.

17 Q And when you do an autopsy, can you explain to the  
18 members of the jury just kind of generally what happens? Do  
19 you go into a room and is the body there in front of you?

20 A Correct. Then I do an inspection of the external  
21 body from the top of the head to the bottom of the feet, make  
22 some incisions in the body, remove the internal organs,  
23 examine those, and then examine the internal body surfaces.

24 Q Okay. In regard to this case, you noticed that  
25 there were three gunshot wounds, is that correct?



1 A That is correct.

2 Q And when you do your external examination, do you  
3 just sort of look over the body, or is there, you know, just a  
4 general inspection?

5 A Well, I take -- any kind of abnormalities, I take  
6 some, you know, detailed observations of those.

7 Q Besides doing the external evaluation in this case,  
8 you also do an internal evaluation, is that correct?

9 A Correct.

10 Q And you talked about how you remove different  
11 organs, and you sort of weigh them and do things like that, is  
12 that correct?

13 A And then examine them, yes.

14 Q And then do you also just as an overview do sort of  
15 radiological exams as well, or x-rays in this case?

16 A Prior to the start of the autopsy, yes.

17 Q Okay. In regard to this victim, you did an external  
18 examination. Was there any significant findings that you  
19 made?

20 A Yeah, he had a number of gunshot wounds.

21 Q Okay. And in your autopsy report, you list, you  
22 know, gunshot wound -- gunshot -- gunshots 1, 2, and 3. You  
23 don't know though whether that was the order in which the  
24 victim was shot, is that correct?

25 A No. There's no good way to tell that in relation to

1 gunshot wounds to the torso.

2 Q Okay. In regard to the first gunshot wound, can we  
3 talk about that?

4 A Yes.

5 Q Besides obviously seeing the gunshot wound on the  
6 outside, can you tell us anything about the internal  
7 examination that you did?

8 A Well, that particular gunshot wound that entered in  
9 the right upper back, it did a substantial amount of damage  
10 internally, very lethal damage, including to the aorta, and  
11 there was a large amount of blood in his chest.

12 Q Can you tell us -- you said that it entered into the  
13 right upper back area. Can you tell us the way the bullet  
14 traveled?

15 A It entered in the right upper back, crossed through  
16 the central chest and came out the left upper chest, and it  
17 hit both lungs, the heart, and the aorta.

18 Q Okay. Can you tell whether it went front to back,  
19 or right to left?

20 A Well, it would be a front to back, and then right to  
21 left.

22 Q Okay. You also in your report talked about -- and  
23 you don't use this word, this is my word, "stippling." Can  
24 you explain to the members of the jury what stippling is?

25 A Well, stippling -- a bullet is powered by powdered

1 nitroglycerin, actually. Not gunpowder, but nitroglycerin,  
2 and these are in granules like salt. And any kind of ignition  
3 of those granules is never perfect. There's always unburnt  
4 granules.

5           And so, when the explosion happens and the bullet  
6 takes off down the barrel and passes outside of the barrel,  
7 right behind it is a lot of gasses and smoke, but there's also  
8 unburned granules and these do have a velocity to them.  
9 They're little -- they're small little granules. And with a  
10 handgun, they actually have a pretty decent velocity, up to  
11 about 24 inches outside of the barrel, and after that, they  
12 fall off.

13           If a person sustains a gunshot wound within that 24  
14 inches, those granules will strike the skin, and they may  
15 embed themselves in the skin, or they just may injure the skin  
16 and bounce off, and it causes these little punctate injuries,  
17 and it's called stippling.

18           Q     And in regard to this case, did you see any  
19 stippling?

20           A     No.

21           Q     So, what did that indicate to you?

22           A     Well, it could mean either the gun was more than 24  
23 inches away, or it could mean that the decedent was wearing  
24 some significantly heavy clothing at the time of the gunshot  
25 wounds.

1 Q Okay. In regard to this gunshot wound, was it  
2 through and through wound -- was it a through and through  
3 wound?

4 A That wound was through and through.

5 Q And what does that mean?

6 A It went in, and then came out.

7 Q Okay. And in regard to -- I think you said that it  
8 hit the aorta?

9 A Correct.

10 Q Was that a fatal wound?

11 A That particular -- this particular wound was not  
12 survivable even if he got shot in a surgical suite in an  
13 emergency room.

14 Q So, even if he got shot that way in the emergency  
15 room and they tried to do emergency surgery, the victim would  
16 not have been able to live?

17 A Not in my opinion.

18 Q Okay. In regard to death, would that -- how long  
19 after sustaining a gunshot wound of this type would someone  
20 have lived?

21 A Well, his aorta was probably about the size of my  
22 thumb. And so, with every heartbeat, there's a column of  
23 blood coming out that, probably about three ounces of blood  
24 with every heartbeat. So, you know, there's going to be a  
25 significant amount of blood loss over just a period of

1 minutes.

2 Q Okay. Can we go on to the second gunshot wound?

3 A Yes.

4 Q The second gunshot wound, where did it enter?

5 A In the side of the right upper arm.

6 Q Okay. And was this a through and through wound?

7 A No.

8 Q Okay, and how do you know that?

9 A Well, I traced the track and recovered the bullet.

10 Q Okay. Can you tell us the track in which the  
11 gunshot wound went?

12 A Well, it went in the right upper arm and then stayed  
13 within the arm and shoulder, and then entered the chest. It  
14 did go through the lung, and then it exited right in the front  
15 of the chest from the rib cage, but it stuck in the  
16 subcutaneous tissue underneath the skin and that's where I  
17 recovered the bullet.

18 Q Okay. And can you tell us anything about the  
19 bullet, whether it was a small or a large caliber bullet?

20 A It was a medium caliber bullet. It was a full metal  
21 jacket bullet. It did actually have some adherent cloth  
22 material with it also.

23 Q Okay. Can you tell us anything about whether the  
24 bullet went upward or downward?

25 A It went from right to left, and then slightly

1 downward.

2 Q Okay. In regard to this injury, is this injury  
3 something that's fatal?

4 A Because it went through the lung, it definitely  
5 could be fatal.

6 Q Okay, and why is that?

7 A There's going to be -- there's going to start to be  
8 blood loss in the chest cavity.

9 Q Okay. And in regard to an injury like this, is it  
10 similar to the other injury where if he had been shot on let's  
11 say the surgery table, could he have survived this?

12 A Oh, yes. This definitely is an injury that you  
13 could survive, provided you get medical attention, you know,  
14 fairly rapidly.

15 Q Okay. In regard to this injury, if somebody  
16 sustained a wound of this type, can you explain to the members  
17 of the jury what that would be like as they were let's say on  
18 their way to the trauma center? Would they feel weakness?  
19 What would it be like?

20 A Well, that's a reasonable question. I've never been  
21 shot so I can't tell you for sure, but based on my experience  
22 working in the emergency room and also as a general  
23 practitioner, mainly they start to feel very, very weak with  
24 blood loss and they can't breathe.

25 Q And there was a third gunshot wound, is that

1 correct?

2 A Correct.

3 Q And where was that?

4 A That one is on the side of the right knee.

5 Q Okay. And was that a through and through wound, or  
6 was -- did you recover a bullet?

7 A No, that one's through and through.

8 Q And were there any injuries associated with this?

9 A It fractured the kneecap.

10 Q Okay. And is this a survivable wound?

11 A I would say there's a high probability of survival  
12 with that wound.

13 Q Okay. And in regard to anything in the victim's --  
14 did you also take blood samples and had that sent away?

15 A Correct.

16 Q And in regard to that, was there anything of  
17 significance in the victim's blood?

18 A He had traces of caffeine, you know, from coffee or  
19 tea, and also some nicotine breakdown products, indicating he  
20 smokes. Other than that, there was nothing.

21 Q Okay, thank you.

22 MS. PIEPER: Your Honor, may I approach the witness?

23 THE COURT: You may.

24 BY MS. PIEPER:

25 Q Dr. Simms, showing you what's been marked as State's

1 proposed Exhibit 93 to 102, can you look at that and tell me  
2 if you recognize those photographs?

3 A Those are the photographs of the decedent.

4 Q Okay. And that was from the autopsy that you did on  
5 November 6th, 2013, is that correct?

6 A Correct.

7 MS. PIEPER: Your Honor, State moves for the  
8 admission of 93 to 102.

9 MR. OTTO: No objection.

10 THE COURT: They will be admitted.

11 (State's 93 through 102 are admitted)

12 MS. PIEPER: Permission to publish?

13 THE COURT: You may.

14 BY MS. PIEPER:

15 Q Showing you what's been admitted as State's 93, can  
16 you tell the members of the jury what that's a photograph of?

17 A That's the identification tag.

18 Q Okay. So, essentially, when you come into the room,  
19 the body is in a blue bag, is that correct?

20 A No. It's been -- in an occasion of a homicide, it's  
21 been processed by the police.

22 Q Okay. But at some point, the body is taken to the  
23 coroner's office in a blue bag, is that correct?

24 A Correct.

25 Q And then, these are the sort of markings prior to



1 starting the autopsy?

2 A Correct.

3 Q Showing you what's been admitted as State's 94, what  
4 is that a photograph of?

5 A That's the decedent's face.

6 Q Okay. Showing you what's been admitted as State's  
7 95, can you tell us what that is a -- and you know what, Dr.  
8 Simms, our --

9 A Oh, it doesn't work?

10 Q -- screens aren't working. So I'm going to ask you  
11 to -- with this highlighter, can you stand on this side and  
12 sort of explain to the members of the jury what's depicted in  
13 this photograph?

14 A Well, this is -- this right here is the entrance --  
15 the gunshot wound to the right upper back.

16 Q Okay. Showing you --

17 MS. SCHIFALACQUA: Dr. Simms, would you do us a  
18 favor and stand on the other side so defense counsel can see?  
19 Thank you.

20 BY MS. PIEPER:

21 Q Showing you what's been admitted as State's 98, can  
22 you explain to the members of the jury what's significant in  
23 that photograph?

24 A And this is the -- this is the entrance wound of the  
25 second gunshot wound that was on the right upper arm.

1 Q Okay. Showing you what's been admitted as State's  
2 97, can you let us know what that is?

3 A Going back to the one that entered in the right  
4 upper back, it actually went through the body and exited  
5 there.

6 Q So, that actually -- State's 97 is actually related  
7 to State's 95?

8 A Correct.

9 Q In regard to State's 100, what is that a photograph  
10 of?

11 A And this is the gunshot wound to the knee. This is  
12 the entrance wound here on the side and the exit wound here,  
13 and the kneecap actually in here was fractured.

14 Q Okay. So, actually, this is the third gunshot wound  
15 that you and I spoke about?

16 A Correct.

17 Q You described -- I'm sorry, can you take a seat,  
18 please? Dr. Simms, you described for us that there were --  
19 there was a lot of blood sort of in the lung cavity of this  
20 victim. In regard to these injuries, specifically the first  
21 and the second one, would there be a lot of blood on the  
22 scene?

23 A Well, there definitely could be blood on the scene  
24 but there was a substantial amount of blood in his chest, so I  
25 -- since there's a limited amount of blood in the body, I

1 would say that there was proportionally a large amount of  
2 blood in his chest, about two-and-a-half quarts, so he's only  
3 going to have about four to four-and-a-half. So, you know,  
4 there definitely could be blood at the scene, but there was a  
5 substantial amount in his body.

6 Q Thank you.

7 MS. PIEPER: Nothing further, Your Honor. I'll pass  
8 the witness.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. OTTO:

12 Q Good morning, Doctor. My name is David Otto and I  
13 represent Mr. Washington in this case. You've described  
14 bullet wound number 1 as passing through the back to the front  
15 and piercing the aorta, and you said that was the fatal wound?

16 A Well, it was the quicker fatal wound. There was two  
17 wounds that potentially would be fatal, but it would be much  
18 -- a quicker fatality than the other one.

19 Q Did you ever get a recovered bullet from that wound  
20 that you know of?

21 A No, sir. That was a through and through wound.

22 Q And number 2 was also a potentially fatal wound, at  
23 any rate, is that correct?

24 A Yes.

25 Q And did you ever get a recovered bullet from that

1 wound?

2 A Yes, sir.

3 Q You did. And what caliber was that?

4 A Well, I classified it as a medium caliber, which is  
5 anywhere between .32 and .40.

6 Q So, it could be a 9 millimeter as well?

7 A That would fit in that group. Yes, sir.

8 Q And is that -- do you know if -- if you know, could  
9 you answer, is that true also for bullet wound number 1?  
10 Could that be a 9 millimeter as well?

11 A The entrance wound is not inconsistent with that,  
12 but I, you know, hesitate to say for sure just based on the  
13 entrance wound because the skin is very elastic.

14 Q Um-hum. And you have stated that the third wound to  
15 the knee would most likely not have been fatal, is that  
16 correct?

17 A Correct.

18 Q And do you know -- and only answer if you know to  
19 the extent you know, if these bullets passed through glass or  
20 plexiglass before entering the body of Mr. Rawls?

21 A I do not know that to a reasonable degree of  
22 certainty. No, sir.

23 Q And do you know if DNA was collected from any of the  
24 bullets recovered from the crime scene in this case?

25 A Not from the crime scene. No, sir, I wasn't

1 involved in that.

2 Q Do you know if any of these bullets -- so, the only  
3 bullet that -- projectile bullet that was recovered was bullet  
4 number -- bullet wound number 2 --

5 A From the body.

6 Q -- that you took out of the chest, was it? The --

7 A It was -- correct. It was underneath --

8 Q Passed through the right arm to the chest?

9 A Correct. It was right underneath the skin on the  
10 left side of the chest.

11 MR. OTTO: And that's all I have. Thank you very  
12 much.

13 THE COURT: Redirect?

14 MS. PIEPER: Court's indulgence.

15 THE COURT: Um-hum.

16 MS. PIEPER: No further questions, Your Honor.

17 THE COURT: Thank you. You may step down. May this  
18 witness be excused?

19 MS. PIEPER: He may.

20 MR. OTTO: Yes, Your Honor.

21 THE COURT: You're excused. Thank you. You may  
22 call your next witness.

23 MS. PIEPER: Judge, can we just approach briefly?

24 THE COURT: Sure.

25 (Off-record bench conference)

1 THE COURT: All right. Ladies and gentlemen, we're  
2 going to call the next witness. For your information, I  
3 expect we'll break for lunch just about noon and take a  
4 probably one-hour lunch, come back about 1:00 and we'll  
5 proceed ahead.

6 MS. PIEPER: State calls Ashely Scott.

7 THE MARSHAL: Ms. Scott, please take the stand.  
8 Remain standing. Face the clerk. Raise your right hand.

9 ASHELY SCOTT, STATE'S WITNESS, SWORN

10 THE CLERK: Please be seated. Please state your  
11 name and spell it for the record.

12 THE WITNESS: Ashely Scott. A-s-h-e-l-y, S-c-o-t-t.

13 THE COURT: Okay. You may proceed. Thank you, Your  
14 Honor.

15 DIRECT EXAMINATION

16 BY MS. PIEPER:

17 Q Good morning.

18 A How are you doing?

19 Q I'm okay. How are you doing?

20 A I had a pretty shaky morning.

21 Q I want to draw your attention to November 4th, 2013.  
22 In the later evening hours, where were you?

23 A Around what time?

24 Q Probably around 9:00 o'clock, 10:00 o'clock at  
25 night.

1           A     Around 9:00 o'clock, I was in my apartment complex  
2 that was located off of Sahara and Maryland.

3           Q     Is that 2655 Sherwood Avenue?

4           A     Yes.

5           Q     Without telling us the apartment number, is that  
6 sort of like a four-plex?

7           A     Yes.

8           Q     Okay. You were in your apartment, which is not  
9 apartment 18, correct?

10          A     Correct.

11          Q     At some point, did you go to apartment 18?

12          A     Yes.

13          Q     And do you know approximately what time you went  
14 there?

15          A     The last time I remember looking at the clock being  
16 actually in the home was around 11:47, but I was there  
17 sometime before that.

18          Q     So, maybe around 11:00 o'clock -- 10:30, 11:00  
19 o'clock, you went to apartment number 18?

20          A     Yes.

21          Q     And why did you go there?

22          A     At that time, I didn't have a place to stay. LaRoy  
23 had offered me a hamburger, of all things, so I had went over  
24 there. In the meantime, I was waiting for my unemployment to  
25 get on my card because I was going to go to the LVH Hotel.

1 Q Okay. So, besides going -- so you knew LaRoy  
2 Thomas?

3 A Correct.

4 Q Did you know anybody else that was in apartment  
5 number 18?

6 A At the time it, was the victim who passed away, I  
7 know him as Nate. And the opposite guy, which I didn't know  
8 was in the apartment until sometime later, Minuke (phonetic).

9 Q Okay. And Minuke, did you come to learn that his  
10 name was actually Marque Hill?

11 A Correct.

12 Q Okay. So, at the time that you went into apartment  
13 18, who was in there?

14 A LaRoy, Nate, and myself.

15 Q Okay. And did you later learn, later that morning,  
16 that Minuke or Marque was actually in the back bedroom behind  
17 the living room?

18 A Correct.

19 Q Okay. When you guys were in there, what were you  
20 guys doing?

21 A We were actually eating the food at that time,  
22 trying to get the game to work before everybody fell asleep.

23 Q Okay. And when you say trying to get the game to  
24 work, what do you mean by that?

25 A Actually, the game controllers were not working



1 properly. At that time, we stopped trying to play the game  
2 and continued to look at the tablet, which we had fell asleep  
3 watching videos.

4 Q Okay. So, when you say the game, was Nate and LaRoy  
5 sort of playing Xbox or something like that?

6 A Myself and Nate were attempting to play the Xbox,  
7 and that's when it didn't work and I had went to the tablet,  
8 and LaRoy and I were watching the tablet.

9 Q Okay, and what was Nate doing?

10 A Sitting on the couch.

11 Q Okay. Let's describe for the members of the jury  
12 what the living room situation is then. If I were to walk  
13 into the front door, what room would I be walking into?

14 A The living room/kitchen.

15 Q Okay. What is off to what side? If I walk in,  
16 what's off to my right?

17 A If you walk in, the living room is off to the right,  
18 and the kitchen is to the left.

19 Q If I continue to walk back, and I continue to walk  
20 straight back, what am I going to be facing?

21 A You're going to be facing a type of hallway where  
22 the room is to the right side, the bathroom is to the left,  
23 and there's a room kind of right by the bathroom.

24 Q Okay. You did not go further back into the  
25 apartment at this time, is that correct?

1 A Correct, I was just in the living room.

2 Q Okay. You guys are watching movies on the tablet,  
3 and what happens next?

4 A I end up falling asleep.

5 Q Okay. And then what do you remember happening next?

6 A At that point, I heard a gunshot. I hopped up  
7 towards the corner, told myself to get down, went into the  
8 room, made sure I wasn't shot. Next thing, the cops came in.

9 Q Okay. When you're in the living room -- you  
10 described for us when you first walk into the apartment, off  
11 to the right is the living room, is that correct?

12 A Correct.

13 Q Where are you sitting in the living room?

14 A On the opposal (sic) couch that's away from the  
15 window.

16 Q Okay, and who's sitting with you?

17 A LaRoy.

18 Q And who is sitting closest to, let's say, the TV?

19 A I was sitting closest to the TV.

20 Q Okay. And so LaRoy -- is the TV -- when you first  
21 walk in, is it all the way off to the right?

22 A Correct, all the way to the sidewalk.

23 Q Okay. And who is sitting closest to the window?

24 A Nate.

25 Q Okay. You said you fell asleep?

1 A Correct.

2 Q And then you heard a gunshot?

3 A The first initial gunshot is what I heard, and I  
4 guess in the panic, I didn't hear the others.

5 Q That's okay. You heard a gunshot, and what did you  
6 do next?

7 A I immediately hopped up, and I found myself in the  
8 back corner against where the TV was, standing on the speaker.

9 Q Okay.

10 A From there, I got back down on the floor and crawled  
11 into the back room.

12 Q Which room did you crawl into?

13 A The one closest to the bathroom.

14 Q Okay. When you crawled into that room, did you  
15 crawl anywhere specific in that room?

16 A Into the closet.

17 Q Okay. And do you remember hearing anything?

18 A Just a lot of commotion. Yelling, where's my phone,  
19 is everybody okay, 911. But the main thing, I was just making  
20 sure that I wasn't shot, checking myself everywhere.

21 Q Okay. When you were checking yourself everywhere,  
22 did you discover something?

23 A I was shot in my foot.

24 Q And how did you figure that out?

25 A My foot was burning. I couldn't really see because

1 it was dark. I reached down to my foot where it was hurting,  
2 and I felt blood.

3 Q Okay. At that point, did you turn any lights on?

4 A No.

5 Q Did you try to stand up at all?

6 A No.

7 Q Could you remember if the gunshots had continued or  
8 stopped?

9 A I believe they had stopped by that time.

10 Q So, you realize that you've been shot, and where  
11 have you been shot?

12 A On my left foot on the inside.

13 Q Okay. And what do you do next?

14 Q At that point, I just sit in the room. Minuke comes  
15 out, asks if everybody is okay, calls 911. Very -- moments  
16 later, the police tell everybody to come out.

17 Q Okay. As you are crawling into the bedroom that you  
18 ended up in, did you pass anyone?

19 A I saw Nate on the floor.

20 Q Okay. And did you try to wake him or do anything  
21 like that?

22 A No.

23 Q Okay. You crawl into the closet area, is that  
24 correct?

25 A Correct.

1       Q     And you can hear people yelling. Who can you hear  
2 yelling?

3       A     I hear LaRoy yelling, and I hear Minuke yelling.

4       Q     And is that when you realized there was another  
5 person in -- actually a fourth person in the apartment?

6       A     Correct.

7       Q     Okay. Do you then leave the closet area and crawl  
8 out from where you are?

9       A     I kind of crawled out, peeked, and then I crawled  
10 right back in. At that point, I saw Nate was still on the  
11 floor.

12      Q     Okay. Why did you crawl back in?

13      A     I don't know. Just to stay in cover, I guess.

14      Q     Were you scared?

15      A     Yes.

16      Q     You're in the closet, you crawl back in. What do  
17 you do next?

18      A     I just kind of sit there and just wait. At that  
19 point, I hear Minuke on the phone speaking to the ambulance.  
20 And then, like I said, moments later, the cops are telling  
21 everybody to come out.

22      Q     Okay. And how could you tell that the cops had  
23 arrived?

24      A     They yelled, we're the police, everybody come out  
25 with their hands up.

1 Q Okay, and were they banging on the door?

2 A Yes.

3 Q Okay. How soon after Minuke or Marque made that  
4 phone call did the police arrive?

5 A It seemed rather quickly.

6 Q Okay. Once the police are knocking on the door  
7 saying that they're police, what happens -- what do you do  
8 next?

9 A I end up getting up, try to limp out to the door.  
10 Both LaRoy and Minuke were already outside. I then keep  
11 walking. I look at Nate, see that he's still on the floor,  
12 and then I come outside.

13 Q Okay. And were you able to -- how did you get  
14 outside?

15 A I kind of limped out.

16 Q Okay. When you limped out -- and you said you were  
17 the last person out of the apartment, is that correct?

18 A Correct.

19 Q Okay. You limp out, and can you feel anything about  
20 your injury?

21 A At that point, I noticed that I was shot, so I tried  
22 to baby it a little bit.

23 Q Okay.

24 A But I just kind of made my way out as soon as  
25 possible because I knew the cops were there.

1 Q Okay. Once the police are there, where are you  
2 sitting once you go out of the apartment?

3 A Once I come out, I'm right outside in front of the  
4 door, kind of by the stairs.

5 Q Okay, is there a courtyard there?

6 A Yes.

7 Q Okay. You're sitting in the courtyard, and then  
8 what happens next?

9 A At that point, they're asking questions, seeing if  
10 everybody's okay, asking what's happened. They then go to  
11 remove my foot -- remove my foot. Remove my shoe, cut my  
12 sleeve off my sweat, and then I end up getting into the  
13 ambulance and they take me to Sunrise.

14 Q Could you feel anything different about your foot at  
15 that time?

16 A The only thing was it was on fire.

17 Q It felt like it was on fire?

18 A Correct.

19 Q And it was like a burning sensation?

20 A Correct.

21 Q They then take you to which hospital?

22 A Sunrise.

23 Q You get to Sunrise Hospital, and what happens when  
24 you're in Sunrise Hospital?

25 A I believe he was a CSI, came and spoke to me about

1 what was going on, what had happened. Took some pictures,  
2 told me that they weren't going to remove the bullet, just to  
3 be calm and they were going to let me go in a couple hours.

4 Q Okay. Did you know anything about the injury in  
5 regard to your foot?

6 A No, other than there was a bullet in it.

7 Q Okay. How did you know there was a bullet in it?

8 A Well, at that point, it felt like it was on fire,  
9 like I said, and they told me that it was a bullet that had  
10 entered my foot.

11 Q Okay. Did they take the bullet out at that time?

12 A No, they didn't actually remove the bullet until  
13 about nine days later.

14 Q Okay. So, on November 5th, 2013, you're at the  
15 hospital. Do they discharge you from the hospital?

16 A Yes.

17 Q Do they give you any paperwork or tell you about  
18 anything about aftercare?

19 A The only thing they gave me, they gave me a  
20 prescription for Percocet, I believe like 2.5. They told me  
21 to stay off it as much as possible because it could be a  
22 deadly injury that would travel, however, they didn't think to  
23 remove it at that time.

24 Q Okay. From when you leave on November 5th, 2013  
25 until eventually the bullet was removed, can you explain to



1 the members of the jury what you went through in regard to  
2 your injury from that day until they removed it?

3 A Pretty much I was walking around everywhere with a  
4 bullet in my foot. I didn't have any transportation. They  
5 told me to be as careful as I could, but you can't really be  
6 careful with a bullet in your foot because you have to walk.  
7 And any type of nick or bump to it they said could be harmful,  
8 but I have to wait for a specific doctor in order to try to  
9 get it removed out. It was just a hassle, pretty much.

10 Q Did it hurt? Did it get infected?

11 A It was very painful. I did have to go in to get  
12 additional antibiotics and packing, because it did get  
13 infected for staying in there too long.

14 Q Okay. Eventually, nine days later, did you go back  
15 to Sunrise Hospital?

16 A Correct. I went back to Sunrise, and they had put  
17 me in as an emergency so that I can get the bullet removed as  
18 soon as possible, where I underwent a surgery to get it  
19 surgically removed.

20 Q So, you went through surgery and the bullet was  
21 removed?

22 A Correct.

23 Q After the surgery, were you in the hospital?

24 A Just for another 24 hours.

25 Q Okay. Since then, have you had any problems with

1 your foot?

2 A Yes. I can't really walk too far or for too long.

3 When it gets cold, it tends to hurt or sting.

4 Q Okay.

5 A That's pretty much it. I have nightmares and wake  
6 up in sweats because of the whole situation that happened.

7 Q Okay. Do you have scarring on your foot?

8 A Yes.

9 Q Okay. And you had spoken to me last week, is that  
10 correct?

11 A Correct.

12 Q You and I spoke? And I told you to wear pants?

13 A Correct.

14 Q And I told you that I was going to ask the Court if  
15 we could show the members of the jury your foot. Do you  
16 remember that?

17 A Yes.

18 MS. PIEPER: Your Honor, can I have her show -- I  
19 had her wear pants, but I'm going to ask that she be able to  
20 show the members of the jury her injury.

21 THE COURT: Any objection?

22 MR. OTTO: No, Your Honor. No objection.

23 BY MS. PIEPER:

24 Q Do you have scarring related to your foot?

25 A Yes.

1 Q Okay. Can you show the members of the jury?

2 THE COURT: Are you going to have her come down,  
3 counsel? Yeah.

4 MS. PIEPER: So, for the record, her left foot is  
5 up, and it looks like near the ankle/heel area, there's two  
6 scars.

7 BY MS. PIEPER:

8 Q And is your ankle kind of swollen, or not?

9 A It does tend to get swollen.

10 MS. PIEPER: Has everyone seen it? Your Honor, may  
11 I approach the witness?

12 THE COURT: You may.

13 BY MS. PIEPER:

14 Q Showing you what's been marked as State's proposed  
15 Exhibit -- sorry. State's proposed Exhibit numbers 126  
16 through 132, can you look at those -- look through them.

17 A Oh.

18 Q And to yourself. Tell me if you recognize them.

19 A Yes. Oh, my boots. Yes.

20 Q Okay. And are those pictures of you in the  
21 hospital, as well as your boots, from November 5th, 2013?

22 A Yes.

23 MS. PIEPER: Your Honor, State moves for the  
24 admission of 126 to 132.

25 MR. OTTO: No objection.

1 THE COURT: 126 to 132 will be admitted.

2 (State's 126 through 132 are admitted)

3 BY MS. PIEPER:

4 Q Earlier, you testified that you were sitting on the  
5 couch with LaRoy. Do you remember that?

6 A Yes.

7 Q Showing you what's been admitted as State's 133 --

8 MS. PIEPER: Why is this -- I'm so bad at these.

9 THE CLERK: It's -- did you go to 133, or 132?

10 MS. PIEPER: Sorry. 132.

11 THE COURT: 133. Oh, this -- this one's previously  
12 admitted, right?

13 MS. PIEPER: Right, but 132 is what I went through.

14 THE CLERK: 133's not admitted.

15 MS. PIEPER: I know, but I only went to 132.

16 THE CLERK: Oh, I thought you said 133. Okay,  
17 sorry.

18 THE COURT: Well, the one you put up is 133. Is  
19 that not already in?

20 MS. PIEPER: Sorry, it's 113. It's 113. It's been  
21 a long couple of weeks, Your Honor. I apologize.

22 THE COURT: Okay.

23 BY MS. PIEPER:

24 Q Showing you what's been admitted as 113, do you  
25 recognize that?

- 1 A Yes.
- 2 Q And what is that a photograph of?
- 3 A That's the living room.
- 4 Q Okay. And earlier, you had described that you were  
5 sitting on the love seat with LaRoy?
- 6 A Correct.
- 7 Q Can you show us -- I'm going to have to ask you to  
8 come down. Can you show us -- well, stay where you are. You  
9 said that you were closest to the television, is that correct?
- 10 A Correct.
- 11 Q Would that be in this area where I sort of have my  
12 blue pen?
- 13 A Correct.
- 14 Q Is that where you were sitting?
- 15 A Yes.
- 16 Q And was LaRoy sitting in this area?
- 17 A Correct.
- 18 Q And how were you guys sitting on the couch? Were  
19 your feet both on the ground? Were you facing each other?
- 20 A My feet were actually on the ground, and his feet  
21 were across me.
- 22 Q Okay. So, LaRoy's feet would be pointing in this  
23 direction?
- 24 A Correct.
- 25 Q Okay. Showing you what's been admitted as State's

1 111, do you recognize that?

2 A Yes.

3 Q Earlier, you had described when you walk into the  
4 front door -- and would this be the front door that I'm sort  
5 of marking with my pen?

6 A Correct.

7 Q When you walk in, you said that you -- to the right  
8 is the living room?

9 A Correct.

10 Q Okay. And do you see Nate in this picture?

11 A I do.

12 Q Was -- where was -- was Nathan sitting in this area  
13 on the couch --

14 A Yes.

15 Q -- that I'm marking with my pen? And his back was  
16 to the window?

17 A Correct.

18 Q Showing you what's been admitted as State's 110, do  
19 you recognize that?

20 A Yes.

21 Q Earlier, you had said that once you heard the  
22 gunshot fire, you jumped up and you sort of went near the TV?

23 A Correct.

24 Q Is the area that you're describing this area that  
25 you kind of jumped up and stood on something?

1 A I was standing on that.

2 Q Standing on the TV, or standing on this?

3 A The speaker, I believe.

4 Q Okay. So, you stood on the speaker, and you don't  
5 remember whether you continued to hear gunshots, is that  
6 correct?

7 A Correct.

8 Q Okay. But from the speaker, is that when you then  
9 kind of crawled away?

10 A Correct.

11 Q Okay. Showing you what's been admitted as State's  
12 126, what is that a photograph of?

13 A Myself.

14 Q And is that you in the hospital?

15 A Yes.

16 Q Showing you a photograph of 127, can you describe  
17 for the members of the jury what that is a photograph of?

18 A The inside of my foot.

19 Q Okay, where you had been shot?

20 A Correct.

21 Q State's 128. What is that a photograph of?

22 A A closer picture of my foot where I'd been shot.

23 Q State's 133. What is that a photograph of?

24 A My favorite boots.

25 Q Okay. And there -- there is sort of a pink arrow.

1 A Correct.

2 Q Do you see that in the photograph?

3 A Yes.

4 Q Do you know what that is depicting?

5 A The bullet hole.

6 Q Okay. And that's the bullet hole where -- when you  
7 -- that's where you got injured, is that correct?

8 A Correct.

9 Q And State's 132, what is that a photograph of?

10 A My Smurf sock.

11 Q Did you say Smurf sock?

12 A Smurf.

13 Q Okay. There also is sort of like a pink arrow in  
14 this photograph, is that correct?

15 A Correct.

16 Q And what is that depicting?

17 A The bullet hole as well.

18 MS. PIEPER: Court's indulgence.

19 THE COURT: Um-hum.

20 (Pause in the proceedings)

21 MS. PIEPER: Court's indulgence. I'm trying to find  
22 a photograph.

23 BY MS. PIEPER:

24 Q In regard to you hanging out in apartment number 18,  
25 around the time of this shooting, did you know if there was



1 any arguments between anybody that was in apartment number 18  
2 and anyone else?

3 A No.

4 Q Would you have been in apartment number 18 if there  
5 had been any beefs, or any fights, or any arguments?

6 A No.

7 MS. PIEPER: Court's indulgence. I apologize.

8 THE COURT: It's all right.

9 (Pause in the proceedings)

10 THE COURT: Do you need to take a break, ma'am?

11 UNKNOWN JUROR: Me? I just --

12 THE COURT: Would it be helpful to take a break now?

13 UNKNOWN JUROR: I just (inaudible) my inhaler.

14 That's all.

15 THE MARSHAL: She's (inaudible). Your Honor, she  
16 has her inhaler.

17 THE COURT: Okay.

18 UNKNOWN JUROR: It's all right. I can -- I --

19 THE MARSHAL: Would you like a drink of water,  
20 ma'am?

21 UNKNOWN JUROR: I got a water. I can do it right  
22 here.

23 THE MARSHAL: Okay.

24 THE COURT: All right.

25 BY MS. PIEPER:

1 Q Showing you what's been admitted as State's 115, is  
2 that a close-up shot of the speaker that you stood on?

3 A Yes.

4 Q And in regard to State's 114, do you recognize where  
5 that area is in the living room?

6 A Yes.

7 Q Okay, and where is that?

8 A Pretty much above where I was sitting.

9 Q Okay. So, this is the couch, correct?

10 A Correct.

11 Q And is this the area where you were sitting?

12 A Yes.

13 Q And above you, it looks like there's three holes in  
14 the wall, is that correct?

15 A Correct.

16 Q Prior to you falling asleep, were those holes in the  
17 wall?

18 A No.

19 Q Okay. Showing you what's been admitted as State's  
20 117, can you describe for us what that's a photograph of?

21 A It's the hallway leading into the back room. Looks  
22 like the table and a chair.

23 Q Okay. Prior to the shooting on November 5th, 2013,  
24 was that table in that area?

25 A No.

1 Q Where was the table?

2 A Directly in center, between the two couches.

3 Q Okay. And is this the area that you crawled into to  
4 get away from the gunshots?

5 A Correct.

6 Q And did you crawl into this bedroom back here, or  
7 this bedroom right there?

8 A The second one you pointed at.

9 Q Okay, so you crawled back here into this bedroom?

10 A Yes.

11 Q Showing you what's been admitted as State's 118, do  
12 you recognize that?

13 A Yes.

14 Q What is that a picture of?

15 A That's the room I crawled into.

16 Q Okay. So, if I were to walk outside of that door,  
17 would that be the living room?

18 A Yes.

19 Q And so you crawled in, and you got into this closet  
20 right here?

21 A Correct.

22 Q Do you know if you closed the door or not?

23 A I don't believe so.

24 MS. PIEPER: Thank you. Nothing further.

25 THE COURT: All right. You'll be a few minutes,

1 will you, Mr. Otto?

2 MR. OTTO: I may be able to finish my  
3 cross-examination.

4 THE COURT: All right. Go ahead.

5 CROSS-EXAMINATION

6 BY MR. OTTO:

7 Q Good morning for a few more minutes, Ms. Scott. As  
8 you will recall, my name is David Otto, and I represent Mr.  
9 Washington in this case.

10 A Um-hum.

11 Q I just have a few questions to ask you. Was the  
12 window we've discussed glass or plexiglass?

13 A I would assume glass, but I'm not a carpenter.

14 Q Do you know in your apartment in the same complex  
15 whether it was glass or plexiglass?

16 A I again would assume glass.

17 Q And do you know whose apartment it was?

18 A I do not.

19 Q Do you know Mr. Washington?

20 A I do not.

21 Q Do you know of any reason why anyone would shoot  
22 into that apartment?

23 A I do not.

24 Q Was the curtain closed at the time you first heard  
25 the gunshots?

1 A Before I fell asleep, the curtains were closed.

2 Q And when you awakened --

3 A They were still closed.

4 Q You couldn't see out?

5 A Correct.

6 Q And no one could see in?

7 A Correct.

8 MR. OTTO: I have nothing further, Your Honor.

9 THE COURT: All right. Redirect?

10 MS. PIEPER: No, Your Honor.

11 THE COURT: Thank you. You may step down. May this  
12 witness be excused?

13 MS. PIEPER: She may.

14 MR. OTTO: Yes, Your Honor.

15 THE COURT: Thank you, ma'am. You're excused.

16 Ladies and gentlemen, we will take a one-hour noon recess and  
17 begin at 1:00 o'clock. If you would assemble yourselves  
18 outside the courtroom at 1:00 o'clock, please.

19 And again, please recall the Court's admonition not  
20 to talk or converse among yourselves, or with anyone else on  
21 any subject or any person connected with this trial. Please  
22 do not form or express any opinion on any subject connected  
23 with the trial until the case is submitted to you. Please do  
24 not read, watch, or listen to any report of or commentary on  
25 the trial, or on anyone connected with the trial by any medium

1 of information whatsoever.

2 1:00 o'clock then we will see you.

3 THE MARSHAL: All rise, ladies and gentlemen of the  
4 jury, please.

5 (Jury recessed at 12:03 p.m.)

6 THE COURT: Anything else for the record before we  
7 break?

8 MS. PIEPER: No, Your Honor.

9 THE COURT: All right.

10 MS. SCHIFALACQUA: No, Your Honor.

11 THE COURT: We'll see you at 1:00 o'clock.

12 MS. OHLINGER-JOHNSON: Thank you, Your Honor.

13 THE COURT: Um-hum.

14 (Court recessed at 12:03 P.M. until 1:19 P.M.)

15 (Outside the presence of the jury)

16 MS. PIEPER: Your Honor, I made a misrepresentation  
17 that I want to bring to the Court's attention. I said that we  
18 would have more than one witness after this afternoon, we  
19 would have three to four.

20 This morning, we had some issues with some of our  
21 witnesses. One of them was -- I don't know a nice way to say  
22 this, but projectile vomiting, and so I told him -- or Ms.  
23 Schifalacqua told him it's probably better that he not come to  
24 court, because frankly, I don't want to get sick. Another one  
25 of our witnesses who was going to come this afternoon, her

1 mother was taken into the hospital last night.

2 THE COURT: Um-hum.

3 MS. PIEPER: And so we have LaRoy -- I mean, we have  
4 Marque Hill who's going to testify, and then another short  
5 witness, but we tried to call people from Friday to come in  
6 today and they can't make it. So, I apologize to the Court.  
7 Although -- even though we have a little bit of a backup, I  
8 think tomorrow we will still have a full day of witnesses,  
9 eight or nine witnesses. And then on Monday, we should have  
10 two or three witnesses.

11 I have spoken to defense counsel. We will get to  
12 this Court this weekend our jury instructions. We think  
13 probably we'll finish early Monday afternoon. We can let the  
14 jury go, we can then argue jury instructions. Tuesday, we can  
15 instruct them and close.

16 THE COURT: We could take some defense witnesses out  
17 of order this afternoon, if you have any you want to put  
18 forward, Mr. Otto.

19 MR. OTTO: I don't have any, Your Honor.

20 THE COURT: You don't have any. Okay. Well --

21 MS. PIEPER: So, I apologize to the Court.

22 MS. SCHIFALACQUA: We're sorry, Judge. We did try  
23 all morning and afternoon to get --

24 THE COURT: I understand.

25 MS. SCHIFALACQUA: -- other people to come in, but

1 they had already had plans and knew that they were coming in  
2 Friday, so unfortunately, no one else can get down here.

3 THE COURT: Well, I suppose these things happen.  
4 It's a fair number of witnesses you're orchestrating here.  
5 Well, so I guess we'll --

6 MS. SCHIFALACQUA: So, yeah. Basically, we'll have  
7 two witnesses, and then we'll have to break.

8 MS. PIEPER: And then, tomorrow morning, we will  
9 have witnesses --

10 THE COURT: All right.

11 MS. PIEPER: -- for the entire day.

12 THE COURT: What about -- how long do you anticipate  
13 this next witness will take?

14 MS. SCHIFALACQUA: Maybe --

15 MS. PIEPER: Marque.

16 MS. SCHIFALACQUA: It is Marque Hill. He's one of  
17 the victims. So, you know, 30, 40 minutes.

18 THE COURT: We could at least begin to settle  
19 instructions this afternoon after we excuse the jury.

20 MS. SCHIFALACQUA: I don't have them together yet,  
21 Judge, quite candidly. I don't --

22 THE COURT: Okay.

23 MS. SCHIFALACQUA: Sorry. I can only work until  
24 10:00 at night so many nights, Judge. I apologize, but at  
25 some point I have to see my daughter, so that's kind of where



1 I'm at.

2 THE COURT: All right. Well, okay. Well, we'll  
3 just do what we can.

4 MS. PIEPER: We spoke to Mr. Otto about him giving  
5 us his instructions. We have our stocks, obviously. We told  
6 him that we would include for him the defendant not  
7 testifying. Obviously, if the defendant decides to testify,  
8 we can just pull that out of the packet, but we're compiling  
9 the jury instructions as we --

10 THE COURT: Okay.

11 MR. OTTO: And I just have a rough -- as I discussed  
12 with the Court, I have a rough draft of a number of potential,  
13 because I haven't seen theirs. So, I guess we'll just put my  
14 rough draft in and plug them in where need be.

15 THE COURT: Okay. All right. Any chance of getting  
16 those by the weekend?

17 MR. OTTO: You can have --

18 MS. SCHIFALACQUA: Yeah.

19 MR. OTTO: -- mine, yeah.

20 THE COURT: Okay.

21 MS. PIEPER: Well, we were going to -- we're coming  
22 in on Saturday to work on the jury instructions.

23 THE COURT: Well, I won't be here to receive them,  
24 so.

25 MS. PIEPER: No, but you will have them e-mailed to

1 you by Monday morning.

2 MR. OTTO: And I don't have the Court's email  
3 address.

4 (Pause in the proceedings)

5 THE COURT: If you need it, seriously, we can get  
6 you our law clerk's --

7 MR. OTTO: Okay.

8 THE COURT: -- e-mail. All right. Well, let's do  
9 what we can. Let's call our next witnesses. Bring our --

10 MS. SCHIFALACQUA: Thank you, Judge. Sorry about  
11 that.

12 THE COURT: Bring our jury.

13 THE MARSHAL: Yes, Your Honor.

14 THE COURT RECORDER: Did you want to test that,  
15 Danielle?

16 MS. SCHIFALACQUA: No, the --

17 MS. PIEPER: No, that's okay.

18 MS. SCHIFALACQUA: We just wanted to -- oh, I forgot  
19 to indicate that, with regard to proposed Exhibit 70, it's  
20 being stipulated to by defense counsel.

21 MR. OTTO: And that is the 911 call from Marque  
22 Hill.

23 MS. SCHIFALACQUA: That's correct.

24 THE CLERK: What is it?

25 THE COURT: Yeah.

1 MS. SCHIFALACQUA: Yes.

2 THE COURT: We're admitting 70, is it?

3 MR. OTTO: No objection to 70. It's stipulated.

4 THE COURT: Okay.

5 (State's Exhibit 70 is admitted)

6 MS. SCHIFALACQUA: Thank you, Your Honor. Thank  
7 you, Mr. Otto.

8 (Pause in the proceedings)

9 THE COURT: Oh. We're not sure our screen got  
10 fixed, counsel. Our screen.

11 MS. PIEPER: We were here. It did not.

12 MS. SCHIFALACQUA: Correct. We didn't break for  
13 lunch, Judge.

14 MS. PIEPER: We didn't break for lunch.

15 MS. SCHIFALACQUA: We tried to get more witnesses  
16 down here, so.

17 THE COURT: Oh, okay.

18 (Pause in the proceedings)

19 MR. OTTO: What are these here?

20 MS. SCHIFALACQUA: Things I'm going to use when I --

21 MR. OTTO: Okay.

22 MS. SCHIFALACQUA: -- talk to Mr. Hill.

23 MS. PIEPER: Hill.

24 MR. OTTO: I've seen them all?

25 MS. SCHIFALACQUA: Yes.

1 THE MARSHAL: All rise for the jury, please.

2 (Jury reconvened at 1:25 p.m.)

3 THE MARSHAL: The jury's in, Your Honor.

4 THE COURT: Will counsel stipulate to the presence  
5 of the jury?

6 MS. PIEPER: Yes, Your Honor.

7 MR. OTTO: Yes, Your Honor.

8 THE COURT: All right. State may call your next  
9 witness.

10 MS. SCHIFALACQUA: Thank you, Your Honor. The State  
11 calls Marque Hill.

12 THE MARSHAL: Mr. Hill, if you would please take the  
13 stand. Remain standing. Face that clerk. Raise your right  
14 hand, sir.

15 MARQUE HILL, STATE'S WITNESS, SWORN

16 THE CLERK: Please be seated. Please state your  
17 name and spell it for the record.

18 THE WITNESS: Marque Hill. M-a-r-q-u-e, H-i-l-l.

19 THE CLERK: Thank you.

20 MS. SCHIFALACQUA: May I, Your Honor?

21 THE COURT: You may.

22 DIRECT EXAMINATION

23 BY MS. SCHIFALACQUA:

24 Q Marque, I want to start out by asking you if you're  
25 a convicted felon?

1 A Yes.

2 Q Have you been convicted in fact in 1996 for the  
3 crime of second degree murder out of Cook County, Illinois?

4 A Yes.

5 Q Have you also in 2008 been convicted of possession  
6 of a controlled substance out of Cook County, Illinois?

7 A Yes.

8 Q As well as, in 2010, have you a conviction for  
9 possession of controlled substance out of Cook County,  
10 Illinois?

11 A Yes.

12 Q As well as in 2010, a conviction for theft out of  
13 Cook County, Illinois?

14 A Yes.

15 Q I want to turn your attention -- well, let me go  
16 back. Are you originally from Chicago?

17 A Yes.

18 Q Okay. I want to turn your attention to November of  
19 2013. Were you in Las Vegas at that time?

20 A Yes, ma'am.

21 Q And I'm going to have you lean up. There's a mic  
22 right before you.

23 A It's -- oh.

24 Q So, I have to make sure that we can hear everything  
25 you're saying.

1 A All right.

2 Q Okay. Mr. Hill, with regard to November of 2013, at  
3 that time, where were you staying?

4 A On Sherwood. 2655 Sherwood.

5 Q 2655 Sherwood, was that apartment number 18?

6 A Yes.

7 Q Did you actually -- were you the lease owner of that  
8 apartment?

9 A No.

10 Q Okay. Who was?

11 A Teresa (phonetic).

12 Q Okay. And with regard to Teresa, did you have her  
13 permission to stay there?

14 A Yes.

15 Q Did you have your belongings there?

16 A A few items, yes.

17 Q Okay. Is it fair to say you had a few items at a  
18 couple of other maybe females' house?

19 A Yes, it is.

20 Q Okay. On -- and --

21 MS. SCHIFALACQUA: Judge permission to republish  
22 what's been admitted?

23 THE COURT: You may.

24 MS. SCHIFALACQUA: Thank you. Showing you what's --

25 (Pause in the proceedings)

1 MS. SCHIFALACQUA: Okay.

2 BY MS. SCHIFALACQUA:

3 Q Showing you what's been previously admitted as  
4 State's Exhibit 1, is this the apartment complex that you were  
5 staying at in November of 2013?

6 A Yes.

7 Q Is that the front of the apartment complex?

8 A Yes, it is.

9 Q That picture, when it's taken, would the person be  
10 standing on Sherwood?

11 A Yes, Sherwood.

12 Q With regard to the apartment itself, is there a  
13 walkway that you have to walk into in order to get to  
14 apartment number 18?

15 A A couple, yes.

16 Q Okay. And is there a courtyard in front of  
17 apartment 18?

18 A Yes, it is.

19 Q Showing you what's been previously admitted as  
20 State's Exhibit 8, is that a photograph of the outside of  
21 apartment number 18?

22 A Yes.

23 Q With regard to the apartment, can you describe for  
24 the members of our jury how it's set up?

25 A You come in the front door. Right here where this

1 window is, there's a couch right here, and right across from  
2 that couch is another couch with a little table sitting in the  
3 middle. The refrigerator and the stove is right here to the  
4 left as soon as you come in, and straight back is two rooms,  
5 one on the left, one on the right, and a bathroom.

6 Q Okay. And so it was a two-bedroom apartment?

7 A Yes.

8 Q And on November 4th, 2013, were you at the  
9 apartment?

10 A Yes.

11 Q Who else was there?

12 A LaRoy and Nate.

13 Q Okay. With regard to LaRoy, is that LaRoy Thomas?

14 A LaRoy Thomas, yes.

15 Q And have you known LaRoy Thomas since being a youth?

16 A Yes.

17 Q Okay. And did he also grow up in Chicago?

18 A Yes, he did.

19 Q With regard to Nate, is that Nathan Rawls?

20 A Nathan Rawls.

21 Q Did you know him as well as you knew, for example,  
22 LaRoy?

23 A No.

24 Q How long had you known Nathan Rawls?

25 A Maybe a week.



1 Q Okay.

2 A A week.

3 Q Was he also staying at that residence?

4 A No. Not -- no, no.

5 Q Okay. Had he been kind of over there for a short  
6 period of time?

7 A He was there for two days.

8 Q And did he have -- are you aware if he had plans to  
9 go somewhere else?

10 A He was -- actually, he was living -- fitting to get  
11 a house in Vegas. His house was being -- had -- some stuff  
12 had to be done to his house, so yeah. He was --

13 Q Were you aware if he had a girlfriend?

14 A Yes, he did.

15 Q Okay. Was his girlfriend getting the things  
16 necessary out of state to get the house --

17 A Yes.

18 Q -- in Vegas?

19 A Exactly.

20 Q Okay. And where was she out of state going to?

21 A Memphis.

22 Q Okay. Did she actually leave to go get whatever  
23 type of paperwork, or get some affairs in order?

24 A Yes, that's exactly what she --

25 Q And was, from your understanding, the intention that

1 she was going to come back?

2 A Yes.

3 Q And from your understanding, was thereafter Nathan  
4 Rawls going to be staying with his girlfriend at the residence  
5 in Las Vegas?

6 A Yes.

7 Q Okay. In the interim, was he staying at apartment  
8 number 18 for those couple of days?

9 A Yes.

10 Q Now, with regard to November 4th of 2013, you  
11 indicated that you were at the residence?

12 A Yes.

13 Q LaRoy Thomas was at the residence?

14 A Yes.

15 Q And Nate was at the residence?

16 A Nate.

17 Q What time -- I want to turn your attention kind of  
18 to the evening. Can you describe for the members of our jury,  
19 what was your evening like that evening on the 4th?

20 A Well, we was watching the Bears and the Packers.  
21 There was a football game on --

22 Q Okay.

23 A -- early that day. I walked to the store. Gas --

24 Q What store did you walk to?

25 A I walked to the gas station. It was a Speedee Mart.

1 Q Okay. What time was that?

2 A Early in the day. I can't recall what time, but it  
3 was early in the day.

4 Q Okay.

5 A Came back from the store. I sat in the house about  
6 -- in the front room about 20 minutes, and I went in the back  
7 and went to sleep.

8 Q Okay, let me go back. When you walked to the store,  
9 was that alone or with someone?

10 A By myself.

11 Q Okay. And when you went to the store, what did you  
12 buy?

13 A Some Ruffles and candy bars.

14 Q Okay. And did you come back to the residence with  
15 those items?

16 A Yes.

17 Q When you came back to the residence, who was there?

18 A LaRoy and Nate.

19 Q Okay. Were they also in that front living room  
20 area?

21 A Yes, we were sitting in the front room.

22 Q Okay. Do you know what time that was?

23 A Maybe about 6:30, 7:00 maybe.

24 Q Okay. Was the game still on?

25 A Yes, it was.

1 Q At some point, do you -- that evening, did you ever  
2 see Ashely Scott come to the residence?

3 A No.

4 Q Thereafter, sometime later in the early morning  
5 hours, did you learn that she actually had come to the  
6 apartment?

7 A When all the shooting occurred.

8 Q Okay. So, it wasn't until later that you knew she  
9 came over?

10 A When the shooting occurred, yes.

11 Q Were you -- now, you described that you went into  
12 the bedroom. Where is that bedroom located?

13 A The bedroom is right behind the -- right behind the  
14 wall that the second couch is behind.

15 Q Okay.

16 A (Inaudible).

17 Q So -- and we'll get to some of those photographs.  
18 But -- so for our understanding, you indicated there were two  
19 couches. Is one longer than the other?

20 A Yes.

21 Q Okay. And the shorter of the two couches, it rests  
22 against a wall, is that right?

23 A Yes, exactly.

24 Q And that wall is basically the wall -- the other  
25 side of the wall to the bedroom?

1 A To the bedroom, yes.

2 Q Okay. And so you went into the bedroom, and what do  
3 you do?

4 A Went to sleep.

5 Q Okay. Describe for me and the members of the jury,  
6 please, do you stay asleep? What happens?

7 A Yeah. I was asleep, and about -- I don't know what  
8 time it was, but apparently it was like 4:00, 5:00 in the  
9 morning, I heard gunshots.

10 Q Okay. Do you remember how many you heard?

11 A About seven.

12 Q And what do you do when you wake up and hear  
13 gunshots?

14 A I rolled on the floor. I rolled on the floor, and I  
15 crawled out the door to see was everybody all right.

16 Q Let me ask you this. When you first hear the  
17 gunshots, presumably you open your eyes, is that accurate?

18 A Yes.

19 Q After which, do you -- are you able to see anything  
20 with regard to the gunshots?

21 A When I -- when I hear the gunshots, I opened my  
22 eyes. There was like two holes jump in the wall, so I rolled  
23 on the floor.

24 Q Okay. Describe for the members of our jury how your  
25 bed was set up.

1           A     My bed didn't have the rail on it. It's just the  
2 mattress -- my box spring and the mattress on the floor. And  
3 -- yeah, my box mattress was on the floor -- box spring  
4 mattress.

5           Q     When you described seeing the bullet holes in the  
6 wall come through, did anything whiz by you?

7           A     Bullets. Bullets.

8           Q     If your bed had been -- had a rail on it as you  
9 describe it --

10          A     Yeah.

11          Q     -- where would you have been positioned when those  
12 bullets --

13          A     I would have been shot a couple times.

14          Q     After you see the bullets coming through the wall,  
15 what do you do?

16          A     I rolled on the floor and I crawled to the door.

17          Q     Okay.

18          A     As I'm crawling to the door, LaRoy Thomas came  
19 flying through the door.

20          Q     Okay. And did he indicate to you that he was  
21 injured?

22          A     Yes. He said he hit, he hit.

23          Q     Okay. What do you do next?

24          A     I told him to lay on the floor, and I crawled out  
25 the room into the next room, where I hear Ashely hollering.

1 She was in the closet.

2 Q Okay. And was she indicating that she was injured?

3 A Yes, about her leg's on fire.

4 Q Okay. What do you do?

5 A I made sure she was straight, and I went in the  
6 front room and checked on Nate.

7 Q I'm going to stop you there. When you say you went  
8 in the front room, did you walk in?

9 A No, I crawled in the front room.

10 Q On your arms and --

11 A On my hands and knees, yes.

12 Q Why are you doing that?

13 A I don't know if they was going to continue to shoot.

14 Q When you crawl into the living room area, what do  
15 you see?

16 A Nate laying on the floor, and all the table and  
17 stuff tossed up.

18 Q Okay. When you see him laying on the floor, can you  
19 see if he's breathing or not?

20 A I was trying to talk to him, but he wasn't  
21 responding.

22 Q He wasn't talking?

23 A No, he was not talking. He wasn't responding.

24 Q Could you see if he was breathing?

25 A He wasn't breathing. It didn't look like it to me.

1 Q What do you do next?

2 A I get on the phone and I call the police.

3 Q You called 911?

4 A Yes.

5 Q Did you obviously tell them what was going on?

6 A Somebody just shot in the house, and some people

7 down.

8 Q Okay. And describe for the members of our jury,

9 after you called 911, do the police arrive?

10 A Yes, they did.

11 Q How quickly?

12 A Like three to four minutes.

13 Q And when they arrive, what happens? Describe for --

14 A They arrived, made everybody get on the floor, made

15 sure everything was secure before they go in, and they took me

16 out front, and took the other two injured people in an

17 ambulance.

18 Q When they first came on scene, were they announcing

19 that they were police and knocking on the door?

20 A Yes, yes, yes.

21 Q Okay. And you were brought outside. Where were you

22 brought outside to? Is it depicted -- you were in this

23 courtyard area?

24 A In the -- sitting right here on the steps at first.

25 Then they took me around to the front of the house.



1 Q Okay. And you saw that -- were you able to see  
2 LaRoy's injury?

3 A Yes.

4 Q Okay. And did you in fact ever get any blood on  
5 you?

6 A Yes.

7 Q And where was that?

8 A All over my legs.

9 Q Okay. On your pant legs?

10 A Yes, my pant legs.

11 Q And did you see Ashely's injuries?

12 A Yes, I seen them.

13 Q Okay. And did you see them kind of getting taken by  
14 ambulance?

15 A Yes.

16 Q What happened next?

17 A I was outside for three, four hours.

18 Q Okay. Is it fair to say at that point, police come,  
19 they kind of block off the area? Does somebody get --

20 A Yes, they did that.

21 Q -- a statement from you?

22 A They got a -- took a statement.

23 Q Okay. You're kind of watching all of these things  
24 go on. Do you do a handwritten statement?

25 A Yes, I did that.

1 Q Do you then thereafter at some point actually speak  
2 with detectives -- homicide detectives --

3 A Yes, I did that.

4 Q -- and do a taped statement?

5 A I did that.

6 Q Okay. At some point, you obviously are aware that  
7 Nate had not made it?

8 A Yeah.

9 Q Okay. Let's look at some of these exhibits.  
10 Showing you what's been admitted as State's Exhibit 12, do you  
11 recognize this as how you last saw Nate?

12 A Yes.

13 Q Okay. And is that the living room area you were  
14 referring to?

15 A Yes, it is.

16 Q Okay. Showing you State's admitted 111, is that  
17 also the living room, but as well as the kitchen area?

18 A Yes, it is.

19 Q And showing you 112, is that just the kitchen area?

20 A Yes.

21 Q Are we -- is there a window behind --

22 A Yes, it is.

23 Q Okay, the curtains?

24 A Yes.

25 Q So, there's windows in the front by the living room,

1 is that right?

2 A Yes.

3 Q There's windows by the kitchen, is that right?

4 A Yes.

5 Q With regard to the back of the apartment, is there  
6 any windows on the back side, the side that faces Sherwood  
7 Street?

8 A Yes, it is.

9 Q Where?

10 A In the second bedroom.

11 Q Okay. In the second bedroom, there are windows.  
12 How about the bedroom that you were in, were there any windows  
13 in that bedroom?

14 A Yes, there's a window there.

15 Q Where is it?

16 A It faced coming right through the walkway.

17 Q Okay. So, the walkway, it doesn't parallel  
18 Sherwood, it's on the side when you walk down into the -- let  
19 me see if I can aid my question. Showing you what's been  
20 admitted as State's 4, is it this walkway?

21 A Yes.

22 Q Okay. So, the window was on that side of the  
23 bedroom?

24 A Right here.

25 Q Okay. And you can see it depicted in that?

1 A Yes.

2 Q Okay. But there are no other doors that exit the  
3 apartment --

4 A No.

5 Q -- except that front door 18?

6 A That's it.

7 Q Showing you what's been admitted as one [inaudible],  
8 what are we looking at here?

9 A This is the front room.

10 Q Okay. And is that the smaller of the two couches?

11 A Yes, it is.

12 Q Okay. And you indicated that you'd saw the coffee  
13 table --

14 A Yes.

15 Q -- turned over? We see it here in this photograph?

16 A Yes.

17 Q Okay. I want to talk about the room you were  
18 staying in. Showing you State's 123, is this the room you  
19 were staying in?

20 A Yes.

21 Q And showing you what's been admitted as State's 125,  
22 what are we looking at there, Marque?

23 A It's a bedroom.

24 Q Okay. Does that have the bed as you depict it?

25 A Yes.

1 Q Okay. So, there was no frame?

2 A No.

3 Q With regard to yourself on that day, showing you  
4 State's 9, do you recognize --

5 A Yes.

6 Q -- yourself?

7 A Yes.

8 Q Okay. That was later in the morning?

9 A Early that morning, yes.

10 Q Okay. To -- so the jurors understand, when this  
11 occurred, was it dark outside?

12 A When the shooting occurred?

13 Q Correct.

14 A 5:00 o'clock in the morning. It's light, a little  
15 dark.

16 Q Okay. Do you know if you were wearing -- you talked  
17 about what you were wearing that day. You had this shirt on.  
18 Do you remember --

19 A Yes.

20 Q -- the type of pants?

21 A Some blue Levi's.

22 Q Okay. Showing you State's 10, is that you in the  
23 blue Levi's?

24 A Yes.

25 MS. SCHIFALACQUA: If I may approach the witness,

1 Judge, with what's been marked as State's proposed Exhibits  
2 129 through 131 that have been previously shown to Mr. Otto,  
3 as well as provided in discovery.

4 THE COURT: You may.

5 MS. SCHIFALACQUA: Thank you.

6 BY MS. SCHIFALACQUA:

7 Q Marque, I'm going to show you what's been marked as  
8 State's proposed Exhibits 129 through 131. If you could look  
9 at each one of those.

10 A Yes,

11 THE COURT: I'm advised the clerk believes they're  
12 already in.

13 MS. SCHIFALACQUA: Oh.

14 THE COURT: Did we --

15 MS. SCHIFALACQUA: They're not marked on the back.

16 THE CLERK: Those are the ones I was looking for.

17 MS. SCHIFALACQUA: Oh. Well, then this will make  
18 things easy. Let me just complete our record anyway.

19 THE COURT: Very good.

20 BY MS. SCHIFALACQUA:

21 Q Do you recognize what's depicted in these  
22 photographs?

23 A Yes.

24 Q Okay, and what are they?

25 A My jeans.

1 Q What is that?

2 A My jeans.

3 Q Okay. And these are the jeans you were wearing on  
4 November 5th?

5 A Yes.

6 MS. SCHIFALACQUA: Since they're already admitted, I  
7 won't move for admission again, Judge, but permission to  
8 publish?

9 THE COURT: You may.

10 MS. SCHIFALACQUA: Thank you very much.

11 BY MS. SCHIFALACQUA:

12 Q Showing you what's been admitted as 129, what are we  
13 looking at there, Marque?

14 A My jeans.

15 Q And what's on them?

16 A Blood.

17 Q Whose blood is that?

18 A LaRoy Thomas.

19 Q Okay. And showing you 130, did -- were your jeans  
20 actually taken into evidence?

21 A Yes.

22 Q Okay. And is that them there?

23 A Yes.

24 Q Okay. And that shows them fully with the different  
25 spots of blood on them?

1 A Right.

2 Q Okay. Do you go by the name Minuke?

3 A Yes.

4 Q Okay. You indicated that you had called 911,  
5 correct?

6 A Yes.

7 MS. SCHIFALACQUA: Permission to publish, Judge,  
8 what's been admitted by stipulation as State's 70?

9 MR. OTTO: No objection.

10 THE COURT: Any objection? You may.

11 (State's Exhibit 70 is played)

12 BY MS. SCHIFALACQUA:

13 Q Marque, is that the call that you made to 911?

14 A Yes.

15 Q So, do you remember that, up front, Nathan was still  
16 breathing at first?

17 A Yes.

18 Q At some point, did he stop breathing?

19 A Yes, he did.

20 MS. SCHIFALACQUA: Yeah, you need to stop it.  
21 Court's indulgence.

22 THE COURT: Um-hum.

23 (Pause in the proceedings)

24 BY MS. SCHIFALACQUA:

25 Q They asked you on the call about blood. Did you see



1 a lot of blood?

2 A Actually, I didn't see no blood coming from Nate.

3 Q With regard to -- they asked you, you know, who did  
4 this, could you see anybody who was shooting at you at about  
5 4:30 in the morning on November 5th?

6 A No.

7 Q With regard to the days kind of leading up to this  
8 early morning shooting, did you have any problems with anyone?

9 A No.

10 Q Did you observe Nathan Rawls have any problems with  
11 anyone?

12 A No.

13 Q What about LaRoy Thomas, did you observe him have --

14 A No.

15 Q -- any problems with anyone?

16 A No.

17 Q Ashely you knew was there after, is that right?

18 A Right.

19 Q Or when it happened, but not before?

20 A Right.

21 Q Had she been there earlier for example in the week  
22 and had problems with anyone?

23 A No.

24 Q Did you -- were you aware of any reason why there  
25 was a dispute or a beef with anybody at all?

1 A No.

2 MS. SCHIFALACQUA: Court's indulgence.

3 THE COURT: Um-hum.

4 (Pause in the proceedings)

5 MS. SCHIFALACQUA: Thank you.

6 BY MS. SCHIFALACQUA:

7 Q Marque, I want to show you what's been previously  
8 admitted as State's 121. Is that the closet that was in the  
9 room you were staying in?

10 A Yes.

11 Q Okay. We see some markings on the walls there.  
12 What are those?

13 A Bullet holes.

14 Q Were those there prior to you awakening to shots  
15 being fired on November 5th, 2013?

16 A Yes.

17 Q Were they there before that?

18 A No.

19 Q Okay. Showing you what's been admitted as State's  
20 121, is that also the room that you were in?

21 A Yes.

22 Q Is that the lamp that was in that room?

23 A Yes.

24 Q And what do we see depicted on the walls there?

25 A Bullet holes.

1 Q Were those bullet holes there before November 5th,  
2 2013?

3 A No.

4 Q And so we get a better orientation of that, this is  
5 State's 123. Do you see the lamp in that photograph that's --

6 A Yes.

7 Q -- depicted in State's 122? In State's 123, do you  
8 see that same lamp in that picture?

9 A Yes.

10 Q And is that the bed that you were laying on?

11 A Yes.

12 Q Okay.

13 MS. SCHIFALACQUA: And I'd pass the witness, Your  
14 Honor.

15 THE COURT: All right. Cross-examination.

16 CROSS-EXAMINATION

17 BY MR. OTTO:

18 Q Mr. Hill, good afternoon.

19 A Good afternoon.

20 Q My name's David Otto. I represent Matthew  
21 Washington in this case.

22 A All right.

23 Q I do have just a few questions. You say that Nathan  
24 Rawls had been in the apartment for two days?

25 A About three days, yes.

1 Q Three days? And how long had you been staying  
2 there?  
3 A On and off for months. About four months.  
4 Q Four months?  
5 A Yeah.  
6 Q And the State just showed some photographs,  
7 including some windows. Did all the windows in the house have  
8 curtains on them?  
9 A Yes.  
10 Q So, people couldn't see in the house, and you  
11 couldn't see out --  
12 A Exactly.  
13 Q -- unless you moved the curtains from the inside?  
14 A Yeah.  
15 Q You didn't see who was shooting?  
16 A No.  
17 Q Do you know Mr. Washington?  
18 A Not at all.  
19 Q Do you know if Nathan Rawls knew Mr. Washington?  
20 A Not at all.  
21 Q And you say that nobody in the apartment had any  
22 problems with anyone that you --  
23 A No.  
24 Q -- knew of?  
25 A No, sir.

1 MR. OTTO: I have no further questions.

2 THE COURT: Redirect?

3 MS. SCHIFALACQUA: Nothing further by the State,  
4 Your Honor. Thank you.

5 THE COURT: I have one question.

6 THE WITNESS: Yes, sir.

7 THE COURT: What's Minuke come from?

8 THE WITNESS: It's because I'm tall. The basketball  
9 player, Minuke (indiscernible).

10 THE COURT: Thank you. You may step down. And this  
11 witness may be excused?

12 MS. PIEPER: He may, Your Honor.

13 MR. OTTO: Yes, Your Honor.

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

15 MS. PIEPER: State calls Sal Martin.

16 THE MARSHAL: If you would, sir, just follow me up  
17 to the stand. Mr. Martin, please step onto the stand. Remain  
18 standing, sir. Face our clerk and raise your right hand.

19 SALVATORE MARTIN, STATE'S WITNESS, SWORN

20 THE CLERK: Please be seated. Please state your  
21 name and spell it for the record.

22 THE WITNESS: Salvatore Martin. S-a-l-v-a-t-o-r-e.  
23 Last name, M-a-r-t-i-n.

24 THE CLERK: Thank you.

25 MS. PIEPER: May I proceed?

1 THE COURT: You may proceed.

2 DIRECT EXAMINATION

3 BY MS. PIEPER:

4 Q How are you employed?

5 A I work for Sunrise Hospital.

6 Q And what division are you in in Sunrise?

7 A Public safety.

8 Q Okay. And is that, for lack of a better term,  
9 security?

10 A Yes.

11 Q How long have you worked security at Sunrise  
12 Hospital?

13 A Six years.

14 Q I want to draw your attention to November 5th, 2013.  
15 Or let me back up and ask you this. Is it common practice if  
16 people come into the hospital for Sunrise to call the Las  
17 Vegas Metropolitan Police Department when there's evidence to  
18 be picked up?

19 A Correct.

20 Q Have you done that on -- during your job capacity?

21 A Numerous times.

22 Q Okay. On November 5th, 2013, do you know if the  
23 hospital called Metro, or Metro called the hospital in order  
24 to pick up some evidence?

25 A I don't recall.

1 Q But either way, in order to get a piece of evidence,  
2 let's say somebody has a bullet in them, the bullet gets  
3 removed during surgery. How does Metro get a hold of that  
4 bullet?

5 A The surgeon will remove the bullet, they'll pass it  
6 on to a nurse, the nurse will contact us. We will secure it  
7 through chain of command, and we will contact the agency, if  
8 it's North Las Vegas, Metro, Henderson, and advise them that  
9 we do have evidence.

10 Q Okay. Once that is done, how is it that Metro then  
11 is able to pick up that evidence?

12 A They'll call our office and say they're coming.

13 Q Okay.

14 A And then one of the supervisors will release that to  
15 them.

16 Q How many supervisors are at Sunrise?

17 A We have three on duty.

18 Q Okay. And on November 5th, 2013, were you working  
19 and you were contacted in order to release a piece of  
20 evidence?

21 A Correct.

22 Q In regard to the supervisors, are they the only ones  
23 that have keys?

24 A Correct.

25 Q And where are the keys to?

1           A    We have them on a key ring. Any evidence that we  
2 get goes into a locked cabinet --

3           Q    Okay.

4           A    -- and we're the only ones that have access to it.

5           Q    Okay. So, there's only really three people at  
6 different times that will have access to this locked cabinet?

7           A    Correct.

8           Q    What is in the locked cabinet?

9           A    We hold contraband, firearms, and also evidence.

10          Q    When you say --

11          A    We have three drawers.

12          Q    I'm sorry. When you say contraband, what do you  
13 mean by that?

14          A    If a patient comes in they may have a green leafy  
15 substance, marijuana, something like that, or a pipe or  
16 something like that, it will be secured.

17          Q    You don't allow the patient to continue to have it,  
18 you actually --

19          A    Correct. Secure it.

20          Q    -- secure it in your facility?

21          A    Yeah.

22          Q    Okay. In regard to November 5th, 2013, did you meet  
23 with a crime scene analyst by the name of Jessie Sams?

24          A    Yes.

25          Q    And when you came into contact with Ms. Sams, what



1 is it that you did?

2 A She asked if we had the evidence. I confirmed with  
3 her the patient's name, and I released it to her --

4 Q Okay.

5 A -- and turned it over.

6 Q And do you recall now what the name of the patient  
7 was?

8 A No, I do not.

9 MS. PIEPER: Your Honor, may I approach the witness?

10 THE COURT: You may.

11 BY MS. PIEPER:

12 Q In regard to the collection of evidence between  
13 Sunrise and the Las Vegas Metropolitan Police Department or  
14 any police department, do you have sort of like a chain of  
15 custody, paperwork that you have filled out?

16 A We do. We have a little evidence tag that will have  
17 about six or seven spaces on it where the surgeon, the nurse,  
18 whoever comes in contact with that evidence will sign off onto  
19 it. The last person to sign it should be the officer that's  
20 taking possession of it.

21 Q And when you say, officer, do you mean from one of  
22 the police departments?

23 A Yes.

24 Q Okay.

25 A Law enforcement agency.

1 MS. PIEPER: Your Honor, may I approach?

2 THE COURT: You may.

3 MR. OTTO: Your Honor, if I could object. I haven't  
4 seen the exhibit, I don't believe.

5 THE COURT: Okay.

6 MS. PIEPER: It's not an exhibit. Just --

7 MR. OTTO: I know, but the refreshment.

8 BY MS. PIEPER:

9 Q Would looking at that refresh your recollection as  
10 to the name of the person who was the patient?

11 A Yes. There will be an identifying tag on it with  
12 the name and a medical record number.

13 MS. PIEPER: Your Honor, may I approach?

14 THE COURT: You may.

15 BY MS. PIEPER:

16 Q Would looking at this piece of paper refresh your  
17 recollection?

18 A Yes.

19 Q Okay. And do you know the name of the person that  
20 was the patient?

21 A Yes. It is going to be last name of Thomas, first  
22 name LaRoy.

23 Q Okay. And do you know what piece of evidence that  
24 Ms. Sams picked up from you guys?

25 A I believe it was a bullet.

1 Q Okay.

2 MS. PIEPER: No further questions, Your Honor. Pass  
3 the witness.

4 THE COURT: Cross-exam.

5 MR. OTTO: I have no questions, Your Honor.

6 THE COURT: Thank you. You may step down. May this  
7 witness be excused?

8 MS. PIEPER: He may, Your Honor.

9 THE COURT: And from the defense as well? He's  
10 excused?

11 MR. OTTO: Yes, Your Honor.

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

13 THE WITNESS: Thank you.

14 THE COURT: State, you may call your next witness.

15 MS. SCHIFALACQUA: Judge --

16 MS. PIEPER: Judge, we had some scheduling issues  
17 with our witnesses. One of them got ill, and the other one's  
18 mother was taken to the hospital. We tried to call some  
19 witnesses from Friday and bring them today, but they were  
20 unable to make it. So, at this time, the State has no further  
21 witnesses for today. We apologize to the jury and to the  
22 Court.

23 MS. SCHIFALACQUA: Sorry.

24 THE COURT: We'll have witnesses tomorrow morning  
25 then --

1 MS. PIEPER: We will, Your Honor.

2 MS. SCHIFALACQUA: Correct.

3 THE COURT: -- ready to go?

4 MS. PIEPER: We will have a full day of witnesses.

5 THE COURT: All right, thank you. Counsel, anything  
6 before I advise the jury one more time and release them?

7 MS. SCHIFALACQUA: Not by the State, Judge.

8 MR. OTTO: No, Your Honor.

9 THE COURT: All right. Ladies and gentlemen, such a  
10 deal. You are getting the rest of the afternoon off. We  
11 still believe -- after conferring with counsel about this, we  
12 still believe that we will be able to keep to our schedule and  
13 finish this trial by the time that we indicated to you that we  
14 would. So, we will begin again tomorrow morning at 9:00 A.M.  
15 Meanwhile, let me go back over a couple of instructions that  
16 I've given.

17 Please do not Google or research on the internet or  
18 through any other means anything about this case, about the  
19 subject matter of the case, about the people in the case.  
20 Please allow -- continue to allow your verdict to rest  
21 entirely upon the testimony and other exhibits which are  
22 admitted into evidence during the trial. Please do not visit  
23 any of the places that are made mention of during this trial.

24 And please do not talk or converse among yourselves  
25 or with anyone else on any subject matter connected with the

1 trial. Do not read, watch, or listen to any report of or  
2 commentary on this trial, or on anyone connected with the  
3 trial, by any medium of information, including radio,  
4 television, the internet or newspapers. And please do not  
5 form or express any opinion on any subject connected with the  
6 trial until the case is finally submitted to you.

7 I indicated how important it is that we not talk to  
8 other people. When we were in the process of impaneling the  
9 jury, I think I even mentioned that if anyone should at any  
10 point during the trial approach you and try to talk to you  
11 about the trial, about anything to do with it, even if it's a  
12 relative, send them on their way, do not talk to them, and  
13 then please let us know by letting the bailiff know when you  
14 come back to court, all right, and we'll take care of it.

15 Thank you very much, ladies and gentlemen. We'll  
16 see you at 9:00 o'clock tomorrow morning. Court will be in  
17 recess until that time.

18 THE MARSHAL: All rise, ladies and gentlemen.

19 (Court recessed at 2:02 p.m., until Friday,

20 April 11, 2014, at 9:47 a.m.)

21 \* \* \* \* \*

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25

**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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1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2  
3       MATTHEW WASHINGTON,  
4                                   Appellant,  
5   vi.  
6       THE STATE OF NEVADA,  
7                                   Respondent.

No. 65998

8  
9                                   **APPELLANT'S APPENDIX VOLUME VII PAGES 1324-1493**

10       PHILIP J. KOHN  
11       Clark County Public Defender  
12       309 South Third Street  
13       Las Vegas, Nevada 89155-2610

14       Attorney for Appellant

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

15  
16                                   **CERTIFICATE OF SERVICE**

17                                   I hereby certify that this document was filed electronically with the Nevada  
18       Supreme Court on the 18 day of JUNE, 2015 Electronic Service of the  
19       foregoing document shall be made in accordance with the Master Service List as follows:

20       CATHERINE CORTEZ MASTO  
21       STEVEN S. OWENS

HOWARD S. BROOKS  
SHARON DICKINSON

22                                   I further certify that I served a copy of this document by mailing a true and  
23       correct copy thereof, postage pre-paid, addressed to:

24       MATTHEW WASHINGTON  
25       NDOC # 1061467  
26       c/o High Desert State Prison  
27       PO Box 650  
28       Indian Springs, NV 89070

BY   
Employee, Clark County Public Defender's Office