counsel, not, to not testifying in this case? THE DEFENDANT: Yes, ma'am.

THE COURT: In otner words, standing behind that right?

THE DEFENDANT: Yes, ma'am.
THE COURT: Mr. Kane, Ms. Pandukht, anything you think I should add?

MR. KANE: No, your Honor.
THE COURT: Mr. Brooks, Mr. O'Brien, anything you think $I$ should add?

MR. BROOKS: Not for this, your Honor.
THE COURT: Very well. Then the record should reflect that the Carter instruction has been given. The defendant understands that he cannot be compelled to testify and that if his attorneys specifically request, I will give that instruction.

I guess we can bring the jury in now.
MR. BROOKS: Just another housekeeping matter, judge. Once the State has rested and we have read the stipulation into the record as part of the defense case, I believe after consultation today with Ms. Pandukht and Mr. Kane, that we can probably resolve jury instructions in approximately 10 minutes.

THE COURT: The only instruction that I had that was in dispute at all was one that may have changed since I got that mid-morning. But that will be fine. So, what you're really suggesting is that we go ahead and close off the case and bring the jury back tomorrow for closings?

MR. BROOKS: If that's what the defense would suggest, yes.

MS. PANDUKHT: All of our exhibits have been admitted with the exception of one which we would like to withdraw or --

THE COURT: This would be proposed exhibit --

MS. PANDUKHT: Proposed Exhibit No. 5.
MR. KANE: It was going to be a marked up copy of that apartment diagram, but it wasn't --

THE COURT: Understood.
MS. PANDUKHT: But my, I show everything else was admitted.

THE COURT: I always ask you, please check with the court clerk to be sure that everybody is on the same page.

MS. PANDUKHT: We can do that afterwards, judge --

THE COURT: Okay.
MS. PANDUKHT: -- if you would like.
THE COURT: With that, anything else?
MR. BROOKS: Not from the defense, your Honor.

THE COURT: Mr. Pandukht, Mr. Kane?
MR. KANE: No, your Honor.
THE COURT: Let's bring the jury back. (Thereupon, the jury entered the courtroom.) THE COURT: Counsel, will you approach while the jury is assembling?
(Conference at the bench.)
THE COURT: Welcome back. Let the record reflect that all parties are present with counsel.

Will you stipulate, please, to the presence of the jury?

MR. KANE: Yes, your Honor.
MR. BROOKS: Defense will, your Honor. THE COURT: Very well. Mr. Kane, who's next?

MR. KANE: Judge, the State has no further witnesses to call but wishes to announce to the jury, with your permission, that the prosecution and defense have agreed to two stipulations.

THE COURT: Before you go on, Mr. Kane, let met interrupt briefiy. A stipulation is an, and you'll likely hear a jury instruction on this, but a stipulation is an agreement, in this case between the State and the defendant's counsel, that certain facts, as we're about to hear, are agreed upon, no dispute, no witness testimony required. But you can consider the stipulation as if it were evidence given by a witness.

With that, Mr. Kane, you may continue.
MR. KANE: The two stipulations are, first, your Honor, with respect to records of the Clark County Detention Center. It is stipulated that the defendant and Gregory Lewis were housed in the same unit in the Clark County Detention Center, which is unit 9C, from September the 29 th of 2003 through November the 13th of 2003 and also that the defendant, Glenford Anthony Budd, was moved to a single unit within the Clark County Detention Center, that being $9 \mathrm{C}-18$, on May the 24 th of 2004.

The second stipulation has to do with records of the court, and the stipulation is that as of August of 2004 when the letters that were referred to here in court were delivered,

Mr. Budd's trial date was set as November the 15 th of 2004 .

THE COURT: Mr. Brooks, Mr. O'Brien, is that a correct statement of the stipulation that you entered into?

MR. BROOKS: That's correct, your Honor.
THE COURT: Very well. All that information, then, can be considered by each and every one of you as jurors.

And with that, save and except a recheck, if you will, of exhibits, Mr. Kane, Ms. Pandukht, do you, does the State rest?

MR. KANE: That is correct, your Honor.
THE COURT: Very well. Mr. Brooks?
MR. BROOKS: Judge, the defense would like to read a stipulation to the jury, also, which I believe has been filed.

THE COURT: Very well. And again, ladies and gentlemen, another stipulation. It means the parties have agreed that the information about to be provided to you is true and accurate. Both sides agree that no actual or live witness testimony is necessary. And you may consider this in the same way that you would any other evidence that has been admitted or the testimony of any
other witness.
MR. BROOKS: I'll file it in open court. December 12th, 2005, stipulation, the State and defense stipulate that Defense Exhibits B and C have been admitted into evidence. These exhibits are photographs taken at the Saratoga Palm Apartments, Las Vegas, Nevada. Exhibit C shows the view from the balcony of Celeste Palau's apartment, looking at apartment 2068 in building nine. Exhibit $B$ shows the light fixture over the stairs outside apartment 2068. The light fixture is between apartment 2068 and apartment 2067. The State and defense stipulate that Steven Yoshida, an investigator for the Clark County Public Defender Office, took these photographs. The distance between the bottom of the stairs outside Celeste Palau's apartment and the bottom of the stairs outside apartment 2068 in building nine is 218 feet. The stipulation is signed by myself and by Mr. Kane.

THE COURT: And, ladies and gentlemen, as I've indicated, you may consider that as you would any other evidence provided in this case by a witness and/or by evidence that is admitted and become a part of the Court's record.

On behalf of the defendant, Mr. Brooks, Mr. O'Brien, do you have other witnesses?

MR. BROOKS: Judge, the defense rests.
THE COURT: Thank you very much. The next thing that will happen in the course of our trial, ladies and gentlemen, is that I will instruct you on the law, and then our attorneys can make summations. It means that they will sum up or summarize for you what they believe the evidence shows or does not show.

It is nearly 5:00 o'clock. I'm, sometimes in these instances the instructions are long. They are always written in the language that we refer to as legalese. And so it's very important that I can be fresh when I read them, that you can be fresh when you hear them, although you will have copies of these instructions with you when you begin your deliberations because of how important the statement of law is. We're going to be in recess for today. There are no more witnesses that we will hear. The next thing that will happen will be the reading of the jury instructions and the closing arguments by counsel. We will continue this trial, then, until 1:30 tomorrow.

I have to remind you, you're very close to the end of the trial phase in this case. It's extremely important that you carefully listen to the admonishment that I'm going to give you and that you remember how important it is not to discuss this case among yourselves or with anyone else. You cannot read, watch, listen to a report of or commentary on anything which might be associated with this matter. You cannot form or express an opinion in any of these issues until it has been fully and finally submitted to you under instruction of law by me.

It is tempting at this point, when I tell you that the evidence is closed, to begin to form opinions about the case. And as subtle as it may be in your own mind when you're driving home tonight, when you're getting ready for your evening or for your bedtime, you cannot do that. You've only gotten through phase one. You got to hear the instructions, and you have to hear the closing arguments before you can form any opinion. Don't do any research of any type on any of these issues. And I look forward to seeing you tomorrow at $1: 30$. We will stand in the evening recess. (Recess taken.)

THE COURT: State versus Budd? I had a copy here of a proposed packet of instructions. The only one that I know right now that is at issue reads as follows: It is, State, was yours this two-liner? I presume yours was --

MR. KANE: The original, yes.
THE COURT: And the original is proposed by the State as follows: In your deliberation you may not discuss nor consider the subject of punishment. Your duty at this time is confined in determination of guilt or innocence of the defendant.

The proposed instruction offered by the defense to replace the one proposed by the State reads, in your deliberation you may not discuss or consider the subject of punishment. Your duty at this time is confined to determination of whether or not the State has proven the guilt of the defendant beyond a reasonable doubt.

Now, before I hear further argument let me go on the record. I suspect that you both have already heard this. I consistently make a record as the Court that there are a couple of stock instructions within the State's instructions that use the term determination of the guilt or
innocence of the defendant. I consistently note my concern about these instructions, because I think they are wrong.

MR. KANE: Judge; can I interrupt?
THE COURT: Sure.
MR. KANE: And I'll take the risk. I agree with you. I've never understood why that language is in there. And I guess it's because defense lawyers don't object to it. The instruction, the second one that you read is my product after discussing this with Mr. Brooks this morning, and will, at least from now on for me, be the stock instruction. And I'm going to suggest it to the other deputies in my office, because I don't think the guilt or innocence --

THE COURT: Excellent. Excellent. And if you would, there is at least one other instruction that has the same use, determination of guilt or innocence. And I'll try to find it.

MS. PANDUKHT: It's the one that, you are not to consider the guilt of any other person --

THE COURT: But the guilt or innocence of -- that should also be corrected. But believe it or not, I've had defense lawyers to whom I bring this to their attention, because it's, as I
said, I want to go on the record as saying how I believe it is incorrect and an incorrect statement of law. And I've had several defense attorneys who still want it to be given.

MR. BROOKS: Judge, just to make things really simple here, if we, if we go ahead and number the instructions, I have two objections at that point. And I have the case law here that says, according to the Nevada Supreme Court, that I am wrong. So, I'm going to make my objections to those two instructions. I would like to make my record as far as why I think that the Supreme Court is wrong. And this is going to be really simple for us.

THE COURT: All right. Let's start numbering. Number one, and you both, you all know how I do this: Number one, it is my duty as judge to instruct you... Number two, if in these instructions... Number three, an information is but a formal method of accusing... Number four, in this case the defendant... Number five, murder is unlawful -- of human being... Number six, malice aforethought -- intentionai... Number seven -- of first degree, which is murder which is perpetrated by means... Number eight, law does
not measure in units of time the length of period during which the thought must be upon... Number nine, all murder which is not murder in the first degree is murder in the second degree. Number 10 , you are instructed that if you find beyond a reasonable doubt the State has... Number 11, manslaughter is the unlawful -- of human being without malice... Number 12 -- heat of passion -it is manslaughter. Number 13, if you find beyond a reasonable doubt that the State has established and defendant has committed murder... Number 14, deadly weapon means any instrument which... Number 15, if you find beyond a reasonable doubt the defendant committed murder... Number 16, to constitute the crime charged... Number 17, presume innocent if the contrary is proven... Number 18, the evidence which you are to consider in this case consist of the testimony of witnesses... Number 19, credibility or believability of a witness should be determined... Number 20, a witness who has special knowledge, skill, experience... Number 21, you are -- strike that. Although you are to consider only the evidence in this case in reaching a verdict... Number 22, in your deliberation you may not
discuss nor consider the subject of punishment. Oops! That has been, pull that one out. We are now going to substitute the agreed-upon instruction that reads as follows: In your deliberation you may not discuss nor consider the subject of punishment. Your duty at this time is confined to the determination of whether or not the State has approved the guilt of the defendant beyond a reasonable doubt. Number 23 , when you retire to consider your verdict... Number 24 , if during your deliberations... Number 25 , now you will listen to counsel... And then there is a verdict form.

Mr. Brooks, did you want to make a record of objections?

MR. BROOKS: Yes, judge. On instruction 10, everything after line eight I object to, and it is unnecessary and adds nothing. My legal argument for this will be the same precise argument that I will make with regard to instruction 13, also, to which I also object. On instruction 13 everything after line seven is unnecessary and is wrong and is not in accordance with the actual statutory law in the State of Nevada.

Now, having said that, the Nevada Supreme Court has ruled in Green v. State, 80 pacific 3rd 93 119, Nevada Advanced Report 59, parentheses December 11th, 2003, closed parentheses, that these two instructions, 10 and 13, are, in fact, correct statements of the law. But I just want to make my record on this. First of all, judge, going back a number of years, we never saw this issue arise at all, because the essence of this is saying, not only are we going to tell the jury what the lessers are, we're also going to tell them how they're going to go about looking at the lessers and in what order they're going to look at the lessers and how exactly we're going to go from one lesser to other. There is nothing in Nevada statutory law that authorizes any procedure for that. In fact, the law, the law is that the jury can simply look at all of that and figure it out among themselves. And about four or five years ago the State started posing a instruction that said you have to look at one first and then look at the other. And then there was a, a court in a county in Nevada which granted this, this instruction and, in fact, went so far as to say you can't even consider second degree murder
unless you unanimously find that the defendant is not guilty of first degree murder. And so the Nevada Supreme Court came up with this new language.

THE COURT: Having rejected the one that was used in the other county?

MR. BROOKS: Correct. And my personal belief is that is basically what we now have, is we have two instructions here and some law that the Nevada Supreme Court has said, this is how we're going to do it. But I don't think it accords with any statutory authority. So, that's my objection.

THE COURT: Mr. Kane, do you wish to be heard?

MR. KANE: Of course, Nevada Supreme Court law, as it exists, is always controlling. But the Green case made it real clear. They didn't just say this is a good instruction. They said this is how you instruct on lesser included defenses, and this is the way you better do it. So, it's not a discretion area.

THE COURT: At least at this point it is my understanding, based upon that case, that as judges in the trial court, we are precluded from,
at least by, I guess we do it occasionally. But in light of the Supreme Court decision in Green, this is supposed to be the instruction that is given.

Your argument, Mr. Brooks, is noted for the record. This really actually might be more simply stated as the lesser included objection that I think is being frequently made, and that is how I would consider it. However, based upon the Supreme Court's directive, I'm going to give both 10 and 13.

With that in mind, are there any other objections to the numbered instructions?

MR. BROOKS: Not from the defense, your Honor.

MR. KANE: Not from the State, your Honor.

THE COURT: Have you both reviewed the verdict form which is proposed in this case?

MR. BROOKS: Defense has, and there is no objection.

THE COURT: Very well. These are the instructions that will be given. As you know, it is my practice and it has been recommended by the jury commission and various other authorities that
copies of these instructions be given to the jury upon their, when they retire to deliberate. It is my habit to do that.

Is there any objection to that?
MR. KANE: No, your Honor.
MR. BROOKS: Not from the defense.
THE COURT: Very well. We'll be in recess until tomorrow at 1:30.

Attest: Full, true, accurate transcript of proceedings.





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BY


KRISTEN RA. BROWA DEPUTY

## DISTRICT COURT

 CLARK COUNTY, NEVADATHE STATE OF NEVADA,
Plaintiff,
-vs-
GLENFORD ANTHONY BUDD,
Defendant.
INSTRUCTIONS TO THE JURY (INSTRUCTION NO. I) MEMBERS OF THE JURY:

It is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

An Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Information that on or between May 26 and May 27, 2003, the Defendant committed the offense of MURDER WITH USE OF A DEADLY WEAPON (Felony); in that

Count 1 - He did then and there willfully, feloniously, without authonity of law, and with premeditation and deliberation, and with malice aforethought, kill DAJON JONES, a human being, by shooting at and into the body of the said DAJON JONES, with a deadly weapon, to wit: a firearm.

Count 2 - He did then and there willfully, feloniously, without authority of law, and with premeditation and deliberation, and with malice aforethought, kill DERRICK JONES, a human being, by shooting at and into the body of the said DERRICK JONES, with a deadly weapon, to wit: a firearm.

Count 3 - He did then and there willfully, feloniously, without authority of law, and with premeditation and deliberation, and with malice aforethought, kill JASON MOORE, a human being, by shooting at and into the body of the said JASON MOORE, with a deadly weapon, to wit: a firearm.

In this case the defendant is accused in an Information alleging an open charge of murder. This charge may include murder of the first degree or murder of the second degree or voluntary manslaughter.

The jury must decide if the defendant is guilty of any offense and, if so, of which offense.

Murder is the unlawful killing of a human being, with malice aforethought, either express or implied.

Malice aforethought means the intentional doing of a wrongful act without legal cause or excuse or what the law considers adequate provocation. The condition of mind described as malice aforethought may arise, from anger, hatred, revenge or from particular ill will, spite or grudge toward the person killed. It may also arise from any unjustifiable or unlawful motive or purpose to injure another, or with reckless disregard of consequences and social duty. Malice aforethought does not imply deliberation or the lapse of any considerable time between the malicious intention to injure another and the actual execution of the intent but denotes an unlawful purpose and design as opposed to accident and mischance.

Express malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

Murder of the first degree is murder which is perpetrated by means of any kind of willful, deliberate, and premeditated killing. All three elements -- willfulness, deliberation, and premeditation -- must be proven beyond a reasonable doubt before an accused can be convicted of first-degree murder.

Willfulness is the intent to kill. There need be no appreciable space of time between formation of the intent to kill and the act of killing.

Deliberation is the process of determining upon a course of action to kill as a result of thought, including weighing the reasons for and against the action and considering the consequences of the actions.

A deliberate determination may be arrived at in a short period of time. But in all cases the determination must not be formed in passion, or if formed in passion, it must be carried out after there has been time for the passion to subside and deliberation to occur. A mere unconsidered and rash impulse is not deliberate, even though it includes the intent to kill.

Premeditation is a design, a determination to kill, distinctly formed in the mind by the time of the killing.

Premeditation need not be for a day, an hour, or even a minute. It may be as instantaneous as successive thoughts of the mind. For if the jury believes from the evidence that the act constituting the killing has been preceded by and has been the result of premeditation, no matter how rapidly the act follows the premeditation, it is premeditated.

INSTRUCTION NO.
The law does not undertake to measure in units of time the length of the period during which the thought must be pondered before it can ripen into an intent to kill which is truly deliberate and premeditated. The time will vary with different individuals and under varying circumstances.

The true test is not the duration of time, but rather the extent of the reflection. A cold, calculated judgment and decision may be arrived at in a short period of time, but a mere unconsidered and rash impulse, even though it includes an intent to kill, is not deliberation and premeditation as will fix an unlawful killing as murder of the first degree.

All murder which is not Murder of the First Degree is Murder of the Second Degree. Murder of the Second Degree is:
(a) murder with malice aforethought, but without the admixture of premeditation and deliberation; or,
(b) where an involuntary killing occurs in the commission of an unlawful act, which in its consequences, naturally tends to take the life of a human being or is committed in the prosecution of a felonious intent.

You are instructed that if you find, beyond a reasonable doubt, that the State has established that the defendant has committed first degree murder you shall select first degree murder as your verdict.

If, however, you are convinced beyond a reasonable doubt that the crime of murder has been committed by the defendant, but you have a reasonable doubt whether such murder was of the first or of the second degree, you must give the defendant the benefit of that doubt and return a verdict of murder of the second degree.

The crime of first degree murder includes the crime of second degree murder. You may consider the lesser included offense of second degree murder if, after fully and carefully considering the offense of first degree murder, either:
(1) you have found the defendant not guilty of first degree murder, or
(2) you have been unable to agree whether to acquit or convict on the charge of first degree murder.

Manslaughter is the unlawful killing of a human being without malice express or implied and without any mixture of deliberation.

Voluntary Manslaughter is a voluntary killing upon a sudden heat of passion, caused by a provocation apparently sufficient to make the passion irresistible.

The provocation required for Voluntary Manslaughter must either consist of a serious and highly provoking injury inflicted upon the person killing, sufficient to excite an irresistible passion in a reasonable person, or an attempt by the person killed to commit a serious personal injury on the person killing. The serious and highly provoking injury which causes the sudden heat of passion can occur without direct physical contact.

For the sudden, violent impulse of passion to be irresistible, resulting in a killing which is Voluntary Manslaughter, there must not have been an interval between the assault or provocation and the killing sufficient for the voice of reason and humanity to be heard; for, if there should appear to have been an interval between the assault or provocation given and the killing, sufficient for the voice of reason and humanity to be heard, then the killing shall be determined by you to be murder. The law assigns no fixed period of time for such an interval but leaves its determination to the jury under the facts and circumstances of the case.

The heat of passion which will reduce a homicide to Voluntary Manslaughter must be such an irresistible passion as naturally would be aroused in the mind of an ordinarily reasonable person in the same circumstances. A defendant is not permitted to set up his own standard of conduct and to justify or excuse himself because his passions were aroused unless the circumstances in which he was placed and the facts that confronted him were such as also would have aroused the irresistible passion of the ordinarily reasonable man if likewise situated. The basic inquiry is whether or not, at the time of the killing, the reason of the accused was obscured or disturbed by passion to such an extent as would cause the ordinarily reasonable person of average disposition to act rashly and without deliberation and reflection and from such passion rather than from judgment.

If you find, beyond a reasonable doubt, that the State has established that the defendant has committed murder you shall select the appropriate degree of murder as your verdict.

If, however, you are satisfied beyond a reasonable doubt that the killing was unlawful, but you have a reasonable doubt whether the crime is murder or manslaughter, you must give the defendant the benefit of that doubt and return a verdict of voluntary manslaughter.

The crime of murder may include the crime of voluntary manslaughter. You may consider the lesser included offense of voluntary manslaughter if, after fully and carefully considering the offense of murder, either:
(1) you have found the defendant not guilty of murder, or
(2) you have been unable to agree whether to acquit or convict on the charge of murder.
"Deadly weapon" means any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death.

A firearm is a deadly weapon.

If you find beyond a reasonable doubt that a defendant committed Murder with the Use of a Deadly Weapon, or Voluntary Manslaughter with the Use of a Deadly Weapon, then you are instructed that the verdict of Murder (in the appropriate degree), or Voluntary Manslaughter, with the Use of a Deadly Weapon, is the appropriate verdict.

If, however, you find that a deadly weapon was not used in the commission of the crime, but you do find that a Murder was committed, or that Voluntary Manslaughter was committed, then you are instructed that the verdict of Murder (in the appropriate degree) without the Use of a Deadly Weapon, or Voluntary Manslaughter without the Use of a Deadly Weapon, is the appropriate verdict.

You are instructed that you cannot return a verdict of both Murder (in either degree), or Manslaughter, with the Use of a Deadly Weapon, and Murder (in either degree), or Manslaughter, without the Use of a Deadly Weapon.

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

The Defendant is presumed innocent until the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every material element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

In your deliberation you may not discuss or consider the subject of punishment. Your duty at this time is confined to the determination of whether or not the State has proven the guilt of the defendant beyond a reasonable doubt.

When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

If, during your deliberation, you should desire to be further informed on any point of law or hear again portions of the testimony, you must reduce your request to writing signed by the foreperson. The officer will then return you to court where the information sought will be given you in the presence of, and after notice to, the district attorney and the Defendant and his/her counsel.

Readbacks of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a readback, you must carefully describe the testimony to be read back so that the court reporter can arrange his/her notes. Remember, the court is not at liberty to supplement the evidence.



NOW, THEREFORE, IT IS ORDERED, that GREG LEWIS/DD\#1693087 shall remain housed in the Clark County Detention Center, as a material witness in this case, until January 30, 2006.

IT IS FURTHER ORDERED that a status hearing, to which GREG LEWIS/ID\#1693087, shall be transported, will be held on January 30, 2006, at the hour of 9:00 Ad, at which time the court shall enter a further order concerning his continued custody.

DATED this 13 day of December, 2005.


Prepared and submitted by,
DAVID ROGER
Clark County District Attorney Nevada Bar \#002781

By:
Edward R.T.Kane
Chief Deputy District Attorney
Nevada Bar \#001438
that's something you want to know about?
A. Of course.
Q. And if someone is giving aid to Glenford Budd, that's something you want to know about?
A. Yes.
Q. And, in fact, under certain circumstances that could be a crime, depending on what the person knew?
A. Yes. I'm sure it was.
Q. I mean, you've arrested people for that before, haven't you?
A. Maybe. I can't think about it right off the top of my head but --
Q. Okay. Now, you testified here that you met Greg Lewis in, I think, August of 2004?
A. Yes. It would be August 13th.
Q. And I believe you've testified that you're the lead detective on this case?
A. Yes.
Q. This is your case? You've been with this case from day one all the way through today?
A. Yes.
Q. And you're really Metro's man in charge of this case, aren't you?
A. Well, we look at it as a team approach,
but my partner, Marty, and I are really the people involved with this case. It sort of whittles down from the initial response. The reason that I would even suggest that I was the lead --
Q. Let me simply, if Mr. Kane wants to talk to someone about the case, he's going to call you, right?
A. Or Marty. The reason that we say I'm the lead is because I authored the report, the scene report. That makes you the lead. Had Marty done the report, he would be the lead on it.
Q. And Marty is your partner?
A. Yes, Marty Wildemann.
Q. Now, it's originally David Schwartz was the prosecutor in this case, correct?
A. Yes, he and Ms. Pandukht.
Q. Okay. And then later on he was not on the case, and Mr. Kane came on the case?
A. Yes.
Q. You've testified that Greg Lewis met you, I think, in August of 2004. He provided to you the rap song, which is State's Exhibit 49C?
A. That's right.
Q. And you seen that correct?
A. Yes.
Q. It would be very, very helpful to you if you had in your possession other rap songs in that handwriting that you knew belonged to Glenford Budd; isn't that right?
A. For like a comparison for handwriting?
Q. Absolutely.
A. I suppose.
Q. Don't you think it would be incredibly helpful to have a document that you knew was Glenford Budd's in that precise handwriting?
A. Well, I don't think it would be incredibly helpful.
Q. Of course, it would be.
A. But I have --

MS. PANDUKHT: Objection, argumentative.
MR. BROOKS: Okay. Let the man answer.
THE COURT: Sustained.
THE WITNESS: Well, I had --
THE COURT: Or to explain his answer.
THE WITNESS: Yeah. I'm sorry. I had what $I$, appeared to be two different styles of handwriting. We had a, sort of a nice pleasant cursive in the letter, and then we had this strange-looking, I don't even know how to refer to what those letters were in the song.

BY MR. BROOKS:
Q. Okay. I don't care about the whole issue of his nice handwriting.
A. Right.
Q. Wouldn't it be helpful to you to have handwriting from Glenford Budd in that rap style that you know is Glenford Budd's?
A. I, it didn't, it didn't pose itself to me. I didn't think that that would be helpful to me.
Q. All right. So, you're saying it would not be helpful to you to have in your possession a handwriting in that style which you know is Glenford Budd's? It would not be helpful to you?
A. No. I'm not saying it would not be helpful. It didn't occur to me to further that, to try to find more of that.
Q. Wouldn't it be helpful to you?
A. I don't know whether it would be comparable or not because, as I said, I knew what his handwriting was. I don't know what that was. And I guess we could beat that up all afternoon about whether --
Q. Mr. Vaccaro, wait a second. You know what I'm getting at. Let's assume that you could
have a document in the same handwriting --
A. Uh-huh.
Q. -- as 49C --
A. Okay.
Q. -- that you know comes from Glenford Budd. That would certainly be helpful to you, wouldn't it?
A. If I had him write that, sure.
Q. Absolutely. And the jail is cooperative with you; isn't that right?
A. Yes. They did, I would say they are.
Q. Did you initiate any effort to have the contents of his jail cell searched to see if you could find one piece of rap music in that handwriting?
A. No, I didn't.
Q. Okay. But that would be helpful to you if you did?
A. It didn't occur to me at the time, no.
Q. But it would certainly be helpful to you? It would be helpful to you if the State's Exhibit 49C had Glenford Budd's fingerprints on it, wouldn't it?
A. Yes.
Q. Was there ever a request made to do a
fingerprint analysis of that document?
A. No.
Q. It would be very helpful to you if you found out that, that 49 C that, that gang script --

MS. PANDUKHT: Objection.
MR. BROOKS: What?
THE COURT: It's not been characterized in that manner.

BY MR. BROOKS:
Q. Okay. I'll take away gang script. Excuse me.

The rap, the rap script, it would be helpful to you if you found a document with that script in the cell occupied by Greg Lewis in the prison?
A. I disagree.
Q. Why?
A. I thought that that, when I read it, was personalized enough that it was the product of Glenn Budd. So, it has enough things in it that personalized it to me that it's his product, and so I took no further steps.
Q. So, you don't care about the possibility that Greg Lewis wrote that in his cell at prison? Is that what you're saying?
A. No. I'm not saying I don't care about that. Certainly I would be interested in knowing if that was the case, but I have no way of knowing that.
Q. And wouldn't it have been helpful just to go through Greg Lewis's cell at prison and see if you might find that exact handwriting there in his prison cell?

MS. PANDUKHT: Objection, asked and answered.

MR. BROOKS: No. I don't think it has been answered.

THE COURT: I would agree with it, but I'11 give you one more shot.

THE WITNESS: I didn't examine Mr. Lewis's cell or Mr. Budd's cell. I didn't cause that to happen. BY MR. BROOKS:
Q. Okay. Ms. Pandukht has asked you about the whole procedure that happened when Mr. Schwartz sent the letter to the parole board.

Did you have conversations with David Schwartz about his sending that letter to the parole board?
A. No. I said, David, don't forget

Mr. Lewis. And I don't know what his process was. It's not my arena for me to address the parole board on behalf of an inmate. And so I knew something had taken place with Mr. Schwartz, but I did not know nor have I been copied with that. So, I don't know. I've never seen the product.
Q. But you had a conversation with him on the telephone, which you said, don't forget Mr. Lewis?
A. Actually I think he was in the office, and it was a face-to-face thing.
Q. Okay. You yourself, you never sent any information to the parole board on behalf of Mr. Lewis?
A. No. No.
Q. Did your, your partner, Mr. Wildemann?
A. No.
Q. Do you know of anyone else who sent information to the parole board on behalf of Mr. Lewis?
A. I don't, no. I have, you know, I know that Mr. Schwartz sent a letter. That's the extent of it. I don't know of anybody else that wrote the board.
Q. And that's the only letter that you're
aware of?
A. That I am aware of, yes.

MR. BROOKS: Thank you very much. I'll pass the witness.

THE COURT: Redirect?

## REDIRECT EXAMINATION

 BY MS. PANDUKHT:Q. Just a couple of questions. Mr. Brooks asked you if you got handwriting samples, other samples from the defendant.

Did you have any information that other handwriting samples existed or were found --
A. No.
Q. -- of the defendant's?
A. No. I didn't know of any others.
Q. I mean, if other handwriting samples came into your possession or you were made aware of --
A. I had nothing but what we have here today in those exhibits.
Q. And generally how do you obtain handwriting samples of an individual?
A. There is a process where I would cause $a$, the jail, they have a sheet. They can provide the inmate with that sheet, and then he's to copy down
certain phrases, certain letters in cursive, block letter, upper case, lower case, so on and so forth. Whether that was done or not, I don't know.
Q. And, and why did you not have the jail cell searched for the defendant?
A. I, I don't know. I, to be honest with you, I would just simply say that I accepted the letter and let it stand for what it said there in the letter. I didn't cause the search to happen and probably more importantly, I know from my experience as a narc, working with informants, that going there to the pod and shaking his cell out could cause some scrutiny. And I have an individual who's provided me with some information, and I didn't want to do that at that point. So, that was probably more of the reason than anything else.

THE COURT: I'm going to just interrupt for a moment and ask the detective, please, to define what he means by his experience being a narc.

THE WITNESS: Okay. I'm sorry. As a narcotics detective for 10 years, you work with people that provide us with information all the
time. And these people are referred to by lots of names, informants, cooperating individual, niche, and so. When we receive information, we handle it delicately, as you might imagine that we're in positions where someone's providing us with information, and we have an obligation to filter or use the information. And in my experience, I handled it the right way with regard to the letter from Mr. Budd to Mr. Lewis.

MS. PANDUKHT: Thank you. I have nothing further.

## RECROSS-EXAMINATION

BY MR. BROOKS:
Q. Would it surprise you to know that I've had lots of cases where they go and into the jail cell and seize documents?

MS. PANDUKHT: I would object to defense counsel acting as a witness.

MR. BROOKS: Mr. Vaccaro just did the same thing.

THE COURT: I'm going to give him a little leeway. BY MR. BROOKS:
Q. Would that surprise you?
A. No, sure doesn't surprise me.
Q. Okay. Your testimony here today is that you are trying to protect Greg Lewis, and you thought that if Greg Lewis's sell at prison was shaked down, it would cause Greg Lewis problems, right?
A. No, not Greg's so much as I was Mr. Budd.
Q. So, you're trying to protect Mr. Budd?
A. No. No. That's not what I'm saying at all here. What I'm saying is if he has a conversation with an individual and he has maybe told no one else that information and then he gets his room torn down, he may very well make a conclusion about who he had that conversation with. So, I left the matter alone. And I take the responsibility. I didn't cause his cell to get tossed, nor did I to have Greg Lewis's get tossed.

MR. BROOKS: Okay. Thank you.
THE WITNESS: Okay.
MS. EANDUKHT: No re-redirect.
THE COURT: No re-re? You may step down, detective. Thank you so much.

Who's next?
MR. KANE: Krissy Smith, your Honor.

THE BAILIFE: Ma'am, if you'll remain standing, please, raise your right hand, and face the clerk.

## KRISSY SMITH,

called as a witness, and having been first duly sworn to testify to the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

THE CLERK: Please be seated. Will you please state your name and spell it for the record?

THE WITNESS: Caronol -- Smith, C-a-r-o-n-a -- S-m-i-t-h.

## DIRECT EXAMINATION

 BY MR. KANE:Q. So, that long spelling was your first name?
A. Yes.
Q. But you go by Krissy?
A. Yes.
Q. Can we use Krissy here?
A. Yes, we can.
Q. Krissy, I want to talk to you about, I want to talk to you about Memorial Day. That is May the 27 th back in 2003.

Where were you living then?
A. I was living in Sedona Hills, Saratoga.
Q. Did you also stay sometimes at the Saratoga Palms Apartments?
A. Did I stay?
Q. Yeah.
A. Yes.
Q. And who was living there who you stayed with?
A. My mom and grandma.
Q. Okay.

THE COURT: I can't, my mom and --
THE WITNESS: Grandparents.
BY MR. KANE:
Q. Do you remember what their apartment was?
A. I believe 1040 .
Q. Okay. Did you know other people who lived in the complex?
A. Yes.
Q. Did you know an individual named Glenford Budd?
A. Yes, I did.
Q. Do you know his nickname?
A. AI.
Q. Is AI present here in court?
A. Yes.
Q. Point to him, please, and tell me what he has on.
A. He has on a tie and a suit.

MR. KANE: Ask that the record reflect identification of the defendant, your Honor.

THE COURT: Tie and a suit isn't going to do it.

MR. KANE: Well, she pointed also, but tell me what color shirt.

THE COURT: It's the gentleman without a jacket. Would that be a fair statement?
the witness: yes.
THE COURT: Very well. The record will reflect identification of the defendant. BY MR. KANE:
Q. Thanks, judge.

Now, had you and AI been dating prior to Memorial Day of 2003?
A. No.
Q. Okay. Were you dating at that time?
A. No. We was --
Q. What was your relationship?
A. Before we dated for about a month.
Q. Okay. But you weren't dating as of May the 27 th of 2003?
A. No.
Q. Were you still friends?
A. Yes.
Q. Were you hanging around with AI on that day? That is May the 27th, 2003.
A. Yes. We went to a picnic with his family.
Q. Okay. And at sometime during that day did you and AI return to the Saratoga Palms Apartments?
A. Yes, we did.
Q. And about what time was that?
A. About 8:30, 9:00 $0^{\prime}$ clock.
Q. And what happened once you got back to the apartment complex?
A. Well, me and Rayanna, we went to my mom house. Well, we went to my house afterwards. We went to go sit on the stairs that, where everything, where it happened at. Anthony was going to the basketball court. So, we followed behind him, me, Rayanna, and the guy that we went,
who went with us to the park. Anthony approached Derrick and them. They was talking, but I'm not for sure what they was talking about. I wasn't paying attention.
Q. Okay. Let me slow you down a little bit. You said you were hanging around on the stairs by the apartment where everything happened?
A. Yes.
Q. Now, you know there was a shooting at apartment 2068?
A. Yes.
Q. That's the apartment you're talking about?
A. Yes.
Q. So, a few of you were sitting there on the stairs, correct?
A. Uh-huh.

THE COURT: Is that yes?
THE WITNESS: Yes.
BY MR. KANE:
Q. Then you went over to the basketball --
A. Yes. We followed behind them.
Q. Who was that went to the basketball --
A. AI, me, Rayanna, and the guy from, went to the picnic with us. I believe his name was

Arnell. And that's it.
Q. And was there a basketball game then played at the basketioall court?
A. Yes.
Q. Who was playing?
A. AI, AI, Shawn, Arthur, Jason, Derrick, and Casper.
Q. And who's Casper?
A. Casper is, I believe his name is Lazon,

Lazon. I'm not for sure, Lazon or --
Q. Did he live in apartment 2068?
A. Yes.
Q. Okay. And he went by the nickname of Casper?
A. Yes.
Q. Now, were you there the whole time that they were playing basketball?
A. No.
Q. Where did you go?
A. I went, first I went home, and I came back, and I walked Rayanna halfway home.
Q. Now, while you were there and they were playing basketball were you aware of any arguments or fights between anybody?
A. No.
Q. How long did the basketball game go on?
A. For about 30 minutes maybe.
Q. After the basketball game where did you go?
A. We went, well, I went to apartment 20 -.. wait, the apartment where everything happened.
Q. Okay. And who went there with you?
A. Anthony, AI.
Q. Okay. And how long were you at the apartment at the same time AI was there?
A. For a little bit, not long.
Q. Longer than 15 minutes?
A. No.
Q. And did you then leave to go somewhere else?
A. Yes.
Q. What was your reason for leaving?
A. Day Day, which is Dajon, asked me could he use a CD.
Q. Okay. And, and what do you mean when you say use a CD?
A. Could he listen to a CD.
Q. Okay. And you didn't have it there, and you went somewhere to get it?
A. Yes. I went home.
Q. Okay. Now, when you say home, where are you talking about?
A. 1040 .
Q. Okay. So, you mean the apartment right. there in Saratoga Palms, not somewhere else?
A. Yes. Yes.
Q. So, you went to 1040 to get the CD?
A. Yes.
Q. Did you then go back to apartment 2068?
A. Later on, about maybe 15 minutes later I went back.
Q. Okay. You anticipated my question. So, you were gone about 15 minutes by the time you got back?
A. Yes.
Q. Now, when you got back, did you see AI?
A. No.
Q. Who did you see when you got back?
A. Jason and Derrick.
Q. And where were they?
A. Jason was outside listening to music, and Derrick was inside on the telephone.
Q. Now, when you went back to the apartment this, this last time with the CD, did you go inside the apartment?
A. I stepped in the doorway, because Derrick asked me a question.
Q. Okay. And was it a question about the $C D$ or something else?
A. A question about drinking.
Q. Okay. And you answered that question from right on the threshold of the apartment right in the doorway?
A. Yes.
Q. What happened then?
A. Afterwards I had went outside, and Jason, he told me I could get my CD. I guess it wasn't the type of music he liked or whatever. So, I got my $C D$, and I was talking to him for a little bit, because he asked me the same question Derrick did. And like a couple minutes later we heard a shot, and we hit the deck.
Q. Now, when you say we, who's out there in the patio?
A. Jason and then, Jason and myself.
Q. And anybody else who's in the apartment is inside, correct?

## A. Yes.

Q. What happens once you hear the shot?
A. We get down on the ground. He gets over
me. Derrick and Casper runs out. Casper replies that they're shooting. He say, he tells us they're shooting, and he tells us to run. So, I run with him.
Q. Okay. So, you and Casper, who's actually which, which of the boys? Do you know his real name?
A. Lazon, I believe.
Q. Okay. So, you and Lazon run down the stairs, correct?
A. Yes.
Q. Where does everybody else go?
A. I'm not for sure. I remember Derrick went back inside the house, and I, Lazon ran. I don't know. I'm not for sure where he ran to, but I ran downstairs.
Q. Now, you said you heard a shot while you were up on the patio?
A. Yes.
Q. Did you see anything that led you to believe shots were being fired?
A. I saw powder substance come from the window, the bedroom window.
Q. And that's, as you're looking at the door, that is a window on your right, and there is
a window on your left. That's the bedroom window, which one was it that stuff came out of?
A. It was the one by the stairs, above the stairs.
Q. As far as you know, that's the bedroom window?
A. Yes.
Q. And once you got to the bottom of the stairs what happened? Did you go with Lazon somewhere?
A. No. I ran to the Shawn house.
Q. I'm sorry?
A. Shawn, downstairs, the neighbor downstairs.
Q. And is that the apartment that's directly underneath apartment 2068?
A. Yes.
Q. Do you know the people who lived there?
A. Yes.
Q. So, you were acquainted with them as well as the people in 2068?
A. Yes.
Q. Now, when you run down the stairs, are the people in apartment 1068 in their apartment or outside or --
A. Inside. Inside.
Q. Okay. What happens then?
A. I started banging on the door. He answered. He said, what's happening? I told him that Casper said they were shooting, and then I went into the house. He told me to come inside.
Q. Okay. And do you stay in there, well, how long do you stay in --
A. I stayed in there for a long time, until he waves the gang unit.
Q. Now, you realize that at some point police had showed up, and they were investigating?
A. Yes.
Q. Did they talk to you that night, the police?
A. No. They just told us to get behind the yellow, the caution sign, the little caution tape.
Q. Right.
A. And that was it.
Q. So, you weren't interviewed that night about anything that you may have seen?
A. No.
Q. A couple days later you were contacted by the police, correct?
A. Yes.
Q. And you gave a statement to them?
A. Yes.
Q. Did you tell the police the truth about what happened that night as well as you could remember it?
A. Yes.
Q. Have you done the same thing today?
A. Yes.

MR. KANE: Pass the witness, your Honor. THE COURT: Mr. Brooks?

## CROSS-EXAMINATION

BY MR. BROOKS:
Q. You were with AI most of that day, correct?
A. Yes.
Q. And you and AI did not actually arrive at that apartment at 2068 until approximately 8:30 or 9:00 o'clock at night?
A. We arrived at home. They dropped me off at home.
Q. What time did ya'll actually arrive at apartment 2068?
A. Between 8:30, 9:00 $0^{\prime}$ clock.
Q. Okay. And you had not been there before,
at that apartment that day?
A. No.
Q. That was your first time?
A. Yes.
Q. Was it still light outside?
A. When we arrived?
Q. When you arrived at 8:30 or 9:00 $0^{\prime}$ clock?
A. No.
Q. It's already dark?
A. Yes.
Q. Okay. How would you characterize, I mean, you're sitting out there on the porch up there on the balcony, aren't you, with Jason?
A. Yes.
Q. Is it light out there, or is it dark?
A. It's dark outside.
Q. It's dark? It's dark outside. There is a light outside the apartments?
A. Uh-huh.
Q. Is that a bright light or not such a bright light?
A. It's kind of bright.
Q. Kind of bright. But would you say that the overall atmosphere out there, even with that light up, was it overall well-light or just mildly
light?
A. Mild.
Q. Mildly lit?

THE COURT: I'm sorry?
THE WITNESS: Mildly.
BY MR. BROOKS:
Q. Were you ever actually inside the apartment?
A. No, just by the doorway.
Q. Okay. You never actually went inside?
A. No.
Q. You stayed outside?
A. Yes.
Q. You heard gunshots, correct?
A. Yes.
Q. You did not see who fired the shots?
A. No.
Q. You left and went downstairs, correct?
A. Yes.
Q. And you joined a person named Shown?
A. Shawn and a couple others.
Q. Is Shown also called Sin?
A. No.
Q. It's a different person?
A. Yes.
Q. The police arrived, correct?
A. Yes.
Q. You're still downstairs, correct?
A. Correct.
Q. The police secure the premises?
A. Uh-huh.

THE COURT: Is that a yes?
THE WITNESS: Yes.
BY MR. BROOKS:
Q. You wind up going outside at some point and joining the crowd of people there?
A. Correct.
Q. How big is the crowd?
A. It was only about four, four of us.
Q. Four of you? Later on was it larger?
A. People came from the apartment.
Q. People from the surrounding apartments came?
A. I'm not for sure where they lived. Just who lived in the apartments came out.
Q. Were any family members out there of the deceased?
A. No.
Q. None? Later, how long did you stay there before you left?
A. Not long.
Q. How long?
A. I say about 20 minutes.
Q. So, you were gone pretty early?
A. Uh-huh.

THE COURT: Is that a yes?
THE WITNESS: Yes. I'm sorry. BY MR. BROOKS:
Q. You didn't give a statement to the police until May 30th?
A. I believe so.
Q. About three days later?
A. Yes.

MR. BROOKS: Pass the witness.
the Court: Mr. Kane?
MR. KANE: No, your Honor.
THE COURT: You may step down. Thank you.

Can this witness be excused? Who's next?
MS. PANDUKHT: Judge, at this time we're going to do the reading.

THE COURT: Very well. Did you have a reader?

MS. PANDUKHT: I do.
MR. BROOKS: judge, I would just
reiterate the objection that was made previously in which the Court has already ruled.

THE COURT: It is noted for the record. The same ruling will be made or has been made. In fact, ladies and gentlemen, we're going to read a transcript into the record. We're going to have someone actually play the part of a reader. In fact, he will be reading what is designated as the witness, who could not be here. Anything that that person said at the time of the other examination, he will be responding. You're going to get an instruction on this when we go to the jury instruction phase of this trial, but for now you should consider this testimony just as if the person who actually made the statements under oath in the prior proceeding was sitting here and giving testimony. In other words, it is the same as any other witness who you have heard testify here in the courtroom.

And you're calling for the record?
MS. PANDUKHT: For the record, this is Glen $O^{\prime}$ Brien with the district attorney's office. THE COURT: Remain standing, sir. (Thereupon, Glen O'Brien was sworn with respect to the reading of the transcript.)

MR. BROOKS: Court's indulgence, your Honor. May we approach?

THE COURT: You may, yes.
(Conference at the bench.)
THE COURT: You may proceed.
(AS READ BY MS. PANDUKHT): Would you state your first and last name, spelling them both for the record?

THE WITNESS: Winston Budd, W-i-n-s-t-o-n $B-u-d-d$.

## DIRECT EXAMINATION

BY MR. SCHWARTZ (AS READ BY MS. PANDUKHT) :
Q. Mr. Budd, I'm going to ask you a few questions, and then Mr. Brooks will ask you some questions. We'd appreciate it if you answer slowly and speak into this microphone so everybody can hear what you're saying.

Mr. Budd, do you know Glenford Budd?
A. Yes, sir.
Q. Do you see Glenford Budd in the courtroom today?
A. Yes, sir.
Q. Could you point, point to where he is and describe what he's wearing today?
A. A blue outfit.

MR. SCHWARTZ: May the record reflect -that's me. May the record reflect the identification of the defendant, your Honor?

THE COURT: That will be noted.
BY MR. SCHWARTZ:
Q. Thank you. How, how is it that you know the defendant?
A. My nephew.
Q. And do you know the defendant by any other name besides Glenford?
A. Junior.
Q. Junior, okay. Let me direct your attention now to Tuesday, May 27th, 2003 at about 3:30 in the morning.

Did you receive a phone call from your brother, Kirk?
A. Yes.
Q. Without telling us what Kirk said to you on the phone, as a result of that phone call did you become concerned regarding your nephew, Junior?
A. Yes.
Q. Okay. Now, let me direct your attention to May the 27th -- that's Tuesday -- at about

11:00 o'clock in the morning.
Did you receive a phone call from the defendant, your nephew?
A. Yes.

THE COURT: Wait a second. Let me keep this straight. Eleven a.m., is this still the 27th?

MR. SCHWARTZ: Tuesday. Tuesday, yes, your Honor.

THE COURT: Okay. Still the 27th?
MR. SCHWARTZ: Yes.
THE COURT: That's, actually I meant to say Tuesday. Thank you.

BY MR. SCHWARTZ:
Q. Okay. What did the defendant tell you when he called you at about 11:00 o'clock that Tuesday morning?
A. He asked me to get in touch with their mother to get some money so he can get out of here.
Q. And what else did he say when you talked to him on the phone this Tuesday morning?
A. He also told me that he needed me to come pick him up.
Q. What, okay. What did he say? What, if
anything, did he say regarding why he needed you to pick him up?
A. Could you repeat that again?
Q. Sure. Why did the, why did your nephew need you to come pick him up?
A. Because where, where, wherever he was, the person didn't want him to stay there no more.
Q. What did the defendant tell you about any trouble he might be in?
A. Could you repeat it?
Q. What did the defendant say regarding what possible trouble he could be in? What had he done that caused you some concern?
A. I couldn't remember. He told me that he went to get some money.
Q. Uh-huh.
A. Get some, they were supposed to rob him or something, or something. I don't remember exactly.
Q. About 20 minutes ago you and I spoke in my office, and you had a clear memory then, didn't you?
A. Yes.
Q. Why don't you tell us what your nephew told you that Tuesday morning?
A. He told me that he went, he told me that they was trying to rob him.
Q. What did you do as a result of them trying to rob him?

THE COURT: What did he do? BY MR. SCHWARTZ:
Q. What did he do as a result of them trying to rob him?
A. He said he shoot them.
Q. Okay. Did he tell you how many of them he shot?
A. No.
Q. Did you ask him anything about the gun?
A. Yes.
Q. What did you ask him?
A. I asked him where the gun at.
Q. What did he say?
A. He said he give it back to some friend.
Q. Did he mention the name of the friend who he gave the gun back to?
A. No.
Q. Did he indicate what he was being robbed, robbed of when he shot them?
A. Weed.
Q. Weed?
A. (Nods head.)
Q. Do you know what weed is?
A. Marijuana, same thing.
Q. Did your nephew, the defendant, indicate where he was when he called you Tuesday morning?
A. Yes.
Q. Where did he say he was?
A. Henderson.
Q. Henderson?
A. Yes.
Q. Okay. Did there come a time when you drove up to and went to Henderson to pick up your nephew, sir?
A. Yes.
Q. And would that have been the following day, Wednesday?
A. Yes.
Q. And when you picked up your nephew, the defendant, on Wednesday, was he alone?
A. Yes.
Q. Did he have anything in his hands?
A. Yes.
Q. What did he have?
A. Plastic bag with some clothes.
Q. Could you notice anything unusual about
the clothes that was in the plastic bag?
A. Yes.
Q. What did you notice about the clothes?
A. About the clothes?
Q. Yeah?
A. I didn't see the clothes. I only seen in the plastic bag.
Q. Was there anything different about your nephew's appearance when you saw him on Wednesday as opposed to a day or two earlier?
A. Yes.
Q. What was different about his appearance?
A. He cut, cut his hair.
Q. Okay. Where did you, once you picked up your nephew on Wednesday where did the two of you go?

THE COURT: Mr. Budd, do you want some water?

THE WITNESS: To get to my house. BY MR. SCHWARTZ:
Q. Who was at your house when you and your nephew arrived, sir?
A. My family.
Q. Okay. Did there come a time while you were at your house with your nephew when the
police arrived?
A. Yes.
Q. And was it obvious to you who they were looking for?
A. Yes.
Q. They were looking for your nephew?
A. Yes.
Q. Did you make any suggestions to your nephew as to what you thought he should do?
A. Yes.
Q. What did you tell him?
A. To turn his self in.
Q. What did he say to that?
A. He say he prefer to run.
Q. Did you talk to him about what possible sentences he could receive?
A. Yes.
Q. What did you say to him?
A. I say he could possibly get death or life, life in prison.
Q. And what, if anything, did he say in response to that?
A. Nothing.

MR. SCHWARTZ: I have no further questions, your Honor.

THE COURT: Cross-examination?

## CROSS-EXAMINATION

BY MR. BROOKS:
Q. Mr. Budd, you speak with an accent. Are you from Belize?
A. Yes.
Q. But you speak English? That's your native language?
A. Broken English.
Q. Do you speak any foreign languages?
A. (Shakes head.)

THE COURT: Eor the record --
THE WITNESS: No.
THE COURT: Thank you.
BY MR. BROOKS:
Q. You are Glenford's uncle. Is his father your brother?
A. Yes.
Q. What's the name of his father?
A. Glenford Budd.
Q. And his father, Glenford Budd, Lives in Belize still?
A. Yes.
Q. How long was my client, AI or Glenford,
in Las Vegas before the shooting occurred?
A. I think in December.
Q. I'm sorry?
A. In December.
Q. He came to Las Vegas in December?
A. Yes.
Q. Of last year?
A. Yes.
Q. So, he's been here since December of 2002?
A. Yes.
Q. So, he's been here roughly six months?
A. Yes.
Q. Was he living with you at your house?
A. No.
Q. Did he live at your house at all during the six months?
A. No.
Q. Do you know where he was living?
A. With my brother.
Q. With your brother?
A. (Nods head.)
Q. What is your brother's name?
A. Kirk.
Q. Is that $K-i-r-k$ ?
A. Yes.
Q. And he lives here in Las Vegas?
A. Yes.
Q. Is that where my client was living almost the entire six months as far as you know?
A. Yes.
Q. You've testified that when you picked him up on Wednesday the 27 th, his hair was cut, correct?
A. Yes.
Q. Prior to that day when was the last time you had seen him?
A. Memorial Day.
Q. I'm sorry?
A. Memorial Day.
Q. Memorial Day?
A. Uh-huh.
Q. And at that time on Memorial Day his hair was not cut?
A. No.

MR. BROOKS: Pass the witness.
MR. SCHWARTZ (AS READ BY MS. PANDUKHT) :
No redirect, your Honor. Thank you.
THE COURT: And Mr. Budd is free to go, I presume?

MR. SCHWARTZ: Yes, your Honor.
THE COURT: I don't think we need to read much more, do we?

MS. PANDUKHT: No.
THE COURT: Very well. That concludes the testimony of Mr . Budd, Mr. -- I'm sorry -Winston Budd. Thank you, sir. You may step down.

Who's next?
MR. KANE: Judge, I would like to have marked for purposes of identification and offer State's Proposed 50 and 51, which are certified copies of the custody records of the defendant and Greg Lewis respectively.

THE COURT: Mr. Brooks?
MR. BROOKS: Judge, I would ask for a brief hearing outside the presence, please.

THE COURT: Very well. I'm wondering if this might be a good time, how long do you anticipate that hearing will take?

MR. BROOKS: No more than five minutes, judge.

THE COURT: Let's take a brief recess, then. I'll excuse the jury, ask them to remain in a close-by area, at least somewhere where they don't have to take too many elevators.

During the recess, ladies and gentlemen, I must remind you that during the recess it remains your duty not to discuss this case among yourselves or with anyone else. Don't read, watch, listen to a report of or commentary on anything which might be associated with this matter. Don't form or express an opinion in any of these issues until it has been fully and finally submitted to you under instruction of law by me.

Mr. Bailiff will keep close by. See you in a few minutes.
(Thereupon, the jury exited the courtroom.)
THE COURT: Okay, Mr. Brooks.
MR. BROOKS: Judge, I'm just concerned that perhaps this information which is, which consist of data that came off of a computer, is very confusing. And I'm wondering if this cannot better be done with a stipulation between the parties regarding the gist of these two records.

MR. KANE: Absolutely. And let me short circuit things. What I'm interested in establishing through the records -- and if we can stipulate to it, that's fine -- would be that between the dates of September the 29th, 2003 and

November the 13 th, 2003 the defendant and Mr. Lewis were in the same unit at the Clark County Detention Center, that being unit 9C, also that on May the 25th of 2004 the defendant was moved to unit 9C-18, a single cell. These are both things that are referred to in the record and are self-authenticated.

THE COURT: Would that --
MR. BROOKS: Yes, judge. The defendant would enter the stipulation as to those basic facts. I just object to the idea of giving the -MR. KANE: That's fine.

THE COURT: Stipulation is always better and almost always clearer for the jury.

Can we bring the jury back in?
MR. KANE: One other thing, judge, if I could, and on that same issue, I was going to ask the Court to take judicial notice -- and perhaps we can do this by stipulation as well -- that as of the time of the writing of the letters, which was August of 2004, the currently set trial date for Mr. Budd was November the 15 th of 2004. Again that's referred to in the letter.

THE COURT: Understood. Mr. Brooks, Mr. O'Brien?

MR. BROOKS: That would not be coming into the stipulation, though.

MR. KANE: Well, I'll either ask the Court to take judicial notice of that from the Court's own records, or we can stipulate to it.

THE COURT: Now, Court's own records don't go to the jury.

MR. KANE: No. I understand that, judge, but I would ask you to take judicial notice, and then I would announce in open court that you've taken notice, or we can stipulate. I'm not trying to hide the ball. The defendant says in the letter, my trial date just got bumped to November. And I want to be able to say to the jury that's a fact.

MR. BROOKS: Okay. I have no objection to that.

THE COURT: Very well.
MR. BROOKS: Also, judge, while we're here --

THE COURT: So, it will be by stipulation? I'm sorry, but it will be by stipulation, then?

MR. BROOKS: That's correct. I have no problem with that.

THE COURT: Very well.
MR. BROOKS: Judge, we have a stipulation which we have previously discussed here on the record. And I would ask to read this now and make sure it's clear with the Court's permission.

THE COURT: Certainly.
MR. BROOKS: The stipulation which we've now had retyped and signed by Mr. Kane and myself state's the following: The State and defense stipulate that Defense Exhibits B and C have been admitted into evidence. These exhibits are photographs taken at the Saratoga Palm Apartments, Las Vegas, Nevada. Exhibit C shows the view from the balcony of Celeste Palau's apartment, looking at apartment 2068 in building nine. Exhibit B shows the light fixture over the stairs outside apartment 2068. The light fixture is between apartment 2068 and apartment 2067. New paragraph. The State and defense stipulate that Steven Yoshida, an investigator for the Clark County Public Defender Office, took these photographs. The distance between the bottom of the stairs outside Celeste Palau's apartment and the bottom of the stairs outside apartment 2068 in building nine is 218 feet.

And this document is signed by both myself and Mr. Kane. I would ask that the matter be entered into the record and filed and all that kind of stuff.

THE COURT: Is that your recollection, Mr. Kane, of what the stipulation was?

MR. KANE: It is, your Honor.
THE COURT: Very well. It will be admitted.

MR. BROOKS: And, judge, may I ask a housekeeping matter here on the record so we can, Court's indulgence.

Judge, it's my understands from Mr. Kane that he intends to rest after the stipulations. Under those circumstances it might be appropriate for us to go ahead now and take care of the admonition for Mr. Budd, because it's my expectation that we will probably just have the stipulation read into the record, and that would be the defense case.

THE COURT: Very well.
MR. BROOKS: Just as a matter of saving time here.

THE COURT: I think it's appropriate. We don't need to take the jury in and out or delay
them anymore.
Mr. Bailiff, we're almost there.
Mr. Budd, I am certain that your attorney -- would you stand, please -- that your attorneys have discussed with you the right that you have to testify; is that correct?

THE DEFENDANT: Yes, ma'am.
THE COURT: And, in fact, I suspect that they have also explained to you the absolute right that you have not to testify in this case; is that correct?

THE DEFENDANT: Yes, ma'am.
THE COURT: I'm sorry?
THE DEFENDANT: Yes, ma'am.
THE COURT: And they have, I presume, told you that if you choose not to testify, that I can give an instruction to the jury that says that they can't hold that against you.

Do you understand that?
THE DEFENDANT: Yes, ma'am.
THE COURT: And, in fact, formally in the constitution of the United State's, under the constitution of the State of Nevada, you cannot be compelled to testify in this case.

Do you understand that?

THE DEFENDANT: Yes, ma'am.
THE COURT: And you may, at your own request, give up this right and take the witness stand and testify. If you do, you will be subject to cross-examination by the district attorney, and anything that you may say, be it on direct or cross-examination, will be the subject of fair comment when the district attorney speaks to the jury in his final argument.

Do you understand that?
THE DEFENDANT: Yes, ma'am.
THE COURT: If you choose not to testify, the Court will not permit the district attorney's office to make any comments to the jury because you have not testified.

Do you understand that?
THE DEEENDANT: Yes, ma'am.
THE COURT: If you elect not to testify, I will instruct the jury, if your attorney specifically requests, an instruction that would read as follows: The law does not compel -- to testify and -- presumption may be raised -inference -- drawn from the fact that the defendant has not testified.

And actually that's what we call a Carter
instruction. In fact, this entire formal admonition that I'm reading to you is essentially taken from or as a result of findings in that case.

Do you understand that?
THE DEFENDANT: Yes, ma'am.
THE COURT: Do you have any questions for me?

THE DEFENDANT: No, ma'am.
THE COURT: Do you fully understand the fact that you do not have to take the stand in this case?

THE DEFENDANT: Yes, ma'am.
THE COURT: And, in fact, the constitution of our country does not ever compel a defendant to take the stand and testify.

Do you understand that?
THE DEFENDANT: Yes, ma'am.
THE COURT: Are you comfortable giving up that right?

THE DEFENDANT: Huh?
THE COURT: You know what? Let me rephrase that. You look at me questioningly with good reason.

Are you comfortable, upon the advice of
which is Defense Exhibit A, you mention in there that there are snitches around, correct?
A. Correct.
Q. And you told Glenford to be careful about snitches?
A. Correct.

MS. PANDUKHT: Judge, I'm going to object to him quoting a letter. It hasn't been admitted.

MR. BROOKS: Okay, judge. I'll ask that the letter be admitted.

MS. PANDUKHT: And the only foundational objection I had so far is, I don't think we've established the date of when that letter was postmarked. I think that's the only foundational thing we were lacking. BY MR. BROOKS:
Q. Okay. What is the postmark on the letter if you can tell?
A. August 10th, 2004.

MR. BROOKS: Okay. I will move to admit the letter as Defense Exhibit A.

MS. PANDUKHT: With that I have no objection.

THE COURT: Defense Exhibit A?
MR. BROOKS: Correct, your Honor. And A
includes the envelope and two pages.
THE COURT: Two pages, letter and envelope. BY MR. BROOKS:
Q. So, basically in this letter to Glenford in August of 2004, before you met with the detective, you were already well-aware of the whole snitch business, correct?
A. Yeah.
Q. And you warned him to be careful about snitches?
A. Does it say that in here? Can I check that out?
Q. Sure. Go through it. You can find it.
A. Yes, I did, right here.
Q. It's kind of interesting, isn't it, that in the letter that's 49C, the rap song, there is also warning about snitches, isn't there?
A. Yes.
Q. But you didn't write the rap song warning about snitches, correct?
A. Correct.

MR. BROOKS: Court's indulgence.
THE COURT: Of course.

BY MR. BROOKS:
Q. We talked about the fact that they open your mail at CCDC. Do you know why they do that?
A. Yeah, pretty much.
Q. Why is that?
A. I have an idea, like I guess they don't want people sending stuff to the facility that's, that you're not allowed to have.
Q. And that fact is commoniy known throughout the jail, correct?
A. Correct.
Q. Okay. And also in August of 2000 -well, so you got probation on your original case, correct?
A. Correct.
Q. And then you were revoked off probation?
A. Yes.
Q. And so in August of 2004 you are awaiting results of whether you're going to get revoked off probation?
A. I was already revoked. I was already sentenced and revoked.
Q. You were revoked when, in early August, 2004?
A. July 28 th.
Q. July 28 th?
A. Yeah.
Q. Okay. So, once you actually turned this information over to the detective the only thing you can look forward to in terms of getting released is really the parole board?
A. Yeah.
Q. And you'll be going up before the parole board again this next year sometime?
A. Yes.
Q. When will you be going before the parole board?
A. Like about March, about March, '06.

MR. BROOKS: Okay. Well, thank you, sir, and good luck at the parole board. Pass the witness.

THE COURT: Ms. Pandukht?
MS. PANDUKHT: I have no redirect.
THE COURT: The witness may be excused?
MS. PANDUKHT: Yes.
THE COURT: Who's next?
MS. PANDUKHT: State calls Detective James Vaccaro.

THE BAILIFF: Detective Vaccaro, if you would remain standing, please, raise your right
hand, and face the clerk.
THE WITNESS: Sure.

## JAMES CHARIES VACCARO,

called as a witness, and having been first duly sworn to testify to the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

THE CLERK: Please be seated. Will you please state your name and spell it for the record?

THE WITNESS: My name is James Charles Vaccaro, V-a-c-c-a-r-o.

THE CLERK: Thank you.

## DIRECT EXAMINATION

BY MS. PANDUKHT:
Q. How are you employed?
A. I'm employed with the Las Vegas Metropolitan Police Department.
Q. How long have you been with the Las vegas Metropolitan Police Department in total?
A. In total, a little bit more than 28 years.
Q. Are you currently assigned to a particular unit or division?
A. Yes. I'm a homicide detective.
Q. How long have you been a homicide detective?
A. For 12 years, more than 12 years.
Q. And before that were you a detective in a different unit?
A. Yes.
Q. Which one?
A. I was an undercover narcotics detective for 10 years before that.
Q. So, in total how long have you actually been a detective with the police department here in Las Vegas?
A. Well, the 10 and the 12 , plus $I$ was actually considered a detective as of four years SWAT officer, too. So, pretty much the whole time I've been here I've been a detective except for some patrol time.
Q. Now, were you on duty or on call on May 26 th or May 27 th, 2003 around the hour of midnight?
A. Yes.
Q. Could you tell the jury what it means to
be on call? How does that work?
A. We refer to it as being up. It's your turn. The next homicide that occurs in the valley is the team that's up. We have 24 detectives, and they are set up in two-man teams. And my partner and I happen to have our up on that particular holiday weekend. And, and the next thing, when you're up, you have to wait for the next homicide to occur or officer-involved shooting or whatever it may be that requires homicide investigators to go there. And on that particular occasion that was our responsibility on that night.
Q. And by holiday weekend, you're referring to the Memorial Day weekend?
A. Yes.
Q. Now, who was your partner at the time?
A. He still is. His name is Martin Wildemann, $W-i-1-d-e-m-a-n-n$.
Q. Now, did you get a call on that evening around the hour of midnight between May 26 th, May 27th, 2003?
A. Yes, I did.
Q. Were you notified at that time that there was a shooting at the Saratoga Palms II East apartment complex?
A. Yes.
Q. And is that located at 2865 East Charleston in Clark County, Nevada?
A. I think it's 2895.
Q. Yeah. Did I get the address wrong?
A. I think that's right.
Q. Okay. Thank you for correcting me. That is in Clark County, Nevada?
A. Yes.
Q. Now, about how long did it take you to get there, do you remember?
A. Well, I live out in Green Valley. So, by the time I shake out the sleep when you get called at night and throw on some clothes and get in your police car, you $\log$ on and drive to the location, could have taken me 30 to 45 minutes to get there.
Q. Now, when you got there, were there already other police personnel already there?
A. Oh, yes, right from the moment that the initial call for police response, in this particular case it was almost immediate, because we know that there were police officers on the property at the time of the incident. So, yes, the scene is immediately protected by those officers awaiting our arrival.
Q. Now, could you describe what you mean by protected? What actually had you seen around the apartment and apartment complex?
A. Well, as police officers, we're all trained to protect the crime scene. And so when I arrive at a crime scene as homicide detective, I expect to find that it is taped out with that yellow crime scene tape that we all see and, and hopefully it's been protected in, in a way that no one can get in or out of that scene to alter anything that may be of evidence to us in our investigation.

So, in this case the front entrance was protected by police officers, and that would be the entrance on the, Charleston. I believe only police vehicles were allowed to go in, and people leaving by vehicle were being screened by officers that were on the property and, of course, very tight around the building in question we had yellow tape. And we create sort of a buffer for investigators to arrive inside of a buffer. But still the media is outside of that buffer. So, the media might have been out on Charleston. But we were allowed to get inside the parking area, but no one can go up the stairs to that apartment
once we've determined that there has been a homicide there except for those that are responsible for that investigation.
Q. And the scene was already secured in that fashion as soon as you arrived?
A. When I arrived, it was well-secured, yes.
Q. Now, was there an actual detective that was assigned as the lead detective?
A. That would be me.
Q. That was you? Could you tell the jury what it means to be assigned as the lead detective? What special responsibilities do you have?
A. My partner and I share duties. One, in one instance I will be responsible for the investigation of the crime scene and work with the crime scene analysts, and his duties on those occasions would be to interview witnesses that have information about the case. And we flip every, every other time. However, there, in this case I believe there were probably upwards of six homicide detectives that were called. That includes supervisors and other detectives that were asked to help us out. All total there were probably upwards of 30 police personnel in that
complex right at the time that this happened.
Q. Now, is one of the responsibilities that you have is to get information from other police officers and other detectives?
A. That's the nature of the whole game. I mean, you're constantly getting information from other people, because we're walking into the middle of a movie, and we learn from those people that are there what they saw, what they learned, what they can tell us so that we can begin our investigation.
Q. And in this case you received information from other patrol officers, witnesses, and detectives about what had already occurred before you got there?
A. Yes.
Q. Do you also get all of the reports, witness statements, analysis of evidence that is requested, results of those analysis?
A. Yes. That would be a combination of these two books right here. Just about everything you wanted to know about this case is sitting right here on the desk.
Q. Those two big binders sitting there on the witness stand are all for this case?
A. Yes.
Q. Now, every time something happens, a piece of paper is generated on this case, it goes to you to put in that binder?
A. Yes. I mean, there is an exception. Occasionally there is some correspondence between different organizations, district attorney's office and such that I may not have in here but, yes, anything that's investigative is in these two books right here.
Q. Generally that's how it's supposed to work?
A. Right.
Q. Now, when you arrived at the crime scene, in this case at apartment 2068, could you describe who was actually present inside the apartment and what was being done?
A. Actually when I arrived, we were briefed outside the apartment in the parking lot so that we have an understanding of what we're up against. In this particular case we knew that the apartment and the immediate area around that apartment was probably mostly what we were going to be concerned with. It wasn't like the whole complex. So, it was building nine in the second floor apartment
two -- 2068. We would later learn that there was an impact site from a bullet on another building neighboring, but that was as far away as we really got with regard to our homicide investigation.

Once we were briefed by the detectives and the officers that are at the scene, myself, supervisors from the homicide section would go with crime scene investigators and proceed slowly up the stairs to the apartment so that we could begin to assess what we had. And this is basically a walk-through to have an understanding of what we're up against. There is no evidence being collected at this point. We're looking. We're documenting. We're being careful where we're walking, and we're trying to document and get in your mindset where we're going to go with this investigation.
Q. And there was a crime scene analyst that were already there upon your arrival?
A. Yes.
Q. What about medical? Had medical already come and gone by the time you got there?
A. Yes. As you might imagine, with my 30-minute to 45-minute response time, had they, had they been needed, they would have already have
arrived, done their medical evacuation, and have left. So, in this particular case that did occur. And I learned that, as my responsibility for the scene is to find out who was there, who was in my scene, because I need to know who was there.
Q. So, you were advised, then, that Derrick Jones had actually been removed from the scene?
A. Yes. What I learned was that we had two deceased and one that was very critical, and he had been transported.
Q. Now, I would like to show you some photographs. And I'm going to show defense counsel exactly which ones I'm going to show him. I'm going to show you what has been marked as State's Proposed Exhibit 6 through -let's see here -- through 31 and then 43 through 46. And what I would like you to do is just flip through these and let me know if you recognize these photos.
A. Yes, I do.
Q. Now, we're going to go through all of these one by one, but as a group the numbers that I've already mentioned, do these photographs fairly and accurately depict, first let me say six through 31, do they fairly and accurately depict
the scene at apartment 2068 on May 27 th, $2003 ?$
A. Yes, they do.
Q. And then with regard to 43 through 44 , do they accurately depict the defendant shortly afterward?
A. Yes, they do.

MS. PANDUKHT: I'm going to move to admit all of these now, and then we'll move to publish for the jury and go through them one by one.

MR. BROOKS: No objection.
THE COURT: They will be admitted. Would you repeat the number of those exhibits again for the record, please?

MS. PANDUKHT: Yes. Well, six through 31. However, 18, 21, and 24, I believe, have already been admitted. And that's the first group I'm going to go through, and then the other ones are 43 through 46 .

THE COURT: Very well.
BY MS. PANDUKHT:
Q. Okay. All ready to go. Okay. So, I want, like I'm going to put each one at a time up on the board, and I would like you to describe them for the jury. And then as soon as, and you can see it on your screen.
A. Okay.

THE COURT: Or at least you should. We're getting used to the technology.

Mr. Bailiff, are we sure that this is turned on in terms of connection?

MR. KANE: That picture was on my monitor.

MR. O'BRIEN: Mine as well. When you first hit the switch, it appeared on mine.

THE COURT: At the top.
MR. O'BRIEN: Yeah.
THE COURT: Far be it from me, Ms. Recorder, but do we need to ask permission again? I mean, does that go to gallery monitors by any chance?

THE COURT RECORDER: It's a projector.
THE COURT: Well, in fact, we can probably take our afternoon recess and come back while we work on our technology. You know, all kidding aside, this is very, very new and very advanced technology. So, it's not easy to make it work. And sometimes there is a reason it's not working, and it's not the operator's fault. But let's take about a 10 -minute break.

Ladies and gentlemen, I must remind you
that during the recess it remains your duty not to discuss this case among yourselves or with anyone else. Don't read, watch, listen to a report of or commentary on anything which might be associated with this matter. Don't form or express an opinion in any of these issues until it has been fully and finally submitted to you under instruction of law by me.

About 10 minutes, please.
(Recess taken.)
THE COURT: Welcome back. Let the record reflect the presence of all parties.

And will you stipulate to each of, the presence of the jury?

MS. PANDUKHT: Yes on behalf of the State.

MR. BROOKS: Defense will, your Honor.
THE COURT: And I see that we have either our technology resolved or the expert here to help us.

MS. PANDUKHT: Yes.
THE COURT: You may proceed. BY MS. PANDUKHT:
Q. Thank you. I am showing you first what has been marked as or admitted as State's Exhibit

No. 6. Obviously, could you tell the jury what this is?
A. The sign out in front of the apartment complex.
Q. This is State's Exhibit No. 7. Could you describe this for the jury?
A. That's just a long range shot of the typical building that's in the complex there, and that's the building in question. And it's just a far away shot of, they're multi-unit, two-story buildings.
Q. So, this is building nine?
A. Building nine.
Q. Where would apartment 2068 be?
A. You know, I've seen this shot before. If this is the west face of building nine, then that building in question or the apartment in question is going to be top right.

THE COURT: And if you touch the screen, it should mark it for you.

THE WITNESS: Okay. You know, if this is here, if this is it, then I would say that, if that's the building, but I'm sure there is a better photograph than that one.

BY MS. PANDUKHT:
Q. Okay. Now, this is State's Exhibit No. 8. Could you tell the jury what we're looking at in this photograph?
A. Yeah. It's just another pullback shot. When these crime scene analysts come, they take overall photographs of the area, and we direct them to take many shots. We even, in some occasions, take aerial shots. In this particular case we had them take overall shots of the complex itself, and so I can't see or differentiate the exact building, but I know we have some close-ups of the building.
Q. And now State's Exhibit No. 9, would you tell us what this photograph shows?
A. Okay. So, clearly now we've come into the apartment in question. Right here would be the numbers 2068. This is building nine, and this is the apartment that we spent hours in investigating this homicide.
Q. And number 10 is just a close-up of the apartment number?
A. Yes.
Q. How about number 11?
A. Eleven is one of those pullback shots.

Here's our apartment up here. This is the staircase leading down, and we have a patrol officer here at the bottom of the stairs, and there is some people milling about outside here. These are all people involved with our investigation, though, police vehicles and possibly a vehicle from the mortuary or coroner's office there.
Q. And State's Exhibit No. 12, what does this show?
A. This is the staircase going up to apartment 2068. And we took this as a pullback shot, because there was some evidence that we located on these stairs as we're getting our investigation. So, up and to the right is the 2068.
Q. Now, what kind of evidence were you talking about?
A. Blood evidence.
Q. And where did you locate it on the stairs?
A. I think here below the stairs on the landing is a drop of blood. I think on the third or fourth step up in this area it was another drop of blood. And I think there was another further
up here once you make the turn. And so I made note of that. I have it, either the crime scene analyst have it listed, the exact stair and such, but we noticed that we had blood droplets coming either up or down. So, that became part of our investigation.
Q. Did you ask crime scene to do anything with regard to those blood droplets?
A. Yes, I did.
Q. What did you ask them to do?
A. As I said, my responsibility is the scene and to work with the crime scene investigators. I instructed them to use their techniques to take a sample of those blood drops so that I could use those to examine them at a later time to determine whose blood that was. I wanted to know who it was that came down those stairs that was bleeding, and that would go into, further into my investigation. So, I'm thinking about everything when I'm there. And I have blood outside of the apartment. I want to know whose that is.
Q. Did you then have that sent out for analysis?
A. Yes.
Q. That, those blood droplets were analyzed
by someone employed at the Las Vegas Metropolitan Police Department?
A. Yes.
Q. Who was that?
A. You know, I could look at the file. I'm not sure if it was David Welch in this case or not, but he's one of our DNA criminalists.

Do you want me to make sure who I'm talking about here?
Q. Well, you know, did you receive a report from that person?
A. Sure, I did. And I got a definitive report back that the blood on the stairs was that of one of the victims, that victim that I talked about that was medically evacuated, that Derrick Jones. So, that made sense to me, because it was on the stairs. And I know the ambulance people took him down those stairs.
Q. So, the blood droplets, all of the blood droplets that you had found on the stairs and on the base of the stairs were attributed as belonging to Derrick Jones?
A. Yes.
Q. And not to any other person?
A. No.
Q. Now, in State's Exhibit No. 13, could you tell the jury where this is in the apartment?
A. Yes, I can. You are standing at the threshold looking into the apartment, as you can see, the, the door here to the left. And you're looking into the apartment, and to the left this way is a master bedroom, and this is a living room area here. The kitchen area would be back here deep into the apartment. And if you were to walk in and go around the back of this couch and head in that direction, you would travel to the south to two other bedrooms and a bathroom that's back in that area.
Q. Could you describe what is in State's Exhibit No. 14 ?
A. Yes. This is a photograph taken from sort of back by the hallway looking north. Again here's the front door of the apartment. And this would be the doorway to the master bedroom of the apartment, and to the right this way would be that kitchen area. So, we've kind of turned and backed up and took that picture.
Q. And State's Exhibit No. 15?
A. Okay. We're, the door, the entry door is behind you now if you're the photographer. And
this is in this area the hallway towards those two south bedrooms, and they had the couches sort of L shaped here in the living room area, little coffee table here. So, this is the living room.
Q. Now, in State's Exhibit No. 16, what is this a close-up of?
A. Well, actually there should be a closer shot of that, but this little item right in here is a cartridge case. And that was of interest to us because of what had happened inside the apartment. So, that became an item of evidence for us.
Q. And that piece of furniture that it's on --
A. That would be the couch that's on the south wall in the living room.
Q. In State's Exhibit No. 17?
A. Okay. This is a photograph looking towards the north. This is the master bedroom door again, and I can see here on the floor the body of Dajon Jones. I can see him. He's right behind the door. I remember that from being there. And there is a little closet here, too.
Q. Now, can you tell the jury about what is in State's Exhibit No. 18?
A. Okay. Well, we've just walked into that bedroom that I just described. Here's that little closet that I talked about. So, now once you enter the bedroom, the master bedroom, here is the master bath here and, and this is Dajon Jones, where I first saw him when I was doing my investigation.
Q. And 19?
A. It's another photograph of Dajon there.
Q. How about in 20?
A. Okay. We are standing in the southeast bedroom looking to the west. And if you could imagine, this is the hallway that takes you to the living room that way. Okay. If you went this way, you would go into the southwest bedroom, and this debris in the hallway here is kind of obstructing the location where Derrick Jones was found by officers when they entered the apartment. He was on the floor there. The door to this room was closed at the time that, that he was shot at that location.
Q. In State's Exhibit No. 21, is this a close-up of that same area?
A. Yes, same thing, a couple feet forward.
Q. Was anything found in that same
photograph in relation to the objects in that hallway?
A. Well, there was, there's a lot right in this whole area right here that we could get into, probably five cartridge cases, bullet impact sites, bullet impact sites in this pack of toilet paper. That's there where the bullets actually passed through the toilet paper. There are cartridge cases on the top of this storage unit. There are impact sites in the carpet inside of this room after the bullets had passed through the door of this closed bedroom door. Oops! That was bad. This closed bedroom door here. And so this was a very busy area for us. We spent a lot of time there with the crime scene investigators.
Q. And I have another close-up actually from another angle in number 22. Could you describe this photograph?
A. Yes. We've just walked past all that into that southwest bedroom. We're now looking back. This would be that hallway we talked about going toward the living room. And this is the location where Derrick Jones was before he was evacuated by the paramedics that came upstairs.
Q. And again this door here, right here?
A. Yes. This door, if you could imagine, it was closed. And we know that because of the bullet impacts that were on the door and the recovery of the bullets in the carpet here inside the bedroom, and everything just sort of lines up with, just when we were there at the scene, we used some rods and made sure they lined up. That's how we were able to find the bullets in the carpet.
Q. And this was the door to which bedroom again?
A. To the southwest bedroom.
Q. Okay. Now, could you describe what is depicted in State's Exhibit No. 23?
A. Sure. As you come up the stairs to apartment 2068, as you're arriving on the landing here there is a little patio, balcony, if you will, and a storage room right there. And here is the body of a man that I came to know as Jason Moore. Jason Moore is lying right here, and obviously he's still there in the photograph, because he wasn't alive at the time. Otherwise, he would have been evacuated as well.
Q. How about in State's Exhibit No. 24?
A. It's a close-up of the same, you see some
things out here on the patio. We would later find items of evidence there in the form of cartridge cases and bullets.
Q. Let me show you a close-up, number 25 .
A. Yeah. Here is Jason Moore, a bucket with a radio on top of it. There is a kid's scooter right here, some kind of plastic scooter and a pretty good-sized blood pool that's formed here over to the doorway to the closet.
Q. A further close-up in number 26?
A. This is an important photograph for us because of the observation of that nine-millimeter cartridge case. And it would give us an indication about the location of the shooter at the time that that shot is fired.
Q. How about in number 27? Is this also on the patio?
A. Yes, it is. You could see here in the bottom left corner some of that blood that I talked about. So, we're still on the same patio deck. Here's a little bit of the socked foot of Jason. These are just some chairs that were on the patio. And we found some other items of evidence in and amongst the things that were on the patio there.
Q. Now, in State's Exhibit No. 28, tell me if I'm holding this the right way.
A. I think that needs a 180 flip. One more. Okay. Here is the leg of one of those green chairs, and this is just a kid's scooter knocked over. But what's of interest to us is that right there, that's another cartridge case in nine-millimeter.
Q. How about in State's Exhibit No. 29? Do I have that the right way?
A. Yeah. That's good. And there is the cartridge case a little bit closer, a little bit clearer.
Q. Now, what are we looking at in number 30 ?
A. Okay. I directed this photograph because of that hole. In my experience, that is caused by a bullet passing through a window. And that is the exterior of the master bedroom. It's a west-facing window, and it's clearly a bullet hole. And we would later find an impact site on building six at about the same level, second floor level, but it hit the stucco. And that would be the building across from nine, and it would be the east face of building six.
Q. Now, in number 31 , is this a close-up
shot?
A. Yes. We can tell that, since the blinds were on the inside here, we're inside the room. And we see that the bullet has perforated or gone through that one blind right there and gone through the double pane window.
Q. Now, is there anything else about the crime scene that wasn't shown in any of those photographs that was important?
A. Yes. It's hard to just describe the scene in just a handful of photographs. There was an impact site on one the two couches. You'll recall one couch was sort of free-standing in the middle of the room, and it created sort of a hallway. We found an impact site there. It's directionality, in my opinion, was to the south. We also had another impact site on the wall. This would be where a bullet struck the wall just before you enter the hallway where Derrick Jones was found, and we were able to dig that out of the wall and recover it. And I didn't see that in one of the photographs. These are big scenes, and we have to spend a lot of time in there trying to find everything.
Q. Now, approximately how much time did you
spend at the scene that day?
A. Because it's my responsibility to work the crime scene, we're going to go as slow as we can and move our way methodically through that apartment. And I know that by the time I arrived, let's say, it's one, 1:00 o'clock in the morning. We were there for sunup and well beyond. So, we were in there for hours and hours. We may have freed that place up to Ms. Jones at some point later on that morning. I don't recall, without looking at the actual police log, when we started to clear out of there.
Q. And after you did finally complete your investigation of the scene you did release the residence back to Ms. Jones?
A. Yes.
Q. And that was Cheryl Jones?
A. Cheryl Jones.
Q. Now, did you later learn that something had been found by one of the family members at that apartment?
A. Yes.
Q. What did you learn? Could you tell the jury about that?
A. Yes. Sometimes when we have these
apartments and we're spending so many hours in there and there is someone that wants to get back into that apartment to try to get their life back, so we try to do our best job that we can do when we're in there and leave and give it back to them. In this case we returned it to Cheryl, as I said. And as they were, I think were moving out of the apartment in the clothing in the master bedroom a bullet was found by one of the family members. I'm not sure who it was, but I know that it eventually became an item of evidence, and it was analyzed and analyzed by our firearms examiner, and it was, no doubt, from our shooting situation.
Q. Did you come to learn that that bullet that was found by the family member was then given to a district attorney investigator and then given over to the Las Vegas Metropolitan Police Department?
A. Yes. That's the progression. The family member gave it to an investigator named Reg Weaver. Reg Weaver gave it to my partner, Marty Wildemann. And Marty put it into the evidence vault so it can be retrieved by the firearms examiner and be examined with the other ballistics in the case.
Q. Now, one of the things that you and your partner had to do during the course of your investigation is attempt to locate the suspect?
A. Yes.
Q. How did you go about doing that? Did you talk to people to try and get information about where he might be and who he was?
A. Yes, we did.
Q. Would you tell the jury about that?
A. So, here we are at this crime scene, and we're beginning to learn information that the suspect is a man that goes by the name of AI. That's all we know. Maybe his first name is Anthony. We learn that that's really nothing more than a nickname or a street name for him. We come to find out that it's in reference to a professional basketball player named Allen Iverson. In fact, his actual name is Glenford Budd. And we learned that while we're there still on the premises.

We at some point after sunup contact members of our criminal apprehension team, which are other detectives that often help us locate suspects in our cases, and based on the fact that we learned about Glenford Budd, we also learned
that he resided in building 12 of the very same apartment complex, and he lived there with his uncle. So, other detectives went to that location and made some contact there with that man. Based on that information we had these criminal apprehension team members try to locate Mr. Budd, and it was approximately 48 hours or so later, maybe a little bit more than that, that he did get taken into custody. I know that's a big leap for you, but there was a lot of investigation in that two- to three-day period and a lot we learned about his movements during that time period.
Q. Did you find out where he was actually moving to, from what residence to what residence? Did you get information about that?
A. I know of, of several things that I'm -MR. BROOKS: I'm going to object now, your Honor. I think we're in the realm of hearsay.

THE COURT: Whether or not he learned about other things?

MR. BROOKS: If you can testify as to the truth of the matter, yes, I think it is hearsay. MS. PANDUKHT: It goes to how he was able
to locate the suspect.
MR. BROOKS: That's irrelevant at this point.

THE COURT: So long as the foundation is as it presently is, I'm going to have to sustain the objection unless you can back up a little bit and properly found it with respect to the investigation.

BY MS. PANDUKHT:
Q. You already testified that you had received information from other detectives and CAT team officers?
A. Yes.
Q. And you were still at this point trying to locate the defendant?
A. Yes.
Q. You had stated that he was ultimately found at a certain location?
A. Yes.
Q. What location was that?

MR. BROOKS: Objection, irrelevant.
MS. PANDUKHT: How is it irrelevant?
MR. BROOKS: It's absolutely irrelevant. Who cares where he was arrested. It's totally irrelevant to this case where he was arrested
unless it goes to an issue of guilt or innocence. The circumstances of arrest are not admissable unless they can be shown to be admissable by some other way. And in this case it's totally irrelevant.

THE COURT: And, counsel, would you approach for a second?
(Conference at the bench.) BY MS. PANDUKHT:
Q. Detective Vaccaro, did you have an opportunity to contact the suspect after he had been located?
A. Yes.
Q. Where did you contact him?
A. At the Clark County Detention Center.
Q. Now, previously you have identified photographs, specifically 43 through 46. These photographs are of the person that was located?
A. Yes, they are.
Q. And that person you contacted at the Clark County Detention Center?
A. Yes.
Q. In State's Exhibit No. -- well, first of all, let me ask you this: Is he present in court today?
A. Sure, he is. He's seated next to Mr. Brooks with a white shirt on. And that's Glenford Budd.

MS. PANDUKHT: May the record reflect the identification of the defendant?

THE COURT: It will so reflect. BY MS. PANDUKHT:
Q. Is this a photograph of the defendant in number 43?
A. Yes, it is.
Q. And that was taken on what date?
A. The date of his arrest, and can I refer to that?
Q. If that would refresh your recollection?
A. That whole Memorial Day weekend was kind of confusing date-wise, but I can tell you immediately. I caused that photograph to be taken by a crime scene analyst that met us at the jail by the name of Tom Kerns. Not so immediately. Sorry. 5/29/03 at 1640 hours was the arrest time. So, within 20 minutes or so I was at the jail meeting with Mr. Budd --
Q. Okay.
A. -- on the 29th of '03, probably around 1700, 5:00 o'clock in the afternoon.
Q. Now, State's Exhibit No. 44 shows what part of the defendant?
A. Right side profile.
Q. Why were you taking these photographs?
A. A couple of reasons, you know. It's been my experience to take what I call 360s. I'll take front, side, back, side, and I want to look at this man to see if he has any marks or injuries on him as well. I think it's my responsibility to document his appearance at the time of his arrest, and it was in a close enough proximity of time from the incident that I wanted to see if he had had any injuries on him.
Q. Did the defendant have any injuries on him?
A. No, none that I noted.
Q. Did you note anything about his hair?
A. Well, it was nothing as it was described early in the investigation. We were told that he had braids or, or long hair that was in braids, and so here we have him with very short hair.
Q. And I'm just going to show you number, I'll skip to number 46.
A. Back shot.
Q. That's the back?
A. Back.
Q. Did you advise the defendant of his constitutional or Miranda rights?
A. Yes.
Q. What are Miranda rights?
A. Well, these are rights that are provided to an individual if he's in a custodial situation and certainly if he's in the Clark County Detention Center. I knew that it was my responsibility to advise him of that before I asked him any questions. So, I told him that he had the right to remain silent and that if he gave up the right to remain silent and told me anything, that those things could be used against him in a court of law. I told him that he had the right to an attorney and that if he couldn't afford an attorney, one would be provided to him for free. And I asked him if he understood his rights, and he told me that he did understand.
Q. Did you recite those rights to the defendant exactly how you did today to the jury?
A. Yes. I've done it several times, you might imagine, over the years, and I have it down pretty good. When I have a card with me, I take advantage of reading it directly from the card,
but I know that those are the words that I said to Mr. Budd inside the jail.
Q. Did he indicate whether he understood those rights?
A. Yes, he did.
Q. How did he indicate that he understood them?
A. He communicated with me and said, yes, I understand.
Q. Did he agree to waive those rights and agree to speak with you?
A. It was not in the terminology or the verbiage that you said, but he, I told him that I was interested in talking with him to clear up what happened in the apartment. And he made some statements to me.
Q. And you were the person that he actually spoke with?
A. Yes. I was in the room. Detective Wildemann was in the room. And I think that that was before a crime scene investigator, Tom Kerns, showed up. So, it would have been the three of us in the room. It was a small room where physical lineups are conducted at the jail.
Q. And what did the defendant tell you?
A. Well, I have some handwritten notes that I attached to the back of the arrest report. Can I refer to those so that I could be accurate?
Q. If it would refresh your recollection?
A. Okay.
Q. Please review them and let me know when you're done.
A. Okay. I remember well now.
Q. What did the defendant tell you?
A. He told me that he was present in the apartment with Dajon Jones, Derrick Jones, and also with Jason Moore and that he had gone to the apartment to inquire about who had stolen his marijuana. He said that while he was in the apartment he heard a gunshot, and he ran from the apartment. And I asked him basically, how could it be that those three individuals were hurt and killed, eventually killed -- I'm sorry -- and that he's the only one that ran away. And he said, well, I heard the shot and ran away. And that was all he really wanted to tell me.
Q. And then did he say how much marijuana?
A. Yes, he did. He said that it was a half a pound of marijuana that he had stolen from him.
Q. And did he say who else left the
apartment?
A. No. I don't think so. He, I don't think he volunteered that to me at that point, no, unless I'm not seeing it here in my handwritten notes.
Q. Could you refer to page five of your arrest report? It would be the second page of your handwritten notes toward the top.
A. Oh, okay. I'm sorry. I will read it. He said when he heard the gunshot, he ran out of the apartment down the stairs. He said Lazon Jones also ran from the apartment.
Q. Okay. And then did he say anything about whether he saw Jason Moore and where?
A. Yes. He indicated in the very next sentence that he looked up the stairs back towards the apartment door, and he saw Jason Moore sitting on a bucket on the landing in front of the door.
Q. Okay. Thank you. And then at some point after, in 2004, okay. On or about August 13th, 2004 were you contacted by an individual named Greg Lewis?
A. Yes, I was.
Q. How did that come about?
A. He called the homicide office, and I
answered the phone, said homicide. And he identified himself.
Q. And did he contact you on that same day, August 13th, 2004?
A. Yes. He contacted, he contacted me on the 13 th, and I contacted him the same day a little bit later, physically face to face.
Q. Did you actually interview him on that day?
A. Yes.
Q. Where did you interview him?
A. He was in the Clark County Detention Center, and I caused him to be removed from his room basically and brought to a private room where I could talk to him.
Q. Where was Greg Lewis being housed in relation to the defendant?
A. I don't think they were in the same room, but I think they were in the same pod, as they're called. These are sort of like an airport docking station if you will. There is a lot of little rooms off of a center room, and people can gather together in that pod, but they each have their own room. And I don't think they were in the same room, but I think they met in the pod.
Q. Would that be on the same floor?
A. Yes.
Q. Now, when you went over to interview him, did you tape-record that conversation?
A. Yes, I did.
Q. Before you actually interviewed and spoke with Greg Lewis for the first time did you make him any promise in his exchange for his making a statement?
A. No, I did not.
Q. Did you tell him you would do anything for him in exchange for that information in terms of his own situation?
A. I simply told him, as it is in the taped statement, that I would talk to the prosecutor attorney that I knew was managing the case at the time.
Q. And did you later talk to a prosecutor attorney?
A. Yes.
Q. Do you remember about when that was?
A. I'm sure it was shortly after, because the case, as you can tell, is May 27th of 103 , and here I have fresh information that I'm learning in August of the next year. So, I, I would have
wanted to get that information to, to that prosecutor right away.
Q. Let me ask you this: Were you contacted a second time by Greg Lewis shortly after August 13th, 2004?
A. Yes, I was.
Q. What was the purpose of that contact?
A. Mr. Lewis told me that he had received correspondence in the form of a letter and asked me if I wanted it. And he said that it was from Mr. Budd, and I told him, yes, I did want the letter. And I came to see him again at the Clark County Detention Center.
Q. I'm showing you what's been already admitted as State's Exhibit 49A, B, and C. Do you recognize this?
A. Yeah, because I put my J1480V initials on there and the date, 8/18/04. That's five days later than when I did the taped interview.
Q. What's the significance of the date of 8/18/04?
A. That's the date that I received it from Greg.
Q. Did you receive that letter personally from Greg Lewis?
A. Yes. He handed it to me just like you did, and the contents.
Q. And those are the contents in there?
A. Yeah. I recall there's sort of a handwritten letter, a couple pages.
Q. And, for the record, that's State's Exhibit 49B?
A. Right.
Q. And then there is a half of page that is 49C, Exhibit 49C. And it's really written in some funny kind of lettering, but it was a part of the correspondence as well?
A. Yes.
Q. Now, were you aware that a deputy district attorney named David Schwartz had written a letter to the parole board on Greg Lewis's behalf?
A. I was.
Q. How did that come about, and was it before or after you received that letter?
A. Everything with David Schwartz was after the receipt of the letter. And I, and all I said to Mr. Schwartz was, hey, remember Greg Lewis, and do you remember the information that he gave us? And I don't remember by whose design it was that a
letter was written. It certainly wasn't mine. But I didn't author the letter or design it, but I knew that there was a correspondence.

MS. PANDUKHT: Pass the witness.
THE COURT: Cross-examination, Mr. Brooks?

## CROSS-EXAMINATION

BY MR. BROOKS:
Q. Mr. Vaccaro, my name is Howard Brooks. I represent Mr. Budd.

Going back to the 26 th , May 26 th , the killing occurs sometime before midnight, correct?
A. I would --
Q. As far as you know?
A. I would say, because it's 0001, is the time of the police call. So, I would imagine it was busy before one minute after midnight.
Q. And you arrived at the crime scene within an hour after midnight?
A. Yes.
Q. Okay. Once you arrived you eventually interviewed Lazon Jones, correct?
A. It wasn't me. Actually it was another detective. Lazon was interviewed by Detectives

Mesnard and Wildemann.
Q. You did not interview Lazon Jones that night?
A. Not personally, no.
Q. Okay. After Lazon was interviewed, though, the focus of the investigation was on AI, right?
A. Yes.
Q. And you had that information in your hands that evening in the early morning hours?
A. Yes.
Q. Okay. And within 24 hours or 12 hours you basically knew AI is Glenford Budd?
A. Within how many? Did you say 24?
Q. Say, 12 hours?
A. Yes. That's a good estimation, sure.
Q. Okay. And you didn't catch, AI was not caught the 27 th?
A. No.
Q. Okay. The information was released to the media on the 27th?
A. Gee, I'm not, you know, I don't know exactly when. " I'm pretty sure that there was a statement made --
Q. I mean --
A. -- the next morning.
Q. Correct.
A. I may have some press material here. I know that this particular one was mentioned on the 29th, Mr. Brooks, but I would --
Q. Let me stop you.
A. Go ahead.
Q. Do you know when the story was released to the public that you guys were looking for Glenford Budd?
A. I don't think it was ever released that we were looking for Glenford Budd. I think a description of a suspect was released at some point, but I really don't, you know, that's the lieutenant's position to do the press release. And I'm not aware of what exactly was said on the morning of --
Q. The information in your book, there is a news article the date of the 29th, correct?
A. Actually it's printed on the 29th, but I see it says May 28th, Wednesday, '03. And it's an article from the Review Journal, and it has a young man being interviewed by a reporter from the Review Journal.
Q. Does it mention Glenford Budd?
A. It does. Here it does say that police are seeking 20 -year-old Glenford Anthony Budd, who was known as AI. So, that would be --
Q. Let me stop you. So, as of the morning of the 28th the Review Journal has a story that the police are seeking Glenford Budd?
A. Sometime on the 20th, yes.
Q. So, obviously we can conclude that sometime before the early morning hours of the 28th the Review Journal knows that you guys are looking for Glenford Budd?
A. It's right there.
Q. That's a fair statement?
A. I'll go with you on that.
Q. Okay. And basically the information was out there in the public domain that you have three people killed, correct?
A. Yes. I think at that point Derrick had expired, yes.
Q. And you also have the information that it was over a drug deal or over some, some weed or marijuana?
A. Yes.
Q. Okay. Now, in your investigation if you learned that someone was harboring Glenford Budd,

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLENFORD A BUDD,
Appellant,
vs.
THE STATE OF NEVADA
Respondent.

## Supreme Court No.:

District Court Case Ape: 03C1931827 Filed Nov 102014 09:34 a.m.
Tracie K. Lindeman Clerk of Supreme Court

## APPELLANT'S APPENDIX - VOLUME VII -PAGES 1302-1508

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Attorney General
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Counsel for Respondent

| Document | Page No. |
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| Affidavit in Support of Motion to Proceed in Forma Pauperis filed on <br> $05 / 01 / 2007$ | $2568-2572$ |
| Amended Notice of Evidence in Aggravation filed on $11 / 18 / 2005$ | $412-415$ |
| Amended Notice of Intent to Seek Death Penalty filed on $10 / 08 / 2004$ | $387-389$ |
| Case Appeal Statement filed on 01/25/2008 | $2828-2829$ |
| Case Appeal Statement filed on 03/23/2006 | $2514-2516$ |
| Case Appeal Statement filed on 08/13/2007 | $2614-2615$ |
| Certificate of Facsimile Transmission filed on 07/28/2003 | $101-104$ |
| Clark County Public Defender's Response to Glenford Budd's Motion to <br> Hold Clark Count Public Defender in Contempt filed on 07/12/2007 | $2592-2594$ |
| Clark County Public Defenders Notice of Qualification Pursuant to <br> Supreme Court Rule 250(2) (g) and (h) | $280-283$ |
| Clerk's Certificate Appeal Dismissed filed on 10/05/2007 | $2792-2796$ |
| Clerk's Certificate Judgment Affirmed filed on 02/08/2007 | $2560-2567$ |
| Clerk's Certificate Judgment Reversed and Remanded filed on <br> 10/23/2009 | $2830-2836$ |
| Criminal Bindover filed on 06/26/2003 | $1-23$ |
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| Defendant's Motion to Vacate and Continue Trail Date filed on <br> 01/27/2004 | $132-135$ |
| Defendants Amended Notice of Expert Witnesses, Pursuant to NRS <br> 174.234(2) filed on 12/01/2005 | $423-426$ |
| Defendants Notice of Expert Witnesses, Pursuant to NRS 174.234(2) filed <br> on 11/21/2005 | $416-420$ |
| Financial Certificate filed on 05/01/2007 | 2582 |
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| Findings of Facts, Conclusions of Law and Order filed on 01/07/2008 | $2808-2815$ |
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| First Supplemental Petition for Writ of Habeas Corpus Post Conviction <br> filed on 05/23/2013 | $2847-2915$ |
| Fourth Supplemental Petition for Writ of Habeas Corpus (Post <br> Conviction) filed on 12/26/2013 | $3000-3036$ |
| Information filed on 06/26/2003 | $24-26$ |
| Instructions to the Jury (Instructions No. 1) filed on 12/16/2005 | $1741-1761$ |
| Instructions to the Jury file:l on 12/13/2005 | $1482-1506$ |
| Judgment of Conviction (Jury Trial) filed on 03/01/2006 | $2011-2012$ |
| Media Request and Order for Camera Access to Court Proceedings filed <br> on 01/28/204 | $236-137$ |
| Media Request and Order for Camera Access to Court Proceedings filed <br> on 01/31/2006 | 2009 |
| Media Request and Order for Camera Access to Court Proceedings filed |  |
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| on 01/31/2006 | 2010 |
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| Media Request and Order for Camera Access to Court Room filed on |  |
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Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus filed on 09/21/2007 2750-2785
Memorandum Regarding Petitioner's Exhibits (In Camera Review) filed on 12/12/2013 2990-2992
Motion 1: Defendant Budd's Motion in Limine for Order Prohibiting Prosecution Misconduct in Argument; and for Order that Court Takes Judicial Notice of Authority Cited in This Motion if Defense Objects at Trial to Improper Argument filed on 09/14/2004 138-230
Motion 10: Defendant Budd's Motion in Limine to Prohibit any Reference in Front of the Jury to the Trial Phase of the Proceedings as the "Guilt Phase" filed on 09/14/2004 276-279
Motion 11: Defendant Budd's Motion to Strike Allegations of Certain Aggravating Circumstances Alleged in State"s Notice of Intent to Seek Death Penalty filed on 10/04/2004
Motion 12: Defendant Budd's Motion to Preclude the Admission During a Possible Penalty Proceeding of Evidence about the Personal Character of the Victims and the Impact of the Victims` Deaths on the Family filed on 10/04/2004
347-352

Motion 13: Defendant Budd's Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Law filed on 10/04/2004

369-373
Motion 14: Defendant Budd's Motion to Dismiss State Notice of Intent Because Nevada's Death Penalty Scheme Violates Due Process Guarantees by Failing to Require a Pre-Trial Finding of Probable Casue for Alleged Aggravators filed on 10/04/2004 353-368
Motion 2: Defendant Budd's Motion for Exchange of Jury Instructions on the First Day of Trial filed on 09/14/2004 231-233

Motion 3: Defendant Budd's Motion for Recording of All Proceedings | Pursuant to Supreme Court Rule 250 filed on 09/14/2004 | 234-237 |
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Motion 4: Defendant Budd's Motion to Disqualify all Potential Jurors who knew or were Acquainted with the Victims or Their Families filed on 09/14/2004

238-242
Motion 5: Defendant Budd's Motion to Disqualify all Potential Jurors Who Would Automatically Vote for the Death Penalty in the Event of a First Degree murder Conviction filed on 09/14/2004

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248-255

| Motion 8: Defendant Budd's Motion to Allow the Defense to Argue Last in a Potential Penalty Phase Proceeding filed on 09/14/2004 | 256-262 |
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| Motion 9: Defendant Budd's Motion for Jury Questionnaire to be Completed by Jure Venire one Week Prior to Trial filed on 09/14/2004 | 267-275 |
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| Motion for Leave to Proceed in Forma Pauperis filed on 09/21/2007 | 2786-2790 |
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| Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/ Court Case Documents filed on 05/01/2007 | 2575-2581 |
| Motion to Hold Howard S Brooks, Attorney of Record in Contempt for Filing to Forward a Copy of the Case File filed on 07/05/2007 | 2583-2591 |
| Motion to Withdraw as Petitioner's Attorney filed on 09/13/2012 | 2840-2843 |
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| Notice of Evidence in Support of Aggravating Circumstances filed on 10/08/2004 | 390-391 |
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| Order for Petition for Writ of Habeas Corpus filed on 09/27/2007 | 2791 |
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| Order for Production of Inmate Glenford Anthony Budd filed on 12/23/2013 | 2998-2999 |
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| Petition for Writ of Habeas Corpus Post Conviction filed on 09/21/2007 | 2709-2749 |


| Petitioner's Reply Brief to the State's Response to the Defendant's Petition for Writ of Habeas Corpus Post Conviction filed on 11/20/2013 | 2959-2985 |
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| Petitioners Exhibits in Support of Petition for Writ of Habeas Corpus Post Conviction filed on 09/21/2007 | 2622-2708 |
| Request for Evidentiary Hearing filed on 09/21/2007 | 2617-2621 |
| Second Supplemental Petition for Writ of Habeas Corpus Post Conviction filed on 10/25/2013 | 2919-2927 |
| Special Verdict (Aggravating Circumstance) filed on 12/16/2005 | 1737 |
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| State's Response to Defendant's Memorandum Regarding Petitioner's Exhibits (In Camera Review) filed on 12/17/2013 | 2993-2997 |
| State's Response to Defendant's Petition for Writ of Habeas Corpus (Post Conviction) and First Supplemental Petition for Writ of Habeas Corpus filed on 11/06/2013 | 2928-2958 |
| States Opposition to Defendant's Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause filed on 10/12/2004 | 400-403 |
| States Opposition to Defendants Motion for Jury Questionnaire to be Completed by Jure Venire One Week Prior to Trial filed on 09/22/2004 | 308-311 |
| States Opposition to Defendants Motion for Recording of all Proceedings Pursuant to Supreme Court Rule 250 filed on 09/21/2004 | 291-293 |
| States Opposition to Defendants Motion in Limine for Order Prohibiting Prosecution Misconduct in Argument; and for Order that Court Takes Judicial Notice of Authority Cited in this Motion if Defense Objects at Trial to Improper Argument filed on 09/21/2004 | 284-287 |
| States Opposition to Defendants Motion in Limine to Prohibit any Reference in Front of the Jury to the Trial Phase of the Proceedings as the "Guilt Phase" filed on 09/21/2004 | 297-299 |
| States Opposition to Defendants Motion in Limine to Prohibit the State from Using Peremptory Challenges to Remove Minorities from the Jury to filed on 10/06/2004 | 383-386 |
| States Opposition to Defendants Motion to Allow the Defense to Argue Last in a Potential Penalty Phase Proceeding filed on 09/21/2004 | 288-290 |
| States Opposition to Defendants Motion to Bifurcate Penalty Phase filed on 09/21/2004 | 304-307 |
| States Opposition to Defendants Motion to Dismiss the State's Notice of Intent because Nevada's Death Penalty Scheme Violates Due Process Guarantees by Failing to Require a Pre-Trail Finding of Probable Cause for Alleged Aggravators filed on 10/14/2004 | 404-410 |
| States Opposition to Defendants Motion to Disqualify all Potential Jurors who Knew or were Acquainted with the Victim's or Their Families filed on 09/21/2004 | 294-296 |
| States Opposition to Defendants Motion to Disqualify all Potential Jurors who would Automatically Vote for the Death Penalty in the Event of a First Degree Murder Conviction filed on 09/21/2004 | 300-303 |


| States Opposition to Defendants Motion to Preclude the Introduction of <br> Victim Impact Evidence Pertaining to Victim and Family Members <br> Characterizations filed on 10/12/2004 |  |
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| States Response to Defendant Budd's Motion to Strike Allegations of <br> Certain Aggravating Circumstances Alleged in States Notice of Intent to <br> Seek Death Penalty filed on 10/12/2004 | $396-399$ |
| States Response to Defendant's Petition for Writ of Habeas Corpus Post <br> Conviction filed on 11/27/2007 | $392-395$ |
| Stipulation and Order Extending Time filed on 07/23/2013 | $2797-2807$ |
| Stipulation filed on 12/12/2005 | $2916-2918$ |
| Stipulation to Enlarge Briefing schedule and Order filed on 03/29/2013 | 1299 |
| Third Supplemental Petition for Writ of Habeas Corpus (Post Conviction) <br> filed on $12 / 12 / 2013$ | $2845-2846$ |
| Verdict filed on $12 / 13 / 2005$ | $2986-2989$ |
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| Transcript - Defendant's Motion to Vacate and Continue Trial Date filed <br> on 04/20/2004 | $2541-2543$ |
| Transcript - Defendant's Petition for Writ of Habeas Corpus - Post <br> Conviction filed on 09/26/2014 | $3041-3090$ |
| Transcript - Jury Trial Volume 1 filed on 12/06/2005 |  |
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| Transcript - Preliminary Hearing filed on 07/07/2003 | $1777-1860$ |
| Transcript - Preliminary Hearing Volume II filed on 08/08/2003 | $427-442$ |
| Transcript - Sentencing filed on 04/20/2004 | $28-98$ |
| Transcript - States Request to Reset Trial Date filed on 04/20/2004 | $105-126$ |
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| Transcript - Telephonic Hearing Re: Post Trial Jury Questions filed on <br> 12/19/2005 | $2525-2527$ |
| Transcript - Verdict filed on 12/19/2005 | $1771-1776$ |
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STATE OE NEVADA,
Plaintiff,
vs.
GLENEORD ANTHONY BUDD,
Defendant.
Before the Honorable Justice Nancy M. Saitta
Monday, December 12, 2005
1:30 p.m.
APPEARANCES:
For the State:
EDWARD KANE, ESQ.
Deputy District Attorney
TALEEN PANDUKHT, ESQ.
Deputy District Attorney
For the Defendant: HOWARD BROOKS, ESQ.
Deputy Public Defender
TIMOTHY O'BRIEN, ESQ.
Deputy Public Defender
REPORTED BY: JANICE DAVID, CCR NO. 405
WITNESSES


## GREG LEWIS

By Ms. Pandukht: 9

By Mr. Brooks: 34

JAMES VACCARO
By Ms. Pandukht: 53107
By Mr. Brooks:
95
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## KRISSY SMITH

By Mr. Kane:112
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WINSTON BUDD
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LAS VEGAS, NEVADA, DECEMBER 12, 2005, 1:30 P.M. * * * * *

THE COURT: In the matter of state versus Budd, there is a stipulation.

MR. BROOKS: Judge, Howard Brooks on behalf of Mr. Budd. I provided to Mr. Kane and Mr. Kane has reviewed and signed the following document, which I've also signed, in which I'll be asking to file in open court. The document states the following: Stipulation, the State and defense stipulate that:

Defense Exhibits $B$ and $C$ have been admitted into evidence. These exhibits are photographs taken at the Saratoga Palm Apartments, Las Vegas, Nevada. Exhibit $C$ shows the view from the balcony of Celeste Palau's apartment looking at apartment 2068 in building nine. Exhibit $B$ shows the light fixture over the stairs outside apartment 2068 .

The State and defense stipulate that Steven Yoshida, an investigator for the Clark County Public Defender Office, took these photographs. The distance between the bottom of the stairs outside Celeste Palau's apartment and the bottom of the stairs outside apartment 2068 in
building nine is 218 feet.
And the document is signed by myself and also signed by Mr. Kane. With the Court's permission, I would like to file both of these documents, this one document.

THE COURT: I have one question. And I'm not sure what paragraph it was, but you made a comment about the light at the top of the stairs.

MR. BROOKS: Yes, your Honor.
THE COURT: Will you read that again, because I want to be sure that we're talking about the one that I envisioned as being the one that sometimes is shot out but wasn't apparently in that building. And it was, as I understood it, it was actually between the two apartments. Now, I'm sure that --

MR. BROOKS: Exhibit, the last sentence of the first paragraph says, Exhibit B shows the light fixture over the stairs outside apartment 2068.

THE COURT: Is it more accurate, and you can do this -- but do you enter -- by crossing it out, starting it over again. Would it be more accurate to suggest that it's a light between the two apartments? Isn't it actually --

MR. BROOKS: Both statements are accurate.

MS. EANDUKHT: Yeah, because the stairs are between.

THE COURT: I don't know how much of an issue this is going to be in the trial. I suspect we're going to hear at least argument about it. To me, that was how I envisioned it. And I think that the way it is presently worded suggests that it is closer to the apartment than I believe the picture depicts it as.

MR. BROOKS: How about if we rephrase it to be Exhibit $B$ shows the light fixture, $I$ don't know what the apartment number is on the --

THE COURT: You can simply say between 2086 and the apartment immediately adjacent thereto, because all these buildings are the same way, staircase go up, and you got two apartments, right? You go up the staircase, you go to one apartment, another apartment, go up the staircase --

MR. BROOKS: How about if we leave the sentence, Exhibit $B$ shows the light fixture over the stairs outside apartment 2068, period. Then add a sentence that says the light fixture is
between apartment 2068 and the apartment adjacent thereto.

THE COURT: And I'm not trying to be weird about it. I'm just concerned, because to me the way it reads, it's suggesting that it's closer to one apartment than the other. And I think that they're, it's equally spaced.

MS. PANDUKHT: Adjacent thereto with the neighboring apartment.

THE COURT: And I think Mr. O'Brien may be thinking what I'm already thinking. Somewhere on this we might already know the other apartment number on --

MR. O'BRIEN: And I believe this is, I'm going to show it to Ms. Pandukht, because I believe the adjacent apartment would be 2067.

THE COURT: Well, that would sure make sense, depending upon what the numbering scheme is.

MR. BROOKS: Why don't we go ahead, judge, and we'll just go off the record again, and at the close of the State's case, and I will get this retyped with that additional language.

THE COURT: That's fine.
MR. BROOKS: Okay.

THE COURT: We'll wait to see whether or not we've got a full jury, and then we'll come back.
(Recess taken.)
THE COURT: Welcome back. Let the record reflect that we are again present in the matter of State versus Glenford Budd, 193182. All parties are present with counsel.

Will you stipulate, please, to the presence of the jury?

MS. PANDUKHT: Yes, on behalf of the State.

MR. BROOKS: Defense would, your Honor.
THE COURT: Very well. We have a witness already in the witness stand.

Sir, would you state your name and spell it, please, for the record.

THE WITNESS: Greg Lewis, G-r-e-g L-e-w-i-s.

THE COURT: And you need to stand and raise your right hand to take the oath.

## GREG IEWIS,

called as a witness, and having been first duly sworn to testify to the truth, the whole truth,
and nothing but the truth, was examined and testified as follows:

THE CLERK: Please be seated.

## DIRECT EXAMINATION

 BY MS. PANDUKHT:Q. Mr. Lewis, do you know an individual by the name of Glenford Budd?
A. Yes.
Q. Is he in the courtroom?

THE COURT: You have to keep your voice up. Everything is being recorded.

THE WITNESS: Yes.
BY MS. PANDUKHT:
Q. Is he in the courtroom today?
A. Yes.
Q. Could you point him out and describe something he's wearing today?
A. White $T$-- white shirt, tie, bald head.

MS. PANDUKHT: May the record reflect identification of the defendant?

THE COURT: It will so reflect.
BY MS. PANDUKHT:
Q. Did you know the defendant by any other
names?
A. Budd.
Q. Any other nicknames? Just Budd?
A. Yeah.
Q. Now, when you knew the defendant back in 2003, about sometime before May of 2003, what was his hair like?
A. Long, it was like in braids.
Q. And what did you say before it was in braids?
A. It was long.
Q. About how long was it?
A. Like this long.

THE COURT: This long indicating -THE WITNESS: Shoulder.

THE COURT: -- about shoulder length. BY MS. PANDUKHT:
Q. And did you have an occasion to meet up with the defendant again after May 27 th of $2003 ?$
A. Yeah.
Q. Where did you meet up with the defendant?
A. In Clark County Detention Center.
Q. And how long had you known him before you saw him at the Clark County Detention Center?
A. About six months, a year.
Q. How did you know him?
A. From around the way in some apartments.
Q. What apartments?
A. The Palms East, the Palms, Saratoga.
Q. The Saratoga Palms East?
A. Yeah.
Q. And how did you know him there? Did either of you live there?
A. I didn't live there. I used to just be around.
Q. Did Mr. Budd live there?
A. From what I'm, I'm, I understand, from what I was understanding.
Q. Okay. And then when you went to the Clark County Detention Center, were you somewhere near to the defendant in terms of where you were housed?
A. Yeah, the same unit.
Q. Okay. And when you were, when you're on the same unit, you're on the same floor?
A. Yeah, the same floor, the same, it's the same area.
Q. Okay. Did you actually share a cell with him?
A. No.
Q. Now, the defendant, well, first let me ask you this: Do you have a prior felony conviction?
A. Yes.
Q. Is it for challenge to a fight with a weapon from 2004 in the State of Nevada?
A. Yes.
Q. Now, when you were with the defendant at the Clark County Detention Center, did he talk to you about anything that happened at the Saratoga Palms Apartments?
A. Briefly.
Q. Okay. How did that happen?
A. What do you mean? How did the conversation --
Q. Did he approach you or you approached him? How did it come about?
A. We was just talking. I didn't approach him. He didn't approach me. We was just already talking.
Q. Do you remember about when that was?
A. About October, 2003, November, between there.
Q. And what did the defendant say?
A. What had happened in the apartments, why
it happened, real brief, though.
Q. Do you remember exactly what he told you?
A. Some kids got killed about some weed that he thought they took from him, and it happened in the apartments, in the Saratoga.
Q. Did he say how they got killed?
A. He shot them.
Q. Did he say who shot them?
A. He did. He said he did.
Q. Did he say how many people he shot?
A. Three.
Q. All right. Did he say that it was more than three?
A. No.
Q. Did he say anything about a fourth person?
A. Yeah.
Q. What was that?
A. I guess the fourth person got away. That's what I was told.
Q. Okay. And I'm just asking you what he told you.
A. Yes.
Q. You said that he mentioned something about weed, right?
A. Yeah.
Q. What is weed?
A. Marijuana.
Q. Okay. And did he say how much weed?
A. I think it was a half a pound or something like that.
Q. Okay. Did the defendant say anything about why he thought they did it, took his weed?
A. I guess because they was smoking weed, and they had it. They usually didn't have it.
Q. Did he say anything about what he did with them before the shootings?
A. Hung out, played ball, smoked weed.
Q. Okay. Did he say anything about how he was trying to figure out --
A. That was how, I guess, he was trying to figure it out.
Q. Figure out what?
A. Who took it, by hanging out and playing basketball.
Q. Did he say anything about how old they were? Did he call them anything?
A. No.
Q. How did he refer to the three people that he shot?
A. It was just kids that was, that lived around the, in the apartments.
Q. Did he call them kids?
A. As I remember.
Q. Is that, did you say that's what you remember?
A. Yeah. That's what I remember.
Q. Okay. All right. And then did he say anything about himself smoking weed?
A. Yeah.
Q. Did he make any statements to you about whether or not he was high at the time of the shooting?
A. No. No. I don't think he was. I don't remember him saying he was high at the time of the shooting, but prior to it they was smoking weed.
Q. How did he look when you talked to him in terms of his hair?
A. At what point?
Q. In October or November of 2003?
A. He had shorter hair.
Q. How short was it?
A. It was like in a little Afro, I guess.
Q. Was it still in the braids?
A. In little braids now, different, a
different style of braids.
Q. Okay. And did he say anything about what he did after the shooting?
A. Cutting his hair off, he said he cut his hair off, and that was pretty much it.
Q. Did he say he went anywhere?
A. To some girl's house to hide out, I guess.
Q. Okay. And is there anything else that you remember him saying about what he was going to say to the police?
A. That he was there just like everybody else was, but he didn't shoot.
Q. Now, you were at the Clark County Detention Center, then, in October or November of 2003. At some point did you then have the occasion to talk to a detective?
A. Yes.
Q. Did you talk to Detective James Vaccaro?
A. Yes.
Q. Was that about August of 2004?
A. Yeah, if I recall correctly.
Q. So, do you remember whether it was sometime after you had talked to the defendant?

> A. Yeah, it was.
Q. Could you explain why you waited to tell the detective?
A. Because I figured if it, if that's what happened, it took some time on, on my brain, but I figured if that's what happened, then he, what's right needs to come out, and they need to know what happened.
Q. Now, when you talked to the detective, did the detective initiate contacting you, or did you call him?
A. No. I contacted him.
Q. And when you contacted him, how long did it take him to come out and talk to you?
A. About two days, three days. I don't know, about three days.
Q. Okay. And when the detective came out to talk to you, did he tape-record a statement with you?
A. Yeah.
Q. And that statement was then later typed out about what you said?
A. Yes.
Q. Okay. And you've seen a copy of that statement, also?
A. Yes.
Q. Now, before he actually talked to you about what happened, Detective Vaccaro, did he make any promises to you?
A. No.
Q. Did he say he would do anything for you in exchange for giving him a statement?
A. No.
Q. Now, you told him, Detective Vaccaro, you know, you made your statement, right?
A. Right.
Q. After that time, so after August of 2004 did you learn that a letter had been written on your behalf?
A. Could you repeat the question?
Q. Well, did you find out that there was a letter that someone had written to the parole board?
A. Did I find out before or after?
Q. After August of 2004?
A. Yes.
Q. How did that come up? How did that happen?
A. Well, because it was sent to me. The letter was sent to me, but I only had it for a couple days.

MS. PANDUKHT: May I approach the witness?

THE COURT: You may. BY MS. PANDUKHT:
Q. I'm showing you what we have marked as State's Proposed Exhibit No. 50. Do you recognize what this is?
A. Yes.
Q. Have you seen something like this before?
A. Yes.
Q. What is it?
A. It's the letter that was sent to me.
Q. Now, I see here it's not signed. The letter that you saw, did it have a signature on the bottom?
A. Yes.
Q. And who is the letter written by?
A. David Schwartz.
Q. Did you know who he was?
A. Kind of. I didn't know of him. I had heard of him about one time between, from Vaccaro.
Q. Did you know that he worked in the district attorney's office?
A. When Vaccaro told me when I talked to him beforehand.
Q. Now, you're familiar with the contents of this letter?
A. Yes.
Q. This is the letter that you had seen, you said, when you were --
A. Yeah.
Q. Were there, is there a date on the letter?
A. Yes.
Q. What is that date?
A. December 8th, 2004.
Q. Of 2004? And who is the letter written to?
A. Me. It was written to the parole board.
Q. And then what you got was just a copy?
A. Yeah.

MS. PANDUKHT: And is this letter, well, I'm going to move to admit the letter. I don't know if there is going to be an objection from the defense.

MR. BROOKS: No objection.
THE COURT: It will be admitted as either previously marked or next in order. BY MS. PANDUKHT:
Q. Okay. Now, in the letter does it, I'm
just going to have him read it into the record, make that simple.

Can you read that into the record for us?
A. The whole thing?
Q. Yeah. Would you mind?
A. December 8th, 2004, Nevada Board of Parole Commissioners, 2601 East Sahara, Las Vegas, Nevada. To whom it may concern, the purpose of this letter is to inform you that Greg Lewis has been extremely cooperative to both the Las Vegas Metro Police Department and the Office of the District Attorney's Office in solving a homicide case where three young men were murdered. Mr. Lewis has agreed to testify in the trial in this matter. His help in this matter has greatly assisted me in this prosecution. If you have any questions, please don't hesitate to call me at (702) 671-2830, David P. Schwartz.
Q. And you're currently serving a prison sentence right now, right?
A. Yes.
Q. You're doing 28 to 72 months?
A. Yes.
Q. You actually had gotten probation right before?
A. Yes.
Q. And then you were revoked?
A. Yeah.
Q. Your sentence wasn't lowered --
A. No.
Q. -- when you went to prison?
A. No. It's the same.
Q. And is that the only letter or assistance that you are aware of?
A. Yes. This is it.
Q. And that happened after you made the statement to Detective Vaccaro?
A. Yeah. I was already sentenced.
Q. Okay. Now, you spoke to Detective Vaccaro in August of 2004. Did you receive something in the mail from the defendant a few days later?
A. While I was in the county jail?
Q. Yes.
A. Yes.
Q. What did you receive?
A. A letter.
Q. I'm going to trade you. I'm now showing you what has been marked as State's Proposed Exhibit 49A. Do you recognize this?
A. Yes.
Q. What do you recognize it as?
A. A letter I got when I was in the county jail.
Q. Who was the letter addressed to?
A. To me, Greg Lewis.
Q. And your name's on there?
A. Yeah.
Q. Does it say who it's from?
A. Yeah, Budd, 190089.
Q. Now, do you recognize the handwriting that's on the envelope?
A. Yes.
Q. Whose handwriting do you recognize it to be?
A. Budd's.
Q. Now, have you gotten letters from the defendant before?
A. Once. Once when I was already at home.
Q. Okay. How do you know that it's his handwriting?
A. Because of the letter I got before.
Q. Okay. Now, the postmark on that letter, can you see that?
A. Yeah.
Q. When is it postmarked?
A. August 13th, 2004.
Q. You didn't get it on that same day, did you?
A. No. I got it like a day afterward.
Q. Okay. And then inside, I'm taking out the contents. And is this kind of how it looked when you opened it up?
A. Yeah.
Q. Now, the first thing I'm going to show you here from the inside of it is marked as State's Proposed Exhibit No. 49B. Do you recognize this in its two pages?
A. Yeah.
Q. What is it?
A. It's a letter.
Q. And who's the letter from?
A. Budd.
Q. Here it's, at the very top it says it's addressed to Munee, M-u-n-e-e?
A. Yeah.
Q. Who's Munee?
A. It's me, my nickname.
Q. That's a nickname that Budd had for you?
A. Yeah. That's what everybody called me.
Q. And then at the end of the letter, on the second page of the letter is it signed by anyone?
A. Budd.
Q. Okay. And again in the contents of State's Proposed Exhibit 49B, do you recognize the handwriting?
A. Yes.
Q. And whose handwriting do you recognize it to be?
A. Budd's.
Q. Okay. Now, this piece of paper is State's Proposed Exhibit 49C. Okay? Could you take a look at this and tell me if you recognize, one, that it came inside the envelope?
A. Yeah.
Q. Okay. And then do you recognize the type of handwriting this is?
A. Yeah. I recognize the writing.
Q. It looks different than the handwriting in 49B. Do you know why?
A. It's harder to read for other people.
Q. Why is that?
A. Because when you writing in that style of writing, you make it for hard for other people to read. That's the purpose of it. You don't want
it to be deciphered.
Q. Have you, you know, ever written this kind of writing?
A. No. I write regular, cursive.
Q. Have you seen anyone writing this kind of writing?
A. Once.
Q. Who?
A. In jail we write, well, they write like that when you make raps and you don't want people reading your stuff.
Q. And who did you see write like this?
A. Budd.
Q. Did you actually see him writing out something similar to this kind of writing?
A. Yeah.
Q. What was he doing?
A. Writing a rap song.
Q. And were you there when he was doing that?
A. Yeah.
Q. And this kind of writing, you still recognize it as belonging to someone?
A. Yeah.
Q. As whose?
A. Budd.
Q. Now, this actual letter, this is exactly, this page is exactly how you found it in the envelope?
A. Yeah.
Q. And on the back there is some handwriting. Is that written the same style as on the front?
A. Yeah.

MS. PANDUKHT: I move to admit State's Proposed Exhibits 49A, B, and C.

MR. BROOKS: I have no objection, but can we clarify again what is the $C$ and $B$, please?

MS. PANDUKHT: $C$ is the page with the rap lyrics. B is the handwritten letter.

MR. BROOKS: Is A the envelope?
MS. PANDUKHT: A is the envelope.
MR. BROOKS: Thank you. No objection.
THE COURT: They will be admitted as 49A, $B$, and C.

BY MS. PANDUKHT:
Q. Now, this, this, put this back in here in this envelope. I see that it's been opened. Did you open the envelope?
A. No.
Q. How did you get this envelope?
A. It was, I got it like that, but I didn't open it. The COs opened it.
Q. And CO is an abbreviation for what kind of person?
A. Correction officer.
Q. Okay. Now, when, when you got this letter from the CO, how did he hand it to you?
A. Just like that.
Q. Just like this from CO to you?
A. Yeah.
Q. And then did you give this letter to somebody?
A. No.
Q. Did you give this letter to the detective?
A. Yeah.
Q. And when the detective came back to get this letter from you, did he interview you a second time?
A. No.
Q. He just came and got the letter?
A. Yeah.
Q. And you handed this letter directly to the detective?
A. Yeah.
Q. Okay. Now, have you seen what's been marked for identification as State's Proposed Exhibit 49D?
A. Yes.

MS. PANDUKHT: And do you know what I'm referring to now?

MR. BROOKS: Yes, I do. BY MS. PANDUKHT:
Q. Sorry. I'm all the way over here. All right.

Now, 49D, did I show you this --
A. Yes.
Q. -- before?
A. Yes.
Q. Have you looked at this piece of paper and compared it to the piece of paper marked and admitted as 49C?
A. Yes.
Q. How does the 49D compare to 49C?
A. It's pretty much the same.
Q. Now, you didn't type out 49D. That was actually my co-counsel, Mr. Kane. But is it the same as --
A. Yeah.
Q. -- as 49C?
A. Pretty much. Pretty much.
Q. And that includes the entire front of this piece of paper but not the back?
A. Yeah.
Q. Okay. So, it's just the front?
A. Yeah, just the front.

MS. PANDUKHT: Okay. At this time I move to admit State's 49D for the purpose of assisting the jury in being able to understand the contents of 490 .

MR. BROOKS: Judge, I'm going to object. He just testified it was pretty much the same. He did not testify it was precisely the same. It's a typewritten summary of what's in 49C. If it's not precisely the same, it shouldn't be admitted. If it's just pretty much and close, it's not, it doesn't work.

THE COURT: Sustained.
MS. PANDUKHT: I can lay some additional foundation.

THE COURT: I will give her an opportunity to back up a bit. BY MS. PANDUKHT:
Q. And here I'm going to, all right. I'm
going to see if, can you hold that for me? All right. If there is something that's different between this letter in 49 C and then 49D, could you let me know what it is?
A. This on the back, this, only thing that's different is the statement on the back.
Q. Okay. This statement on the back of 49 C ?
A. That's the only thing that was different. That's not on here.
Q. What about, the one thing that comes out at me is on 49D I see the parentheses, s-i-c, parentheses. Is that actually in this exhibit, which is 49C?
A. No, it's not.
Q. Okay. And that means again --

MR. KANE: Judge, it's my translation. Judge, I inserted sic, meaning thus in the original there are two times when the word of is used in the document. I believed that what the writer meant to write was the word off. So, I put sic to indicate that's the way it was written in the original.

THE COURT: And, in other words, it also indicates that it is not an exact translation of what appears before, and/or it indicates there was
an error, at least grammatically, in the original.
MR. KANE: It is an exact transcription with grammatical error intact. The sic indicates that I think it's an error.

THE COURT: Understood. BY MS. PANDUKHT:
Q. So, with the exception of the two places that says, parentheses, s-i-c, end parentheses and what's written on the back of 49C, are the contents of 49 C identical to the contents of 49 D ? A. Yes.

MS. PANDUKHT: Renew my motion to admit.
MR. BROOKS: No objection.
THE COURT: It will be admitted as 49D. BY MS. PANDUKHT:
Q. Now, which would you prefer reading into the record? I'm going to ask that you read it into the record. Do you want to read it off 49 C or D?
A. This one.
Q. Okay.

THE COURT: Let the record reflect that the defendant -- strike that -- that the witness has chosen to read in the record the typewritten copy.

BY MS. PANDUKHT:
Q. Could you read it into the record exactly as it's written there?
A. This is part one of my song. I'm gonna release it when they release me. Killer in Me off the Murda Music $C D$.

They call me Smalls, aka AI. Every day on the street I used to get high. There's rules for a killa. Don't get it confused. I'm wearing county blues with my face on the news.

It got some curse words in here.
THE COURT: You can read them into the record.

THE WITNESS: Blew these niggas of the earth. That's the way it had to go. I only killed three, but I should have killed four. Left them dead on the floor, but just right before they was crying and pleading, screaming for Jesus. Ya'll can keep the weed, because you can't smoke it now, because your ass is in the ground. Cross me, I blow like a bomb, took three niggas from their moms. I'm a thrilla killa. Ask Saratoga Palms.

Sorry, so sorry. This is how I write so people can't read over my shoulder. This shit is for your eyes only. Some niggers is snitches, CD coming fall ' 06.

MS. PANDUKHT: Thank you, Mr. Lewis. I'll pass the witness.

THE COURT: Cross?

## CROSS-EXAMINATION

 BY MR. BROOKS:Q. Thank you, judge. May I call you Greg?
A. Yes.
Q. My name is Howard Brooks. I represent Glenford Budd. I just have a few questions to ask you to clarify a few things.

You did know Glenford prior to going to Clark County Detention Center, correct?
A. Yeah. I knew of him.
Q. So, ya'll were not friends before you were in jail?
A. No. We were cool. We weren't friends, associates if you want to call it that.
Q. I mean, you had hung out with him at the Saratoga Palms?
A. Yeah. I hung around him.
Q. Okay. You smoked marijuana with him, hadn't you?
A. Yeah.
Q. Okay. So, you guys were acquaintances. You had been around each other, right?
A. Right.
Q. And if you saw him, you would be able to say who he was? You would say his name?
A. Right.
Q. Okay. And there was no bad, ill will between the two of you, right?
A. No.
Q. So, basically you wind up getting arrested, and you're at CCDC, correct?
A. Yes.
Q. And he winds up being at $\operatorname{CCDC}$-- this is the jail -- over this murder charge, correct?
A. Correct.
Q. And you guys were on the same floor?
A. Yes.
Q. And during the course of being on the same floor you guys would talk?
A. Yes.
Q. And during the course of being on the same floor you guys would do rap music together and talk about rap music?
A. Yes.
Q. And the fact is, you both were involved with a group of people where ya'll would make up rap songs, right?
A. Yes.
Q. And Glenford would make up rap songs?
A. Yes.
Q. You would make up rap songs?
A. Yes.
Q. A guy named Wes would make up rap songs?
A. Yes.
Q. And other people would make up rap songs?
A. Yeah. It was about five of us.
Q. And you would trade them among each other and read each other's rap songs?
A. Yes.
Q. Now, the State has shown you -- and I hope I have this correct -- State's Exhibit 49A?
A. Yes.
Q. Which is a letter from Glenford to you, correct?
A. Correct.
Q. Forty-nine $A$ is the envelope. Forty-nine $B$ is the first part of the letter in Glenford's regular handwriting, correct?
A. Correct.
Q. Forty-nine C is the rap song, correct?
A. Correct.
Q. It's my understanding you're still at CCDC, the jail when you received this?
A. Yes.
Q. Is that right or wrong?
A. That's correct.
Q. And his address on there is, in fact, the jail?
A. Yes.
Q. So, he's in jail, and you're in jail?
A. Yes.
Q. Okay. He sends this to you, and you receive it there in the jail?
A. Yes.
Q. When you receive it, this is already opened?
A. Yes.
Q. Okay. And you open it up, and when you open this, you read a letter in Glenford's handwriting, correct?
A. Correct.
Q. And, in fact, the jury will get a chance to see this and take it back to the room. This is a letter written in pencil?
A. Yes.
Q. Correct?
A. Correct.
Q. And I guess you would call it white notebook paper that comes in a pad. Is that fair to say?
A. Yes, fair to say.
Q. They sell this at the jail, don't they?
A. Yes.
Q. Okay. And, in fact, it has little blue lines across it, correct?
A. Correct.
Q. Okay.
A. Well, if you can bring it to me so I can identify it, I'm not sure if it had blue lines.
Q. Okay. Take a look at that. Look at the, is this 49B?
A. Yeah. It has blue lines.
Q. And 49C, which has the rap song, is also the same type of white, I'll call it notebook paper. Is that fair to say?
A. Yes. That's fair to say.
Q. And it also has the same blue lines?
A. Yeah. It has the same blue lines.
Q. Now, this 49 C with the rap song is not as
long as 498 in terms of the size of the paper, is it?
A. No, it's not.
Q. It's shorter?
A. Yes.
Q. And something has been torn off the bottom, correct?
A. Correct, from what it looks like.
Q. Do you know anything about that?
A. No.
Q. So, it arrived to you already torn off?
A. Already torn off.
Q. And you have no idea what was on that part that was torn off?
A. No.
Q. Both of those are in pencil; is that correct?
A. Yes, from what I'm seeing.
Q. Okay. Now, you and Glenford were friends. He wrote you a letter. You also had written him letters, hadn't you?
A. Yes.
Q. In fact, I'm going to approach now with what's been marked as Defense Exhibit A. And this is a letter, well, you tell me. What is that?
A. That's a letter I wrote him.
Q. Okay. Where are you when you wrote him that letter?
A. In Clark County Detention Center.
Q. Okay. It has here, by the way, an envelope and two full pages, correct?
A. Correct.
Q. And the envelope has on there your name with the address for Clark County Detention Center?
A. Yeah.
Q. And it also, that is going to Glenford Anthony Budd, also in the Clark County Detention Center?
A. Yeah.
Q. Is that your handwriting?
A. Yes.
Q. In fact, this whole document has your handwriting, correct?
A. Could you turn through it?
Q. Certainly. You can handle it.
A. Okay. Yeah.
Q. That is, in fact, your letter?
A. Yes.
Q. That is your handwriting on the envelope
and the letter itself?
A. Yes.
Q. That's your handwriting on the back of the envelope?
A. Yes.
Q. Now, the paper that you're using to write to Glenford is precisely the same paper that was used in Glenford writing to you, isn't it?
A. Yes.
Q. It's the same paper with the, the white notebook paper with blue lines, correct?
A. Correct.
Q. Okay. It's the standard paper that you would get in the jail?
A. Yes.
Q. Okay. So, you were using the same kind of paper when you wrote your communications that he is using in writing to you?
A. Yes.
Q. Now, in discussing Exhibit 49 B and C , which is the letter Glenford wrote to you and the rap song, Ms. Pandukht, the prosecutor, has basically said the handwritings are two entirely different types of handwriting, correct?
A. Correct.
Q. And it's your testimony that you recognize both of these as being Glenford's handwriting?
A. Two different, yes. It's just two different types.
Q. And the handwriting on 49 B is what we would call normal handwriting, correct?
A. This is 49B?
Q. Correct.
A. Yes.
Q. And 49C is sort of a highly stylized special handwriting that someone would use to write rap songs?
A. Yeah.
Q. And you say that you have seen Glenford write that way before?
A. Have I seen him write this paper right here?
Q. No. Have you seen him write like that before?
A. Yeah.
Q. In the highly stylized rap way?
A. Yeah.
Q. Okay. But you're saying you yourself have not written like this?
A. I don't know how to write like that. I wrote regular.
Q. So, you --
A. Cursive.
Q. So, you would agree, then, this is absolutely not your handwriting?
A. Yeah.
Q. That you're --
A. Would I agree that that's not my handwriting?
Q. Correct, 49C?
A. Correct.
Q. And you're saying here that you did not write this rap song?
A. Yes.
Q. And, in fact, you're, you're sure that nobody else wrote this rap song?
A. I'm sure I didn't write it.
Q. Okay. To your knowledge, has anyone ever asked you to contribute a handwriting analysis to examine with this thing?
A. No.
Q. Has anyone ever checked fingerprints, as far as you know, to see if your fingerprints or the fingerprints of Mr. Budd are on the rap song?
A. Not to my knowledge.
Q. I mean, you would admit your fingerprints could be on this, because you had possession of 49C?
A. Yes.
Q. When you were discussing with Ms. Pandukht the language in the rap song -- and we're referring now to both 49C and 49D -- you said that there were curse words in here, correct?
A. Yeah.
Q. Which curse words are you referring to?
A. As, just vulgar language that's, I guess, not appropriate for the courtroom.
Q. So, you're just referring to the word ass?
A. Niggas.
Q. So, were you kind of surprised at the language of niggers in this rap song?
A. No.
Q. Isn't that pretty common?
A. Yeah.
Q. I mean, the fact is, in your letter to Mr. Budd you talk about niggers?
A. Yeah.
Q. Okay. So, it's not that unusual?
A. It's just not for courtroom. I didn't want to read it out unless it was approved.
Q. And I appreciate your sensitivity on that point.

Now, you're currently in prison for 72 months, correct?
A. Correct.
Q. With parole eligibility after 28 months?
A. Yeah.
Q. You don't like being in prison?
A. No.
Q. You don't like being told when to go to bed and when to get up?
A. No.
Q. You don't like the food in prison?
A. Well, the food is all right.
Q. The food's okay? Okay. You don't like being deprived of freedom?
A. No.
Q. If you got out, you've got something to go back to, don't you?
A. As far as, what do you mean?
Q. Well, in your letter to Mr. Budd you talk about having a girlfriend, don't you?
A. Yeah.
Q. And you also talk about having two kids and one on the way?
A. Yeah.
Q. Did you have the third child?
A. Yeah.
Q. So, you have three children now?
A. Yeah.
Q. And you want to get out to help these kids?
A. Yeah.
Q. And you want to get out to be with this girlfriend?
A. Not really.
Q. Not really? Okay. But you obviously want to get out of prison as soon as you can?
A. Yeah.
Q. And the way to do that is to get parole, correct?
A. Yeah.
Q. Parole means they're going to release you, and you'll be on some kind of supervised release, and you can live with your family?
A. Correct.
Q. Now, Ms. Pandukht showed you State's Exhibit 50, which is a letter from David Schwartz
to the State Board of Parole Commissioners. I'm going to show it to you again.

What is the date of this letter?
A. December 8th, 2004.
Q. Now, that letter is to the parole board. It's not to a sentencing court, correct?
A. Correct.
Q. So, it's not going to affect your actual sentence, is it?
A. No.
Q. It's just going to affect whether you get parole, correct?
A. Is that letter going to affect whether I get parole or not?
Q. Well, you hope it does, right?
A. Yeah.
Q. And you're hoping that by the DA writing to the parole board on your behalf, the parole board will give your application for parole consideration?
A. They're going to consider it regardless of that letter or not.
Q. But clearly it's going to help, isn't it?
A. It should, yes.
Q. It should help you? I mean, you would
rather have it than not have it?
A. Yeah.
Q. But there's no connection between your producing this information and the writing of this letter, or is there a connection?
A. Could you be more specific?
Q. Sure. I mean, basically the letter that's identified as 50 from Mr. Schwartz to the parole board --
A. Yeah.
Q. - is really given to you as a result of your work in this case?
A. Yes.
Q. It's given to you as a result of your cooperation?
A. Yes.
Q. And your cooperation was producing these letters to the State and also giving us, talking to the detectives about what Mr. Budd told you?
A. Yes. But prior to me getting that letter they never told me anything about you'll get a letter, or I didn't even know who David Schwartz was. I didn't even know that the letter was coming.
Q. In your letter dated August 9th, 2004,

