

1 calendar call.

2 MR. BROOKS: Thank you, Judge.

3 MR. SCHWARTZ: Thank you, Your Honor.

4 MR. O'BRIEN: Thank you, Your Honor.

5 MS. PANDUKHT: Thank you, Judge.

6 * * * * *

7 ATTEST: I do hereby certify that I have truly and correctly transcribed the
8 sound recording of the proceedings in the above-entitled case.

9 Debra Van Blaricom

DEBRA VAN BLARICOM

Court Transcriber

1 TRAN

2 ORIGINAL

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

10

FILED

APR 20 4 13 PM '06

CLERK

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GLENFORD ANTHONY BUDD,

10 Defendant.

) CASE NO. C193182

) DEPT. XVIII

12 BEFORE THE HONORABLE J. CHARLEST THOMPSON, SENIOR JUDGE

13 WEDNESDAY, FEBRUARY 22, 2006

15 RECORDER'S TRANSCRIPT RE:
16 SENTENCING

17 APPEARANCES:

18 For the State:

ED KANE, ESQ.
Deputy District Attorney

21 For the Defendant:

HOWARD BROOKS, ESQ.
Deputy Public Defender

TIMOTHY O'BRIEN, ESQ.
Deputy Public Defender

25 RECORDED BY: JO ANNE PIERPONT, COURT RECORDER

RECEIVED

APR 20 2006

COUNTY CLERK

002551

1 WEDNESDAY, FEBRUARY 22, 2006; 9:00 A.M.

2
3 THE COURT: Let's call the Budd matter.

4 MR. BROOKS: Howard Brooks on behalf of Mr. Budd, Your Honor.

5 MR. KANE: Edward Kane for the State.

6 THE COURT: And Mr. Budd is present in custody. As noted this is the
7 date and time set for sentencing. This decision was made by a jury on
8 December the 16th. The recommendation is count one, life without plus equal
9 and consecutive, restitution 28,5. Count two, life without plus equal and
10 consecutive. Count three, life without plus equal and consecutive. The
11 recommendation is is that counts two and three run consecutive to count one
12 and then that three (sic) run consecutive to count three. State do you wish to
13 be heard.

14 MR. KANE: Very briefly, Your Honor. I'm not going to belabor anything.
15 You sat through the trial. You know what happened here. I do urge the Court
16 to follow the department's recommendation and to impose consecutive
17 sentences on the counts. It may seem symbolic but the symbolic part of what
18 we do is kind of important and I feel that concurrent sentences in multiple
19 homicide cases symbolically diminish the value of the life that was taken. If
20 you take three lives you ought to serve three separate sentences. And
21 especially if there ever was discretion in a situation like that, this situation
22 doesn't call for that discretion to be exercised in favor of the defendant.

23 These were murders of such astonishing brutality, including the
24 murder of a child and the execution of victim crawling away for his life that
25 they cry out for consecutive sentences.

1 In view of the recommendation, in view of the fact that the jury has
2 already determined the penalty and the decision today is really only between
3 concurrent or consecutive time on the counts and because I do have one
4 speaker here I'll yield whatever other time I would have used to that speaker
5 who will speak at the conclusion.

6 THE COURT: Thank you, Mr. Kane.

7 I did not adjudicate which I have to do in this case. The defendant
8 is adjudged guilty of three counts of murder of the first degree.

9 Mr. Brooks does your client wish to speak?

10 MR. BROOKS: No, Your Honor.

11 THE COURT: And would you ask that the speaker be heard before you
12 argue on behalf of your client?

13 MR. BROOKS: Yes, Judge. I intend to submit the matter.

14 THE COURT: Who is your speaker, Mr. Kane?

15 MR. KANE: My speaker is Linda Moore, Judge. And while she's coming
16 up, Judge, I did want to acknowledge the presence of victim Jason Moore's
17 dad, Earl, and his sisters, Adrian and Kameron [phonetic]. They've sort of
18 elected mom to be the family spokesman but they're here to bear witness for
19 Jason and I think their presence deserves to be acknowledged on the record.

20 THE COURT: I would agree with you, Mr. Kane.

21 SPEAKER LINDA MOORE

22 [having been first duly sworn gave the following statement:]

23 THE CLERK: Will you please state your name and spell it for the record.

24 THE SPEAKER: My name is Linda Moore, L-i-n-d-a M- double o-r-e.

25 THE COURT: Miss Moore I know that you were here through the majority

1 of the trial. I know how difficult this must be for you. And I know that it is
2 likely tempting to want to address Mr. Budd; however, in this instance what I
3 really need to know is how this instance has affected you.

4 THE SPEAKER: Okay. I'm here to let you know of the heartache and
5 destruction in which Glenford Anthony Budd inflicted upon my family. He's a
6 thief. He's a liar. He's a murderer. He has stolen and destroyed not only my
7 beautiful son but also a big brother to his sisters. Our lives have been changed
8 and will never be the same.

9 I used to wonder what kind of girl Jason was going to bring home?
10 Who would his children look like or whether he would be a good father, now I'll
11 never know.

12 My son came from a close and loving family. He did not know or
13 realize that there could be such treachery and depravity in the world. When my
14 son died a part of me died as well. Tell me, how can I get back what he has
15 stolen and destroyed? Children shouldn't pass on before their parents, that's
16 not in the natural scheme of things. But, then, what he did to my son was not
17 natural. He is a depraved and sick individual. I don't believe that he has any
18 social redeeming value. He is like a wild rabid animal that needs to be -

19 MR. BROOKS: Judge, I object. I object to characterizations of my client.
20 I do not object to the person testifying regarding the effect on the family but
21 her characterizations of my client are improper and I move to strike those
22 characterizations.

23 MR. KANE: Judge, she is entitled to say how this crime affected her and
24 his acts were those of a rabid animal.

25 MR. BROOKS: She is not entitled to say he's a rabid animal. I move to

1 strike and I object to the prosecutor's comment.

2 THE COURT: Counsel, I'm going to sustain the objection. I'm going to
3 note for the record that the considerations given to those who are victims or
4 who testify as speakers is to help me to understand how this has affected your
5 life. And I know that, as I said, that there must be a great deal of hurt and
6 anger that you would wish to express directly to the defendant.

7 THE SPEAKER: Um-huh.

8 THE COURT: However, I can't allow you to do that. I would ask that
9 you simply tell me how this has affected your life.

10 THE SPEAKER: Okay. Well, I am thankful, I'm thankful that he was
11 found guilty and will be sent into that abyss in which he so richly deserves.
12 There I think that he can use the time to reflect upon the horror, the
13 devastation and sorrow that he brought upon my family and me.

14 THE COURT: Thank you. Thank you, very much. You may step down.

15 Mr. Brooks on your client's behalf.

16 MR. BROOKS: Judge, we will submit the matter to the Court.

17 THE COURT: And Mr. Kane there's nothing else from the State, is there?

18 MR. KANE: No, Your Honor.

19 THE COURT: The record is clear and it I think bears repeating. Indeed, I
20 sat through this trial and actually spent, I think, an unusual few moments with
21 the defendant himself in the presence of counsel, all counsel and I was left with
22 a sense of just quite candidly being unable to understand how something like
23 this could happen. The lives of, I think, five young people were dramatically
24 affected on that day, not to mention the countless number of family members
25 that were affected by the conduct of the defendant in this case.

1 Given the facts and circumstances of this matter, the jury having
2 already made a determination obviously to the responsibility and to the
3 sentence to be imposed the only thing left to me then is to decide whether or
4 not those terms should be imposed consecutively or concurrently. And Mr.
5 Kane I find it difficult to say this but I think your term symbolic sentences is
6 appropriate and to run the second and third counts concurrent would be to
7 minimize the value of the lives that those counts are represented by.

8 That reason, count one, life without plus an equal and consecutive
9 term for the deadly weapon enhancement, \$28,500 restitution. Count two,
10 additional life without plus an equal and consecutive term for use, that will run
11 consecutive to count one. Count three, life without plus an equal and
12 consecutive term for the use of a deadly weapon and that will run consecutive
13 to count two.

14 Gives me no pleasure whatsoever Mr. Budd to impose this onerous
15 sentence and I remain frankly confused and saddened by the events of the day
16 that took the lives of all of these people involved.

17 There's substantial credit in this case, is it five - I'm sorry, Mr.
18 Brooks do you have that number?

19 MR. BROOKS: I don't, Judge.

20 THE COURT: Hang on a second.

21 MR. BROOKS: Parole and Probation might have it.

22 THE COURT: I've got it in my PSI, it is 966 days, that'll be the Court's,
23 uh there might be, frankly, a few more because January 24th report.

24 MR. BROOKS: Let's see it'll be 966 and then added to that would be the
25 time from the pre sentence investigation report.

1 THE COURT: Additionally 29 days apparently, so looks like we're going
2 to be a thousand - Miss Clerk would you help me with that.

3 MR. KANE: 995.

4 MR. BROOKS: Correct, 995.

5 THE COURT: 995, thank you. 995 days credit time served.

6 MR. BROOKS: Thank you, Judge.

7 THE COURT: Thank you.

8 MR. KANE: Thank you.

9 THE COURT: \$25 administrative assessment, DNA fee.

10 * * * * *

11 ATTEST: I hereby certify that I have truly and correctly transcribed the
12 audio/video proceedings in the above-entitled case to the best of my ability.

13 Debra Van Blaricom
14 DEBRA VAN BLARICOM
15 Court Transcriber
16
17
18
19
20
21
22
23
24
25

FILED

MAY 11 10 49 AM '06

Shirley - [unclear]
CLERK

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRAN
CASE NO. C193182
DEPT. NO. XVIII

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

THE STATE OF NEVADA,)
)
) Plaintiff,)
)
vs.)
)
)
GLENFORD A. BUDD,)
)
)
Defendant.)
)

ORIGINAL

REPORTER'S TRANSCRIPT
OF
ALL PENDING MOTIONS

BEFORE THE HON. DAVID T. WALL, DISTRICT COURT JUDGE
WEDNESDAY, NOVEMBER 3, 2005
9:00 a.m.

APPEARANCES:

For the Plaintiff: JOSHUA L. TOMSHECK, ESQ.
Deputy District Attorney
For the Defendant: NONE PRESENT

Reported by: Angela K. Lee, CCR #789

RECEIVED
MAY 11 2006
COUNTY CLERK

1 LAS VEGAS, CLARK COUNTY, NEVADA
2 WEDNESDAY, NOVEMBER 3, 2005
3 9:00 a.m.

4 * * *

5 P R O C E E D I N G S

6 THE COURT: Page 4, State of Nevada versus
7 Glenford Budd, C193182. Are you Mr. Budd?

8 THE DEFENDANT: Yes.

9 THE COURT: That's being continued for Judge
10 Saitta to November 23rd.

11 THE CLERK: Correct at 9:00 a.m.

12 ATTEST: Full, true, and accurate transcript.

13 
14 _____

15 ANGELA K. LEE, CCR #789
16
17
18
19
20
21
22
23
24
25

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Supreme Court No. 46977

District Court Case No. C193182

FILED

2007 FEB -8 1P 4:07

CRJ
CLERK OF THE COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Janette M. Bloom, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows: "ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 9th day of January, 2007.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada, this 6th day of February, 2007.

Janette M. Bloom, Supreme Court Clerk

By: *J. Richard*
Chief Deputy Clerk

RECEIVED

FEB 08 2007

CLERK OF THE COURT

002560

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 46977

FILED

JAN 09 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction and sentence. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge.

On March 1, 2006, the district court convicted appellant Glenford Anthony Budd, pursuant to a jury verdict, of three counts of first-degree murder with the use of a deadly weapon. The district court sentenced appellant to serve three consecutive terms of life in prison without the possibility of parole for the murders and three consecutive equal terms for the deadly weapon enhancements.

Budd's sole claim on appeal is that there was insufficient evidence to support his convictions. "In reviewing evidence supporting a jury's verdict, this court must determine whether the jury, acting reasonably, could have been convinced beyond a reasonable doubt of the defendant's guilt by the competent evidence."¹ Evidence is sufficient to

¹Braunstein v. State, 118 Nev. 68, 79, 40 P.3d 413, 421 (2002) (citing Wilkins v. State, 96 Nev. 367, 374, 609 P.2d 309, 313 (1980)).

CLERK OF THE COURT

FEB 08 2007

RECEIVED

SUPREME COURT
OF
NEVADA

(O) 1947A

002561
07-00630

sustain a conviction if, viewed in the light most favorable to the prosecution, "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."²

At trial, Lazon Jones testified that in the hours before midnight on May 26, 2002, he was present in his apartment with his brother Dajon Jones, Derrick Jones (no relation), Jason Moore, and Budd. Budd left for about 15 minutes to buy a drink, then returned to the apartment, said he needed to use the bathroom, and went into the master bedroom where Dajon Jones was, closing the door behind him. Lazon Jones then heard two gunshots and Budd saying, "Where's my stuff at?" He then heard a third gunshot, at which point he fled the apartment and called 911 from a nearby pay telephone. While waiting for police to respond to his location, he saw Budd run across the street with a gun in his hand. He also testified that only himself, Dajon Jones, Derrick Jones, Jason Moore, and Budd were present when the shots were fired, and that he had seen Budd and Derrick Jones argue about Budd's missing marijuana earlier that day.

Las Vegas Metropolitan Police detectives Patricia Spencer and Michael Wallace were patrolling the apartment complex in a vehicle at the time of the incident. Detective Spencer testified that she heard gunshots, drove toward them, and observed an agitated group of people in front of a

²Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984) (emphasis in original) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

staircase leading up to some apartments. They also saw a young man run past their vehicle in his socks. She and Detective Wallace proceeded up the staircase and found Jason Moore, apparently dead from gunshot wounds, on the landing in front of Lazon Jones's apartment. They found Dajon Jones, also dead from gunshot wounds, in one of the bedrooms. Derrick Jones was lying in the hallway, wounded but alive. He was transported for medical treatment but died later from his wounds.

Celeste Palau testified that she was on her balcony when she heard the sound of what she thought were firecrackers coming from Lazon Jones's apartment. She looked in that direction and saw Lazon and a young woman she knew as Chrissy run down the staircase from the apartment. She then saw Budd exit the front door, linger on the landing while firing a weapon three times, then walk down the staircase and away from the area. She did not see anyone else leave the apartment.

Chrissy Smith testified that she was standing on Lazon Jones's apartment landing talking to Jason Moore when she heard shots. Derrick Jones and Lazon Jones then ran from the apartment. She and Lazon Jones ran down the stairs, but Derrick Jones went back inside the apartment.

Crime scene analysts recovered 11 expended cartridges from a 9-millimeter handgun at the scene as well as bullets and bullet fragments. All the cartridges were determined to have been fired by the same weapon. The bullets were also for a 9-millimeter, but analysts could not determine whether they were fired by the same weapon. The murder weapon was never recovered.

The medical examiner testified that Jason Moore sustained three gunshot wounds, one to the back of the head, one to the right neck, and one to the back of the right shoulder. Dajon Jones had two gunshot wounds to the left neck, one fired from about 24 inches away. Derrick Jones had seven gunshot wounds, including wounds to the forehead, ear, back of the left shoulder, right upper back, right hand, and back of the left arm. Four of the shots were fired from behind the victim. All of the victims' blood contained traces of marijuana and no trace of alcohol.

The preliminary hearing testimony of Budd's uncle, Winston Budd, was read into the record. Winston Budd testified that during the two days after the killings, before Budd was arrested, Budd called him and asked him to pick him up from a friend's house and to get some money for him so he could "get out of here." When Winston Budd picked Budd up, he noticed that Budd had cut his hair. Budd also told him that he suspected the victims had robbed him of some marijuana and he had shot them. Winston Budd testified that Budd said he had given the gun back to a friend, but did not name the friend. He advised Budd to turn himself in, but Budd said he "preferred to run."

Greg Lewis, who knew Budd before the killings, was in the same jail housing unit as Budd after Budd's arrest. Lewis testified that Budd told him he shot three people but a fourth had gotten away. Lewis notified homicide detectives of this information. Several days later, he also gave detectives a letter he had received from Budd in which Budd implicated himself in the killings. Lewis and a detective testified that no promises were made to Lewis to obtain his information or testimony, but

the jury was informed that an assistant district attorney wrote a letter to the parole board noting Lewis's cooperation in the investigation.

The detective who questioned Budd after his arrest testified that Budd said he had been in the apartment but fled with Lazon Jones after he heard shots.

Budd argues the evidence supporting his convictions was insufficient because Lazon Jones did not actually see him shoot anyone and because the witnesses were not credible. He claims that Lazon Jones, Celeste Palau, and Chrissy Smith gave differing testimony about the facts. In particular, he notes that Lazon Jones never mentioned Chrissy Smith and claimed the men were drinking alcohol but not smoking marijuana before the killings, whereas the victims' blood revealed traces of marijuana but not alcohol. Budd also notes that Celeste Palau's balcony was more than 200 feet from the scene of the crime, that Greg Lewis wanted help in obtaining parole, and that Winston Budd was not present in court.³

"[C]ircumstantial evidence alone may support a conviction."⁴ In this case, from the direct and circumstantial evidence presented, the jury could reasonably have inferred from the testimony presented that Budd was guilty of three first-degree murders with the use of a deadly

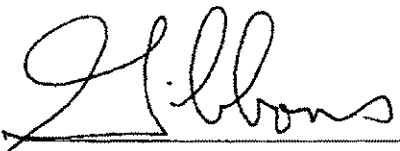
³At the time of trial, Winston Budd resided outside the country. The district court allowed his preliminary hearing testimony to be read into the record over a defense objection after the State detailed its fruitless efforts to secure his presence at trial.


⁴Hernandez v. State, 118 Nev. 513, 531, 50 P.3d 1100, 1112 (2002).

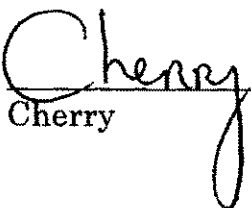
weapon. It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.⁵

Having reviewed Budd's contentions and concluded they are without merit, we

ORDER the judgment of the district court AFFIRMED.

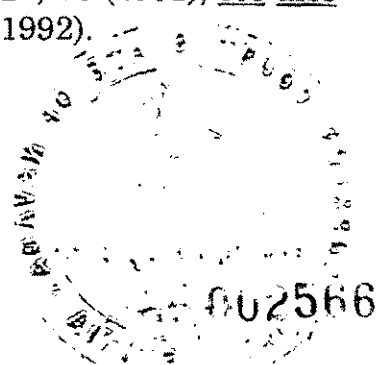

Gibbons J.


Douglas J.


Cherry J.

cc: Eighth Judicial District Court, Department Eighteen
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁵See Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).



07-02431567

Case No. 193182X

Dept. No. XVIII

FILED
May 1 2 24 PM '07
CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

C193182

GLENFORD A. BUDD
Petitioner,

v.

E.K. McDANIEL, Warden,
Ely State Prison

Respondent.

AFFIDAVIT IN SUPPORT OF
MOTION TO PROCEED
IN FORMA PAUPERIS

I, Glenford A. Budd being first duly sworn, depose and say that I am the
Petitioner in the above-entitled case; that in support of my motion to proceed without being required to
prepay fees, cost or give security therefor, I state that because of my poverty I am unable to pay the costs of
said proceeding or to give security therefor; that I believe I am entitled to relief.

I do X do not X request an attorney be appointed to represent me.

I further swear that the responses which I have made to the questions and instructions below
relating to my ability to pay the cost of prosecuting the proceeding are true.

1. Are you presently employed? Yes _____ No X

a. If the answer is yes, state the amount of your salary or wages per month and give the
name and address of your employer.

EMPLOYER

EMPLOYER

Salary or Wage per month

Salary or Wage per month

b. If the answer is no, state the date of your last employment and the amount of the
salary or wages per month which you received. N/A

N/A

Date of last Employment

Date of last Employment

RECEIVED

MAY 01 2007

CLERK OF THE COURT

Salary or Wage per month

Salary or Wage per month

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or form of self-employment?
Yes _____ No X

b. Rent payments, interest or dividends?
Yes _____ No X

c. Pensions, annuities or life insurance payments?
Yes _____ No X

d. Gifts or inheritances?
Yes _____ No X

e. Any other sources?
Yes _____ No X

If the answer to any of the above is "Yes" describe each source of money and state the amount received from each during the past twelve months:

_____ Source of Income	_____ Source of Income
_____ Amount Received (in the past year)	_____ Amount Received (in the past year)

3. Do you own any cash or checking or savings account? Yes _____ No X

a. If the answer is yes, state the total value of the items owned.

_____ Item	_____ Item	_____ Item
_____ Total Value	_____ Total Value	_____ Total Value

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? NO

a. If the answer is yes, describe the property and state its approximate value.

_____ Property	_____ Property	_____ Property
_____ Approximate value	_____ Approximate value	_____ Approximate value

5. List the persons who are dependent upon you for support and state your relationship to those Persons, and indicate how much you contribute towards their support.

Person	Person	Person
Relationship	Relationship	Relationship
Contribution	Contribution	Contribution

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury.


Petitioner

EXECUTION OF INSTRUMENT BY PRISONER

Pursuant to N.R.S. 208.165, I hereby declare under the penalty of perjury that the contents of the above documents are true and correct to the best of my knowledge.


Petitioner/Declarant

ORDER

Let the applicant proceed without prepayment of costs or fees or the necessity of giving security therefor.

DATED this ____ day of _____, 200__.

District Judge

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____
MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS: AFFIDAVIT IN
SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS:

(Title of Document)

filed in District Court Case No. 193182x

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-OR-

B. For the administration of a public program or
for an application for a federal or state grant.

(Signature)

April 25, 2007
(Date)

002571

ESP

Case No. 1931982X

Dept. No. XVIII

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF Clark

IN THE MATTER OF,

FINANCIAL CERTIFICATE

Name Blenford A. Budd # 90043
Prison Number

On a Motion to Proceed
In Forma Pauperis

Blenford A. Budd # 90043
Signature Prison Number

I hereby certify that the Petitioner/Applicant herein has the sum of
\$ 31.05 on account to his credit at the institution (Ely State
Prison) where he is confined. I further certify that the Petitioner/Applicant likewise has the following
securities to his credit according to the records of said institution (Ely State Prison):

\$ 35.29 in savings

Dated this 18th day of APRIL, 2007.

By Attorn
Nevada Department of Corrections
Inmate Services Accountant
Authorized Officer of Institution

Original Court's Copy

Case No. 1931982K

Dept. No. XVIII

C 193182

#18

FILED

Mar 1 2 24 PM '07

CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

C 193182

GLENFORD A. BUDD

Petitioner,

v.

E.K. McDANIEL, Warden,

Ely State Prison

Respondent.

MOTION FOR LEAVE TO
PROCEED IN FORMA PAUPERIS

5-21-07

COMES NOW, the Petitioner,, in propria persona, pursuant to N.R.S. 12.015, and respectfully moves this Honorable Court for an Order granting Petitioner leave to proceed in the above-entitled action in forma pauperis, without requiring Petitioner to pay or provide security for the payment of costs of prosecuting this action.

This motion is made and based upon the attached affidavit and certificate.

Dated this 26 day of April, 2007.

Respectfully submitted,

Glenford A. Budd
Petitioner

Glenford A. Budd #90043

RECEIVED

APR 30 2007

CLERK OF THE COURT

Page 2

Please understand that the Appendix in your case is the record on appeal.

Very truly yours,

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

HOWARD S. BROOKS
Deputy Public Defender

HSB/cmc
Encls.

BOARD OF COUNTY COMMISSIONERS
Rory Reid, County Chair • Chip Maxfield, Vice-Chairman
Susan Brager • Tom Collins • Yvonne Atkinson Gates • Chris Giunchigliani • Bruce L. Woodbury
Virginia Valentine, P.E., County Manager

002574

FILED
May 1 2 24 PM '07
CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

C193182

GLENFORD A BUDD

Petitioner/Plaintiff,

vi.

E K McDANIEL Warden
Ely State Prison

Respondent/Defendant.

Case No. 193182X

Dept. No. XVIII

Docket No. _____

5-21-07

MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD OR IN THE
ALTERNATIVE, REQUEST FOR RECORDS/COURT CASE DOCUMENTS

COMES NOW, Petitioner/Plaintiff, Glenford A Budd, pro per,
and respectfully moves this Honorable Court for it's Order withdrawing Howard S Brooks
Deputy Public Defender, Esq., as the Attorney of Record in the above-entitled matter.

This Motion is made and based upon Nev. Rev. Stat. 7.055, and Nev. Sup. Ct. Rules 166(4), 173,
176, and 203, and Rules 11 and 20 of the Rules of the District Courts of the State of Nevada.

POINTS AND AUTHORITIES

Nev. Rev. Stat. 7.055, provides that:

An attorney who has been discharged by his client shall, upon demand...immediately
deliver to the client all papers, documents, pleadings and items of tangible personal
property which belong to or were prepared for that client.

See also Nev. Sup. Ct. Rule 166(4):

Upon termination of representation, a lawyer shall take steps to the extent reasonably
practicable to protect a client's interests, such as ...surrendering papers and property to
which the client is entitled..."

Petitioner/Plaintiff would respectfully point out to this Court and the attorney of record that there

RECEIVED

MAY 01 2007

CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

GLENFORD A BUDD }

Petitioner/Plaintiff, }

v. }

E K MCDANIEL, Warden. }

Ely State Prison. }

Respondent/Defendant.

Case No. 193182X

Dept. No. XVIII

Docket No. _____

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Respondent/Defendant, DAVID ROGER

_____, County District Attorney, and Howard S. Brooks, Deputy
Public Defender, Esq.

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the _____ day of _____
_____, 200____, at the hour of 9:00 O'clock A.M., or as soon thereafter as
the parties may be heard, the undersigned will bring on for hearing the attached **MOTION FOR
WITHDRAWAL OF ATTORNEY OF RECORD**, before the above-entitled Court, at the
Clark County District Courthouse, in Las Vegas, Nevada, in
Department No. XVIII, thereof.

DATED this 26 day of April, 2007.

Respectfully submitted,



Petitioner/Plaintiff

Ely State Prison

P.O. Box 1989

Ely, Nevada 89301-1989

002576

is controlling law on this issue. This citation of authority is precautionary only. In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963), and State v. Alvey, 215 Kan. 460, 524 P.2d 747 (1974), both cases dealt with a factual situation involving a withdrawn attorney refusing to deliver to a former client his documents after being requested to do so by the client. The Court in Yount, supra, ordered the attorney disbarred, while in Alvey, supra, the Court had the attorney censured.

In most situations it is obviously not necessary to notify the parties when the attorney withdraws from a case, but when the client wishes to remove his attorney and represent himself in person, it is required by these Statutes and Rules that the client request the Court of action to issue a certificate releasing the attorney of record. Under such statutes it is necessary for the party to present his request for the change in order for the court in making an order withdrawing the attorney of record, and to make formal demand to the Attorney for the return of all papers and property.

Therefore, let this Court be so notified that this is the desire of the Petitioner/Plaintiff herein that the aforementioned attorney of record be withdrawn and the same shall be for any other attorney(s) which could possibly be subscribed and documented as attorney(s) of record in this case, so that further actions in the above-entitled cause can be conducted by the Petitioner/Plaintiff in proper person.

Further, Petitioner/Plaintiff hereby makes formal demand upon Howard S Brooks, Deputy Public Defender, Esq., for the return of his entire file, including, but not limited to all papers, documents, pleadings and items of tangible personal property which belong to or were prepared on

my behalf to me at the address set forth in this pleading. (M-2-7-07, Sent Petitioner the following See Ex. 1) Attached. Counsel failed to send all Discovery, witnesses out of court statements, forensic evidence, etc.

Further, it is requested of this Court that it issue an Order directing the named attorney of record that he turn over to the Petitioner/Plaintiff the entire case file, without costs, including, but not limited to, the trial transcripts or guilty plea transcript, all briefs on appeal, and all other papers and police reports relating to this matter, so that Petitioner/Plaintiff may prosecute an appeal/post-conviction with a minimum amount of delay.

CONCLUSION

WHEREFORE, all of the above stated reasons, Petitioner/Plaintiff respectfully requests this Honorable Court to grant his Motion for Withdrawal of Attorney of Record in accordance with this Court's fair and just consideration of the facts of the case, and instruct counsel to send Petitioner all other papers, documents, police reports, and any and all other documents that he may have in his possession belonging to Petitioner's case.

002577

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion For
Leave To Proceed In Forma Pauperis; Affidavit In Support Of Motion
To Proceed In Forma Pauperis; Notice Of Motion; Motion For With-
drawal of Attorney Of Record Or In The Alternative. Request For
Records/Court Case Documents
(Title of Document)

filed in District Court Case No. 193182x

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-OR-

B. For the administration of a public program or
for an application for a federal or state grant.

Blumfeld, David
(Signature)

April 26, 2007
(Date)

002578

DATED this 26 day of April, 2007.

Respectfully submitted,

Glenford A. Budd
Glenford A. Budd #90043
Petitioner/Plaintiff

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5(b) that I am the Petitioner/Plaintiff in the foregoing Notice of Motion and Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents on this 26 day of April, 2007, I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the Ely State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

Clark County Clerk
200 Lewis Ave
Las Vegas, NV 89101
DAVID ROGER, Esq.
Clark County DDA
200 Lewis Ave
Las Vegas, NV 89101

Office Of The Public Defender
Howard S. Brooks
Deputy Public Defender
309 S 3rd St. #226
Las Vegas NV 89155-2610

DATED this 26 day of April, 2007.

Glenford A. Budd
Petitioner/Plaintiff
Glenford A. Budd #90043
Ely State Prison
PO BOX 1989
Ely, NV 89301

Glenford Budd
Inmate No 90043
Ely State Prison
PO BOX 1989
Ely Nevada 89301

Office Of The Public Defender
HOWARD S BROOKS #3374
Deputy Public Defender
309 South Third Street #226
Las Vegas Nevada 89155 2610

January _____ 2007

RE: GLENFORD ANTHONY BUDD v STATE OF NEVADA
District Court Case No 193182K; Nevada Supreme Court
Case No 46977. To obtain entire Record On Appeal.

Dear Counsel Brooks,

Since my Direct Appeal is now been decided by the Supreme Court of Nevada, could you please avoid unnecessary delays and withdraw as counsel of record and forward to me at the above address a copy of my Record On Appeal, and Appendix, all Volumes. You stated on my Direct Appeal's Opening Brief that there were Seven Volumes. Please do as I request and inform me that you have complied with my request so that I may proceed with my State Petition For Writ Of Habeas Corpus (Post-Conviction) in a timely manner. If you have any questions, please feel free to write and ask me. Thank you for your time in concerns to this matter.

Sincerely,


GLENFORD ANTHONY BUDD

cc;hsb

///

///

///

002580



Office of the Public Defender

309 So. Third St. • Second Floor • PO Box 552610 • Las Vegas NV 89155-2610

(702) 455-4685 • Fax (702) 455-5112

Philip J. Kohn, Public Defender • Daren B. Richards, Assistant Public Defender



February 7, 2007

Glenford Budd
NDOC No. 90043
Ely State Prison
P.O. Box 1989
Ely, NV 89301

RE: Glenford Anthony Budd v. State of Nevada
Case No. 46977

Dear Glenford:

I received today, February 7, 2007, your letter dated January 29, 2007.

In your letter you state that you request that we withdraw as the attorney of record in your case.

You also request that we send to you all of the record on appeal and appendix in your case.

In compliance with your instructions, I will file with the Court a notice that we have withdrawn as the counsel of record for you.

I am also sending to you, by a separate box, the following documents:

1. A folder containing miscellaneous documents.
2. The record on appeal, Volume I.
3. The record on appeal, Volume II
4. The record on appeal, Volume III
5. The record on appeal, Volume IV
6. The record on appeal, Volume V
7. The record on appeal, Volume VI
8. The record on appeal, Volume VII

EXHIBIT # 02581

ESP

Case No. 193182X

Dept. No. XVIII

FILED

May 1 2 24 PM '07

[Signature]
CLERK OF THE COURT

0193182

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF Clark

IN THE MATTER OF,

FINANCIAL CERTIFICATE

Name
Glenford A. Buckle # 90043
Prison Number

On a Motion to Proceed
In Forma Pauperis

[Signature] # 90043
Signature Prison Number

I hereby certify that the Petitioner/Applicant herein has the sum of
\$ 31.05 on account to his credit at the institution (Ely State
Prison) where he is confined. I further certify that the Petitioner/Applicant likewise has the following
securities to his credit according to the records of said institution (Ely State Prison):

\$ 35.29 in savings

Dated this 18th day of APRIL, 2007

RECEIVED

MAY 01 2007

CLERK OF THE COURT

By: *[Signature]*
Nevada Department of Corrections
Inmate Services Accountant
Authorized Officer of Institution

RCUD IN SER*08APR17

002582

7

FILED

JUL 5 1 39 PM '07

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

GLENFORD A. BUDD,
Petitioner,

Case No. 03-C-193182-C
Dept. No. 18

VS.

THE STATE OF NEVADA
et. al.,

Respondent/Defendant.

MOTION TO HOLD, HOWARD S. BROOKS, ATTORNEY OF RECORD IN CONTEMPT
FOR FAILING TO FORWARD A COPY OF THE CASE FILE

COMES NOW, Petitioner, Glenford A. Budd, pro per and respectfully moves
this Honorable Court for its Order holding, Howard S. Brooks, Deputy Public
Defender, as the Attorney of Record in the above-entitled matter in contempt of
Court for failing to forward a copy of the case file.

This Motion is made and based upon NRS 7.055, and Nev. Sup.Ct. Rules 166(4),
173, 176 and 203, and Rules 11 and 20 of the Rules of the District Court of the State
of Nevada.

POINTS AND AUTHORITIES

Petitioner filed a pro per motion for withdrawal of attorney/^{Records}~~Records~~ OR, IN
~~THE ALTERNATIVE~~, Request for Records/Court Case Documents; Motion For Leave To
Proceed In Forma Pauperis, with this Court on May 1, 2007; Requesting
Specifically, All pre trial Discovery; Affidavit of Prosecutor's Investigator
disposition of State Witness, Winston Buckle from the Country of Belize;
States motion pursuant to NRS 11.055(1)(c) & NRS 51.375(1), "unavailability as a
witness" & "former Testimony"; and Appellant Appendix, pages 001393 through 001461, and
all other missing documents pursuant to this matter, including Jury Instructions
and a copy of the Remittitur.

RECEIVED

JUL 05 2007

CLERK OF THE COURT

(Handwritten signature/initials)

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

GLENFORD A. BUDD,

Petitioner/Plaintiff,

v.

THE STATE OF NEVADA, et al.

Respondent/Defendant.

Case No. 03-C-193182-C

Dept. No. 18

Docket No. _____

Hearing Date: _____

Hearing Time: _____

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Respondent/Defendant, DAVID ROGER

CLARK

County District Attorney, and HOWARD S. BROOK,
Deputy Public Defender, Esq.

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the _____ day of _____

_____, 200____, at the hour of 9:00 O'clock A.M., or as soon thereafter as

the parties may be heard, the undersigned will bring on for hearing the attached **MOTION TO HOLD**

Howard S. Brook, ATTORNEY OF RECORD, IN CONTEMPT FOR

FAILING TO FORWARD A COPY OF THE CASE FILE, before the above-entitled Court, at the

Clark County Courthouse, in Las Vegas, Nevada, in

Department No. 18, thereof.

DATED this 1 day of July, 2007.

Respectfully submitted,

Glenford A. Budd
Petitioner/Plaintiff Glenford A. Budd
Ely State Prison #90043
P.O. Box 1989
Ely, Nevada 89301-1989
Petitioner, Pro Per

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

On May 21, 2007, this Court heard the motions and granted them both.

On ~~May 21~~^{June 14}, 2007, the Petitioner wrote Howard S. Brooks a letter and sent him a copy of the Criminal Court Minutes and the Order Granting Petitioner's Motion for Withdrawal of Attorney of Record and Transfer of Records. See Exhibit A attached.

As of the date of this motion, Petitioner has not received any response from Mr. Brooks or the transfer of records that was requested.

ARGUMENT

Nevada Courts have the inherent power and jurisdiction to impose sanctions on attorneys. even in crimnal cases. See Supreme Court Rules, Rule 39, and also, Young v. Ninth Judicial District Court, 107 Nev. 652, 818 P.2d 844 (1991); and, Greene v. State, 113 Nev. 157 at 170, 931 P.2d 54 (1997).

Petitioner's Direct Appeal was decided on Jan 9, 2007. Mr. Brooks did not send the the file to the Petitioner upon the Supreme Courts Decision to deny the appeal. Nevada Revised Statute chapter 34 sets forth the procedures to be utilized by a person convicted of a crime to collaterally attack their conviction. NRS 34.726 requires that the Petition for Writ of Habeas Corpus (Post-Conviction) be filed within one (1) year of the date of the remittitur issuing in the case. Mr. Brooks has not forwarded the file to Petitioner when his representation was complete upon the denial Of the Direct Appeal and even after this Court has ordered him to forward the file to the

///

1 SCR 154(1) requires an attorney to keep a client reasonably
2 informed about the status of a matter and to promptly comply with
3 a reasonable request for information. As shown by the Court's
4 Order of May 21, 2007, Mr. Brooks has not promptly
5 responded to Petitioner's request for his case file so that the
6 Petitioner can competently challenge his conviction in the Courts.

7 The Nevada Supreme Court has adopted the standard set forth
8 in Strickland v. Washington, 104 S.Ct. 2052, 466 U.S. 668 (1984),
9 for judging the reasonable effective assistance of counsel. See
10 Warden v. Lyons, 683 P.2d 504, 100 Nev. 430 (1984); Dawson v.
11 State, 825 P.2d 593, 108 Nev. 112 (1992).

12 Strickland, requires that a convicted defendant making a
13 claim of ineffective assistance of counsel must identify the acts
14 or omissions of counsel that are alleged not to have been the
15 result of professional judgment. Id., 104 S.Ct. at 2066 n.12.

16 Without the requested file Petitioner cannot identify all of
17 acts and omissions of counsel. He is in essence in a boat without
18 a paddle and no way to steer a course. Without the file Mr.
19 Budd can do no more than make bare allegations.

20 SCR 166(4) requires that upon termination of representation
21 the attorney shall take reasonable steps to protect a client's
22 interests, including surrender papers and property to which the
23 client is entitled. See In re Kaufman, 93 Nev. 452, 567 P.2d 957
24 (1977); and, In re Frankovich, 94 Nev. 104 at 109, 575 P.2d 931
25 (1978).

26 Counsel Brooks clearly has failed in his obligations to the
27 Petitioner in not forwarding his file to him upon the termination
28 of representation. He can not claim that he is unaware of the

1 Supreme Court Rules which define and determine the conduct of
2 all attorneys in the State of Nevada. He was notified of the
3 Court's Order by the District Attorney's Office, and he received
4 a letter with a copy of the Court's Order from the Petitioner. He
5 has completely ignored and refused to comply with the Supreme
6 Court Rules and Order of this Court. For those reasons Mr. Howard
7 S. Brooks should be censured by this Court imposing a fine/
8 imprisonment of 48 hours and made to comply with this Courts
9 Order.

10

CONCLUSION

11 WHEREFORE all of the above stated reasons, Petitioner requests
12 this Honorable Court find Mr. Howard S. Brooks in contempt and impose
13 a sanction that will insure future compliance with this Court's
14 Orders and make him comply with the present order.

15 DATED THIS 1 day of July, 2007.

16

Respectfully Submitted,

17

Glenford A. Budd
Glenford A. Budd #90043

18

Ely State Prison

19

P.O. Box 1989

20

Ely, Nevada 89301

21

Petitioner, Pro Per

22

23

24

25

26

///

27

///

28

///

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5(b) that I am the Petitioner/Plaintiff in the foregoing Notice of Motion and Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents on this 1 day of July, 2007, I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the Ely State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

Clerk, District Court
Clark County, NV.
Charles J. Short
200 Lewis Ave. 3rd Floor
Las Vegas, Nevada
89155-1160

Howard S. Brooks
Deputy Public Defender
309 South Third Street
Las Vegas, Nevada
89155-2610
DAVID ROSEN D.A.
200 Lewis Ave
Las Vegas, NV 89155

DATED this 1 day of July, 2007.

Glenford A. Budd
Petitioner/Plaintiff
Glenford A. Budd, #90043
Ely State Prison
PO Box 1989
Ely, Nevada 89301

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion to
Hold, Howard S. Brooks, Attorney of Record in contempt
for failing to forward a copy of the case file
(Title of Document)

filed in District Court Case No. 03-C-193182-C

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:
NRS 7.055; NSCT Rules 166(4), 173, 176;
203; And District Court Rules 11 & 20
(State specific law)

-OR-

B. For the administration of a public program or
for an application for a federal or state grant.

Blanford A. Budd
(Signature)

July 1, 2007
(Date)

002589

CRIMINAL COURT MINUTES

03-C-193182-C STATE OF NEVADA vs Budd, Glenford A
CONTINUED FROM PAGE: 017

05/21/07 08:30 AM 00 ALL PENDING MOTIONS (5/21/07)

HEARD BY: David Barker, Judge; Dept. 18

OFFICERS: Sharon Chun, Court Clerk
Richard Kangas, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
007521	Smith, Sarah A.	Y
0001 D1	Budd, Glenford A	N
PUBDEF	Public Defender	Y
006208	Avants, Lynn	Y

DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS...DEFT'S PRO
PER MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD OR REQUEST FOR COURT
RECORDS/COURT CASE DOCUMENTS

COURT NOTED that Deft is incarcerated in the NV Dept of Corrections and not
present today.

COURT ORDERED, Deft's Pro Per Motion to Proceed Forma Pauperis, GRANTED.

COURT FURTHER ORDERED, Deft's Pro Per Motion for Withdrawal of Public
Defender as counsel and for Request for Court Records/Court Case Documents,
GRANTED. Mr. Avants stated he will contact prior counsel, Howard S. Brooks,
and will see that the records are forwarded to Deft Budd. COURT SO NOTED.

NDC

Glenford Budd, NDOC #90043
Ely State Prison
PO Box 1989
Ely, Nevada 89301

Howard S. Brooks,
Deputy Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610

Nev. St. 46977
District Court Case No. 03-C-193182-C
Dept. No. 18

RE: Missing Case Documents.

June 14, 2007

Counsel Brooks,

On 4/24/07 I wrote you in concerns to missing Court Case Documents pertaining to my case.

1. Pages 001398 through 001464, from Appellant's Appendix
2. ALL Pretrial Discovery
3. Prosecutor's investigator's affidavit as to attempts to depose State Witness, Winston Budd, and bring him to Court from Belize to testify. The Prosecutor's motion pursuant to NRS 51.055 1(d) and NRS 51.325.1, "Unavailability as a Witness," and "Former Testimony," submitted by the District Attorney's Office during my trial. All above documents are missing. Also, the Supreme Court of Nevada, Remittitur.

Attached is a copy of 5/21/07 Criminal Court Minutes which are self explained. Please comply with the Court's Order and send me the above requested Court Case Documents and any other Documents you have in relations to my case, so that I may complete and submit my State Petition for Writ of Habeas Corpus in a timely manner.

cc: Filed

Glenford A. Budd
Glenford Budd

002591

● ORIGINAL ●

1 RESP
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 309 South Third Street, Suite 226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

FILED

JUL 12 3 15 PM '07

DISTRICT COURT
CLERK OF COURT

CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 v.

10 GLENFORD ANTHONY BUDD,

11 Defendant.

CASE NO. C193182
DEPT. NO. XVIII

12
13 **CLARK COUNTY PUBLIC DEFENDER'S RESPONSE TO GLENFORD BUDD'S**
14 **MOTION TO HOLD CLARK COUNTY PUBLIC DEFENDER IN CONTEMPT**

15 COMES NOW the Clark County Public Defender, by and through Deputy Public
16 Defender HOWARD S. BROOKS and files this Response to Glenford Budd's pro per filing
17 requesting that the Clark County Public Defender be held in contempt.

18 The substantive response is included in the attached Declaration of Howard S.
19 Brooks.

20 DATED this 12 day of July, 2007.

21 PHILIP J. KOHN
22 CLARK COUNTY PUBLIC DEFENDER

23 By Howard S. Brooks
24 HOWARD S. BROOKS, #3374
25 Deputy Public Defender
26
27
28

RECEIVED
JUL 12 2007
CLERK OF COURT

002592

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

15
16
17
18
19
20
21
22
23
24
25
26
27
28

18
19
20
21
22
23
24
25
26
27
28

20
21
22
23
24
25
26
27
28

22
23
24
25
26
27
28

24
25
26
27
28

26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

By _____

GLENFORD A. BUDD
NDOC No. 90043
c/o Ely State Prison
P.O. Box 1989
Ely, Nevada 89301-1989

BY Carrie Connolly
Employee, Clark County Public
Defender's Office

FILED

AUG 10 11:14 AM '07

Chris [Signature]
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

GLENFORD A. BUDD,

Petitioner,

VS.

THE STATE OF NEVADA,

et al.,

Respondents

Case No. 03-C-193182-C

Dept. No. 18

NOTICE OF APPEAL

NOTICE OF APPEAL is hereby given by the Petitioner, Glenford A. Budd, acting in propria persona, to the Supreme Court of the State of Nevada from the Order Denying Defendant's Pro Per Motion to Hold Howard S. Brooks Attorney of Record in Contempt for failing to forward a copy of the case file, filed July 23, 2007.

DATED: this 6 day of August, 2007

Respectfully submitted,

Glenford A. Budd

Glenford A. Budd #900463

Ely State Prison

P.O. Box 1989

Ely, Nevada 89301

Petitioner, Pro Per

RECEIVED

AUG 10 2007

CLERK OF THE COURT

002595

CERTIFICATE OF SERVICE

I, Glenford A. Budd, petitioner, hereby Certify pursuant to
NRCP 5(b), that on this 6 day of August, 2007,
I mailed a true and correct copy of Notice of Appeal, via
First Class, postage pre-paid, to:

Charles J. Short,
Clerk of the Court
200 Lewis Avenue, 3rd floor
Las Vegas, Nevada 89155-1160

David Roger, Esq
Clark County District Attorney
200 Lewis Ave.
Las Vegas, Nevada 89155

DATED this 6 day of August 2007.

Glenford A. Budd
Glenford A. Budd # 90043
Ely State Prison
PO Box 1789
ELY, Nevada 89301

Petitioner, Pro Per

///

///

///

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice of Appeal for Defendant's Pro Per Motion, to Hold Howard S. Brooks, Attorney of Record in Contempt for failing to forward a copy of the case file

(Title of Document)

filed in District Court Case No. 03-C-193182-C

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

N.R.C.P. 5(6)
(State specific law)

-OR-

B. For the administration of a public program or
for an application for a federal or state grant.

[Signature]
(Signature)

August 6, 2007
(Date)

002597

1 A. Yes.

2 Q. And you stood outside on your balcony and
3 watched them?

4 A. I was downstairs.

5 Q. Did you ever go all the way over to the
6 apartment and hang outside the apartment?

7 A. I was in the middle, halfway there.

8 Q. Did you talk to other neighbors standing
9 around watching this?

10 A. Yes.

11 Q. Did you hear the basic story of what
12 happened from the other neighbors?

13 A. It was about several different stories.

14 Q. And people were talking that, in fact, AI
15 had done this, correct?

16 A. Yes.

17 Q. And people were saying that AI had shot
18 three people inside that apartment?

19 A. No. Everybody didn't really know. They
20 just heard it.

21 Q. Did people talk about there being a
22 person inside who was dead?

23 A. Yes.

24 Q. And did people talk about the fact that
25 one person was taken to the hospital or taken away

002500

1 in an emergency vehicle?

2 A. They were taken as we were talking about
3 it.

4 Q. So, you saw that happen?

5 A. Yes.

6 Q. Why did you not talk to the police that
7 night?

8 A. I didn't want to at first.

9 Q. Why did you not want to?

10 A. There was a lot of people around, and it
11 was too many people talking, and I just didn't
12 want to get involved.

13 Q. Okay. You waited more than two weeks to
14 talk to the police, correct?

15 A. Yes.

16 Q. Did you contact the police or the police
17 contact you?

18 A. They showed up at my house.

19 Q. Did you provide to them the name of the
20 other person there with you that night who saw all
21 this?

22 A. Yes.

23 Q. Did you have much contact with that
24 person in those two weeks between the night of the
25 shooting and when the police talked to you?

1 A. No.

2 Q. Do you know if that person ever talked to
3 the police?

4 A. I don't know.

5 MR. BROOKS: Pass the witness, your
6 Honor.

7 THE COURT: Redirect?
8

9 REDIRECT EXAMINATION

10 BY MR. KANE:

11 Q. Just a couple. I neglected to ask you,
12 when you saw AI in the doorway of the apartment at
13 the time he's firing the first shot, there is the
14 light from that light between the two apartments,
15 correct?

16 A. By the door?

17 Q. When, when you're looking at him standing
18 in the doorway --

19 A. Yes.

20 Q. -- there is illumination from that light
21 that's in between the two apartments, correct?

22 A. Yes.

23 Q. Was there any light coming from inside
24 the apartment --

25 A. Yes.

1 Q. -- behind AI? Describe that.

2 A. It, just regular lamp that would be in
3 the living room. And there was a little bit of
4 smoke coming out of the apartment when the door
5 first opened up.

6 Q. And, and just to be clear, and I know
7 you've been over this before. You see the two
8 people run down the stairs, correct?

9 A. Yes.

10 Q. Then you see AI do what he does on the
11 balcony, correct?

12 A. Yes.

13 Q. And you're watching him the whole time
14 from when those shots are fired, as he goes down
15 the stairs and turns the corner and goes this way,
16 correct?

17 A. Yes.

18 Q. And by that time the police have turned
19 the corner, and they're proceeding up the street
20 here?

21 A. Yes.

22 Q. Does anybody else leave that apartment
23 besides Lazon, the girl that you saw, and AI?

24 A. No.

25 Q. And by the time AI clears this corner the

1 police are already there --

2 A. Yes.

3 Q. -- in a position to see if there was
4 anybody else that left the apartment?

5 A. Yes.

6 MR. KANE: Nothing further, your Honor.
7

8 RECROSS-EXAMINATION

9 BY MR. BROOKS:

10 Q. Just briefly, judge. Mr. Kane asked a
11 little bit about what you were seeing there, and I
12 had asked you about your eyesight. And, and you
13 testified that you do not wear glasses. In fact,
14 you told the police that you did have a history of
15 nearsightedness, didn't you?

16 A. Yes.

17 Q. And, in fact, you used to wear glasses?

18 A. Yes.

19 Q. And you told the police at one time you
20 were not able to see long distances?

21 A. Yes.

22 Q. Okay. All of that information you told
23 the police was true?

24 A. Yes.

25 MR. BROOKS: Okay. Thank you.

1 THE COURT: Mr. Kane, anything further?

2 MR. KANE: No, your Honor.

3 THE COURT: You may step down. Thank you
4 for your time.

5 This is probably where we're going to
6 adjourn for the day; is that correct?

7 MR. KANE: If it pleases the Court, your
8 Honor.

9 THE COURT: Yes. Ladies and gentlemen,
10 we're going to be in our weekend recess. We will
11 reconvene again on Monday at 1:30. It is going to
12 be very important that you listen to the
13 admonishment that I know after a while becomes
14 sort of rote for me, and I suspect that you tune
15 it out. But it's very, very important that you
16 remember it remains your duty not to discuss this
17 case among yourselves or with anyone else. You
18 cannot read, watch, listen to any report of or
19 commentary on anything which might be associated
20 with this matter. And you cannot do any research
21 of any type, including but not limited to, you
22 cannot visit the scene. You can't do any type of
23 research whatsoever having to do with what you
24 believe to be the facts of this case. And, of
25 course, you cannot form or express an opinion

1 until this matter has been fully and finally
2 submitted to you under instruction of law by me.

3 I will look forward to seeing you Monday
4 afternoon. Have a good weekend.

5 (Thereupon, the jury exited the courtroom.)

6 THE COURT: Very well. Let the record
7 reflect that we are now outside the presence of
8 the jury. I believe, Mr. Brooks, you indicated
9 you had something to add.

10 MR. BROOKS: Yes, briefly, judge. The
11 witness, Ms. Palau, was unable to identify the
12 precise number of feet between her apartment and
13 the apartment where the shooting occurred,
14 apartment 2062. She did, however, identify two
15 defense exhibits. Those two defense exhibits plus
16 another proposed defense exhibit, which is Exhibit
17 D, are all photographs taken by the public
18 defender's investigator, Steve Yoshida. I have
19 not indicated an interest in calling him before as
20 a witness. However, I would like to have
21 permission to call him on Monday or whatever to
22 simply state that he took the picture and to
23 provide the details regarding the number of feet
24 between the two buildings. His testimony would
25 probably take no longer than approximately seven

1 to 10 minutes. And I, I'm not sure the State
2 would object to that or not.

3 MR. KANE: I have no objection to the
4 testimony, or if he's done a report or write-up,
5 we can stipulate to it.

6 MR. BROOKS: I may check his report, and
7 maybe we, we can just do it by stipulation,
8 because his testimony is relatively simple.

9 The second issue, judge, is, I want to
10 make a record regarding the representation of Greg
11 Lewis, because this will undoubtedly confuse
12 future readers of the record in this case. When I
13 first learned of Greg Lewis as a witness in this
14 case, I tried to find out whether or not we have
15 represented Greg Lewis. Our office have
16 represented several Greg Lewises. In fact, I went
17 to prison, to Indian Springs to interview Greg
18 Lewis.

19 THE COURT: Or a Greg Lewis.

20 MR. BROOKS: A Greg Lewis, correct. And
21 it turns out that the Greg Lewis that our offices
22 represented is not the Greg Lewis that the State
23 has produced as a witness here today. And
24 apparently this Greg Lewis was represented by
25 Craig Mueller as his lawyer, and I had never met

1 this Greg Lewis until today. But I do want to
2 make sure that the record reflects there are Greg
3 Lewises we have represented, and they're the wrong
4 ones.

5 THE COURT: Mr. Kane, anything you want
6 to add?

7 MR. KANE: No, your Honor.

8 THE COURT: Very well, then. Do you have
9 a matter to --

10 MR. KANE: Real quick, judge. The letter
11 that we've been talking about, the envelope, the
12 letter itself, and the song have been marked as
13 Proposed -- 49A is the envelope. Forty-nine B is
14 the letter. Forty-nine C is the single sheet
15 containing the song. And I just wanted to make a
16 record that all counsel have examined that, and
17 we've lodged it with the court clerk and had it
18 numbered today, and we'll be using it on Monday.

19 THE COURT: On Monday, which leads me to
20 what I would like to take up with you all. Where
21 are you in the, your order of proceeding,
22 Mr. Kane? What's left?

23 MR. KANE: Judge, what's left is Greg
24 Lewis and any other human being that we can find
25 which is still willing to come here that was at

1 the Saratoga Palms Apartments present May 26th,
2 27th, 2003, which I am unable to assure the Court
3 at this point of anybody, and the homicide
4 detective.

5 THE COURT: If, do I recall that you also
6 had a transcript that you would like to be reading
7 into the record?

8 MR. KANE: Correct. And that's not very
9 long. I would think 15, 20 minutes at the most.

10 THE COURT: Okay. Then my estimation is
11 that you'll probably close on Monday, fair?

12 MR. KANE: I expect so. I expect so. It
13 all depends on --

14 THE COURT: One-thirty to 5:30. And,
15 Mr. Brooks, I'm now led to believe that you and
16 Mr. O'Brien will be offering at least some
17 witnesses in the form of a defense case. Is that
18 a fair statement?

19 MR. BROOKS: Well, judge, actually I
20 believe that Mr. Yoshida may be the only witness.
21 I do not believe at this time Mr. Budd is going to
22 testify.

23 THE COURT: And that would be very short
24 testimony, I presume, correct?

25 MR. BROOKS: Yes.

1 THE COURT: And I already have at least a
2 set of jury instructions. Are these the
3 agreed-upon instructions?

4 MR. BROOKS: They're not agreed upon yet,
5 judge, but I will have any disagreements I have
6 ready by Monday morning.

7 THE COURT: Very well. And, Mr. Brooks
8 and Mr. O'Brien, you both know that my preference
9 for those objections is in the form of, I object
10 to this. And you can type it right on the copy of
11 the State's. I object to this, because -- you're
12 going to cite to me either the authority. In many
13 instances it turns out to be violates the
14 constitution. But if you feel that it is either,
15 either an incorrect statement of law or that there
16 is a better statement of the law that should be
17 used, I would ask that you please attach that to
18 the back of the instruction that you disagree
19 with, nothing formal, no brief, nothing like that.
20 We'll argue it in full at the time that we
21 actually order the instructions.

22 And, Mr. Kane, if the defense, when they
23 present to you, should they present to you what
24 they would like to be as a part of the jury
25 instructions, the same is true to you. I object

1 to this, because -- and then just attach for me
2 the authority upon which you rely.

3 MR. KANE: I'll do that.

4 THE COURT: And we'll go from there.

5 MR. KANE: Judge, one last thing. In
6 connection with the testimony of Winston Budd, I
7 had made oral representations as to what my
8 investigator would say. I prepared and he signed
9 an affidavit. I've lodged it with the clerk. I
10 would ask that it be marked as a court exhibit so
11 that it doesn't go to the jury and made part of
12 the record.

13 THE COURT: And, Mr. Brooks and O'Brien,
14 I presume you've seen that.

15 MR. BROOKS: We have, your Honor.

16 THE COURT: Very well. Any objection
17 that it becoming part of the Court's record?

18 MR. BROOKS: Not from the defense.

19 THE COURT: Very well. It will be so
20 marked.

21 Is that the first court's exhibit we
22 have?

23 THE CLERK: Court's 1.

24 THE COURT: Very well. Thank you all.

25 * * * * *

1 Attest: Full, true, accurate transcript of
2 proceedings.
3
4

5 

6 Janice David, CCR No. 405
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 **ORDR**2 **DAVID ROGER**

3 Clark County District Attorney

4 Nevada Bar #002781

5 **EDWARD R.J. KANE**

6 Chief Deputy District Attorney

7 Nevada Bar #001438

8 200 Lewis Avenue

9 Las Vegas, Nevada 89155-2212

10 (702) 671-2500

11 Attorney for Plaintiff

FILED

MAR 20 2 58 PM '06

Shirley D. Rungie
CLERKDISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 GLENFORD BUDD,
12 #1900089

13 Defendant.

CASE NO: C193182

DEPT NO: XVIII

ORDER FOR TRANSCRIPT

14 Upon the ex-parte application of the State of Nevada, represented by DAVID
 15 ROGER, District Attorney, by and through, EDWARD R.J. KANE, Chief Deputy District
 16 Attorney, and good cause appearing therefor,

17 IT IS HEREBY ORDERED that daily transcripts of the trial commencing on
 18 December 16, 2005, be prepared by the Court Reporter for the above-entitled Court.

19 DATED this 2nd day of March, 2006.

20 *Tom Suttle*
 21 DISTRICT JUDGE

22 **DAVID ROGER**

23 District Attorney

24 Nevada Bar #002781

25 BY

26 *With K. Kane*
27 **EDWARD R.J. KANE**

28 Chief Deputy District Attorney

Nevada Bar #001438

RECEIVED

MAR 20 2006

COUNTY CLERK

ORIGINAL

CAS

PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR No. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

FILED

MAR 23 2 02 PM '06

Lilly B. Ruggione
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

GLENFORD ANTHONY BUDD,

Defendant.

CASE NO. C193182X

DEPT. NO. XVIII

CASE APPEAL STATEMENT

1. Appellant filing this case appeal statement:

Glenford Anthony Budd.

2. Judge issuing the decision, judgment, or order

appealed from: Nancy M. Saitta.

3. All parties to the proceedings in the district

court (the use of et al. To denote parties is prohibited): The

State of Nevada, Plaintiff; Glenford Anthony Budd, Defendant.

4. All parties involved in this appeal (the use of et.

al. to denote parties is prohibited): Glenford Anthony Budd,

Appellant; The State of Nevada, Respondent.

/ / /

/ / /

/ / /

/ / /

RECEIVED

MAR 23 2006

COUNTY CLERK

002514

1 5. Name, law firm, address, and telephone number of
2 all counsel on appeal and party or parties whom they represent:

3 PHILIP J. KOHN
4 Clark County Public Defender
5 309 South Third Street, #226
6 Las Vegas, Nevada 89155-2610

DAVID ROGER
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

6 Attorney for Appellant

GEORGE CHANOS
Attorney General
Nevada Bar No. 005248
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

10 6. Whether appellant was represented by appointed or
11 retained counsel in the district court: Appointed.

12 7. Whether appellant is represented by appointed or
13 retained counsel on appeal: Appointed.

14 8. Whether appellant was granted leave to proceed in
15 forma pauperis, and the date of entry of the district court order
16 granting such leave: N/A.

17 9. Date proceedings commenced in the district court
18 (e.g., date complaint, indictment, information, or petition was
19 filed): Information filed June 26, 2003.

20 DATED this 22nd day of March, 2006.

21 PHILIP J. KOHN
22 CLARK COUNTY PUBLIC DEFENDER


23
24 By:

Howard S. Brooks

25 HOWARD S. BROOKS, #3374
26 Deputy Public Defender
27 309 S. Third Street, Ste. 226
28 Las Vegas, Nevada 89155
(702) 455-5731

1 RECEIPT OF COPY of the foregoing Case Appeal Statement
2 is hereby acknowledged this 23 day of March, 2006.

3 DAVID ROGER
4 CLARK COUNTY DISTRICT ATTORNEY

5
6 By: 
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORIGINAL

NOAS

PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR No. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

MAR 23 2 02 PM '06

Shirley E. Ruzgine
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

GLENFORD ANTHONY BUDD,

Defendant.

CASE NO. C193182X

DEPT. NO. XVIII

NOTICE OF APPEAL

TO: THE STATE OF NEVADA

DAVID ROGER, DISTRICT ATTORNEY, CLARK COUNTY, NEVADA and
DEPARTMENT NO. XVIII OF THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF
CLARK.

NOTICE is hereby given that Defendant, Glenford Anthony
Budd, presently incarcerated in the Nevada State Prison, appeals
to the Supreme Court of the State of Nevada from the judgment
entered against said Defendant on the 1st day of March, 2006,
whereby he was convicted of Counts 1, 2, and 3 - First Degree
Murder With Use of a Deadly Weapon, and sentenced to \$25.00
Administrative fee, \$150.00 DNA Analysis fee, genetic marker
testing, \$28,500 restitution, as to Counts 1, 2, and 3 - Life
Without the Possibility of Parole plus an equal and consecutive

RECEIVED
MAR 23 2006
COUNTY CLERK

002517

1 Life Without the Possibility of Parole for use of a deadly weapon,
2 Count 2 to run consecutive to Count 1, Count 3 to run consecutive
3 to Count 2, 995 days credit for time served.

4 DATED this 22nd day of March, 2006.

5 PHILIP J. KOHN
6 CLARK COUNTY PUBLIC DEFENDER

7 By: Howard S. Brooks
8 HOWARD S. BROOKS, #3374
9 Deputy Public Defender
10 309 S. Third Street, Ste. 226
11 Las Vegas, Nevada 89155
12 (702) 455-5731
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

I declare under penalty of perjury that the foregoing is true and correct.

Care Connolly

RECEIPT OF COPY of the foregoing Notice of Appeal is hereby acknowledged this 23 day of March, 2006.

By:

W. J. [Signature]

ORIGINAL

1 **ORDER**

2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 EDWARD R.J. KANE
6 Chief Deputy District Attorney
7 Nevada Bar #001438
8 200 South Third Street
9 Las Vegas, Nevada 89155-2212
10 (702) 455-4711
11 Attorney for Plaintiff

FILED

APR 11 4 25 PM '06

Shirley B. Purgina
CLERK

12
13 DISTRICT COURT
14 CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,

16 Plaintiff,

17 -vs-

18 GLENFORD ANTHONY BUDD,
19 #1900089

20 Defendant.

CASE NO: C193182

DEPT NO: XVIII

21 **ORDER, RE: CUSTODY OF MATERIAL WITNESS**
22 **GREG LEWIS/ID#1693037**

23 DATE OF HEARING: 3/6/2006
24 TIME OF HEARING: 1:30 PM

25 The court having been advised that GREG LEWIS, who testified on December 12,
26 2005 in this capital murder case, is presently housed at the Clark County Detention Center
27 by virtue of this court's order transporting him from the Southern Desert Correctional Center
28 to the Clark County Detention Center for the purpose of receiving his testimony; and the
court having been further advised that the witness's testimonial obligations have been
concluded;

NOW, THEREFORE, IT IS ORDERED, that GREG LEWIS/ID#1693087 shall be
released from his obligations under the previously issued transportation order.

/ / / /

/ / / /

RECEIVED

APR 11 2006

COUNTY CLERK

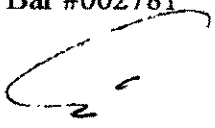
002520

1
2 IT IS FURTHER ORDERED that GREG LEWIS may be transported back to
3 Southern Desert Correctional Center.

4 DATED this 7th day of April, 2006.

5
6 
7 DISTRICT JUDGE

8
9 Prepared and submitted by,
10 DAVID ROGER
11 Clark County District Attorney
12 Nevada Bar #002781

13 By: 
14 Edward R.J. Kane
15 Chief Deputy District Attorney
16 Nevada Bar #001438
17
18
19
20
21
22
23
24
25
26
27
28

1 TRAN

2
3 ORIGINAL
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

FILED
APR 20 4 20 PM '06

Shirley L. Higgins
CLERK

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GLENFORD ANTHONY BUDD,

10 Defendant.

) CASE NO. C193182

) DEPT. XVIII

11
12 BEFORE THE HONORABLE MICHAEL CHERRY, DISTRICT COURT JUDGE

13
14 WEDNESDAY, NOVEMBER 10, 2004

15
16 RECORDER'S TRANSCRIPT RE:
17 CALENDAR CALL
STATUS CHECK: RESET MOTIONS

18 APPEARANCES:

19
20 For the State:

TALEEN PANDUKHT, ESQ.
Deputy District Attorney

21
22 For the Defendant:

HOWARD BROOKS, ESQ.
Deputy Public Defender

23
24
25 RECORDED BY: JO ANNE PIERPONT, COURT RECORDER

RECEIVED
APR 20 2006
COUNTY CLERK

002522

1 WEDNESDAY, NOVEMBER 10, 2004; 9:00 A.M.

2
3 THE COURT: I just need to know if these cases are ready. Just – the
4 answer is either yes or no on these cases as I call them. Budd.

5 MR. HILLMAN: Let me find Mr. Brooks, I think he's right outside.

6 MS. PANDUKHT: He's right outside.

7 MR. HILLMAN: Howard.

8 THE COURT: Budd's going to be continued. All right. Budd is a no.
9 Somy. Budd – is this Budd?

10 MR. BROOKS: Yes, Judge.

11 MS. PANDUKHT: Taleen Pandukht on behalf of the State.

12 THE COURT: We vacating this?

13 MR. BROOKS: Yes, Judge. Howard Brooks on behalf of Mr. Budd.

14 THE COURT: All right. We're going to – the trial date is vacated. You
15 want it reset?

16 MR. BROOKS: Yes, Judge. We'd like to have it reset. And, also, we
17 need to have a date set probably sometime in January for the hearing of the
18 motions that have been filed so far.

19 THE COURT: That'll be the order.

20 THE CLERK: Okay. As far as the trial goes how far out? Ordinary course
21 is May.

22 MR. BROOKS: Late April, early May is good for us.

23 MS. PANDUKHT: That's true.

24 THE CLERK: Early May. Your trial date will be May 2nd at 1:30, calendar
25 call will be April 27th at 9:00 a.m. and we'll put the motions on for November

1 12th.

2 MR. BROOKS: Can we have it in January?

3 THE CLERK: I'm sorry, that's what I meant, January 12th.

4 MR. BROOKS: January 12th.

5 THE CLERK: And -

6 MR. BROOKS: Because of the sheer number is it possible to have it at
7 the end of the calendar.

8 THE CLERK: That's what I was going to mention too. Let's set it at
9 10:30 for right now.

10 MR. BROOKS: Beautiful. Thank you.

11 MS. PANDUKHT: Thank you.

12 THE COURT: All right.

13 * * * * *

14 ATTEST: I do hereby certify that I have truly and correctly transcribed the
15 sound recording of the proceedings in the above-entitled case.

16 Debra Van Blaricom

17 DEBRA VAN BLARICOM

18 Court Transcriber

19

20

21

22

23

24

25

APR 20 4 28 PM '06

Shirley A. Burges
CLERK

11

1 TRAN

2 ORIGINAL

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GLENFORD ANTHONY BUDD,

10 Defendant.

) CASE NO. C193182

) DEPT. XVIII

11
12 BEFORE THE HONORABLE J. CHARLEST THOMPSON, SENIOR JUDGE

13 MONDAY, NOVEMBER 14, 2005

14
15 RECORDER'S TRANSCRIPT RE:
16 STATUS CHECK

17 APPEARANCES:

18 For the State:

ED KANE, ESQ.
Deputy District Attorney

19
20
21 For the Defendant:

HOWARD BROOKS, ESQ.
Deputy Public Defender

22
23
24
25 RECORDED BY: JO ANNE PIERPONT, COURT RECORDER

RECEIVED

APR 20 2006

COUNTY CLERK

002525

1 MONDAY, NOVEMBER 14, 2005; 9:00 A.M.

2
3 THE COURT: Page 2. State of Nevada versus Glenford Budd. The
4 record reflect the presence of the defendant in custody with Mr. Brooks and Mr.
5 Kane for the State.

6 MR. KANE: Morning, Your Honor.

7 MR. BROOKS: I'm sorry.

8 MR. KANE: This was last on calendar on November the 2nd at which time
9 all of the pending motions were continued until calendar call which was set for
10 the 23rd. At that time although the trial date is set on paper as December or
11 November the 28th, we've been advised by the Court that the trial would not
12 start until December the 5th. I've issued subpoenas and proceeded on that
13 assumption since that date.

14 Mr. Brooks advised me that he would like to start the following
15 week. Because of all of that and because I don't want to wait until calendar
16 call to find that out, I asked for a status check today to address our start date.

17 MR. BROOKS: That's correct, Judge. It's not an issue. If I can't do it on
18 the 5th but if we're moving things around we were not given any notice of this
19 otherwise, we would just prefer to have it on the 12th, rather than the 5th, it's
20 more convenient for the defense.

21 THE COURT: I don't know what the calendar looks like. Let's see what
22 we've got.

23 MR. KANE: If the Court's calendar can't accommodate the State has no
24 problem with the 12th, we can always tell the witnesses which way.

25 THE COURT: It's either the 5th or the 12th, you'd prefer the 12th?

1 MR. BROOKS: We'd prefer the 12th, Judge.

2 THE CLERK: We can't remember the cases that had invoked.

3 MR. KANE: Can we approach, Judge?

4 THE COURT: Yes.

5 [Whereupon a bench conference was held]

6 THE COURT: All right. The trial date on the 5th will remain and counsel is
7 advised we have a calendar call on November 23rd.

8 MR. KANE: Yeah, and we also have all the pending motions set for
9 argument and decision that day.

10 THE COURT: We've got all pending motions set on that day too.

11 MR. KANE: And we'll be prepared to go forward on those too.

12 THE COURT: All right.

13 MR. BROOKS: Thank you, Judge.

14 * * * * *

15 ATTEST: I hereby certify that I have truly and correctly transcribed the
16 audio/video proceedings in the above-entitled case to the best of my ability.

17 Debra Van Blaricom
18 DEBRA VAN BLARICOM
19 Court Transcriber
20
21
22
23
24
25

1 TRAN

2 ORIGINAL

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

FILED

APR 20 4 27 PM '06

Shirley - Ruggins
CLERK

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GLENFORD ANTHONY BUDD,

10 Defendant.

CASE NO. C193182

DEPT. XVIII

12 BEFORE THE HONORABLE KATHY A. HARDCASTLE, DISTRICT COURT JUDGE

13 WEDNESDAY, APRIL 20, 2005

14 RECORDER'S TRANSCRIPT RE:

15
16 DEFT'S MOTION IN LIMINE #1 FOR ORDER PROHIBITING
17 PROSECUTION MISCONDUCT IN ARGUMENT; AND FOR ORDER THAT
18 COURT TAKES JUDICIAL NOTICE OF AUTHORITY CITED IN THIS
19 MOTION IF DEFENSE OBJECTS AT TRIAL TO IMPROPER ARGUMENT

20 DEFT'S MOTION #2 FOR EXCHANGE OF JURY INSTRUCTIONS ON THE
21 FIRST DAY OF TRIAL

22 DEFT'S MOTION #3 FOR RECORDING OF ALL PROCEEDINGS PURSUANT
23 TO SUPREME COURT RULE 250

24 DEFT'S MOTION #4 TO DISQUALIFY ALL POTENTIAL JURORS WHO
25 KNEW OR WERE ACQUAINTED WITH THE VICTIMNS OR THEIR
FAMILIES

DEFT'S MOTION #5 TO DISQUALIFY ALL POTENTIAL JURORS WHO
WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IN THE
EVENT OF A FIRST DEGREE MURDER CONVICTION

RECEIVED

APR 20 2006

60258
COUNTY CLERK

1 DEFT'S MOTION IN LIMINE #6 TO PROHIBIT THE STATE FROM USING
2 PREEMPTORY CHALLENGES TO REMOVE MINORITIES FROM JURY

3 DEFT'S MOTION #7 TO BIFURCATE PENALTY PHASE PROCEEDINGS

4 DEFT'S MOTION #8 TO ALLOW THE DEFENSE TO ARGUE LAST IN A
5 POTENTIAL PENALTY PHASE PROCEEDINGS

6 DEFT'S MOTION #9 FOR JURY QUESTIONNAIRE TO BE COMPLETED BY
7 JURY VENIRE ONE WEEK PRIOR TO TRIAL

8 DEFT'S MOTION IN LIMINE #10 TO PROHIBIT ANY REFERENCE IN
9 FRONT OF THE JURY TO THE TRIAL PHASE OF THE PROCEEDINGS AS
10 THE "GUILT PHASE"

11 DEFT'S MOTION #11 TO STRIKE ALLEGATIONS OF CERTAIN
12 AGGRAVATING CIRCUMSTANCES ALLEGED IN STATE'S NOTICE OF
13 INTENT TO SEEK DEATH PENALTY

14 DEFT'S MOTION #12 TO PRECLUDE THE ADMISSION, DURING A
15 POSSIBLE PENALTY PROCEEDING OF EVIDENCE ABOUT THE PERSONAL
16 CHARACTER OF THE VICTIMS AND THE IMPACT OF THE VICTIM'S
17 DEATHS ON THE FAMILY

18 DEFT'S MOTION #13 TO BAR THE ADMISSION OF CUMULATIVE
19 VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS LAW

20 DEFT'S MOTION #14 TO DISMISS THE STATE'S NOTICE OF INTENT
21 BECAUSE NEVADA'S DEATH PENALTY SCHEME VIOLATES DUE PROC
22 ESS GUARANTEES BY FAILING TO REQUIRE A PRE-TRIAL FINDING OF
23 PROBABLE CAUSE FOR ALLEGED AGGRAVATORS

24 APPEARANCES:

25 For the State:

DAVID SCHWARTZ, ESQ.
Deputy District Attorney

For the Defendant:

HOWARD BROOKS, ESQ.
Deputy Public Defender

RECORDED BY: JO ANNE PIERPONT, COURT RECORDER

1 WEDNESDAY, APRIL 20, 2005; 9:00 A.M.

2
3 THE COURT: Case Number C193182, State of Nevada versus Glenford,
4 Budd.

5 THE CLERK: Prior to court Mr. Schwartz appeared and he said to set a
6 trial date and continue the motions to August 1st at 9:00 a.m.

7 THE COURT: Okay. And the trial date is?

8 THE CLERK: November 23rd at 9:00 a.m. is the calendar call. The trial is
9 November 28th at 1:30.

10 THE COURT: All right. And for the record the defendant is present in
11 custody.

12 * * * * *

13 ATTEST: I do hereby certify that I have truly and correctly transcribed the
14 sound recording of the proceedings in the above-entitled case.

15 Debra Van Blaricom
16 DEBRA VAN BLARICOM
17 Court Transcriber
18
19
20
21
22
23
24
25

1 TRAN

2 ORIGINAL

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

FILED

APR 20 4 26 PM '06

Liz Garcia
CLERK

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GLENFORD ANTHONY BUDD,

10 Defendant.

) CASE NO. C193182

) DEPT. XVIII

12 BEFORE THE HONORABLE JOSEPH PAVLIKOWSKI, SENIOR JUDGE

14 MONDAY, MAY 24, 2004

16 RECORDER'S TRANSCRIPT RE:
17 STATE'S REQUEST TO RESET TRIAL DATE

18 APPEARANCES:

19 For the State:

20 DAVID SCHWARTZ, ESQ.
21 Deputy District Attorney

22 For the Defendant:

23 HOWARD BROOKS, ESQ.
24 Deputy Public Defender

25 RECORDED BY: LIZ GARCIA, COURT TRANSCRIBER

RECEIVED

APR 20 2006

COUNTY CLERK

002531

1 MONDAY, MAY 24, 2004; 9:00 A.M.

2
3 THE COURT: State of Nevada versus Glenford, Budd, Case Number
4 C193182. Mr. Schwartz representing the State.

5 MR. BROOKS: Mr. Brooks representing Mr. Budd, Your Honor.

6 THE COURT: Mr. Howard Brooks appearing for the defendant. Where's
7 the defendant? Is your name Glenford Budd?

8 THE DEFENDANT: Yes.

9 THE COURT: This is on to set a new trial date, is that correct?

10 MR. SCHWARTZ: Yes, Your Honor.

11 MR. BROOKS: Yes, Judge. We both agree that we both have scheduling
12 problems and we both were thinking –

13 THE COURT: Did you waive the 60 day rule, Mr. Budd?

14 THE DEFENDANT: Yeah.

15 MR. BROOKS: We were both thinking, Judge, if it's possible to set it on
16 November 15th which I think is in her stack.

17 THE CLERK: That's correct.

18 THE COURT: Miss Clerk –

19 MR. SCHWARTZ: That's fine.

20 THE COURT: November 15th for jury trial at what time?

21 THE CLERK: 1:30.

22 THE COURT: And calendar call?

23 THE CLERK: Be November 10, 9:00.

24 THE COURT: And for the record, Mr. Budd are you on bail or in custody?

25 THE DEFENDANT: In custody.

1 THE COURT: You're remanded to custody of the Metropolitan Police
2 Department.

3 MR. SCHWARTZ: Thank you, Your Honor.

4 MR. BROOKS: Thank you, Judge.

5 * * * * *

6 ATTEST: I do hereby certify that I have truly and correctly transcribed the
7 sound recording of the proceedings in the above-entitled case.

Debra Van Blaricom

8 DEBRA VAN BLARICOM

9 Court Transcriber
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FILED

APR 20 4 13 PM '06

Shirley C. Longjumeau
CLERK

TRAN

ORIGINAL

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

GLENFORD ANTHONY BUDD,

Defendant.

CASE NO. C193182

DEPT. XVIII

BEFORE THE HONORABLE J. CHARLEST THOMPSON, SENIOR JUDGE

WEDNESDAY, FEBRUARY 15, 2006

RECORDER'S TRANSCRIPT RE:
STATUS CHECK (WITNESS)

APPEARANCES:

For the State:

TALEEN PANDUKHT, ESQ.
Deputy District Attorney

For the Defendant:

MARITERESA RIVERA-ROGERS
Deputy Public Defender

RECORDED BY: JO ANNE PIERPONT, COURT RECORDER

RECEIVED

APR 20 2006

COUNTY CLERK

002534

1 WEDNESDAY, FEBRUARY 15, 2006; 9:00 A.M.

2
3 THE COURT: Miss Pandukht who do you have?

4 MS. PANDUKHT: Mr. Kane here already? We had a status check on
5 Budd.

6 THE COURT: Mr. Kane?

7 MS. PANDUKHT: It's the Glenford Budd case.

8 THE CLERK: Budd.

9 THE COURT: Oh, yes.

10 THE CLERK: Yes. He appeared and he needed an additional two more
11 weeks.

12 THE COURT: It's on page 3, let's call this into the record 193182. This
13 is a status check regarding a particular witness. Evidently - why are waiting
14 for a witness? [The Court and Clerk confer] Oh, I understand. Let just go
15 ahead and put a two week date on it.

16 THE CLERK: March 6, 9:00 a.m.

17 MS. PANDUKHT: Perfect. Thank you so much.

18 THE COURT: Thank you.

19 * * * * *

20 ATTEST: I hereby certify that I have truly and correctly transcribed the
21 audio/video proceedings in the above-entitled case to the best of my ability.

22 Debra Van Blaricom

23 DEBRA VAN BLARICOM

24 Court Transcriber
25

1 TRAN

2 ORIGINAL

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

11
FILED

APR 20 4 27 PM '06

Shirley S. Thompson
CLERK

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GLENFORD ANTHONY BUDD,

10 Defendant.

) CASE NO. C193182

) DEPT. XVIII

12 BEFORE THE HONORABLE NANCY M. SAITTA, DISTRICT COURT JUDGE

13 WEDNESDAY, JANUARY 12, 2005

14 RECORDER'S TRANSCRIPT RE:

15 DEFT'S MOTION IN LIMINE #1 FOR ORDER PROHIBITING
16 PROSECUTION MISCONDUCT IN ARGUMENT; AND FOR ORDER THAT
17 COURT TAKES JUDICIAL NOTICE OF AUTHORITY CITED IN THIS
18 MOTION IF DEFENSE OBJECTS AT TRIAL TO IMPROPER ARGUMENT

19 DEFT'S MOTION #2 FOR EXCHANGE OF JURY INSTRUCTIONS ON THE
20 FIRST DAY OF TRIAL

21 DEFT'S MOTION #3 FOR RECORDING OF ALL PROCEEDINGS PURSUANT
22 TO SUPREME COURT RULE 250

23 DEFT'S MOTION #4 TO DISQUALIFY ALL POTENTIAL JURORS WHO
24 KNEW OR WERE ACQUAINTED WITH THE VICTIMNS OR THEIR
25 FAMILIES

DEFT'S MOTION #5 TO DISQUALIFY ALL POTENTIAL JURORS WHO
WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IN THE
EVENT OF A FIRST DEGREE MURDER CONVICTION

RECEIVED

APR 20 2006

COUNTY CLERK

002596

1 DEFT'S MOTION IN LIMINE #6 TO PROHIBIT THE STATE FROM USING
2 PREEMPTORY CHALLENGES TO REMOVE MINORITIES FROM JURY

3 DEFT'S MOTION #7 TO BIFURCATE PENALTY PHASE PROCEEDINGS

4 DEFT'S MOTION #8 TO ALLOW THE DEFENSE TO ARGUE LAST IN A
5 POTENTIAL PENALTY PHASE PROCEEDINGS

6 DEFT'S MOTION #9 FOR JURY QUESTIONNAIRE TO BE COMPLETED BY
7 JURY VENIRE ONE WEEK PRIOR TO TRIAL

8 DEFT'S MOTION IN LIMINE #10 TO PROHIBIT ANY REFERENCE IN
9 FRONT OF THE JURY TO THE TRIAL PHASE OF THE PROCEEDINGS AS
10 THE "GUILT PHASE"

11 DEFT'S MOTION #11 TO STRIKE ALLEGATIONS OF CERTAIN
12 AGGRAVATING CIRCUMSTANCES ALLEGED IN STATE'S NOTICE OF
13 INTENT TO SEEK DEATH PENALTY

14 DEFT'S MOTION #12 TO PRECLUDE THE ADMISSION, DURING A
15 POSSIBLE PENALTY PROCEEDING OF EVIDENCE ABOUT THE PERSONAL
16 CHARACTER OF THE VICTIMS AND THE IMPACT OF THE VICTIM'S
17 DEATHS ON THE FAMILY

18 DEFT'S MOTION #13 TO BAR THE ADMISSION OF CUMULATIVE
19 VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS LAW

20 DEFT'S MOTION #14 TO DISMISS THE STATE'S NOTICE OF INTENT
21 BECAUSE NEVADA'S DEATH PENALTY SCHEME VIOLATES DUE PROC
22 ESS GUARANTEES BY FAILING TO REQUIRE A PRE-TRIAL FINDING OF
23 PROBABLE CAUSE FOR ALLEGED AGGRAVATORS

24 APPEARANCES:

25 For the State:

DAVID SCHWARTZ, ESQ.
Deputy District Attorney

For the Defendant:

HOWARD BROOKS, ESQ.
Deputy Public Defender

RECORDED BY: JO ANNE PIERPONT, COURT RECORDER

1 WEDNESDAY, JANUARY 12, 2005; 10:30 A.M.

2
3 THE COURT: The next matter is the matter State of Nevada versus Budd.
4 However, what I'm going to do is allow -- is Mr. Budd present? [Defendant
5 present in custody.]

6 MR. BROOKS: Judge --

7 MR. SCHWARTZ: Well, Your Honor --

8 THE COURT: Oh, never mind.

9 MR. BROOKS: Judge, as far as we're concerned if the Court would like
10 we don't mind a two week or a month continuance. There's an issue that Mr.
11 Schwartz wants to investigate regarding the trial dates and it's perfectly fine
12 with us a continuance for a month if the Court would like to do that. We'll do
13 whatever the Court wants to do.

14 THE COURT: It's fine with me if there's more information. It's fine with
15 me as long as you all agree. He's not going anywhere.

16 MR. BROOKS: Right.

17 MR. SCHWARTZ: That's fine with us, Your Honor, unless you have any
18 objection to it.

19 THE COURT: Miss Clerk give us a good date. It's going to -- in a month I
20 know we're a little bit --

21 MR. SCHWARTZ: There's also an issue that Mr. Brooks --

22 MR. BROOKS: Oh, right.

23 MR. SCHWARTZ: -- wants to address during our hearing and I think
24 regarding the aggravating circumstances and that's being argued at the
25 Supreme Court --

1 THE COURT: Yes.
2 MR. SCHWARTZ: -- in February.
3 THE COURT: Yes.
4 MR. SCHWARTZ: There's actually a date.
5 MR. BROOKS: It would make -- it would make really good sense to
6 actually continue everything till the first week in April, that will give the
7 Supreme Court six weeks. I think they're going to rule very fast after the
8 hearing on February 14th.
9 THE COURT: Let's --
10 MR. BROOKS: Or, mid April.
11 THE COURT: It'll have to be either before the 18th of April or after the 1st
12 of May.
13 MR. BROOKS: Let's just do it before April 18th.
14 THE COURT: If we can get it. I mean we've got a -- I have some down
15 time in there that's clogging up our calendar.
16 THE CLERK: April 4.
17 THE COURT: April 4th.
18 MR. BROOKS: Perfect.
19 THE COURT: Okay.
20 THE CLERK: 10:30.
21 MR. BROOKS: 2:30 in the afternoon?
22 THE CLERK: No, 10:30.
23 MR. SCHWARTZ: 10:30.
24 THE COURT: 10:30.
25 MR. BROOKS: 10:30, excuse me.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Okay.

MR. SCHWARTZ: Thank you, Your Honor.

MR. BROOKS: Very good. Thank you, Judge.

THE COURT: Thank you very much.

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the
sound recording of the proceedings in the above-entitled case.

Debra Van Blaricom
DEBRA VAN BLARICOM
Court Transcriber

11
FILED

APR 20 4 26 PM '06

Shirley S. Ruggins
CLERK

1 TRAN

2 ORIGINAL

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GLENFORD ANTHONY BUDD,

10 Defendant.

) CASE NO. C193182

) DEPT. XVIII

11
12 BEFORE THE HONORABLE NANCY M. SAITTA, DISTRICT COURT JUDGE

13
14 WEDNESDAY, FEBRUARY 11, 2004

15
16 RECORDER'S TRANSCRIPT RE:
17 DEFT'S MOTION TO VACATE AND CONTINUE TRIAL DATE

18 APPEARANCES:

19
20 For the State:

LINDA LEWIS, ESQ.
Deputy District Attorney

21
22 For the Defendant:

HOWARD BROOKS, ESQ.
Deputy Public Defender

23
24
25 RECORDED BY: RICHARD KANGAS, COURT RECORDER/TRANSCRIBER

RECEIVED

APR 20 2006

COUNTY CLERK

002541

1 WEDNESDAY, FEBRUARY 11, 2004; 9:00 A.M.

2
3 THE COURT: State of Nevada versus Budd, 193182. This is a motion to
4 vacate and continue the trial date. Is the defendant present?

5 MR. BROOKS: Yes, he is, Judge.

6 THE COURT: The defendant is present in custody. You know, I would
7 have made this comment earlier and if I'd seen you over there I would have
8 pulled you up sooner. Mr. Brooks is in a capital murder case in my department
9 right now. The motion in this case indicates that he has been unable to prepare
10 for this due to his otherwise pretty heavy murder case load. Although I do not
11 see a written response from the State, doesn't mean that one was filed.

12 MS. LEWIS: We have no objection, Judge.

13 THE COURT: I think it's appropriate.

14 MS. LEWIS: Just ask for a new date.

15 THE COURT: Looks like we can go into July. Mr. Brooks, what's that
16 going to do with your schedule?

17 MR. BROOKS: Anytime in July or August is fine, Judge.

18 THE CLERK: Is this a capital case?

19 MR. BROOKS: It is.

20 THE CLERK: Jury trial is July 19, 1:30, calendar call, July 14 at 9:00.

21 MR. BROOKS: Thank you so much.

22 . . .

23 . . .

24 . . .

25 . . .

1 THE COURT: And in the future, Mr. Brooks you certainly could get a pass
2 in front of the other cases that I call.

3 MR. BROOKS: Thank you, Judge.

4 * * * * *

5 ATTEST: I do hereby certify that I have truly and correctly transcribed the
6 sound recording of the proceedings in the above-entitled case.

7 Debra Van Blaricom

8 DEBRA VAN BLARICOM

9 Court Transcriber
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 TRAN

2 ORIGINAL
3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

FILED
APR 20 4 13 PM '06

Shirley S. Rungtine
CLERK

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GLENFORD ANTHONY BUDD,

10 Defendant.

) CASE NO. C193182

) DEPT. XVIII

12 BEFORE THE HONORABLE J. CHARLEST THOMPSON, SENIOR JUDGE

13 MONDAY, JANUARY 30, 2006

15 RECORDER'S TRANSCRIPT RE:
16 STATUS CHECK

17 APPEARANCES:

18 For the State:

ED KANE, ESQ.
Deputy District Attorney

21 For the Defendant:

No One Appearing

24 RECORDED BY: JO ANNE PIERPONT, COURT RECORDER

RECEIVED

APR 20 2006

COUNTY CLERK

002544

1 MONDAY, JANUARY 30, 2006; 9:00 A.M.

2
3 THE COURT: Let's call into the record Case 193182, Mr. Budd. Is Mr.
4 Budd present; Mr. Budd? [Defendant stands] Yes. We're going to move the
5 status check for two weeks.

6 THE CLERK: That'll be February 15th at 9:00 a.m.

7 MR. KANE: And I believe sentencing is set for Wednesday.

8 THE CLERK: Wednesday.

9 THE COURT: Yes. Oh, I'm not – I want to move that. I'm not going to
10 be here on Wednesday.

11 MR. KANE: Oh, when you're here then.

12 THE COURT: Yes.

13 THE CLERK: February 27th will be sentencing for Mr. Budd.

14 MR. KANE: Thank you, Your Honor.

15 THE COURT: Thank you.

16 CORRECTIONS OFFICER: And you're keeping the status check on
17 February 15th?

18 THE COURT: Yes, yes.

19 THE DEFENDANT: And, Judge –

20 MR. KANE: It's up to the Court but my recommendation would be Mr.
21 Budd doesn't have to be brought over for that 13th status check –

22 THE COURT: You mean for the 15th; 15th.

23 MR. KANE: -- it's an ancillary matter that doesn't directly concern him.
24 15th, I'm sorry.

25 THE COURT: Okay. I would agree he doesn't have to be transported for

1 that.

2 CORRECTIONS OFFICER: You don't need Mr. Buss (sic) at all today or
3 any of those days?

4 THE COURT: No, no, no.

5 * * * * *

6 ATTEST: I hereby certify that I have truly and correctly transcribed the
7 audio/video proceedings in the above-entitled case to the best of my ability.

8 Debra Van Blaricom
9 DEBRA VAN BLARICOM
10 Court Transcriber
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 TRAN

2 ORIGINAL
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

FILED
APR 20 4 27 PM '06

Shirley S. Rungius
CLERK

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GLENFORD ANTHONY BUDD,

10 Defendant.

) CASE NO. C193182

) DEPT. XVIII

12 BEFORE THE HONORABLE NANCY M. SAITTA, DISTRICT COURT JUDGE

13 WEDNESDAY, OCTOBER 27, 2004

14 RECORDER'S TRANSCRIPT RE:

15 DEFT'S MOTION IN LIMINE #1 FOR ORDER PROHIBITING PROSECUTION
16 MISCONDUCT IN ARGUMENT; AND FOR ORDER THAT COURT TAKES
17 JUDICIAL NOTICE OF AUTHORITY CITED IN THIS MOTION IF DEFENSE
18 OBJECTS AT TRIAL TO IMPROPER ARGUMENT

19 DEFT'S MOTION #2 FOR EXCHANGE OF JURY INSTRUCTIONS ON THE
20 FIRST DAY OF TRIAL

21 DEFT'S MOTION #3 FOR RECORDING OF ALL PROCEEDINGS PURSUANT
22 TO SUPREME COURT RULE 250

23 DEFT'S MOTION #4 TO DISQUALIFY ALL POTENTIAL JURORS WHO
24 KNEW OR WERE ACQUAINTED WITH THE VICTIMNS OR THEIR
25 FAMILIES

DEFT'S MOTION #5 TO DISQUALIFY ALL POTENTIAL JURORS WHO
WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IN THE
EVENT OF A FIRST DEGREE MURDER CONVICTION

RECEIVED

APR 20 2006 002547

COUNTY CLERK

1 DEFT'S MOTION IN LIMINE #6 TO PROHIBIT THE STATE FROM USING
2 PREEMPTORY CHALLENGES TO REMOVE MINORITIES FROM JURY

3 DEFT'S MOTION #7 TO BIFURCATE PENALTY PHASE PROCEEDINGS

4 DEFT'S MOTION #8 TO ALLOW THE DEFENSE TO ARGUE LAST IN A
5 POTENTIAL PENALTY PHASE PROCEEDINGS

6 DEFT'S MOTION #9 FOR JURY QUESTIONNAIRE TO BE COMPLETED BY
7 JURY VENIRE ONE WEEK PRIOR TO TRIAL

8 DEFT'S MOTION IN LIMINE #10 TO PROHIBIT ANY REFERENCE IN
9 FRONT OF THE JURY TO THE TRIAL PHASE OF THE PROCEEDINGS AS
10 THE "GUILT PHASE"

11 DEFT'S MOTION #11 TO STRIKE ALLEGATIONS OF CERTAIN
12 AGGRAVATING CIRCUMSTANCES ALLEGED IN STATE'S NOTICE OF
13 INTENT TO SEEK DEATH PENALTY

14 DEFT'S MOTION #12 TO PRECLUDE THE ADMISSION, DURING A
15 POSSIBLE PENALTY PROCEEDING OF EVIDENCE ABOUT THE PERSONAL
16 CHARACTER OF THE VICTIMS AND THE IMPACT OF THE VICTIM'S
17 DEATHS ON THE FAMILY

18 DEFT'S MOTION #13 TO BAR THE ADMISSION OF CUMULATIVE
19 VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS LAW

20 DEFT'S MOTION #14 TO DISMISS THE STATE'S NOTICE OF INTENT
21 BECAUSE NEVADA'S DEATH PENALTY SCHEME VIOLATES DUE PROC
22 ESS GUARANTEES BY FAILING TO REQUIRE A PRE-TRIAL FINDING OF
23 PROBABLE CAUSE FOR ALLEGED AGGRAVATORS

24 APPEARANCES:

25 For the State:

DAVID SCHWARTZ, ESQ.
TALEEN PANDUKHT, ESQ.
Deputies District Attorney

For the Defendant:

HOWARD BROOKS, ESQ.
TIM O'BRIEN, ESQ.
Deputies Public Defender

RECORDED BY: JO ANNE PIERPONT, COURT RECORDER

1 WEDNESDAY, OCTOBER 27, 2004; 9:00 A.M.

2
3 THE COURT: Going to call the Budd matter first. We just had a
4 discussion about that in chambers.

5 MR. BROOKS: Howard Brooks and Tim O'Brien on behalf of Mr. Budd,
6 Your Honor. Mr. Budd is present in custody.

7 THE COURT: Let the record reflect the defendant is present in custody.
8 We have a number of matters that are set on calendar this morning. All of
9 them are important pretrial motions. With the presence of all counsel the
10 meeting that we have had in chambers suggests to me that the most
11 appropriate thing for us to do at this time is to take all of these motions, take
12 them off calendar to be reset on the date of the calendar call which is in two
13 weeks.

14 The record should further reflect that the reason that these matters
15 are being moved and/or potentially stayed is because of the very important
16 issue having to do with aggravators is before the Supreme Court now and it
17 makes no good sense from a judicial resource or decision making prospective to
18 go forward with something that is likely to be resolved before the Supreme
19 Court in the very near future.

20 Having said that, this will be continued till the calendar call of - two
21 weeks from today?

22 MR. BROOKS: Yes.

23 THE CLERK: Two weeks from today is November 10th.

24 THE COURT: And let my record be clear, we're not actually continuing
25 these motions, we are continuing them for reset at the date and time of the

1 the hat?

2 A. Yes.

3 Q. Next showing you State's 39, which is a
4 photograph with several placards on it appearing
5 to be seven, eight, and nine, would you describe
6 that and relate it to the diagram?

7 A. This was a green plastic container, you
8 know, like a carry container that had a lid on it.
9 And items seven, eight, and nine were all three
10 nine-millimeter cartridge cases, and they were
11 located actually on top of the lid of this plastic
12 container. The container was located in the
13 hallway, in the south hallway, against the north
14 wall of the south hallway.

15 Q. And is that square where the arrows are
16 pointing, seven, eight, and nine, is that actually
17 the plastic container as represented on the
18 diagram?

19 A. Exactly. The green square represents the
20 green plastic container or the green rectangle.

21 Q. Next showing you State's Exhibit 40 in
22 evidence bearing evidence placard 10, again would
23 you tell the jury what they're looking at and
24 relate it to the diagram?

25 A. This is a nine-millimeter cartridge case,

1 item number 10, and it was located just outside
2 the door to the southwest bedroom. And it was on
3 the carpet in an area where there was a lot of
4 blood on the floor.

5 Q. And again is it your understanding,
6 although you didn't personally observe it, there
7 is where a person was removed for medical
8 attention, and that's related in that large blood
9 stain?

10 A. My understanding was that this is where
11 one of the victims had been prior to the
12 paramedics taking him.

13 Q. And State's 41 in evidence, which is a
14 little closer view of placard 10, and can you
15 clearly see the cartridge case itself in that
16 photograph?

17 A. Yes, cartridge case, nine-millimeter
18 cartridge case number 10.

19 Q. And finally in terms of photographs,
20 State's Proposed 42, which has got a number 11 on
21 it, would you explain how that was found and under
22 what circumstances?

23 A. This number 11 is the last of the
24 nine-millimeter cartridge cases, and it was on the
25 patio. And you'll see it out there at the corner

1 of the -- oh, I touched it.

2 THE COURT: It's okay.

3 THE WITNESS: At the corner of the
4 closet.

5 THE COURT: If you tap your screen again,
6 it will disappear.

7 BY MR. KANE:

8 Q. The lower right. Okay.

9 A. Okay. There at the corner of the closet.
10 Now, the body of Jason Moore, there was a piece of
11 like carpeting under him. And when the mortuary
12 attendants removed the body after the coroner, the
13 coroner's investigator had examined it, it was
14 discovered when we, when we moved that piece of
15 carpeting he was lying on, that this cartridge
16 case was up under the edge of it, just up under
17 the edge where it wasn't visible prior to the body
18 being removed and the carpet being lifted. So, it
19 was actually discovered later on in the scene,
20 later in the investigation.

21 Q. Now, at my request did you bring an
22 evidence bag to court with you?

23 A. Yes, sir.

24 Q. And, first of all, how did you get this
25 evidence bag to bring it to court?

1 A. I went over to the evidence vault, and I
2 requested that this evidence be turned over to me
3 and signed paperwork having it released to me,
4 brought it here yesterday and brought it to the
5 court clerk, and she signed my paperwork saying
6 that she now had custody of it. And I left it
7 here with her.

8 Q. So, you retained it in your sole care,
9 custody, and control from the time you took it out
10 of the vault and brought it to the court here and
11 gave it to the court clerk?

12 A. Via the evidence vault.

13 Q. Okay. Showing you that bag again, which
14 has now been marked for purposes of identification
15 as State's Proposed Exhibit 47, would you tell me,
16 if you can tell from an examination of the outside
17 of the bag, what you would expect to find in it?

18 A. This is the evidence package that I
19 prepared for the 11 nine-millimeter cartridge
20 cases and some bullets and bullet fragments.

21 Q. And the bullets and bullet fragments are
22 the things that are noted on your diagram as 12
23 through 18?

24 A. Yes, sir, 12 through 18.

25 Q. So, all of those cartridge cases and all

1 of those bullet fragments are what you put in that
2 bag?

3 A. Yes, sir.

4 Q. How is it you recognize the bag itself?

5 A. The bag has my, my name and my signature
6 and my initials and P number, has the event number
7 and the address where, of the location, has my
8 seal and initials and the date that I recovered
9 the evidence on the bag.

10 Q. And is that seal intact just like it was
11 when you sealed it up back in May of 2003?

12 A. Yes, sir, it is.

13 Q. Now, does it appear to you, from what you
14 know of procedures in the lab, that anyone else
15 has examined what's in that bag between May the
16 27th of 2003 and today?

17 A. Yes, sir.

18 Q. And --

19 A. It does.

20 Q. Is it a person known to you that appears
21 to have examined it?

22 A. Yes, sir, it does.

23 Q. Who's that?

24 A. It looks like it's James Krylo from the
25 firearms section.

1 Q. And does it appear that that bag has been
2 opened and that there are new seals placed over
3 those new openings with Mr. Krylo's identifying
4 characteristics on it?

5 A. Yes, sir. There are three seals that
6 were not here when I sealed the bag.

7 Q. And except for your seals and the
8 additional seals which appear to be those of
9 Mr. Krylo, is that bag in the same condition as it
10 was when you observed it back in May of 2003?

11 A. There appear to be some stickers on the
12 back that, in my experience, are the bar codes
13 that the evidence vault uses to identify items of
14 evidence when they take it into custody.

15 Q. And with that in addition, again is it in
16 the same condition it was back in May of 2003?

17 A. Yes.

18 MR. KANE: I offer 47, your Honor.

19 MR. BROOKS: No objection.

20 THE COURT: It will be admitted.

21 MR. KANE: I have nothing further. Pass
22 the witness, your Honor.

23 THE COURT: Cross?

24 MR. BROOKS: No questions, your Honor.

25 THE COURT: You may step down. Thank you

1 very much.

2 MR. KANE: James Krylo?

3 THE BAILIFF: Mr. Krylo, if you remain
4 standing, raise your right hand, and face the
5 clerk.

6
7 JAMES JOHN KRYLO,
8 called as a witness, and having been first duly
9 sworn to testify to the truth, the whole truth,
10 and nothing but the truth, was examined and
11 testified as follows:

12
13 THE CLERK: Please be seated. State your
14 full name and spell your last name for the record.

15 THE WITNESS: James John Krylo,
16 K-r-y-l-o.

17
18 DIRECT EXAMINATION

19 BY MR. KANE:

20 Q. Who do you work for, sir?

21 A. The Las Vegas Metropolitan Police
22 Department.

23 Q. And what is your job with that
24 department?

25 A. I'm a firearms and tool mark examiner

1 working in the forensic laboratory.

2 Q. How long have you worked for the Las
3 Vegas Metropolitan Police Department?

4 A. Little over seven years now.

5 Q. And has firearms and tool marks examiner
6 been your job the whole time?

7 A. Yes.

8 Q. Now, is part of your job to examine the
9 firearms and firearm-related evidence that's
10 recovered from crime scenes and then come into
11 court like this one and testify about your
12 opinions?

13 A. Yes.

14 Q. And have you done that on many prior
15 occasions?

16 A. Yes, I have.

17 MR. KANE: I would pass the witness if
18 there is any voir dire.

19 MR. BROOKS: No voir dire.

20 THE COURT: Very well. You may proceed.

21 BY MR. KANE:

22 Q. Just a couple of terms to start out. The
23 jury has heard about cartridge cases and bullets.
24 I'm gathering they're not the same thing.

25 A. No, they're not.

1 Q. Would you explain that to the jury?

2 A. Well, one complete single round of
3 ammunition is called a cartridge, and the
4 cartridge has four basic parts. That's the
5 cartridge case, which is the container. In one
6 end of the cartridge case you have a primer.
7 Inside the cartridge case you have gunpowder. And
8 then seated in the mouth of the cartridge case you
9 have the bullet. So, when you fire a gun, what
10 you have left over is the cartridge case that
11 either stays with the gun or is ejected from the
12 gun and then the bullet, which is the projectile,
13 which has gone down range.

14 Q. Now, at the crime scene that we're here
15 to talk about there were 11 cartridge cases
16 recovered like around various areas of the crime
17 scene.

18 Does that fact, the fact that there were
19 11 and that they were laying in different areas,
20 does that tell you anything about the kind of
21 firearm that you would expect to have been used?

22 A. That would be indicative of a
23 semiautomatic or full automatic firearm.

24 Q. What's the difference between that and a
25 revolver that, I guess, we're all familiar with?

1 A. Typically when we're talking
2 semiautomatic, it's a gun that, as we fire it, the
3 gun goes through a process of loading and then
4 firing and extracting and ejecting the cartridge
5 cases. With a revolver, once you fired it, the
6 cartridge cases stay in the gun until you manually
7 remove them.

8 Q. And is a semiautomatic the kind of gun, I
9 guess, we all see on television where you have a
10 clip, and you slap it into the bottom of the
11 barrel --

12 A. Yes.

13 Q. -- or the bottom of the handle of the
14 firearm?

15 A. Correct.

16 Q. Now, if cartridge cases and/or bullets
17 are recovered at a crime scene, what can they tell
18 you about the firearm that they were discharged
19 from?

20 A. Well, there are a couple things that I
21 can tell. I can determine what caliber the
22 firearm that was used. Depending on the markings
23 that are left on the bullet and cartridge cases, I
24 might be able to get an idea of what brand of
25 firearm was used. I can also compare them and

1 determine how many firearms were used.

2 Q. And how is it that marks, marks are
3 deposited on a bullet or a cartridge case by a
4 firearm once the bullets is discharged and then
5 you can go back and look at it later and make
6 comparisons?

7 A. Well, there are several parts inside a
8 gun that will leave marks on a cartridge case and
9 on a bullet. But if we start with the cartridge
10 case, I remember it, at one end there is a primer,
11 and the primer is kind of like the spark plug that
12 gets everything going. When you fire a gun, what
13 happens is that part of the gun called the firing
14 pin, and that hits the primer. That ignites the
15 priming mixture, which, in turn, ignites the
16 gunpowder. The gunpowder burns. As it burns it
17 gives off a lot, lot of gas. And it's the gas
18 that pushes the bullet out the end of the barrel.

19 Well, as that gas is pushing forward and
20 pushing the bullet out the barrel, it's also
21 pushing backwards on the cartridge case and
22 outwards on the cartridge case. So, the cartridge
23 case itself picks up marks from inside the chamber
24 of the gun. And if it's a semiautomatic firearm,
25 then a little piece called an extractor, which is

1 like a little claw or hook, and that's what helps
2 pull that cartridge case out of the chamber of the
3 gun. That can leave marks once it's being pulled
4 out of the chamber. There is little pieces of the
5 gun called ejector, that's what makes the
6 cartridge case fly out of the gun. That can leave
7 marks.

8 So, those are the type marks I will look
9 at on a cartridge case, marks from the firing pin,
10 marks from inside the chamber of the gun,
11 extractor and ejector marks on the bullet itself.
12 As the bullet goes down the barrel there are
13 spiralling grooves in the barrel, and those
14 grooves are put there to impart spin on the bullet
15 so that it flies straighter in flight, just like a
16 quarterback throws a football. You put spin on,
17 on that -- the bullet is a really tight fit in the
18 barrel. So, those grooves, the impressions of
19 those are marked on the sides of the bullet. And
20 that's what I can compare when I'm looking at two
21 bullets.

22 Q. Now, these comparisons, if you had both
23 the firearm and the bullet, would allow you to say
24 that a particular bullet came out of a particular
25 gun if they were of good enough quality. Did I

1 get that right?

2 A. Correct.

3 Q. In this case you were never given a gun
4 to examine, correct?

5 A. Correct.

6 Q. Just cartridge cases and bullets?

7 A. Right.

8 Q. What kind of opinions can you form that
9 would be helpful to the jury just by looking at
10 the cartridge cases and bullets without the gun?

11 A. I can, again I can do the same
12 comparisons. I can look at the bullets, cartridge
13 cases. I can determine what caliber gun was used.
14 I can inner compare those items, and depending on
15 the quality of markings there are on them, I'm
16 able to say, yes, they were all fired in one gun,
17 or it may be inconclusive, or it may be more than
18 one gun.

19 Q. Showing you State's Exhibit 47 in
20 evidence, ask if you recognize this?

21 A. Yes, I do.

22 Q. And what is it that causes you to
23 recognize it?

24 A. Well, to begin with, the event number,
25 that's 030527-001 number, and then down on the, on

1 the label there is an area called chain of custody
2 and has my signature there and then the date and
3 the time that I sealed this package. And then if
4 you look at the sides of the package, you see this
5 blue and white tape. That's the tape that I use
6 to seal the package when I was done. And again
7 you can see my initials, my personnel number, and
8 the date that I sealed it on that tape.

9 Q. Now, can you tell from looking at that
10 how many times you had these particular items
11 submitted to you for examination?

12 A. I, I opened this package three times.

13 Q. Okay. Now, the first and third times
14 were related to this particular investigation,
15 correct?

16 A. Correct.

17 Q. Second time has nothing to do with this
18 case?

19 A. I don't know.

20 Q. Let me ask you about the first
21 comparison. What were you asked to compare?

22 A. I was asked to look at all the items
23 inside the package, do an examination, determine
24 caliber and then inner compare them to determine
25 how many guns were used.

1 Q. And were you able to arrive at any
2 conclusions?

3 A. Yes.

4 Q. What were they?

5 A. Well, there were 11 cartridge cases in
6 this package, and I was able to identify all 11
7 cartridge cases as having been fired in a single
8 gun. Those cartridge cases are caliber
9 nine-millimeter. The bullets that were in here, I
10 was also able to determine they're consistent with
11 nine-millimeter, but the impressions on the sides
12 of these bullets from passing down the barrel of a
13 firearm were of too poor quality to determine
14 whether or not they conclusively all had been
15 fired from a single firearm.

16 Q. Now, as to the third examination, how
17 long was that after the first examination?

18 A. That was over a year later.

19 Q. And what were you asked to compare in
20 that third examination?

21 A. There was another bullet that was
22 submitted that I was asked to compare to the
23 bullets in this package.

24 Q. And what were the results of that
25 examination?

1 A. It was the same as before. The bullet
2 was consistent with nine-millimeter, but again the
3 impressions on the sides of the bullet were just
4 too poor quality for conclusive identification.

5 Q. And again that last item that was
6 submitted to you, that was just a fired bullet,
7 correct?

8 A. Correct.

9 Q. And you have no way of knowing where that
10 came from or how it was given to you?

11 A. I know how it was given to me, but the
12 history of it I don't know.

13 Q. If the jury heard testimony that one of
14 the relatives of a victim was cleaning the
15 apartment and found the bullet and gave it to the
16 police, would you expect that they would submit
17 that to you for your examination?

18 A. Yes.

19 MR. KANE: Okay. Nothing further, your
20 Honor, pass the witness.

21 THE COURT: Cross?

22

23 CROSS-EXAMINATION

24 BY MR. BROOKS:.

25 Q. Just briefly. You know a lot about guns,

1 right?

2 A. Yes.

3 Q. Okay. Eleven cartridges are found. Can
4 11 cartridges be fired or 11 bullets be fired from
5 the same gun without reloading it?

6 A. It would depend on the magazine capacity
7 in the gun.

8 Q. There are guns out there that have
9 magazine capacities that are in excess of 11,
10 correct?

11 A. Oh, yes.

12 Q. And in this case we don't know what kind
13 of gun we're dealing with?

14 A. Correct. Without the gun I can't tell.

15 MR. BROOKS: Okay. Thank you. No
16 further questions.

17 THE COURT: Redirect?

18 MR. KANE: Nothing further.

19 THE COURT: You may step down, sir.
20 Thank you for your time.

21 Will this be the perfect place for us to
22 take a break?

23 MR. KANE: If we could, judge, under the
24 special circumstances.

25 THE COURT: Let's take about a 10-minute

1 recess or so.

2 Ladies and gentlemen, during the recess I
3 must remind you that it remains your duty not to
4 discuss this case among yourself or with anyone
5 else. Do not read, watch, listen to a report of
6 or commentary on anything which might be
7 associated with this matter. And do not form or
8 express an opinion in any of these matters until
9 it has been fully and finally submitted to you
10 under instruction of law by me.

11 See you in about 10 minutes.

12 (Recess taken.)

13 THE COURT: Welcome back. Let the record
14 reflect all parties are present.

15 Counsel, will you stipulate, please, to
16 the presence of the jury?

17 MR. KANE: Yes, on behalf of the State,
18 your Honor.

19 MR. BROOKS: Defense will, your Honor.

20 THE COURT: And we have a witness in the
21 witness chair.

22 Would you stand, please, raise your right
23 hand, face the clerk to be sworn?

24

25

1 CELESTE PALAU,
2 called as a witness, and having been first duly
3 sworn to testify to the truth, the whole truth,
4 and nothing but the truth, was examined and
5 testified as follows:
6

7 THE CLERK: Please be seated. State your
8 full name and spell your last name for the record.

9 THE WITNESS: Celeste Palau,
10 C-e-l-e-s-t-e P-a-l-a-u.
11

12 DIRECT EXAMINATION

13 BY MR. KANE:

14 Q. Ms. Palau, back in May of 2003, were you
15 living in the Saratoga Palms Apartments over on
16 2895 East Charleston here in Las Vegas, Clark
17 County, Nevada?

18 A. Yes.

19 Q. And what was your apartment number if you
20 remember?

21 A. 2051.

22 Q. Now, directing your attention to May the
23 26th around midnight, going into May the 27th, did
24 you witness an incident that later caused you to
25 come into contact with the police?

1 A. Yes.

2 Q. And from where did you see what it was
3 that you saw?

4 A. My patio.

5 Q. Okay. I'm going to show you, and this
6 one is Exhibit 4, one of several copies of the
7 floor plan of the apartment complex.

8 Is this your apartment here, 2051?

9 A. Yes.

10 Q. Would you draw a little circle right
11 around 2051 just so the jury can see that?

12 A. (Witness complying.)

13 Q. Okay. And what you saw, did that take
14 place over here at apartment 2068?

15 A. Yes.

16 Q. Okay. Would you draw a circle around
17 2068?

18 A. (Witness complying.)

19 Q. So, this apartment down here in building
20 seven, that's your apartment, 2051?

21 A. Yes.

22 Q. And 2068 is one that the jury's already
23 heard a lot about?

24 A. Yes.

25 Q. Now, are the buildings in here sort of

1 cookie cutter apartment buildings? Each building
2 is much like each other?

3 A. Yes.

4 Q. So, you had a patio just like apartment
5 2068 had a patio?

6 A. Yes.

7 Q. Now, since your number is 2051, were you
8 up on the second floor just like apartment 2068?

9 A. Yes.

10 Q. Did you know the people who lived in
11 apartment 2068 back in May of 2003?

12 A. I saw them around, spoke with the mother
13 of one of them.

14 Q. Okay. Who did you know to be living
15 there?

16 A. The mother with her son and a couple of
17 other people. And I knew her daughter.

18 Q. Okay. Were all the people the same race?

19 A. Yes.

20 Q. What was that?

21 A. Black.

22 Q. Okay. Did you also know a person in the
23 apartment complex named AI?

24 A. I know about him.

25 Q. Okay. And do you know where he lived in

1 the apartment complex?

2 A. It was by our pool in the back.

3 Q. Okay. And the pool would be here?

4 A. Yes.

5 Q. So, what you know is, he lived somewhere
6 in the vicinity of the pool?

7 A. In building 12.

8 Q. In building 12, which is here. Okay.
9 Now, it's May the 26th, going into May the 27th
10 between 11:00 and midnight, and you're where?

11 A. On my patio.

12 Q. With anyone?

13 A. Yes, my friend.

14 Q. Who's that?

15 A. Michelle.

16 Q. Now, do you know where Michelle is today?

17 A. No.

18 Q. In fact, have you tried to get in touch
19 with Michelle since this happened?

20 A. Yes.

21 Q. Where was the last place you knew she was
22 living?

23 A. In San Diego.

24 Q. And you haven't been able to get in
25 contact with her?

1 A. No.

2 Q. Now, are you both sitting facing in the
3 same direction, or are you facing each other?
4 Tell me how it went.

5 A. We're facing each other.

6 Q. Okay. And down at the bottom of the
7 diagram that's on the screen in front of you,
8 you'll see East Charleston Boulevard.

9 Were you facing towards Charleston or the
10 other way?

11 A. The other way.

12 Q. Okay. So, you were facing in the
13 direction of apartment 2068?

14 A. Yes.

15 Q. Okay. And your friend was facing in the
16 opposite direction looking at Charleston?

17 A. Right.

18 Q. What happened that attracted your
19 attention?

20 A. It sounded like fireworks, you know, like
21 little firecrackers were going off. So, it kind
22 of distracted me. But at first I looked towards
23 Charleston, because I thought something was going
24 on over there.

25 Q. Did you see anything when you looked

1 towards Charleston?

2 A. No.

3 Q. So, what did you do then?

4 A. Turned my head forward and had, my head
5 went to the right.

6 Q. Okay. What did you see then?

7 A. At that time I saw two people running out
8 of an apartment.

9 Q. And what apartment was it if you know?

10 A. 2068.

11 Q. Okay. Now, who were the people that you
12 saw? Would you describe the people you saw
13 running out of the apartment?

14 A. It was a younger boy and a girl.

15 Q. Now, were either of those people people
16 that you knew to live in apartment 2068?

17 A. One of them.

18 Q. Which one?

19 A. Casper.

20 Q. And was --

21 A. The boy.

22 Q. The boy, I assume. Okay. And when you
23 saw Casper, where was he when you first saw him?

24 A. When I saw him coming out the apartment,
25 he was just running down the stairs.

1 Q. Okay. So, he came out the door of the
2 apartment and ran down the stairs?

3 A. Right.

4 Q. Where did he go once he got to the bottom
5 of the stairs?

6 A. He went around the corner of the building
7 and ran.

8 Q. In which direction, towards Charleston,
9 in another direction?

10 A. If he goes down the steps, he makes a
11 left and goes around that corner.

12 Q. Okay. So, as far as you know, he went
13 around behind the building into, in other words,
14 away from Charleston?

15 A. Uh-huh.

16 Q. Where did the girl go if you saw?

17 A. She went down the steps, and after that
18 she got away pretty quick.

19 Q. Okay. Did you see anybody else in the
20 area when you first look over there besides those
21 two, the boy and the girl running down the steps?

22 A. No.

23 Q. Okay. What's the next thing you
24 remember?

25 A. I saw AI come out of the house, and he

1 was shooting somebody on the patio.

2 Q. Okay. You saw him come out of the
3 apartment, 2068?

4 A. Uh-huh.

5 THE COURT: Is that a yes?

6 THE WITNESS: Yes.

7 BY MR. KANE:

8 Q. Describe exactly what you saw him do.

9 A. He came out of the apartment, and I heard
10 the shot go off, and it seem like he was following
11 the person that was on the patio. He shot him a
12 second time. He was heading towards the little
13 storage area on the patio. And for the third shot
14 he went in a little bit closer and did the third
15 shot, and after that he left.

16 Q. And again you know the layout of the
17 patio, because yours is the same layout if you
18 just flip it around the other way?

19 A. Yes.

20 Q. How far apart were the three shots that
21 you witnessed? Was it bang, bang, bang, or was
22 there space between the three?

23 A. A little space in between.

24 Q. Did AI move between the time he fired the
25 first shot and the second shot and the third shot?

1 A. Yes.

2 Q. Describe that to the jury.

3 A. The first shot, it was coming out the
4 door. The second shot, he followed the person as
5 if he was trying to follow the same direction he
6 was going into. The third shot, he moved in a
7 little bit closer and shot the third shot off.

8 Q. Now, after the third shot what did he do?

9 A. He walked down the steps.

10 Q. And what happened when he got to the
11 bottom of the steps?

12 A. He walked straight ahead towards the
13 front of our office.

14 Q. Now, which direction would that be in on
15 the diagram here? And you can just use your
16 finger to point.

17 A. It would be going past building six and
18 five.

19 Q. So, he went out this way?

20 A. Uh-huh.

21 THE COURT: Yes?

22 THE WITNESS: Yes.

23 BY MR. KANE:

24 Q. What's the next thing you can remember?

25 A. I saw undercover there, and pretty much

1 after that I went down the stairs, and that's when
2 the whole big commotion, everybody was coming
3 outside to see what had happened. And not too
4 long after that police had arrived.

5 Q. Okay. And what do you mean by
6 undercover?

7 A. Well, we had some gang activity going on
8 in the complex. So, they were in there doing
9 their nightly routine by circling around the
10 complex.

11 Q. And you were pretty used to that? You
12 had seen their car before?

13 A. Yeah.

14 Q. So, you immediately recognized that it
15 was a police car, even though it wasn't a
16 black-and-white?

17 A. Yes.

18 Q. Now, when you first saw the police car,
19 where was it? And just tap the screen where it
20 was.

21 A. (Witness complying.)

22 Q. Okay. And at the time that you first see
23 the police car has AI already proceeded down that,
24 this street here?

25 A. He was right --

1 Q. Where is he, right there?

2 A. Yes. He's already down the steps.

3 Q. Okay. By the time, where does the police
4 car go from here, from this first little green
5 dot?

6 A. They go this way.

7 Q. Okay. So, they come up and turn the
8 corner?

9 A. Uh-huh.

10 THE COURT: Yes? You have to answer yes
11 or no, because the reporter can't report --

12 THE WITNESS: Yes.

13 BY MR. KANE:

14 Q. I'm sorry. I should have made that clear
15 to you. This young lady is taking down everything
16 you say. So, you have to say yes or no.

17 A. Yes.

18 Q. At the time the police car turns the
19 corner and heads up this way where is AI? Tap the
20 screen.

21 A. (Witness complying.)

22 Q. Okay. So, he's cleared this corner here
23 and is proceeding down the block?

24 A. Yes.

25 Q. So, the police car virtually, he and the

1 police car virtually pass one another?

2 A. Yes.

3 Q. Okay. And then what happens with the
4 police car if you see?

5 A. I don't know where they ended up at.

6 Q. Okay. What did you do at that point?

7 A. First I went in my apartment, and then I
8 went downstairs with a few of my friends to see
9 what had happened.

10 Q. And did you eventually give a statement
11 to the police where you told them basically what
12 you've told us today?

13 A. Yes.

14 Q. Now, on the night, well, on May the 26th
15 into the 27th at about midnight what were the
16 lighting conditions like in the apartment complex?

17 A. Some of them were busted out, and some of
18 them were working.

19 Q. Okay. How about the lights over by
20 apartment 2068?

21 A. The light in the middle was on, which is
22 pretty bright.

23 Q. Explain what you mean by that.

24 A. Well, the light in the middle between the
25 two apartments is really bright. It's in the

1 middle of the steps as you go up. So, it lets off
2 a lot of light.

3 Q. Okay. And again apartment 2068 and that
4 building is set up just like your building but
5 flipped around?

6 A. Yes.

7 Q. Okay. So, as you walk out the door of
8 your apartment is there a little light right by
9 the door like you would see in most apartments?

10 A. Yes.

11 Q. Was that light on over by 2068 on May the
12 27th?

13 A. No.

14 Q. So, what was the light that enabled you
15 to see who was on the stairs?

16 A. The big bright light in the middle of the
17 two master bedrooms.

18 Q. Okay. And on the diagram here there is
19 some little dots, and is that dot like the
20 location of a light that hangs on the wall?

21 A. Yes.

22 Q. Okay. So, it's in between the two sets
23 of apartments?

24 A. Yes.

25 Q. There is, there is stair steps that come

1 down like this, like a V, and it's right in the
2 middle?

3 A. Yes.

4 Q. And how much illumination does it
5 provide?

6 A. Quite a bit.

7 Q. Quite a bit to the extent that anyone in
8 the apartment building ever does anything about
9 it?

10 A. Yes.

11 Q. What?

12 A. They basically bust it out.

13 Q. Okay. So, lights over there had been
14 busted out, because they provide so much light?

15 A. Yes.

16 Q. And that light was working on that night?

17 A. Yes.

18 Q. Okay. Is there any doubt in your mind
19 that the person that you saw come out of apartment
20 2068 and walked down the street just as the police
21 car was turning the corner was AI?

22 A. It was him.

23 Q. Is AI present here in court?

24 A. Yes.

25 Q. Would you point to him and tell me

1 something he's wearing?

2 A. He's wearing a white shirt and a tie.

3 MR. KANE: Would the record reflect
4 identification of the defendant, your Honor?

5 THE COURT: The record will so reflect.

6 MR. KANE: Nothing further.

7

8 CROSS-EXAMINATION

9 BY MR. BROOKS:

10 Q. Ms. Palau, my name is Howard Brooks. I'm
11 going to ask you a few questions. On the evening
12 of May 26th, excuse me. Just so you know,
13 Ms. Palau, this is new technology here. This is a
14 new courthouse. We're all getting used to it.

15 Okay. So, going to the evening of May
16 26th, you were at your apartment, correct?

17 A. Yes.

18 Q. And your apartment is in building seven?

19 A. Yes.

20 Q. And if you don't mind, if you could,
21 simply take your hand and put it on building
22 seven.

23 A. (Witness complying.)

24 Q. Okay. And just go ahead and put your
25 hand on building nine.

1 A. (Witness complying.)

2 Q. Okay. Your apartment is in building
3 seven, and you're on the second floor, correct?

4 A. Yes.

5 Q. Okay. Going to that, the picture there
6 in this exhibit, this is Exhibit 4. Going to this
7 exhibit, I want you to look at building seven and
8 show us where precisely your apartment would be in
9 building seven.

10 A. (Witness complying.)

11 Q. Okay. So, it's a little bit to the north
12 of the middle of the apartment?

13 A. Yes.

14 Q. And your apartment faces on the eastern
15 side of the building?

16 A. Yes.

17 Q. And you're on the second floor?

18 A. Yes.

19 Q. On this evening sometime before midnight
20 you are sitting outside your apartment on the
21 balcony?

22 A. Yes.

23 Q. Are you sitting in a chair?

24 A. Yes.

25 Q. You're sitting there with a friend?

1 A. Yes.

2 Q. What is your friend's name?

3 A. Michelle.

4 Q. Michelle what?

5 A. Mardriguez.

6 Q. Mardriguez?

7 A. Mardriguez.

8 Q. What were you all doing there?

9 A. We were having a conversation. She had
10 came over about an hour and a half prior to the
11 incident. We were going to school together in
12 junior high school, and she moved out to
13 California. So, she was here visiting her family
14 and stopped by my apartment.

15 Q. Had you been drinking any alcohol?

16 A. No.

17 Q. Had you been doing any type of drugs?

18 A. No.

19 Q. Okay. Now, as you're standing here right
20 now, you're not wearing eyeglasses, correct?

21 A. Correct.

22 Q. Do you wear eyeglasses?

23 A. No.

24 Q. Did you wear eyeglasses back in May of
25 2003?

1 A. No.

2 Q. So, your vision is pretty good?

3 A. Yes.

4 Q. You're sitting out there with your
5 friend. You're both sitting in chairs?

6 A. Yes.

7 Q. And the first thing that you notice,
8 something unusual, is that you hear gunfire,
9 correct?

10 A. Yes.

11 Q. Did you hear the gunfire before or after
12 seeing the police car?

13 A. Before.

14 Q. Okay. Because you heard the gunfire,
15 which you think are firecrackers, correct?

16 A. Correct.

17 Q. You stand up and start looking around?

18 A. Yes.

19 Q. And you stand up and look around, and as
20 you're looking around after hearing the sound of
21 what you think are firecrackers, you see the
22 police car?

23 A. I saw it afterwards, yes.

24 Q. Okay. Your attention is eventually drawn
25 to the other building identified in Exhibit 4,

1 which is building nine, correct?

2 A. Yes.

3 Q. And it's drawn to, the first time to that
4 apartment, because you see two people leaving?

5 A. Yes.

6 Q. And you think those two people are like
7 playing a game?

8 A. Yes.

9 Q. You think that they are obviously
10 together?

11 A. Yes.

12 Q. And you think that they are playing with
13 firecrackers?

14 A. Yes.

15 Q. And you see these two people both coming
16 out of the apartment at the same time?

17 A. Yes.

18 Q. And you see both these people going down
19 the stairs at the same time?

20 A. Yes.

21 Q. One is right in front of the other?

22 A. Yes.

23 Q. And they get down to the bottom. And
24 which direction do those two people run?

25 A. When they go down the steps, they went to

1 the left.

2 Q. Both of them together?

3 A. Yes.

4 Q. The male and the female?

5 A. The male continued on running. The
6 female hid somewhere.

7 Q. Okay. Now, do you know if, who those two
8 people were?

9 A. Yes.

10 Q. Who were those two people?

11 A. One was Casper, and one was his
12 girlfriend, Chrissy.

13 Q. Does Casper have another name?

14 A. Lazon.

15 Q. Lazon Jones?

16 A. Junior, yes.

17 Q. Who was the girl?

18 A. Chrissy.

19 Q. And did you know Chrissy at that time?

20 A. I met her a few times. We've talked.

21 Q. And, I'm sorry. You just said this, but
22 I didn't quite catch it. What is Chrissy's
23 relationship to Casper if you know?

24 A. Nothing.

25 Q. Okay. Who is Chrissy if you know?

1 What's her relationship to anybody?

2 A. At the time she was AI's girlfriend.

3 Q. Okay. Now, you knew, you had actually
4 talked to Chrissy before?

5 A. Yes.

6 Q. You had talked to Lazon before?

7 A. No.

8 Q. Okay. But you knew who Lazon was?

9 A. Yes.

10 Q. Were you friends with Lazon or his
11 brothers at that time?

12 A. No.

13 Q. Were you friends with Lazon's mother?

14 A. Yes.

15 Q. Were you friends with Jason Moore?

16 A. No.

17 Q. None of those people had ever been inside
18 your apartment?

19 A. No.

20 Q. And you were not friends with Chrissy
21 really either?

22 A. Not really.

23 Q. But you just knew them, because they were
24 around the complex?

25 A. Yes.

1 Q. Okay. AI, who is here in court, was he a
2 friend of yours?

3 A. No.

4 Q. But you knew him, because he had been
5 around the complex?

6 A. Yes, and he knew a friend of mine.

7 Q. Who was that friend of yours that he
8 knew?

9 A. Seven.

10 Q. Who is Seven?

11 A. He was the guy that was staying with me
12 at the time.

13 Q. And as of May, 2003 --

14 A. He had moved out a month prior to it.

15 Q. How long had he been living with you?

16 A. About two months.

17 Q. So, he lived there two months. Then he
18 moved out about a month before?

19 A. Yeah. He moved out in April.

20 Q. But he still came over?

21 A. Yes.

22 Q. He was still your friend?

23 A. Yes.

24 Q. He would still come spend time at your
25 apartment?

1 A. Yes.

2 Q. And he was a friend of AI's?

3 A. Yes.

4 Q. Would AI and Seven hang out at your
5 apartment?

6 A. It, one time he came over. AI came over
7 to see if Seven was at the house, and that was the
8 only time that he's ever came over to my house.

9 Q. But you knew Seven and AI hung out
10 together?

11 A. Yes.

12 Q. Do you know Seven's actual name?

13 A. No.

14 Q. You didn't see Seven this evening of May
15 26th, did you?

16 A. Yes.

17 Q. You did? Earlier in the evening?

18 A. After the incident happened.

19 Q. Where, was he around, if you know, when
20 the incident happened?

21 A. He just came up behind me after
22 everything happened. And the police was there.
23 And he just came from around the corner to come to
24 check on me.

25 Q. Okay. So, you're up there on the

1 balcony, and you, your friend hear what you think
2 are the sound of firecrackers. You look over, and
3 you see a commotion going on near that apartment
4 when you see two people leaving, correct?

5 A. Yes.

6 Q. Okay. The two people leave. And when
7 they're coming down the stairs, how is the
8 lighting as you see them coming down the stairs?

9 A. The light in the middle, which is bright.

10 Q. The light in the middle?

11 A. Yes.

12 Q. The light in the middle is the one that
13 allows you to see them?

14 A. Yes.

15 Q. Okay. I want you to look right now at,
16 you're looking at that, and I really don't need to
17 come over here, I guess. Just using this, look at
18 the computer screen. That's how we're doing it
19 now. Look over here at building seven and
20 building nine. Okay? And look at the point where
21 your apartment is and, and look over to, to the
22 building nine.

23 Now, where precisely in building nine is
24 that apartment, 2068, where these people came
25 from?

1 A. (Witness indicating.)

2 Q. Okay. How much distance is there between
3 your place on the balcony and that apartment,
4 2068, if you know?

5 A. I don't know.

6 Q. Do you have an approximation in your
7 head?

8 A. No.

9 Q. You're not sure?

10 A. No.

11 Q. Okay. Do you have any idea at all?

12 A. Not really.

13 Q. Okay. Look at, around the courtroom. Is
14 it further away than, say, the doors to this
15 courtroom?

16 A. Yes.

17 MR. BROOKS: Okay. Judge, if I may
18 approach the witness with Proposed Defense Exhibit
19 C, which I'm showing to Mr. Kane.

20 THE COURT: Certainly.

21 BY MR. BROOKS:

22 Q. This is, this is where old technology
23 meets new technology. This is the old technology.
24 Okay? I'm showing you a photograph. Do you
25 recognize this photograph?

1 A. Yes.

2 Q. What does that photograph show?

3 A. Building nine.

4 Q. And where is the picture taken from?

5 A. Seems to be my patio.

6 Q. Okay. Would this be a fair and accurate
7 view from your patio of the, of building nine?

8 And, and in that building, of course, is apartment
9 2068.

10 A. Yes.

11 MR. BROOKS: Okay. Judge, we would ask
12 that this be admitted as evidence.

13 MR. KANE: No objection.

14 THE COURT: It will be admitted.

15 BY MR. BROOKS:

16 Q. And just to clarify, this picture was
17 taken in the middle of the daytime. So, the
18 lighting here is not the same as the lighting that
19 you experienced that evening?

20 A. Yes.

21 Q. But this would show the distance between
22 the two?

23 A. Yes.

24 MR. BROOKS: With the Court's permission,
25 may I publish this to the jury?

1 THE COURT: You may.

2 MR. BROOKS: Judge, may I approach
3 with --

4 THE COURT: Sure.

5 UNIDENTIFIED JUROR: Excuse me. I'm not
6 sure what exactly, where that apartment is.

7 BY MR. BROOKS:

8 Q. I'll clarify it, and I appreciate your
9 question.

10 Just to clarify for the juror, Ms. Palau,
11 the photograph that's right there in her hands,
12 Defense Exhibit -- whatever it is -- C, is it fair
13 to say that's a view from the balcony, right here
14 where my finger is, looking across to the
15 apartment in building nine where my finger is now?

16 A. Yes.

17 Q. Okay. I'm going to approach now with
18 Exhibit -- Proposed Defense Exhibit B. This is
19 another photograph.

20 Does that, does that, do you recognize
21 that?

22 A. Yes.

23 Q. What is that?

24 A. That is the light in the middle of the
25 staircase.

1 THE COURT: I can't hear. Light in --

2 THE WITNESS: The middle of the
3 staircase.

4 BY MR. BROOKS:

5 Q. Okay. Is it, is this a fair and accurate
6 representation of the light outside apartment 2062
7 over the, the staircase?

8 A. Yes.

9 MR. BROOKS: Okay. Judge, I would ask to
10 admit this.

11 MR. KANE: No objection, your Honor.

12 THE COURT: It will be admitted.

13 MR. BROOKS: And with the Court's
14 permission, I would like to publish it to the
15 jury.

16 THE COURT: You may do so.

17 BY MR. BROOKS:

18 Q. So, you're looking from one building
19 diagonally across to the other, correct?

20 A. Yes.

21 Q. You do not have a clear view directly
22 across into that apartment at 2068?

23 A. No.

24 Q. In fact, it is a diagonal view of, of the
25 distance shown in that exhibit?

1 A. Yes.

2 Q. And what you're seeing simply is people
3 coming out of there and coming down the stairs,
4 which you described the two people leaving?

5 A. Yes.

6 Q. Then you're testifying that you saw AI
7 come out after they had already gone and shooting
8 someone there on the balcony?

9 A. Yes.

10 Q. And this is your view from your balcony,
11 looking across the other balcony?

12 A. Yes.

13 Q. And the lighting that you're saying
14 shows, this would have to be, for the most part,
15 the lighting provided by that --

16 A. Yes.

17 Q. -- exhibit? When he comes out -- when I
18 say he, I mean AI -- you can see his face?

19 A. I could see the, the outline, the
20 structure of his body and everything else.

21 Q. You can't see, I mean, he's not close to
22 you obviously?

23 A. No.

24 Q. So, you must be looking at something that
25 allows you to recognize him?

1 A. Yes.

2 Q. What is it that allows you to recognize
3 him?

4 A. His height and the structure of his body.

5 Q. The fact that he's short?

6 A. Yes.

7 Q. Can you describe what the structure of
8 his body was?

9 A. Well, everybody in the apartments were
10 basically either tall or normal, and he was one of
11 the short ones that we knew around the complex.

12 Q. Was there anything particular about his
13 body build that called your attention to him that
14 night?

15 A. Just the way he was standing and walking.

16 Q. Describe his hair.

17 A. At the time he had braids.

18 Q. Long braids or short braids?

19 A. About to his shoulder.

20 Q. Could you tell what he was dressed in?

21 A. I believe it was a red and white jersey.

22 Q. And what about his pants?

23 A. It was either blue or black shorts.

24 Q. And at this distance you were able to see
25 him actually hold a gun?

1 A. Yes.

2 Q. Could you actually describe the gun at
3 this distance?

4 A. No.

5 Q. Could you actually see any type of flame
6 or blast from the gun?

7 A. No.

8 Q. Could you hear the gunshots?

9 A. Yes.

10 Q. You've described that he fired three
11 times, correct?

12 A. Yes.

13 Q. And then he turns and comes down the
14 stairs?

15 A. Yes.

16 Q. And then he proceeds essentially west?

17 A. Yes.

18 Q. Is that correct? You did not talk to the
19 police that night, correct?

20 A. No.

21 Q. In fact, the police arrived in great
22 numbers within a few minutes of the shooting?

23 A. Yes.

24 Q. And you could see the police there from
25 your balcony?

1 BY MS. PANDUKHT:

2 Q. I'm going to show you a diagram that has
3 been admitted as State's Exhibit No. 3. Hold on.
4 I need a pen.

5 Could you review this diagram? And let
6 me tell you a couple things. First of all,
7 Detective Spencer has marked the diagram in the
8 red pen in terms of the route that she was, well,
9 first of all, who was driving the vehicle?

10 A. Detective Spencer was driving.

11 Q. Okay. So --

12 A. I was in the front passenger seat seated
13 next to her.

14 Q. So, she was driving. In red she's
15 marking the route that she was driving through the
16 apartment, and we've written here error, because
17 she said that she didn't actually go this way.
18 But in reviewing the path that she has written
19 here in red, I want you to take this black pen and
20 let me know if, does that appear to be the route
21 that you proceeded on that evening?

22 A. Yeah. It, how we, what you do is, when
23 you come in, the part that she wrote error on is
24 actually like, it's gravel and a planter. It's
25 not where you can actually drive. It's not a

1 driveway. It's kind of misleading on the diagram
2 here. When you come into the complex, you pass
3 the gate, and you cannot go right or left until
4 you reach the office and the pool area, which is
5 directly in front of you. At that point we made a
6 left, because it was the northeast corner of the
7 complex that we're primarily interested in. When
8 we usually patrol that area, that's where we head
9 to, because that's where the problems are in that
10 area. So, we made a left once we hit the T
11 intersection right in front of the office. And
12 the path that she denoted on this diagram is the
13 correct path that we took.

14 Q. Okay. Well, then, I'm going to go ahead
15 and just clarify a couple of things. For the
16 record, you didn't make any markings in the black
17 pen, but now I would like you to explain to the
18 jury, and I'll leave this up there for you. Once
19 you were driving along that path, you mentioned a
20 corner. What corner? Could you just point?
21 You're able to do that actually.

22 A. Do you mind?

23 Q. Your screen, actually you can touch it.

24 A. Okay. New technology.

25 Q. What corner were you talking about?

1 A. This is right in this area here. See
2 where the red is? There is a power box there
3 where a lot of people sit, hang out, sell drugs.
4 There is a lot of disturbances there. I also
5 worked patrol in this area, and it's just that
6 corner of the complex is always been a particular
7 sore spot. So, what we usually try to do is just
8 concentrate a little bit of extra patrol and a
9 little bit of extra attention on there to try to
10 get the people from hanging out and make the
11 apartment a better place to live.

12 Right below the red dot that I've made
13 is, there is a wrought iron gate that goes along
14 the south side of Charleston, the whole entire
15 length of the complex where, what people have done
16 is, they have broken out bars on that gate in
17 order to ingress and egress the apartment complex
18 without having to go all the way around through
19 the proper entrance.

20 Q. Now, on the diagram, do you see the area
21 marked here in this corner that I'm pointing with
22 my pen?

23 A. Right there?

24 Q. There is a GS and a YM written there in
25 the corner. What happened once you got to that

1 corner?

2 A. On that particular night what we did was,
3 we, we broke the plane of the parking area. We
4 could see the corner. There was no real activity,
5 nothing for us to, that caught our attention. So,
6 what Detective Spencer was doing, I believe she
7 made like a two-point turn. It's like she pulled
8 down, backed up, and then started back the way we
9 came in. And she had her window down. It's
10 common for us to do that. One or the other will
11 have our window down. That way if a citizen hales
12 us or we hear gunfire or anything, we can hear it.
13 She had her window down on that particular night.

14 Q. Was your window down that night?

15 A. No, it was not.

16 Q. Did anything unusual happen when you were
17 around that corner?

18 A. When she's backing up, she stops right in
19 that area. Sometime during the course of the
20 U-turn or the three -- the two-point turn she
21 looked at me kind of puzzled, and she said, did
22 you hear that? It sounded like gunfire, and I, I
23 think I heard two or three gunshots. I forget the
24 number. And I didn't hear it at all. She had
25 better hearing than I did that night. She heard

1 the gunfire. And I said, well, let's go check it
2 out. And that's where we proceeded to, where we
3 believed the gunfire was coming from.

4 Q. Did you notice anything else as you were
5 proceeding toward that area?

6 A. When, when we were making the turn, a
7 black male ran across, he kind of trotted across
8 the driveway that we were headed down. We're now
9 getting ready to head west in this driveway here.
10 And I don't know the exact path from the diagram,
11 but a black male came running across here when we
12 were making the turn.

13 Did it show up on there?

14 Q. And now what I'm going to do is, could
15 you draw that on the diagram, then, in the black
16 pen?

17 A. I believe that was the path that he took,
18 around building 13.

19 Q. Okay. And now --

20 A. Once he's out of my view I wasn't able to
21 determine where he went from there.

22 Q. Where was your car when you saw him?

23 A. Somewhere around in here.

24 Q. Okay. Could you put, how about a PC for
25 patrol car?

1 A. Box.

2 Q. Or box. Now, what did you notice about
3 this black male adult or black male?

4 A. I remember he had a light-colored shirt
5 on and like shorts. I believe they were blue. At
6 the time what really struck us, caught our
7 attention was, it didn't look like he had shoes
8 on, and that was kind of unusual. We didn't
9 really focus on him, because we were, we're in a
10 car that looks like a police car, and we're in
11 uniform. I mean, and normally in, everybody knows
12 that we're the police or security. Most of them
13 know that we're the police. And he didn't really
14 pay any attention to us, and he wasn't really
15 running, trying to get away. It didn't look like
16 he was trying to run from something. So, we felt
17 that our urgent attention should be paid to where
18 the gunshots were coming from rather than stopping
19 him. We took note of him running across, but our,
20 we felt finding the gunfire was more important,
21 more of a pressing issue. That's why we continued
22 on.

23 Q. So, what was the next thing that
24 happened?

25 A. The next thing that happened was, we

1 rounded the corner here, and there was a group of
2 people down on this area there. And they, they,
3 obviously something was out of place. Something
4 was going on down there by their actions. The
5 group was kind of, where people face each other
6 and talk to each other normally, the group was
7 kind of going in different directions, almost
8 pacing in circles. It really, we, from my
9 experience of being a patrol and on the street, we
10 knew that something was happening down there. We
11 needed to go talk to these people. So, we went
12 down to see what was going on.

13 Q. And so what did you do at that point?

14 A. As we're approaching I believe, I
15 remember, I don't know if it was one or two people
16 went up the stairs like they're going up to the
17 apartment and then came down the stairs. That's
18 the upstairs apartment on building eight, the
19 southwest corner of the building.

20 Q. Could you point to that?

21 A. Once they came down --

22 Q. Could you point to the building?

23 A. It's right here, this building. It was
24 actually here. It's building nine on the diagram.
25 I think it was building nine.

1 Q. Okay. This building right there?

2 A. Yeah. So, what we do was, we stopped.
3 We asked them what was going on. And one of the
4 guys, he was, almost ghostly appearance. He said,
5 something bad happened up there. Somebody got
6 hurt, something to that effect, which Detective
7 Spencer and I immediately exited our vehicle and
8 went to go investigate.

9 Q. And what happened? Where exactly did you
10 go to investigate?

11 A. When you're facing east, which is this
12 direction here, when you're facing that way,
13 you're looking at the apartment building, and the
14 staircase goes up to your right. There is two
15 windows to the apartment and then a balcony. You
16 know, with the gunfire and the way that people
17 were reacting, we coupled those together.
18 Something really bad happened. So, we, at this
19 point, were very cognizant of our safety as well.
20 So, what we did, we kind of came up with a plan.
21 Detective Spencer said, we'll go up the
22 stairs. I'll lead, and you cover the window, and
23 I'll cover the door. So, we drew our firearms,
24 and we kind of slowly methodically went up the
25 stairs. While Detective Spencer covered down with

1 her firearm on the balcony and the doorway I
2 maintained a visual of the window. That way if
3 anybody had a gun in the apartment and it came to
4 the window, I would have our backs, and she would
5 have what we call our point.

6 We slowly went up the staircase, and we,
7 we broke the plane of the balcony. We saw a male
8 lying in a prone position, kind of almost like a
9 fetal position face down but his head turned
10 toward the west. And I also noticed a large blood
11 flow to the west of the person lying on the
12 ground. We continued moving up. I challenged the
13 person. That's the tactic we do just in case we
14 don't know what's going on. There was no reaction
15 from that person, and I didn't see any visual
16 signs of life. And I was looking for a
17 respiration movement. I didn't see any. So, I
18 told Detective Spencer, I said, okay. I don't
19 think we have to worry about him as being a
20 threat. That was, Jason Moore was on the patio.
21 And I said that we don't need to worry about him
22 as being a threat. I think he got shot in the
23 head. Let's clear the, continuing clear the
24 apartment. We try to do this in a fluid motion,
25 because if there is going to be gunfire, we don't

1 want to be caught standing in one spot. So, when
2 we don't know the layout of the apartment when we
3 are entering, we don't know furniture or anything
4 else. So, it's really dynamic.

5 What we did was, we rolled into the
6 apartment, and the first of, first obvious point
7 for us to go was the north bedroom. Detective
8 Spencer rolled in. It's, like I said, a fluid
9 motion, rolled into that bedroom, and she's
10 trying, the door comes back at her, which kind of
11 held us up a little bit. We didn't know if
12 anybody pushed the door back at her or what. So,
13 we then had to go a little methodically and really
14 force the door open. She went through the door
15 and cleared that room while I posted up with my
16 firearm, making sure nobody came out of the, any
17 of the back bedrooms to fire upon us. What she
18 discovered behind the door and I also observed was
19 the body of another male, Dajon, lying face down
20 behind the door. And that's what the obstacle was
21 that the door hit. At this point, needless to
22 say, our safety levels are way high. And I look
23 over toward the hallway, and I see two feet from
24 another individual lying on the ground that were
25 kind of flailing, moving around. And I could hear

1 labored breathing from that location.

2 Detective Spencer posted up and watched
3 the hallway while I cleared the kitchen to the
4 left. It was just a real quick peek around the
5 corner, make sure nobody was there. And then we
6 moved forward to the hallway, which is like a T
7 hallway at the, at the, at the south end of the
8 apartment. This particular area was really a
9 concern to us, and it was really difficult for us
10 as two officers to clear it safely, because there
11 was two closed doors facing each other, a
12 bathroom, and then Derrick was lying down injured
13 in the center of the hallway. So, at that point I
14 asked Detective Spencer, why don't we hold up
15 here, wait for another unit, because we need to
16 get somebody else to watch our backs when we clear
17 the bedrooms.

18 So, at that point, that's when Detective
19 Mead and a patrol officer arrived to give us
20 assistance so we could safely continue to clear
21 the apartment. We safely cleared the apartment,
22 and then once the situation was stable and we knew
23 that there was no shooter in the apartment, we
24 took note that there was still a haze of smoke in
25 the air. We knew the shooting had just occurred,

1 because the apartment was almost like a shooting
2 range. When we qualify with our firearms, there
3 is haze just hanging in the air. And we tried to
4 attend to Derrick Jones on the ground there.

5 Q. Now, where did you see Derrick Jones in
6 terms of what was around him?

7 A. Derrick Jones was in, his head was kind
8 of, do you have a diagram? It's kind of hard to
9 explain verbally. It would be easier if I
10 could --

11 Q. Well, what I wanted to do also, let me
12 try this first before we go there. I wanted to
13 show you a couple of photographs. First let me
14 ask you to look at these three pictures and tell
15 me if you recognize them.

16 And for the record, I'm referring to
17 State's Proposed Exhibits 24, 18, and 21.

18 THE COURT: Counsel, you have seen those?

19 MR. BROOKS: Defense counsel has, your
20 Honor.

21 THE COURT: Very well.

22 BY MS. PANDUKHT:

23 Q. And without telling me what's actually in
24 the photograph, do you recognize all three of
25 these photographs?

1 A. Yes, I do.

2 Q. How do you recognize them?

3 A. That's the location I just described
4 where the apartment was and the location of the
5 two deceased individuals, Jason Moore and Dajon
6 Jones. And the third photograph is a photograph
7 of the hallway where Derrick Jones was lying when
8 I arrived.

9 Q. Do all three of these photographs fairly
10 and accurately depict the crime scene that you
11 walked in on on May 27th, 2003?

12 A. Yes, sir.

13 MS. PANDUKHT: Move to admit State's
14 Proposed Exhibits 21, 18, and 24 and move to
15 publish for the jury.

16 THE COURT: Counsel, objection?

17 MR. BROOKS: I don't object, your Honor,
18 but I would ask that there is a description first
19 as far as what they are in the record. We haven't
20 received a description.

21 THE COURT: He determined that he
22 recognized them, the apartment he was just talking
23 about. Do you want to have further, I don't know
24 what they are either. So, it's hard for me to say
25 whether it's adequate.

1 MS. PANDUKHT: I believe he did state
2 exactly what each photograph was, but I can have
3 him do it one by one.

4 MR. BROOKS: I apologize. I didn't catch
5 that.

6 MS. PANDUKHT: State's, well, first of
7 all, are they --

8 THE COURT: Well, first of all, it's
9 further identification, and then we can move for
10 admission.

11 BY MS. PANDUKHT:

12 Q. Regarding State's Proposed Exhibit 24,
13 could you describe what is depicted in this
14 photograph?

15 A. Exhibit 24 is a photograph of the patio
16 area just adjacent to the front door. It depicts
17 the body of Jason Moore lying on the patio with
18 his head in the southeast corner of the patio and
19 his feet facing to the northwest, northwest.

20 Q. Regarding State's Proposed Exhibit No.
21 18, what does this photograph depict?

22 A. This photograph is a photograph taken
23 from within the interior of the north bedroom in a
24 southeasterly direction. The photo depicts the
25 body of Dajon Jones lying in a prone position

1 behind the entry door to the bedroom.

2 Q. Regarding State's Proposed Exhibit No.
3 21, what does this photograph depict?

4 A. This photograph is taken from the north
5 or the southeast bedroom in a westerly direction,
6 and it depicts the T hallway where Derrick Jones
7 was lying upon my arrival.

8 MS. PANDUKHT: State renews its motion.

9 MR. BROOKS: No objection.

10 THE COURT: They will be admitted.

11 MS. PANDUKHT: Move to publish.

12 THE COURT: You may do so.

13 BY MS. PANDUKHT:

14 Q. Now, I'm showing State's Exhibit No. 24,
15 and actually could you tap, oh, good. That
16 worked. Okay.

17 Could you describe to the jury now so
18 that they can see what you're talking about in
19 this photograph? And it's number 24.

20 A. As I previously described what we saw
21 when we were topping the staircase in the main
22 entry door, this green, this green piece of wood.
23 Here is the door frame of the main entry door to
24 the apartment. That would be to your left as
25 you're coming up the stairs. This is the first

1 body that we encountered that I described. He's,
2 his head's in the southeast corner. His feet go
3 kind of towards the northwest. And this is the
4 blood flow pattern that I described earlier. And
5 this, I was trying to look for breathing,
6 respiration when we were topping the staircase. I
7 did kind of a, your responsibilities, you have
8 numerous responsibilities there. We took a moment
9 and, like I said, he didn't appear to have any
10 signs of life at that point.

11 Q. Could you now explain to the jury what
12 we're looking at in State's Exhibit No. 18?

13 A. This doorway here was the doorway that we
14 first entered once we got into the apartment.
15 This was the first bedroom. We came in from this
16 direction, and Detective Spencer rolled into the
17 apartment this way while I stood here with my gun
18 pointed that way for the rest of the apartment.
19 Obviously she encountered him, which was Dajon
20 Jones, lying on the ground. However, she cleared
21 the entire apartment while I'm standing there
22 guarding her back. This is the reason we couldn't
23 get the door open, because the door hit Dajon's
24 body lying on the ground.

25 Q. Could you tell the jury what this is?

1 A. This here?

2 Q. Yes.

3 A. I believe it's a, closet doors that are
4 off their rails, just kind of lying there, leaned
5 up against each other.

6 Q. But that's the closet right there?

7 A. Yes. This is the closet, and this is a
8 bathroom.

9 Q. Okay. Would you tap your screen? Now,
10 could you explain to the jury, and this is --
11 we're going back now -- how you found the body of
12 Derrick Jones in State's Exhibit No. 20? And I
13 don't know. It's a little hard to see.

14 Can the jury see that? Is that better?
15 I don't know. That might be, I don't know. Is
16 that better? Okay. All right.

17 Where is this in the apartment?

18 A. Back up in this corner here, a little
19 over toward that direction where my arrow, my
20 crude arrow is pointing is the main entryway to
21 the apartment. Directly this way is kind of a
22 passageway that traverses the living area of the
23 apartment and the kitchen into the original
24 bedroom where Dajon was lying face down. The
25 master bedroom, so this is directly opposite of

1 the master bedroom. So, if you're coming out of
2 the master bedroom, you're walking straight. To
3 your right would be the main entry door and the
4 living area. To your left would be the kitchen
5 area and a nook. And you continue down the
6 hallway. You enter, you come through this
7 passageway, and now you're entering into a T
8 hallway with one bedroom and two bedrooms and then
9 a bathroom right here.

10 Q. Where was the bedroom where Dajon Jones
11 was found? Is that one --

12 A. This would be this direction. You have
13 to go through the main living area of the
14 apartment, the kitchen, the nook, the living room
15 in order to get to the main master bedroom. In
16 other words, the master bedroom is on the north
17 side, and then one and two bedrooms are on the
18 south side of the apartment. In the middle is the
19 column and living area.

20 Q. Now, can you show the jury, why don't you
21 tap your screen, get rid of the red.

22 Can you point out exactly where you saw
23 the body of Derrick Jones?

24 A. Derrick Jones's head was in the corner.
25 This door was closed at the time when I arrived,

1 and his body was this direction here.

2 Q. Were all of those objects there when you
3 saw Derrick Jones's body?

4 A. I believe this object here was actually
5 in his hands.

6 Q. And it's very difficult to actually, to
7 see what that is. I --

8 A. It's --

9 Q. You know what?

10 A. I could describe it if you would like.

11 Q. Here, hold on. It's very difficult to
12 see. You know, just tell us what it is, because
13 it's difficult to see this photograph on this
14 screen.

15 A. It's a plastic shopping bag. It's the
16 common type of shopping bag that you get with the
17 two handles at your local grocery store. It's
18 yellow. And inside were, I don't remember if it
19 was toilet paper or paper towels. There was some
20 sort of sanitary paper product, a bundle of it,
21 like multiple rolls, two rolls of paper towels in
22 that bag.

23 Q. And you said that somebody was holding
24 it?

25 A. Derrick was holding that, when we came

1 around the corner, in his hands.

2 Q. Did you try to talk to Derrick Jones?

3 A. Derrick was, his breathing was labored.
4 I could tell he was struggling. And I tried to
5 start, I tried to invoke communication with him,
6 tried to ask him who did this, what happened. I
7 was encouraging him to hold on, to continue
8 breathing, was telling him the paramedics are on
9 their way, we have medical coming. I was trying
10 to have him hold on to life a little bit, is what
11 we were trying to do.

12 With the injuries that he had, we, in our
13 training, we didn't, there wasn't much we could do
14 as far as first aid other than try to encourage
15 him to keep breathing. If they're still
16 breathing, the first thing to do is let them to
17 keep breathing. And that's what we did. But what
18 I was trying to do is get a declaration of who did
19 it, and he was, he wasn't able to communicate with
20 me at all. Detective Mead was, you know, asked
21 if, maybe if we turned him over a little bit, it
22 would alleviate his problem with his breathing.
23 So, we, both of us rolled him a little bit to try
24 to get him off of his chest so that he could
25 breathe a little easier. That didn't alleviate

1 the breathing at all. He was still very, very
2 labored breathing. And at that point I observed
3 the injuries to his head, and I realized that
4 communication at that point was futile and I
5 wouldn't be able to get any type of response from
6 him.

7 Q. Now, did you summon medical assistance
8 for Derrick Jones?

9 A. I don't recall if I did. I know that
10 medical was summoned.

11 Q. And you were there when medical arrived?

12 A. Yes.

13 Q. Did you also notify homicide detectives
14 and crime scene analysts to come to the scene?

15 A. I didn't personally, but that's part of
16 the procedure that occurs. I broadcast over the
17 air that we had two victims probably deceased and
18 one in critical condition being taken to UMC.
19 Usually what happens then is a detective
20 supervisor, my supervisor will contact the
21 homicide supervisor and have them respond. What I
22 did was, I started the ball in motion, but I
23 didn't personally make the notifications.

24 Q. Now, were you there not only when medical
25 arrived but also when the homicide detectives

1 arrived and the crime scene analysts arrived?

2 A. Yes. What I did originally was, once the
3 scene was fairly stable, we knew medical would be
4 there momentarily. I delegated to a patrol
5 officer to start securing the crime scene. I
6 backed up and made sure, what happens is, when the
7 fire department comes, we have different
8 priorities. My priority is to maintain the crime
9 scene. Their priority is to save lives.
10 Ultimately their priority prevails in that type of
11 situation. However, I tried to, what I tried to
12 do is document all the changes that were made to
13 the scene while they were there. And that's what
14 I did.

15 In my head I was making notes of things
16 that had happened. And there was also a shell
17 casing lying on the ground near the north bedroom
18 doorway. I was trying to make sure nobody walked
19 over that or kicked it. Basically we tried to
20 make it as pristine as we could while they were
21 there, letting the firemen do their job and try to
22 save Derrick. And that's what I did.

23 Q. And you also made sure that the crime
24 scene was secured so that other random people from
25 the outside couldn't just come in and disturb any

1 evidence?

2 A. Exactly.

3 Q. Now, the one thing I forgot to ask you
4 was, did you notice anything when you first walked
5 into the apartment in terms of any smells or
6 anything else?

7 A. The only thing that really, it's vivid in
8 my mind was that the haze of gun smoke and the
9 smell of gunfire. I knew, based upon hearing the
10 gunfire, the short time, time frame of us getting
11 there, that coupled with the haze of gunfire in
12 the air, I knew that a shooting had just occurred.
13 And that's why we took our time and were so
14 cautious clearing the apartment, because a lot of
15 times in those situations if we arrive that
16 quickly, we catch the perpetrator in the
17 apartment. And that's a desperate situation for
18 the, for the perpetrator, and it, you know,
19 shooting could happen. That's what really stuck
20 in my mind, was how quickly we got there. And he
21 was either still in the apartment, or we just
22 missed him.

23 MS. PANDUKHT: Thank you. Pass the
24 witness.

25 THE COURT: Mr. Brooks?

CROSS-EXAMINATION

BY MR. BROOKS:

Q. Where was that apartment diagram, Exhibit 3?

A. I no longer have it.

Q. There it is. Thank you.

Detective, my name is Howard Brooks. I just want to ask you a few clarifying questions.

A. Good day.

Q. Now, when ya'll entered that apartment complex, there was no gate, correct?

A. Well, there is a gate. Whether or not it was open that night, it's sporadic. It's sometimes operable and sometimes not operable. There is a gate, and I believe in, I believe this area here.

Q. Okay. But you didn't have to go through a gate to get inside?

A. Not that I remember.

Q. You enter in your car. The car is unmarked, correct?

A. Correct.

Q. You turn your headlights off?

A. I don't remember that. I wasn't operating the vehicle that day.

1 Q. Okay.

2 A. A lot of times we do. It all depends on
3 the, what we're trying to do or trying to
4 accomplish.

5 Q. As you're driving in you're going in a
6 southerly direction, correct?

7 A. That is correct.

8 Q. And look at where my finger is. You're
9 driving in. You go to this T and take a left,
10 correct?

11 A. Correct.

12 Q. How much, how far would you say it is
13 from where that Texaco star is to where you take
14 the T?

15 A. Less than a football field.

16 Q. So, less than 300 feet?

17 A. Correct.

18 Q. Would you say it's close to 300 feet?

19 A. It's right around there.

20 Q. Okay. You make a left-hand turn. You go
21 over. Then you make another left-hand turn. You
22 come down. You take a right-hand turn. You don't
23 hear the gunshots, correct?

24 A. I did not hear the gunshots.

25 Q. The first knowledge you had of those was

1 your partner telling you that, that she had heard
2 something?

3 A. That's correct.

4 Q. Okay. Did you hear the gunshots before
5 or after you saw this person running by, or did
6 you learn of your partner hearing gunshots before
7 or after this person running by?

8 A. It was before.

9 Q. Okay. You saw this person running by?

10 A. Yes.

11 Q. Did you see this person do anything
12 indicating an awareness of you?

13 A. No. They just kind of ran by and almost
14 like just glanced at us but didn't, didn't take
15 note of our presence.

16 Q. Okay. You turned around. You come back
17 to this little turn here. And at that point as
18 you're turning left and going south, again you see
19 something happening up in this area here?

20 A. Again that's the group that was acting
21 kind of out of place.

22 Q. How many people were in this group if you
23 know?

24 A. Four, five, I don't really recall. I
25 just recall there was a few people standing

1 around.

2 Q. What are they doing?

3 A. Like I said, they were standing around,
4 walking in different directions, frantic almost.
5 They, they, they knew something happened. They
6 were, best description would be that they were
7 lost, and they needed somebody to calm them down
8 and give them some direction.

9 Q. As you turn you're obviously proceeding
10 towards them, correct?

11 A. Correct.

12 Q. And you're actually, do you actually
13 speed up a little bit to get down there as soon as
14 you can?

15 A. Normally that's what they do, but I don't
16 remember that. Again if I'm driving, I usually
17 have a little more cognizance on how the vehicle
18 is being operated. But I would have if I was
19 driving. Trish probably did.

20 Q. But you're not absolutely sure?

21 A. I don't really remember.

22 Q. Do you know where you parked the car or
23 where she parked the car?

24 A. Parked the car out in the middle of the,
25 right in here somewhere, right, just out in the

1 middle of the driveway, adjacent to the building,
2 a little bit north of the actual apartment.

3 Q. Do you remember seeing anything as you
4 were turning, before you had actually driven down
5 and parked you could see the group of people,
6 correct?

7 A. Correct.

8 Q. Could you see much beyond that when you
9 actually are making the turn itself?

10 A. I would say at that point we kind of
11 focused in on the people, the group, you know,
12 what's going on down there.

13 Q. I realize this was happening very, very
14 fast, correct?

15 A. Right.

16 Q. I mean, basically you're turning, and
17 it's almost instantaneous. You're driving down
18 there towards that group.

19 A. Right. And we have no idea what is about
20 to unfold. It could be, you know, a lot of it
21 could be something completely innocent. It could
22 be a family fight. It could be somebody's dog
23 just got run over. We have no idea. It's just,
24 it struck us as odd and the way the people were
25 reacting, and we wanted to make contact with them

1 just to see if they needed the police's
2 assistance.

3 Q. When you stopped the car, you get out of
4 the car, correct?

5 A. That's correct.

6 Q. At that time you don't draw your gun, do
7 you?

8 A. No.

9 Q. At that time as you're getting out of the
10 car you don't know there's a dead body at the top
11 of the stairs?

12 A. Correct.

13 Q. As you get out of the car you're looking
14 up towards the apartment?

15 A. Kind of looking at the group.

16 Q. The group is looking up at the apartment,
17 aren't they?

18 A. Right.

19 Q. And doesn't that lead your attention
20 toward the apartment?

21 A. Not at that point. What drew my
22 attention was the guy kind of walked off a little
23 bit. I believe he was a white guy, which isn't
24 unusual. A lot of times people don't want to have
25 contact with the police in some particular

1 neighborhoods at all. And he kind of, he just
2 walked a few steps away, like he was going to
3 leave. And I called him back because, like I
4 said, I didn't know what was going on. This is
5 almost contemporaneous with the guy saying
6 something bad happened up there. So, I remember
7 Detective Spencer contacted him, and that's when I
8 called the guy back. I tried to maintain that
9 group.

10 Q. As you're getting out of the car and
11 you're looking at that group your attention goes
12 towards the apartment as well, correct?

13 A. No. Like I said, my attention was the
14 group.

15 Q. Okay.

16 A. And then --

17 Q. Well, let me stop you. Then at some
18 point your attention turned to that, to the
19 apartment before you actually walk up to the
20 apartment?

21 A. Oh, yeah. After the guy go, something's
22 bad happened up there. And then we decided we
23 needed to check it out. We told the group to go
24 into an apartment which is directly below.

25 Q. Okay. Let me stop you. Once your

1 attention is turned towards that apartment you got
2 out of the car. What can you see from downstairs
3 looking up towards that apartment? What do you
4 see?

5 A. See windows and a patio in between the
6 two windows and a door.

7 Q. You can't see a body up there, correct?

8 A. Not at all.

9 Q. Is it well-lit or poorly lit or
10 moderately lit?

11 A. It's moderately lit. It wasn't bad.
12 There was light being emitted from the interior of
13 the apartment, which was well-lighted. And there
14 was also a hardware store -- I believe it was a
15 Wards at the time -- just to the west of there.
16 And they have a number of lights in their parking
17 lot that flooded into that apartment complex, and
18 it wasn't bad lighting at all.

19 Q. Wait a second. You're saying to the west
20 of there, looking at the map here, you're saying
21 over here someplace?

22 A. Right. There is fairly bright light in
23 the parking area there that, that kind of like
24 creates an ambient light in the apartment complex.

25 Q. So, basically, then, you and your partner

1 go up there and find what you found?

2 A. Exactly.

3 Q. Okay. Now, you described the inside of
4 the apartment as the lights being on?

5 A. Yes, except for the southeast bedroom the
6 light was out, I believe.

7 Q. Eventually you were joined by Detective
8 Mead?

9 A. Correct.

10 Q. And by a patrolman?

11 A. Correct.

12 Q. And then at some point you guys end up
13 leaving, coming back out of the apartment?

14 A. We, I left the apartment once Derrick
15 Jones had been removed from the apartment and
16 there was no one else that was going to track in
17 and out of the apartment. It's best for us to
18 leave and maintain the scene. That's when I left.

19 Q. When you, by the time you leave the
20 apartment how many people are gathered outside?

21 A. Police personnel or --

22 Q. Everybody?

23 A. It's hard to say, 15, 20.

24 Q. Fifteen to 20 people are gathered
25 outside?

1 A. That's citizens and police personnel.

2 Q. Neighbors?

3 A. I believe so.

4 Q. Family members, do you know?

5 A. I don't remember that. I don't know who
6 the civilian people were. I just know that there
7 was civilians around as well as a number of
8 uniformed police officers.

9 Q. And they were not being allowed to come
10 into the apartment at that time?

11 A. That's correct.

12 Q. Did you stay around into the early
13 morning hours of 2:00 o'clock by the time
14 detectives were there and doing their interviews
15 or not?

16 A. Yes, I did.

17 Q. What time did you actually leave the
18 scene?

19 A. As soon as my statement was completed I
20 was relieved. So, without referring to my
21 statement, I know it was probably after 1:00 in
22 the morning to 2:00 in the morning.

23 Q. When you left the scene, had the family
24 been allowed back in the apartment?

25 A. I, once I began my statement I, I wasn't

1 even near the scene at that point. What happened
2 was, the statement was conducted a little further
3 out towards the pool area in the manager's office
4 in one of the homicide detective's vehicle.
5 Basically at that point I was removed from the
6 scene. It was no longer my responsibility.
7 Therefore, I had no business being up in the
8 scene. So, what I did was waited out there. My
9 statement was taken, and then I was relieved.

10 Q. Also, just out of curiosity before I let
11 you go here, where was the corner of the complex
12 that had the problems, down there in the very --

13 A. In between 13 and 14, along the east edge
14 of building 14 predominantly.

15 Q. So, that's the northeastern corner of the
16 complex?

17 A. Yes.

18 MR. BROOKS: Okay. All right. Thank
19 you. No further questions.

20 THE COURT: Redirect?

21 MS. PANDUKHT: No. Thank you, your
22 Honor.

23 THE COURT: You may step down.

24 THE WITNESS: Thank you.

25 THE COURT: We're going to take a very

1 brief recess, and we'll come back in about 10
2 minutes.

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

12 I'll see you back in about 10 minutes.

13 (Recess taken.)

14 THE COURT: Counsel, before you call your
15 next witness I presume that you heard the
16 information from my law clerk about this
17 afternoon.

18 MS. PANDUKHT: Not until just right this
19 second.

20 THE COURT: So, there will be no
21 afternoon session.

22 MR. BROOKS: Thank you, judge.

23 THE COURT: Who's next?

24 MR. KANE: Louise Renhard, your Honor.

25 THE BAILIFF: Ms. Renhard, if you would,

1 remain standing, please, raise your right hand,
2 and face the clerk.

3

4

LOUISE RENHARD,

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

9

10 THE CLERK: Please be seated. State your
11 full name and spell your last name for the record.

12 THE WITNESS: Louise Renhard,
13 R-e-n-h-a-r-d.

14

15

DIRECT EXAMINATION

16 BY MR. KANE:

17 Q. Ms. Renhard, who do you work for?

18 A. With the Las Vegas Metropolitan Police
19 Department.

20 Q. And what is your current assignment?

21 A. I'm senior crime scene analyst.

22 Q. And has either crime scene analyst or
23 senior crime scene analyst been your assignment
24 throughout your career with Metro?

25 A. Yes. Crime scene analyst has been my

1 assignment.

2 Q. How long have you been with Metro?

3 A. A little over nine and a half years.

4 Q. Would you tell the ladies and gentlemen
5 of the jury, perhaps in contrast to what they see
6 on television, exactly what it is a crime scene
7 analyst does?

8 A. Crime scene analysts will respond to the
9 scene of a crime, usually at the request of a
10 police officer or detective. When we get there,
11 we will document the crime scene with photography
12 and, some instances, diagrams. We will recover
13 any evidence, do any latent print processing
14 that's required at the scene and of any of the,
15 and often of any of the evidence that we recover.

16 Q. Now, if there is an item at the scene --
17 let's take a bullet, for example -- and either a
18 detective or crime scene analyst decides, we may
19 need that for some purpose later. What do you do
20 with it?

21 A. I will take a photograph of it. I would
22 note it in my notes or on a diagram, recover it.
23 When I recover it, I would put it like in a
24 plastic vial and mark on it what, you know, which
25 one it is, mark on the outside of the vial which

1 one it is, and then note, I would like possibly
2 give it a number or alphabetical marker. And that
3 changes, depending on the scene, when I use
4 numbers or alphabetical. And then I would mark it
5 on the diagram or in my notes where it came from,
6 take it back to the crime lab. At the crime lab I
7 would probably do fingerprint processing --
8 possibly sometimes latent print detail does
9 that -- and then put it in an envelope, seal it,
10 and it would be booked into our temporary evidence
11 hold where the evidence vault would, would collect
12 it.

13 Q. And you do all of that so that you can
14 come into court sometimes years later and you can
15 say, this bag contains this specific bullet that I
16 obtained from this specific location, correct?

17 A. Yes.

18 Q. Now, what if somebody needs to examine
19 something that you booked into evidence, like a
20 bullet, say? What steps are taken so again you
21 can come in here two years later and say, that's
22 still my original bullet, even though somebody
23 else has now looked at it?

24 A. Usually what happens is that, say, for
25 instance, a firearms examiner in the instance of a

1 bullet or a cartridge case, would need to look at
2 it and do their own examination. They would
3 contact the evidence vault and request that this
4 package be released to them. When they get that
5 package, they sign for it. And they sign for it
6 on the bag, and they sign for it through other
7 paperwork. When they open it, they open it on a
8 different area than where my seal is. They never
9 actually break my seal. They open it in a
10 different area.

11 They do their examination. They return
12 it to the same package and then seal the opening
13 that they made, and then they initial and date
14 their seal and return it back to the evidence
15 vault through, and do all the paperwork in order
16 to do that. And the evidence vault retains it
17 then until it's needed for court or if somebody
18 else needs to do an examination of it.

19 Q. And, finally, in the processing of a
20 typical crime scene is there a drawing made called
21 a crime scene diagram?

22 A. In a typical crime scene, no. Diagrams
23 in our department are done only in, in the
24 instance of a homicide or officer-involved
25 shootings and in some instances where there is an

1 injury where there might possibly be a death later
2 and in fatal traffic accidents.

3 Q. And what is the crime scene diagram? Is
4 it like an architectural drawing drawn to scale
5 like house plans would be?

6 A. No. It's a representation of the scene
7 on that day that will help identify the scene and
8 the area where evidence was, where bodies are, if
9 there is a body at the scene. We do do
10 measurements, but the measurements can be off a
11 little bit. We're, you'll use a hand roller or a
12 measuring tape where architectural diagrams are
13 much more detailed. And often with ours like, you
14 know, we're not measuring the width of a wall or
15 the width of a door or anything like that or a
16 doorway. And so like a house, it might have
17 four-inch walls versus a house with six-inch
18 walls. We don't account for that. We just draw
19 like the interior, the basic outline and then
20 measure the, you know, across the room, you know.
21 And then the room on the other side, we measure
22 across that room. But we don't take into account
23 the width of a wall. It's a representation so
24 that later on anybody that needs to look at the
25 scene can look at it and see where stuff was,

1 where in court we can help explain where we saw
2 something and what was what. But it's not a
3 absolutely to scale diagram.

4 Q. Now, were you called to assist in, in the
5 processing of the crime scene at 2895 East
6 Charleston Boulevard, Apartment 2068 in the early
7 morning hours of May the 27th of 2003?

8 A. Yes, sir.

9 Q. Now, you weren't the only CSA processing
10 the crime scene; is that correct?

11 A. That's correct.

12 Q. How is it decided who does what, which
13 crime scene analyst is responsible for what
14 activities?

15 A. When we go out, we have a supervisor with
16 us. And usually the supervisor makes the
17 determination and, and the determination is based
18 on who, we usually break it up in diagram and
19 evidence and photographs and the narrative report.
20 And he'll make a decision who did the evidence and
21 diagram last time or when these two people work
22 together, which one already has some diagrams
23 backed up and maybe needs to have time to get
24 those up before they get another one, just basic
25 everyday type of decisions like that. Most of the

1 time each of the people, each of the team that's
2 there is qualified to do all the different
3 positions, and so it's just a matter of just work
4 assignment, workload.

5 Q. And what was your area of responsibility
6 on this particular crime scene?

7 A. This night I did the diagram and the
8 evidence collection.

9 Q. Show you what has been marked for
10 purposes of identification as State's Proposed
11 Exhibit 1, a copy of which has been provided to
12 the defense, and ask if you recognize that?

13 A. Yes, sir, I do.

14 Q. And what is that?

15 A. This is the diagram that I prepared on
16 that, for that crime scene.

17 Q. And does it fairly and accurately depict,
18 not to scale as we've already discussed, the
19 scene, objects of evidence and positions of bodies
20 as you observed them on the morning of May the
21 27th of 2003?

22 A. Yes, sir, it does.

23 MR. KANE: Offer one, your Honor.

24 MR. BROOKS: No objection.

25 THE COURT: It will be admitted.

1 BY MR. KANE:

2 Q. If you could, sort of walk the jury
3 through what they're looking at here.

4 THE COURT: The same will be on your
5 screen as is on the big screen behind you as well
6 as in front of you.

7 BY MR. KANE:

8 Q. Yeah. You don't have to turn around.
9 You can see it on the computer screen. First of
10 all, at the left of the diagram appears the word
11 legend and then some words and numbers. What's
12 represented there?

13 A. What the legend is is, it has the numbers
14 of the pieces of evidence and then a basic
15 description of what those are, what those numbers
16 represent. For instance, one through 11 are
17 nine-millimeter cartridge cases. And if you look
18 at the diagram and find one through 11, that's
19 where each one of those nine-millimeter cartridge
20 cases was recovered from.

21 Q. Now, we discussed your testimony prior to
22 you coming in here, correct?

23 A. Yes.

24 Q. And I told you that a homicide detective
25 would be testifying in detail about all areas of

1 the scene. You understand that?

2 A. Yes, sir.

3 Q. But you understand that I wanted to ask
4 you in particular about the cartridge cases and
5 their locations?

6 A. Yes, sir.

7 Q. And they are items one through 11?

8 A. Yes, sir.

9 Q. And again when you find, let's, let's
10 take cartridge case number one for example. What
11 do you do in terms of photography and
12 memorialization so you can come in here and say, I
13 know that that was found there and, and what
14 position and condition it was found?

15 A. What we do is, when, the person doing the
16 photography will take an overall photograph. For
17 instance, if it was this room, you would take
18 several overall photographs showing all different
19 areas of the room. And then, for instance, this
20 projector here is a specific item of evidence.
21 So, then he'll get a little bit closer so that you
22 can obviously identify that this is a projector
23 and where it is in relationship to, maybe the
24 screen to the jury box to the court clerk up here.
25 And then you'll get in closer and take a

1 photograph that identifies that specific machine.

2 And now if we're going to use placards to
3 say there is several of those around the room,
4 we're going to use numbered placards to show the,
5 each one, the difference between each one. Then
6 we'll put a number there so there will be an
7 overall showing it as it originally was before the
8 placard was put down. And then we'll put the
9 placard down, and we'll do the intermediate
10 relationship so you know wherever it is, and then
11 we'll do the close-up with the numbered placard
12 and that machine. And that way we know that, you
13 know, this is machine number one, and this is
14 where it was located in the scene. And then I'll
15 take the measurements as to where it was and put
16 that on, you know, in my notes for the diagram.

17 THE COURT: I'm going to have to ask the
18 witness to stop for a minute, Mr. Kane. We have
19 one juror --

20 MR. KANE: I saw that, your Honor.

21 THE COURT: She suffers from asthma, as
22 you may or may not recall.

23 Would the parties agree that we can go
24 forward with this, what still appears to be some
25 preliminary testimony during the absence of this

1 one juror?

2 MR. BROOKS: Judge, I would ask that we
3 wait for the juror to return.

4 THE COURT: Okay.

5 MR. KANE: Can we approach while we have
6 this break, your Honor?

7 THE COURT: Certainly.

8 (Conference at the bench.)

9 THE COURT: We'll go back on the record
10 now.

11 BY MR. KANE:

12 Q. Let me see if we can orient the jury just
13 a little bit, because they have heard a lot about
14 north bedroom and south bedroom, which I think is
15 how most people describe their houses. But there
16 is a compass rose up here in the corner. North is
17 the top of the diagram?

18 A. Yes, it is.

19 Q. And where I'm pointing now, is this the
20 front door of the apartment?

21 A. Yes. That was the front door of the
22 apartments.

23 Q. Where it says 19 and then 20, those are
24 the stairs coming up to the apartment?

25 A. Yes.

1 Q. And this area here where there appears to
2 be a depiction of a body, is this the patio or
3 landing area at the top of the stairs?

4 A. Yes. That's the patio.

5 Q. And then once you enter the apartment
6 where this number five appears, would that be what
7 you would refer to as the north bedroom?

8 A. Yes, the north or master bedroom.

9 Q. And then down here where there is quite a
10 concentration of numbers, this would be the south
11 hallway if people have been referring to the south
12 hallway?

13 A. Yes.

14 Q. All right. With all of that in mind, let
15 me show you a series of photographs that have been
16 marked for purposes of identification as State's
17 Proposed 32 through 42. Now, I had you look at
18 those outside of court before we came in here; is
19 that correct?

20 A. Yes.

21 Q. And are they pictures of these evidence
22 placards, one through 11, that we've been talking
23 about and the cartridge cases that they relate to?

24 A. Yes, sir, they are.

25 Q. And do they fairly and accurately depict

1 the location of the cartridge cases and the
2 location of the placards which you put down to
3 mark their location as you observed those things
4 on the morning of May the 27th, 2003?

5 A. Yes, sir.

6 MR. KANE: Offer 32 to 42.

7 MR. BROOKS: No objection.

8 THE COURT: They will be admitted.

9 BY MR. KANE:

10 Q. All right. Now, I'm going to sort of
11 flip back and forth between the photograph and the
12 diagram to give the jury an idea of the procedure
13 and where and how these things are found.

14 First of all, placard number one, and I
15 think I can display this in such a way that you
16 can still see it on the diagram as well. Okay.
17 That's evidence placard number one, and there
18 appears to be a small object in its little
19 L-shaped cradle here, and there is a number one on
20 the diagram.

21 So, could you kind of orient the jury as
22 to what they're looking at?

23 A. Yes, sir. That, that northwest corner of
24 the patio was, is where number one is and the,
25 that is a cartridge case, a nine-millimeter

1 cartridge case. And here you'll see the placard
2 actually does have like an L-shaped scale with it,
3 and the cartridge sits in that L. That was a
4 scooter that was there. And sometimes we leave
5 out miscellaneous bits and pieces of property that
6 would make the diagram too busy, just too much
7 stuff. In order to make it more clearer for
8 people to view, something like a child's scooter
9 wouldn't be put in there. And so you see a
10 scooter there that you don't see actually in the
11 diagram.

12 Q. Now, you mentioned nine-millimeter
13 cartridge case. Understanding that we're going to
14 have a firearms expert to testify about the
15 cartridge cases, to you did all 11 of the
16 cartridge cases that you recovered appear to be
17 nine-millimeter?

18 A. All of the cartridge cases I recovered
19 had the same head stamp on the base of it that
20 read nine-millimeter.

21 Q. Showing you next State's Exhibit 33 in
22 evidence, and that is the photograph of evidence
23 placard two. Would you relate that to the diagram
24 and tell the jury what they're looking at?

25 A. Once again this is going to be on the

1 patio, in the southwest corner of the patio. And
2 it was located in the corner here just above the
3 head of Jason Moore.

4 Q. It being a cartridge case?

5 A. Cartridge case number two.

6 Q. In the little L shape carved out by the
7 number two?

8 A. Yeah, cartridge case number two.

9 Q. And next showing you State's Exhibit 34
10 in evidence, and that will be placard number
11 three. What are we looking at there?

12 A. This is another nine-millimeter cartridge
13 case, item three, which was located on the couch
14 in the living room. And the couch is against the
15 south wall of the living room.

16 Q. And State's Exhibit 35 in evidence, which
17 bears placard number four?

18 A. And this is nine-millimeter cartridge
19 case item number four located near the door going
20 into the north master bedroom on the carpet, but
21 it was still in the actual living room but near
22 that, that door.

23 Q. And that's the, that's just outside the
24 door, and inside the door, that's where a body was
25 found wedged between that door and the closet?

1 A. Yes, sir.

2 Q. And State's Exhibit 36 bearing placard
3 number five?

4 A. And this is a nine-millimeter cartridge
5 case, item number five, located in the north
6 master bedroom.

7 Q. And State's 37, which is placard number
8 six?

9 A. This is also a nine-millimeter cartridge
10 case, item number six, and it was located on top
11 of some trash bags that were sitting at the corner
12 of the hall, the south hall. It would be
13 basically the north corner of the south living
14 room wall there.

15 Q. And is that the number six that you can
16 see with an arrow just below the photograph
17 written on the crime scene diagram?

18 A. Yes, sir, it is. The arrow is the
19 location, and the tip of the arrow there is
20 actually where six was located.

21 Q. And State's 38, which is a little closer
22 view of evidence placard six?

23 A. Yes, with the nine-millimeter cartridge
24 case.

25 Q. And that's the case right on the bill of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 No.: 03C193182
Electronically Filed
Nov 10 2014 09:44 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPELLANT'S APPENDIX – VOLUME XI – PAGES 2341-2597

MATTHEW D. CARLING
51 East 400 North, Bldg. #1
Cedar City, Utah 84720
(702) 419-7330 (Office)
Attorney for Appellant

STEVEN B. WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155
Counsel for Respondent

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
Counsel for Respondent

INDEX
Budd, Glenford

Document	Page No.
Affidavit in Support of Motion to Proceed in Forma Pauperis filed on 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 Hold Clark Count Public Defender in Contempt filed on 07/12/2007	2592-2594
Clark County Public Defenders Notice of Qualification Pursuant to 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 10/23/2009	2830-2836
Criminal Bindover filed on 06/26/2003	1-23
Criminal Order to Statistically Close Case filed on 09/03/2014	3039
Defendant's Motion to Vacate and Continue Trial Date filed on 01/27/2004	132-135
Defendants Amended Notice of Expert Witnesses, Pursuant to NRS 174.234(2) filed on 12/01/2005	423-426
Defendants Notice of Expert Witnesses, Pursuant to NRS 174.234(2) filed on 11/21/2005	416-420
Financial Certificate filed on 05/01/2007	2582
Financial Certificate filed on 09/21/2007	2616
Findings of Facts, Conclusions of Law and Order filed on 01/07/2008	2808-2815
Findings of Facts, Conclusions of Law and Order filed on 10/17/2014	3091-3103
First Supplemental Petition for Writ of Habeas Corpus Post Conviction filed on 05/23/2013	2847-2915
Fourth Supplemental Petition for Writ of Habeas Corpus (Post 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 filed 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 on 01/28/2004	236-137
Media Request and Order for Camera Access to Court Proceedings filed on 01/31/2006	2009
Media Request and Order for Camera Access to Court Proceedings filed	

1	on 01/31/2006	2010
2	Media Request and Order for Camera Access to Court Room filed on 09/28/2005	411
3	Media Request to Permit Camera Access To Proceedings filed on 07/03/2003	27
4	Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus filed on 09/21/2007	2750-2785
5	Memorandum Regarding Petitioner's Exhibits (In Camera Review) filed on 12/12/2013	2990-2992
6	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
7	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
8	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	374-382
9	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
10	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
11	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 Cause for Alleged Aggravators filed on 10/04/2004	353-368
12	Motion 2: Defendant Budd's Motion for Exchange of Jury Instructions on the First Day of Trial filed on 09/14/2004	231-233
13	Motion 3: Defendant Budd's Motion for Recording of All Proceedings Pursuant to Supreme Court Rule 250 filed on 09/14/2004	234-237
14	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
15	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	263-266
16	Motion 6: Defendant Budd's Motion in Limine to Prohibit the State from Using Preemptory Challenges to Remove Minorities from Jury filed on 09/14/2004	243-247
17	Motion 7: Defendant Budd's Motion to Bifurcate Penalty Phase Proceedings filed on 09/14/2004	248-255

1	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
2	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
3	Motion for Leave to Proceed in Forma Pauperis filed on 05/01/2007	2573-2574
4	Motion for Leave to Proceed in Forma Pauperis filed on 09/21/2007	2786-2790
5	Motion for Rehearing filed on 08/10/2007	2598-2613
6	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/ Court Case Documents filed on 05/01/2007	2575-2581
7	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
8	Motion to Withdraw as Petitioner's Attorney filed on 09/13/2012	2840-2843
9	Notice of Appeal filed on 01/23/2008	2825-2827
10	Notice of Appeal filed on 03/23/2006	2517-2519
11	Notice of Appeal filed on 08/10/2007	2595-2597
12	Notice of Entry of Decision and Order filed on 01/08/2008	2816-2824
13	Notice of Entry of Findings of Fact, Conclusions of Law and Order filed on 10/20/2014	3104-3117
14	Notice of Evidence in Support of Aggravating Circumstances filed on 10/08/2004	390-391
15	Notice of Expert Witnesses filed on 09/28/2004	312-344
16	Notice of Intent to Seek Death Penalty filed on 07/25/2003	99-100
17	Notice of Witnesses filed on 09/28/2004	345-346
18	Order for Petition for Writ of Habeas Corpus filed on 09/27/2007	2791
19	Order for Production of Inmate Glenford Anthony Budd filed on 11/25/2009	2838-2839
20	Order for Production of Inmate Glenford Anthony Budd filed on 12/23/2013	2998-2999
21	Order for Production of Inmate Greg Lewis, BAC #82483 filed on 11/28/2005	421-422
22	Order for Transcript filed on 03/20/2006	2513
23	Order for Transcript filed on 09/23/2014	3040
24	Order Granting State's Request for All Thirty-Three (33) Pages of Public Defender Brooks' Case Notes filed on 01/10/2014	3037-3038
25	Order of Appointment filed on 11/05/2012	2844
26	Order Re: Custody of Material Witness Greg Lewis filed on 04/11/2006	2520-2521
27	Order Re: Custody of Material Witness Greg Lewis ID filed on 12/15/2005	1507-1508
28	Order Setting Hearing Appointment of Counsel Re: Supreme Court Remand filed on 10/29/2009	2837
	Penalty Verdict Count 1 filed on 12/16/2005	1739
	Penalty Verdict Count 2 filed on 12/16/2005	1740
	Penalty Verdict Count 3 filed on 12/16/2005	1738
	Petition for Writ of Habeas Corpus Post Conviction filed on 09/21/2007	2709-2749

1	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
2	Petitioners Exhibits in Support of Petition for Writ of Habeas Corpus Post Conviction filed on 09/21/2007	2622-2708
3	Request for Evidentiary Hearing filed on 09/21/2007	2617-2621
4	Second Supplemental Petition for Writ of Habeas Corpus Post Conviction filed on 10/25/2013	2919-2927
5	Special Verdict (Aggravating Circumstance) filed on 12/16/2005	1737
6	Special Verdict (Mitigating Circumstances) filed on 12/16/2005	1735-1736
7	State's Response to Defendant's Memorandum Regarding Petitioner's Exhibits (In Camera Review) filed on 12/17/2013	2993-2997
8	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
10	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
11	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
12	States Opposition to Defendants Motion for Recording of all Proceedings Pursuant to Supreme Court Rule 250 filed on 09/21/2004	291-293
13	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
14	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
15	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
16	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
17	States Opposition to Defendants Motion to Bifurcate Penalty Phase filed on 09/21/2004	304-307
18	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-Trial Finding of Probable Cause for Alleged Aggravators filed on 10/14/2004	404-410
19	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
20	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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

States Opposition to Defendants Motion to Preclude the Introduction of Victim Impact Evidence Pertaining to Victim and Family Members Characterizations filed on 10/12/2004	396-399
States Response to Defendant Budd's Motion to Strike Allegations of Certain Aggravating Circumstances Alleged in States Notice of Intent to Seek Death Penalty filed on 10/12/2004	392-395
States Response to Defendant's Petition for Writ of Habeas Corpus Post Conviction filed on 11/27/2007	2797-2807
Stipulation and Order Extending Time filed on 07/23/2013	2916-2918
Stipulation filed on 12/12/2005	1299
Stipulation to Enlarge Briefing schedule and Order filed on 03/29/2013	2845-2846
Third Supplemental Petition for Writ of Habeas Corpus (Post Conviction) filed on 12/12/2013	2986-2989
Verdict filed on 12/13/2005	1300-1301

TRANSCRIPTS

Document	Page No.
Transcript – All Pending Motions filed on 05/11/2004	2558-2559
Transcript – Arraignment filed on 10/27/2003	127-131
Transcript – Calendar Call Status Check: Reset Motions filed on 04/20/2004	2522-2524
Transcript – Defendant's Motion to Vacate and Continue Trial Date filed on 04/20/2004	2541-2543
Transcript – Defendant's Petition for Writ of Habeas Corpus – Post Conviction filed on 09/26/2014	3041-3090
Transcript – Jury Trial Volume 1 filed on 12/06/2005	443-653
Transcript – Jury Trial Volume 2 filed on 12/08/2005	654-814
Transcript – Jury Trial Volume 3-A filed on 12/09/2005	815-941
Transcript – Jury Trial Volume 3-B filed on 12/09/2005	942-1100
Transcript – Jury Trial Volume 4 filed on 03/07/2004	2341-2512
Transcript – Jury Trial Volume 4 filed on 12/12/2005	1101-1298
Transcript – Jury Trial Volume 5 filed on 03/07/2006	2013-2192
Transcript – Jury Trial Volume 5 filed on 12/13/2005	1302-1481
Transcript – Jury Trial Volume 6 filed on 12/15/2005	159-1602
Transcript – Jury Trial Volume 7 filed on 12/15/2005	1603-1734
Transcript – Jury Trial Volume 8-B filed on 03/07/2006	2193-2340
Transcript – Jury Trial Volume 8-B filed on 12/23/2005	1861-2008
Transcript – Motions #1 to #14 filed on 04/20/2004	2528-2530
Transcript – Motions #1 to #14 filed on 04/20/2004	2536-2540
Transcript – Motions #1 to #14 filed on 04/20/2004	2547-2550
Transcript – Penalty Phase filed on 12/20/2005	1777-1860
Transcript – Pre Trial Motions filed on 12/02/2005	427-442
Transcript – Preliminary Hearing filed on 07/07/2003	28-98
Transcript – Preliminary Hearing Volume II filed on 08/08/2003	105-126
Transcript – Sentencing filed on 04/20/2004	2551-2557
Transcript – States Request to Reset Trial Date filed on 04/20/2004	2531-2533
Transcript – Status Check (Witness) filed on 04/20/2004	2534-2535
Transcript – Status Check filed on 04/20/2004	2525-2527
Transcript – Status Check filed on 4/20/2004	2544-2546
Transcript – Telephonic Hearing Re: Post Trial Jury Questions filed on 12/19/2005	1771-1776
Transcript – Verdict filed on 12/19/2005	1762-1770

FILED

DISTRICT COURT
CLARK COUNTY, NEVADA

MAR 7 9 09 AM '06

CLERK

STATE OF NEVADA,

Plaintiff,

VS.

GLENFORD ANTHONY BUDD,

Defendant.

Case No. C193182

Dept. No. XVIII

VOLUME 4

Before the Honorable Justice Nancy M. Saitta

Friday, December 9, 2005

8:30 a.m.

APPEARANCES:

For the State:

EDWARD KANE, ESO.

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

002341

RECEIVED

MAR 07 2006

COUNTY CLERK

1	W I T N E S S E S					
2	STATE'S	Dr.	Cr.	Redr.	Recr.	VD.
3	PATRICIA SPENCER					
4	By Mr. Kane:	15				
5	By Mr. Brooks:		32			
6						
7	MICHAEL WALLACE					
8	By Ms. Pandukht:	58				
9	By Mr. Brooks:		83			
10						
11	LOUISE RENHARD					
12	By Mr. Kane:	95				
13						
14	JAMES KRYLO					
15	By Mr. Kane:	117				
16	By Mr. Brooks:		126			
17						
18	CELESTE PALAU					
19	By Mr. Kane:	129		162		
20	By Mr. Brooks:		143		164	
21						
22						
23						
24						
25						

1	E X H I B I T S			
2	STATE'S	Mrk'd	Idnt'd	Admt'd
3	Proposed Exhibit 1			101
4	Proposed Exhibit 18			74
5	Proposed Exhibit 21			74
6	Proposed Exhibit 24			74
7	Proposed Exhibits 32-42			107
8	Proposed Exhibit 47			116
9				
10				
11	DEFENSE			
12	Proposed Exhibit B			156
13	Proposed Exhibit C			154
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 LAS VEGAS, NEVADA, DECEMBER 9, 2005, 8:30 A.M.

2 * * * * *

3 THE COURT: I understand we have a matter
4 outside the presence.

5 MR. BROOKS: Briefly three matters,
6 judge. Howard Brooks on behalf of Mr. Budd. This
7 just really doesn't matter, but I will make sure
8 the Court's aware of the situation. I was
9 contacted on Wednesday by Deputy District Attorney
10 Leon Simon regarding his desire to subpoena me to
11 testify in a hearing. I explained to him that I'm
12 in trial in a capital murder case, and I also
13 explained that rule 250 says these cases take
14 precedence. Nevertheless, he served me with a
15 subpoena to testify in a case today in District
16 Court 14, Judge Mosley's department. As of
17 yesterday he left an e-mail message for me saying
18 that they were going to move my testimony into the
19 afternoon to accommodate our schedule. I simply
20 e-mailed him yesterday, said that that may not
21 work out, but in any event this is where I'm at.

22 THE COURT: Understood.

23 MR. BROOKS: And as far as how serious it
24 is, quite frankly, my testimony is marginal to
25 that case. Second issue, judge, is that when Greg

1 Lewis testifies, the issue will arise, Greg Lewis
2 and Glenford Budd were jail mates at CCDC. He
3 went on to prison. The correspondence that
4 occurred between them occurred, that allegedly
5 occurred occurred when they were both in the CCDC.
6 We're not going to make a game out of claiming
7 that our client was not in jail. There are issues
8 that we want to bring out regarding their both
9 being in jail. And so I just want to make sure
10 that this is a tactical decision on our part that
11 we're going to bring out the fact that they were
12 in jail. They were subject to jail procedures,
13 and we think those issues are relevant. And I'm
14 not going to do anything to pretend that's not the
15 case.

16 THE COURT: So, in other words, you're
17 essentially waiting as a trial tactic any error,
18 waiting in error. But at any rate you are
19 acknowledging that, but for trial strategy, it
20 would be or potentially could create error due to
21 the prejudice that your client would suffer in
22 those situations where the jury finds out that
23 he's in jail.

24 MR. BROOKS: Correct.

25 THE COURT: Okay.

1 MR. BROOKS: Correct.

2 THE COURT: State, I presume you have no
3 objection to that.

4 MR. KANE: No, judge. I've also offered
5 to counsel, if they wish an instruction from the
6 Court, subject to your approval, that the fact
7 that he's in custody isn't to be considered
8 against him. Anyway most defense attorneys that
9 I've dealt with doesn't want that instruction.
10 But if they want it, I've got no problem with --

11 MR. BROOKS: And that's our position,
12 judge. We would rather not call recognition to
13 it.

14 MS. PANDUKHT: We will bring it out on
15 direct.

16 MR. BROOKS: The third issue, judge, and
17 this is again is not a major issue. I want to
18 make sure it's out there and the Court understand.
19 It's my understanding we're probably going to go
20 in the afternoon today. If there are any concerns
21 or possible or possible doubts about doing that,
22 we had previously scheduled an appointment with
23 the doctor, Dr. Paglini this afternoon. If it
24 comes to a point where there is, there is a
25 decision being made one way or the other, our

1 preference would be not to go this afternoon. But
2 we can go either way.

3 THE COURT: I'm waiting to find out
4 whether that meeting is going to go. I'm guessing
5 at this point, since I haven't heard otherwise,
6 that it is going to go. So, probably you'll get
7 your wish.

8 I know, State, you had anticipated you
9 might be able to finish if we went this afternoon,
10 but I apologize. I'm still waiting. I have not
11 neither voice mail nor e-mail with regard to
12 whether it's going to go. It's a higher authority
13 that calls that meeting, and when the Supreme
14 Court justice tells me to be somewhere, I try to
15 be there.

16 MR. KANE: Understood, judge. We've got
17 four police officer witnesses who are already here
18 and waiting to testify. When they're done, what
19 we'll probably do is ask to approach the bench at
20 that point, find out if we've got a morning or
21 afternoon session. If we're only going to have
22 morning, I'll ask for a little longer morning
23 recess, because we're going to have Greg Lewis
24 brought over, and both of us will have a chance to
25 talk to him.

1 THE COURT: Okay.

2 MR. BROOKS: Court's indulgence.

3 THE COURT: Do we have the --

4 MR. KANE: Judge, one more thing outside
5 the presence. I finally have something. The
6 court gave a, from everything that I've heard,
7 deserved lecture to the spectators yesterday about
8 their conduct in the courtroom. Ms. Pandukht and
9 I had a long interview with the family members
10 after court, and I just want to make sure the
11 Court's well-aware of both sides of the
12 controversy, because I think there are ways to
13 limit this type of behavior.

14 What the family members told us is that,
15 yes, they were real mad in court. And the main
16 reason that they were mad, besides the facts that
17 their loved ones were deceased, was that they have
18 been repeatedly approached by the defense lawyers
19 in this trial, one of them in the men's room.
20 And, and the questions that they're being asked
21 are, would you be willing to come in at the
22 penalty phase and say our client shouldn't get the
23 death penalty?

24 Now, first of all, no witness at the
25 penalty hearing is allowed to say that, at least

1 not victim witnesses. And we'll argue that case
2 when we get to that point. So, what these people
3 have reported to us they're being asked to do
4 would be improper. In any event, the long story
5 short, none of the members of the victims' family
6 want to talk to the defense lawyers. None of them
7 want to be approached by them. None of them want
8 to be bothered by them. We can eliminate, I
9 think, a lot of antagonism in court by just having
10 a gentleman's agreement we'll leave the
11 defendant's family alone, the defense lawyers
12 leave the victims' family alone. And I think that
13 will do a lot to calm down the situation. We
14 explained to them that the defense lawyers were
15 just doing their jobs. The relatives didn't
16 appreciate the way it was being done by that side.
17 From now on I think we can minimize damage if both
18 sides just leave the other sides to themselves.

19 THE COURT: Are you confident,
20 Mr. O'Brien, Mr. Brooks, that the victims' family
21 have refused to testify?

22 MR. O'BRIEN: Just for clarity of the
23 record, judge, I tried once to contact the family
24 of Mr. Jones from a phone number we had in the
25 police report.

1 THE COURT: If you want to make a clear
2 record, we need to know which Mr. Jones.

3 MR. O'BRIEN: That's why I'm grabbing the
4 file. I called the family. I believe it was
5 Jason Eric Jones or -- excuse me -- Jason Eric
6 Moore. This was some weeks ago. After a not very
7 pleasant conversation I said, thank you very much.
8 Sorry to bother you.

9 Yesterday during the break I went down
10 two floors to go to the bathroom. In there, in
11 the bathroom was one of the family members. I
12 didn't know, I knew he was a family member. I
13 didn't know which one. I asked him if I can ask
14 him a question. He said yes. I said, what family
15 were you related to? I said, do you mind if I ask
16 you how you feel about the death penalty? He, and
17 I gave it with a caveat. I said, if you don't
18 want to talk to me, that's fine.

19 THE COURT: Sure.

20 MR. O'BRIEN: He gave me his response,
21 and that was it. I said, thank you. Sorry to
22 bother you. And that was the only contact I've
23 had with the family since, since the trial
24 started.

25 THE COURT: Can we enter into the

1 gentleman's agreement suggested by Mr. Kane that
2 with respect to victims' families and defendant's
3 family and their desire not to --

4 MR. O'BRIEN: Absolutely, your Honor.
5 And I contacted Mr. Kane before this trial started
6 asking for contact information for the family. He
7 said he was going to try to give that to me. He
8 was never able to coordinate that. But certainly
9 the gentleman's agreement is fine at this point.

10 THE COURT: Very good. And again I don't
11 like to have to lecture people who obviously
12 aren't, I guess they are within my authority to,
13 to do something about, especially if they're doing
14 something inappropriate. But I know, I understand
15 how sensitive this is for everybody, I really do,
16 the families of Mr. Budd, the victims' families.
17 But, and I hope that you all were not as aware of
18 what was going on as I was, but it was real bad
19 yesterday afternoon. It was real bad and very
20 obvious. So --

21 MR. BROOKS: Judge, I was totally
22 oblivious to the entire situation.

23 THE COURT: As well you should be.

24 MR. BROOKS: But I would like to know,
25 just for the record, what was going on? I have no

1 idea.

2 THE COURT: Well, there were at least
3 two, and I'm assuming that they're victim family
4 members, because they're on this side of the
5 courtroom.

6 MR. BROOKS: And, for the record,
7 yesterday we only had two people here.

8 THE COURT: Yeah. There was one
9 individual at the very least, I think two that
10 were seated in the first two seats behind the
11 State. The one gentleman had enough of a --
12 Mr. Bailiff, why don't you just describe what
13 happened, because he's the one that first brought
14 it to my attention.

15 THE BAILIFF: He continuously stayed on
16 the end of his chair and patting his foot and
17 staring constantly at the defendant and then
18 sometimes at you guys but more than, more often at
19 the defendant. And I was so concerned that I told
20 both COs to keep an eye on him in case I was in
21 and out of the courtroom. And then I asked, I
22 forgot his name. I also asked him if there was
23 anything I needed to know about him, because he
24 made me uncomfortable, and I was spending more
25 time watching him than I was anything else going

1 on in the courtroom. And, of course, the other
2 gentleman was, the black guy in the middle, I
3 don't know. I can't recall, but he was saying
4 stuff, but I couldn't understand what he was
5 saying, but it was more directly toward the
6 family.

7 THE COURT: The family?

8 THE BAILIFF: Right. So --

9 MR. BROOKS: Well, for the record, judge,
10 I'm not hearing anything yet that causes me
11 concern as far as the record. Nevertheless, I do
12 want the record to reflect that my impression
13 yesterday was that on the State's side of the
14 audience were probably 10 to 12 people.

15 THE COURT: At least.

16 MR. BROOKS: Members of the family of the
17 three deceased, and then there were two people on
18 the other side of the courtroom for, for my
19 client's family.

20 THE COURT: And I was happy to know that
21 the situation was handled, frankly, so suddenly by
22 the COs and my bailiff. But my other concern came
23 when one of the individuals, the one who was
24 seated in the front, the very end front seat,
25 continuously came and went in and out of the

1 courtroom and followed at least one witness out.
2 Now, admittedly you know this. The young man was
3 a family member. And I wasn't as concerned as I
4 might have been if it was someone else, but the in
5 and out and the demeanor concerned me. But I
6 think we're okay, and certainly nothing with the
7 record I don't think you need to be concerned
8 with.

9 Do we have a full jury?

10 THE BAILIFF: We do.

11 THE COURT: Yeah. Okay. Let's bring
12 them in.

13 (Thereupon, the jury entered the courtroom.)

14 THE COURT: Good morning, ladies and
15 gentlemen. Welcome back. Let the record reflect
16 that we are again present in the matter of State
17 versus Budd. All parties are present.

18 Counsel, will you stipulate to the
19 presence of the jury?

20 MR. KANE: Yes, your Honor.

21 MR. BROOKS: Defense will, your Honor.

22 THE COURT: Who's next, Mr. Kane?

23 MR. KANE: Patricia Spencer, your Honor.

24 THE BAILIFF: Ms. Spencer, if you would
25 remain standing, please, and face the clerk.

1 PATRICIA DEANNE SPENCER,
2 called as a witness, and having been first duly
3 sworn to testify to the truth, the whole truth,
4 and nothing but the truth, was examined and
5 testified as follows:

6
7 THE CLERK: Please state your full name
8 and spell your last name for the record.

9 THE WITNESS: Patricia Deanne Spencer,
10 S-p-e-n-c-e-r.

11

12 DIRECT EXAMINATION

13 BY MR. KANE:

14 Q. Who do you work for, ma'am?

15 A. The Las Vegas Metropolitan Police
16 Department.

17 Q. And how long have you worked for that
18 department?

19 A. Approximately 11 years.

20 Q. I want to talk to you about some event
21 that happened on the late evening hours of May
22 26th and into the early morning hours of May the
23 27th, 2003.

24 I don't need to know the unit that you
25 were assigned to at that time, but were you on

1 duty that evening?

2 A. I was.

3 Q. And were you working alone or with a
4 partner?

5 A. I had a partner.

6 Q. And who was the partner?

7 A. Detective Michael Wallace.

8 Q. Now, around a quarter to midnight or
9 midnight did you and Detective Wallace have
10 occasion to be in the area of Saratoga Palms
11 Apartments at 2895 East Charleston here in
12 Las Vegas, Clark County, Nevada?

13 A. We did.

14 Q. And what was your reason for patrolling
15 that particular location?

16 A. The area, that particular apartment
17 complex, we knew through our prior experience, had
18 been a high level of narcotics activity, gang
19 activity, numerous. We patrolled that area to try
20 to keep that, the activity down.

21 Q. And were you aware of the entrances and
22 exits to that apartment complex?

23 A. Yes.

24 Q. Both of ones that were created by the
25 people who built it and the ones that may have

1 been created by others?

2 A. Yes.

3 Q. And what, if any, entrances or exits were
4 there that weren't there as the place was
5 originally designed?

6 A. Are you talking about like the holes in
7 the fences that were created?

8 Q. Right.

9 A. There was numerous holes in the fences
10 that people broke bars off. I know in the north
11 corner, the northeast corner of the apartment
12 complex there were some bars broke off, also on
13 the south side. Those are the ones that I'm
14 specifically aware of.

15 Q. So, there is a few ways, I'm sorry.
16 There were a few ways for people who knew that
17 these places were there to get in and out of the
18 apartment complex without using the regular
19 entrances and exits?

20 A. Yes.

21 Q. And, in your experience, they were
22 well-known to the people that actually lived in
23 the apartment complex?

24 A. Yes.

25 Q. Now, when you went to the apartment

1 complex around a quarter till 12:00 or midnight on
2 May the 26th, were you on foot or in a car?

3 A. We were in a car.

4 Q. And which of you were driving?

5 A. I was.

6 Q. What kind of car?

7 A. It is a Crown Victoria, Ford Crown
8 Victoria, identical to a police car with no
9 lights.

10 Q. And it didn't have the LVMPD markings on
11 it or anything?

12 A. No. It looked like a regular car but, it
13 was the same exact Crown Victoria, looked just
14 like a police car. It was a different color with
15 no lights on top.

16 Q. Were you dressed in a police uniform or
17 clothes similar to what you are wearing?

18 A. I was wearing what we call fatigues, or
19 we use their green fatigues with the patches on
20 both sleeves, the star of the Metro, the Metro
21 star.

22 Q. How was Detective Wallace dressed?

23 A. The same.

24 Q. Now, where did you, and to assist you in
25 doing this, what I'm going to do is show you

1 what's been marked for purposes of identification
2 and I would move into evidence at this time
3 Exhibit 3, which is one of the several apartment
4 diagrams, judge.

5 THE COURT: And that was, I believe,
6 technically already agreed to be admitted by
7 stipulation, correct?

8 MR. BROOKS: That's correct. We have no
9 problem.

10 BY MR. KANE:

11 Q. What I would like you to do, if you
12 would, Detective Spencer, is draw a line on here
13 that shows where your vehicle entered the
14 apartment complex and where you went. And I'll
15 ask you to use this red pen. Detective Wallace,
16 if he makes any different marks, I'll ask him to
17 do it in black so the jury can distinguish this.

18 A. Okay.

19 Q. And this will be displayed on the
20 overhead for the jurors to be able to see.

21 A. Do you want me to explain?

22 Q. No. Just draw the line, and I'll put it
23 up on the display, and you can explain it to the
24 jury.

25 A. (Witness complying.)

1 THE COURT: We're just experiencing a
2 little technical difficulties. This is all brand
3 new for us. So, bear in mind that we're doing our
4 best.

5 BY MR. KANE:

6 Q. Let me ask you some questions while we're
7 trying to adjust the equipment.

8 Basically you drove into the apartment
9 complex and then sort of drove around a little
10 bit?

11 A. Yes. Usually when we enter the complex
12 or any complex, a lot of times we'll turn our
13 lights off, especially at that time of night.
14 We'll turn the lights off, and we won't, I won't
15 even accelerate the vehicle. I'll just let it
16 cruise really slow. I'll roll the windows down so
17 I can hear what's going on as I'm cruising through
18 and just drive really slow so we can see
19 everything going on. A lot of complexes that we
20 patrol are really dark, you know. A lot of lights
21 are burnt out and stuff like that. So, you just
22 cruise through so they can't hear your car
23 accelerating and that kind of thing. So, they're
24 usually creeping around the corner selling their
25 drugs, whatever they're doing at the time. So --

1 Q. Okay. Now, I've got, and tell me if I'm
2 wrong. It appears that your red lines enters off
3 of Charleston Boulevard, proceeds south for a
4 little ways --

5 A. Yes.

6 Q. Correct?

7 A. Correct.

8 Q. -- then turns east. So, you drove east
9 down this street?

10 A. Yes. This, the photograph here isn't
11 exactly correct, because when you get to the
12 first, where building eight is right there, you
13 actually have to make a small left-hand turn to
14 continue east. So, it's not a straight shot.

15 Q. Okay. And the way I'm looking at the
16 diagram, it looks like you started to make sort of
17 a left turn down, this kind of appears to be an
18 alley behind the apartments.

19 A. Yes, just to turn around.

20 Q. Okay.

21 A. We usually go down to the corner, and
22 then I made a left-hand turn, and then I reversed,
23 and then we went right back the way I came.

24 Q. So, that's why it looks like a broken
25 U-turn?

1 A. Right.

2 Q. As you turned here and proceeded back
3 into the street did something happen that
4 attracted your attention?

5 A. Yes. Actually right when I turned, made
6 that northbound turn and stopped right around in
7 that area is where I heard what I believed to be
8 three gunshots. At that moment I stopped the car
9 right where we were, and I asked my partner, did
10 you hear that? And he's like, hear what? I'm
11 like, you didn't hear that? And he's like, no. I
12 didn't hear that. And I said, I think I heard
13 three gunshots.

14 Q. Now, do you recall if your driver side
15 window was up or down?

16 A. My window was down.

17 Q. Do you recall if Detective Wallace's was
18 up or down?

19 A. His was not.

20 Q. So, you heard the gunshots, relayed it to
21 him. He said he hadn't heard it?

22 A. He didn't hear it.

23 Q. Would you mark for the jury -- and just
24 put the letters GS -- where you were when you
25 heard the gunshots?

1 A. (Witness complying.)

2 Q. Okay. And that's right in that area that
3 we've been talking about where you made the broken
4 U-turn?

5 A. Correct.

6 Q. What did you do once you heard what you
7 believed to be shots?

8 A. Well, once I reversed the car to make the
9 U-turn to be able to go back the way we came from,
10 in the direction I believe the gunshots came from,
11 right at that moment we saw a young kid running
12 from west to east. He was jogging. He wasn't
13 sprinting. But what was odd was that he didn't
14 have any shoes on. But there is a 7-Eleven on the
15 corner. So, we kind of looked at each other.
16 Well, maybe he's just going to the store. He
17 didn't seem alarmed. Almost everybody in the
18 complex that we've ever come in contact with knew
19 that our car was a police car. He wasn't trying
20 to come to us, which we thought would have been,
21 if he was actually in distress or, and he didn't
22 appear to be running from us either. So, it
23 struck us as odd, but it wasn't too particular.

24 Q. Would you mark on here and use the
25 letters YM where you saw the young man?

1 A. (Witness complying.)

2 Q. Okay. And that's pretty close to where
3 you were making that broken U-turn?

4 A. Yes. He ran right in front of our, well,
5 I would give him maybe 20, 25 feet, but he ran
6 right in front of our car.

7 Q. Now, where did he go from when he passed
8 the car, did you see?

9 A. He was running right towards the corner
10 where the, like I said, there is broken bars. I
11 don't know if there is a gate in that particular
12 corner either, but that's the direction where he
13 was running, right towards the 7-Eleven.

14 Q. And would that have been down this --

15 A. Exactly.

16 Q. Behind the building?

17 A. Okay. We lost sight of him kind of once
18 he broke our plane. So, I'm not exactly sure
19 where he exited, but he went toward that corner.

20 Q. But you know from being in the area that
21 there is a break in the fence in that corner?

22 A. There is numerous breaks in the fences.

23 Q. And that, if you go out that break and
24 turn to your right, as you exit you'll come to a
25 7-Eleven?

1 A. If you're running, if you're running in
2 an eastbound direction, actually 7-Eleven is on
3 the, on the left, because it's actually, it
4 depends where you go out. But it's actually on
5 the corner of Mojave, the northwest corner of
6 Mojave and Charleston.

7 Q. And how far from the Saratoga Palms
8 Apartments?

9 A. Not even a block. I mean, it's maybe a
10 half a block, not even. I mean, it's right across
11 the street and maybe one building over, really
12 close.

13 Q. What did you do after you saw the young
14 man and heard what you believed to be gunshots?

15 A. We continued through the complex the way
16 we came out and made a left-hand turn. Right
17 around where you have to make a turn, where I said
18 you make a left, you have to make a small left.
19 As soon as we rounded that corner we saw, I saw
20 actually a, a group of people. They appeared to
21 be young juveniles. They were, you know, they
22 were frantically running around, talking to each
23 other, and pointing upstairs. And then I saw one
24 kid actually run upstairs. He ran about three
25 quarters up the stair. He look at the balcony.

1 He, I mean, he was really panicked. And then he
2 ran back down like, oh, we need to talk to these
3 guys. Something is going on.

4 I jumped out of my car, hey, man, come
5 here. And obviously I was a little alarmed,
6 because we didn't know what was going on. So, I
7 kind of stayed towards my car for cover, just in
8 case. I didn't know what was going on. And he
9 ran over to my car, and he said, hey, somebody
10 needs help up there. They're hurt.

11 Q. And did you stop your car, so you drove
12 back down the street and stopped your car right
13 where the line stops?

14 A. Yeah. I stopped it at an angle, facing
15 the apartments, facing the particular apartment,
16 actually like at an angle, because as soon as we
17 saw them frantically, I stopped my car as soon as
18 I saw them.

19 Q. And would you write the word group on the
20 diagram where you saw the group of people? And
21 this is apartment 2068 if that helps.

22 A. Yes, like, it's not like exact, because
23 this is, you know what? I'm actually mistaken,
24 because this isn't the road. This is the road,
25 because that's why I said you had to make a left.

1 This picture, this pen's not working. This is
2 actually the road. And you have to make a left.
3 So, then when I came back right here, I stopped my
4 car.

5 Q. And then would you write group where you
6 saw the group?

7 A. Okay, group.

8 Q. Now, did you make a little correction?
9 And I apologize. This isn't a street map. It's a
10 kind of diagram that's posted in front of the
11 apartment complex so people can find their way
12 around.

13 So, did you find that you had sort of
14 been off a little in describing your original
15 route?

16 A. Yeah, because I actually thought that was
17 the actual first road you come to. And once you
18 enter the complex the very first street you can
19 turn to past the gate, that's where we made the
20 left.

21 Q. Let me try to trace your route again.
22 Again I've got you coming in off of Charleston,
23 and then you go up here, and this is where you
24 make your left?

25 A. Correct.

1 Q. Okay. You then make another left, go
2 down this way?

3 A. Correct.

4 Q. And then go down this street. That's
5 where you make the broken U-turn and spot the
6 young man. All of that correct?

7 A. Correct.

8 Q. Then you come back this way and turn up
9 this street. And now is this little rectangle
10 where you eventually stopped your car?

11 A. Correct.

12 Q. And you made a mark, GP, up here. Is
13 that where you saw the group of young men?

14 A. That's where the group of people were.
15 There was, females were, they look like they were
16 having maybe a get-together or something at the
17 apartment below.

18 Q. And you can see this apartment, 2068, is
19 the apartment up here in the corner?

20 A. Correct.

21 Q. Okay. What did you do once you made
22 contact with the group of young people and
23 realized that this scene --

24 A. Once he ran over to our car and he told
25 us that somebody had been shot and hurt upstairs,

1 we immediately both exited our cars, and we both,
2 Mike and I both started heading towards the
3 apartments. At that time I do believe Detective
4 Wallace made radio contact with dispatch and
5 advised them what was going on. We both believed
6 it was really immediate. I had just heard the
7 gunshots and the, we believed the suspect could
8 possibly actually still be upstairs.

9 We ran upstairs. We instructed the
10 people that were outside running around to go back
11 into the apartment. Obviously we didn't know who
12 the threat was. So, we both, Detective Wallace
13 led up the stairs, and once he broke the plane of
14 the balcony he looked back at me and advised me
15 that the person on the balcony had been shot and
16 was, was probably not alive. And he's like, we
17 got to clear the apartment.

18 Q. Now, explain to the jury, please, what
19 you mean by clear the apartment.

20 A. Well, obviously we knew that the person
21 on the balcony was dead at that time. So, sorry.

22 Q. That's all right.

23 A. We believed that the bad guy, the suspect
24 could possibly still be in the apartment. So, we
25 had to make sure that no one else was hurt as

1 well. So, Mike, the door was already partially
2 opened, and we could see that there was smoke
3 still inside, which is usually from the gun. So,
4 he opened the door, and I led the way, and the
5 very first door was partially ajar. I tried to
6 kick the door to open it, and it wouldn't open.
7 And I looked down, and I saw somebody's feet
8 behind the door. And I told him I was having a
9 hard time, because he had come in and posted at
10 the kitchen to watch the rest of the apartment at
11 that time to make sure that the threat didn't come
12 at us.

13 So, I kicked the door a couple more
14 times, trying to move the body, because I couldn't
15 get, I couldn't fit. So, once I could get it
16 moved a little bit more, I squeezed through, and I
17 saw the victim there with a gunshot wound to the
18 back of the head, and he clearly was not
19 responsive. I finished clearing that apartment,
20 that particular bedroom and made sure there was
21 nobody else in there. And then I came out, and I
22 told him I was ready. Well, at that time I could
23 see that there were a hallway and a bathroom and
24 two closed bedroom doors. He cleared the kitchen,
25 but at that time, because the doors were closed,

1 we really, we needed one more person to help us.
2 So, we paused for maybe less than a minute, 30
3 seconds while another detective came up the stairs
4 to help us.

5 At that time we reentered the apartment
6 and went straight towards the hallway, and we
7 posted up until the, our third person could stand
8 at the door for us, and then we finished clearing
9 the apartment, going and opening the other doors.
10 Well, as we were going towards those I could see a
11 third victim lying there in the hallway, holding,
12 he was holding like a bag of toilet paper in a
13 plastic bag. He was like clutching it. And he
14 did appear to have some sort of signs of life,
15 because he was breathing laboredly. The other
16 two, we cleared the other two bedroom doors, and
17 at that time medical was summoned up the stairs
18 once we believed that the apartment, there was no
19 other threat in the apartment, and at that time
20 medical was summoned up, and they tried to, they
21 took the third victim out of the apartment.

22 Q. Now, did either you or Detective Wallace
23 at any time observe anyone in the apartment except
24 for the three shooting victims?

25 A. No.

1 Q. And did you basically then secure the
2 scene and turn it over to homicide detectives?

3 A. Yes. I mean, it really went so fast, but
4 once medical took the third victim out we posted,
5 a detective was posted at the door. And homicide
6 was there like really, really fast.

7 Q. So, things --

8 A. It was secured really, it was secured
9 really fast.

10 Q. Okay. But anything like a detailed
11 examination of the scene or recovery of physical
12 evidence, that would have been done by other
13 detectives that you turned the scene over to; is
14 that correct?

15 A. Yes.

16 MR. KANE: Nothing further, your Honor.
17 Pass the witness.

18 THE COURT: Cross-examination?
19

20 CROSS-EXAMINATION

21 BY MR. BROOKS:

22 Q. Could we leave that exhibit there,
23 please?

24 Officer, my name is Howard Brooks. I
25 have a few questions to ask you to clarify a few

1 things.

2 THE COURT: Mr. Brooks, before you start
3 can we X out the area on that diagram that was
4 made in error? I don't want there to be a
5 confusion later on down the road.

6 MR. BROOKS: Would Mr. Kane like to do
7 that?

8 THE COURT: That first line. Thank you.

9 MR. KANE: I've written error right
10 through the line.

11 THE COURT: Thank you.

12 BY MR. BROOKS:

13 Q. We're still getting used to this new
14 courtroom. So, we've not mastered all of this
15 stuff yet.

16 You can see this document there on your
17 computer screen in front of you.

18 A. Uh-huh.

19 Q. Okay. Looking at the computer screen,
20 there is what I look at, and I look at that, and I
21 see a Texaco star on the lower side over near, not
22 far off East Charleston Boulevard. Is that the
23 site of a gate?

24 A. You know, I'm, I, I can't answer that. I
25 don't know. The gate has never been opened as

1 long as I had ever worked the streets over there.
2 So, whether, there is a fence, and there is a
3 place for a gate. But whether it's actually
4 attached and, I've never seen one. I don't have
5 any --

6 Q. You don't know if it operates?

7 A. No. I have no idea.

8 Q. Okay. As of today do you still work in
9 this area or not?

10 A. No, I do not.

11 Q. Okay. You worked there in 2003?

12 A. Yes, I did.

13 Q. Okay. At that time was this a gated
14 community?

15 A. Well, it's gated. It's, it's fenced off,
16 but the gates, I worked over there five years, and
17 never once were the gates closed.

18 Q. So, at that time the gates were simply
19 there, but they were open all the time?

20 A. There is openings for gates, but whether
21 they were actually physically attached to the
22 fence, I don't know. But the gates were never
23 functioning as far as I'm aware.

24 Q. So, when you entered the complex that
25 night, you guys didn't have to go through a gate.

1 You just drove in?

2 A. Correct.

3 Q. You're driving essentially an unmarked
4 Metro car?

5 A. Yes.

6 Q. It's white in color?

7 A. No. It was green.

8 Q. And you are the driver or the passenger?

9 A. I'm the driver.

10 Q. There are two people inside the vehicle?

11 A. Correct.

12 Q. And this is your, yourself as passenger,
13 the driver?

14 A. I'm the driver.

15 Q. I'm sorry.

16 A. Detective Wallace is the passenger.

17 Q. I'm sorry. I apologize. You enter the
18 complex. You drive essentially south until you
19 get to the first street?

20 A. Correct. It's actually a dead end T.
21 You have to make a right or a left.

22 Q. Okay. And when you come to that dead end
23 T, you take a left?

24 A. Correct.

25 Q. Can you estimate how far you had come

1 into the complex by the time you took the T, the
2 left-hand T, in other words, from where the gate
3 should have been?

4 A. It's not very far. I mean, from this
5 picture, I mean, it's not very far. It's
6 probably, I want to say, I mean, I'm guessing 50
7 feet. I mean, it's not, it's not very far at all.

8 Q. It looks like it's, it looks like a
9 block.

10 A. I know it seems really far. That's why I
11 was confused when I was drawing it the first time,
12 because it seems like, because that first left
13 really isn't that far, because actually I, no one,
14 seems like there is a gate that actually runs
15 along building three and four. But I can't
16 remember, because it just, this picture doesn't
17 seem obviously to scale, but it's not very far.

18 Q. But what you're doing is you're driving
19 in. You're passing by one building, the end of
20 one building on the left. You're passing by a
21 little bit of a, sort of a grassy area, I guess,
22 then another building on your left. Then you're
23 coming to the T, and then you're taking a left,
24 right?

25 A. Correct.

1 Q. Then you're driving approximately the
2 same distance over to the east, correct?

3 A. Correct.

4 Q. And you're making a left-hand turn coming
5 back the same distance again and then taking a
6 right?

7 A. Correct.

8 Q. And then you're driving over
9 approximately maybe a little bit more down to the
10 end and turning around?

11 A. Correct.

12 Q. Okay. And I was a little confused about
13 something you said. At that point you saw an
14 individual, correct?

15 A. Correct.

16 Q. And what exactly was that individual
17 doing?

18 A. He was jogging. He was running down the,
19 down the street.

20 Q. Was he still in the complex area?

21 A. Yes.

22 Q. What was he dressed in?

23 A. He was dressed in casual clothes, shorts
24 and a shirt, and he had socks on but no shoes.

25 Q. Since this time have you figured out who

1 that person was?

2 A. I saw him in the car, and they told me
3 his name was Lazon Jones.

4 Q. And you believe that to be true?

5 A. Yes.

6 Q. You turn around. So, he's essentially
7 running away from the complex at that point --

8 A. Correct.

9 Q. -- leaving? Okay. Do you sit there for
10 a few minutes while you're at that, that, that end
11 of the road position or not?

12 A. We probably sit there for maybe 10
13 seconds, 15 seconds after I heard the gunshot. I
14 stopped my car. I heard the gunshots. I stopped
15 the car and listened, you know, to see if there is
16 going to be any more and also to see if there was
17 any more, if I could hear where they're coming
18 from. It's very difficult, when you hear
19 gunshots, to know where they're coming from. So,
20 I sat there and listened for maybe two or three
21 seconds. I reversed the car, putting it in
22 reverse, was doing the U-turn. As I'm doing the
23 U-turn it's altogether fluid. That's when we saw
24 him running.

25 Q. Okay.

1 A. So, we're talking, we're talking maybe 15
2 seconds from the time I heard the gunshots from
3 the time I saw Lazon. I mean, it was really fast.

4 Q. So, look at the map here. See where my
5 finger is? Do you see where my finger is?

6 A. Yes.

7 Q. Are you driving along this way right here
8 when you hear the gunshots?

9 A. No. I'm actually at the corner.

10 Q. You're at the corner?

11 A. Yeah.

12 Q. So, you're at the corner. You hear the
13 gunshots. And you saw Lazon at roughly the same
14 time that you hear the gunshots?

15 A. I mean, I would give him like maybe 15
16 seconds, 20 seconds after I even, I'm guessing,
17 but it was really fast. I mean, I heard the
18 gunshots, put the car in reverse. I reversed. As
19 I'm getting ready to put the car in drive, here he
20 comes. I mean, it was, you know, 15, 20 seconds,
21 maybe 30.

22 Q. So, you heard the gunshots before you saw
23 him?

24 A. Yes, right before.

25 Q. Right before and literally 10 to 15

1 seconds before?

2 A. Right.

3 Q. Do you know how many gunshots you heard?

4 A. Three.

5 Q. Were they spaced, or were they, were they
6 one, two, three, real fast? How, how was the
7 sound that you heard?

8 A. They were rapid. They were boom, boom,
9 boom.

10 Q. And do you know that you absolutely heard
11 three shots?

12 A. That's what I recounted at the time,
13 yeah.

14 Q. Okay. You turned around, and at that
15 point you're turning around, because you want to
16 go find out where the gunshots were fired?

17 A. Correct.

18 Q. You drive back down to this intersection
19 here, correct?

20 A. Correct.

21 Q. And you are turning left at this point
22 and heading south?

23 A. Correct.

24 Q. Now, when you get to that intersection
25 and when you start to turn left, do you see

1 anything at that point that arouses your interest?

2 A. Yeah. As soon as we hit the corner, I
3 mean, this spacing is really far, but it's not
4 that far. Because as soon as we hit the corner, I
5 mean, you could see the people acting, you know.
6 They were, their arms, I mean, they were like
7 really excited and aroused. I mean, and so I went
8 a little bit further and then spaced my car as,
9 the front of my car where my engine block
10 basically would be between me and them at a angle
11 so I had some protection, because I had no idea,
12 first of all, I just heard gunshots, and now
13 they're very excited and aroused. I don't know
14 what's going on. So, that's why I parked my car
15 at an angle as soon as I could.

16 Q. I don't want to get there quite yet.
17 Now, as you're sitting in the car and as you get
18 to that intersection and you turn left heading
19 south, first of all, the car is not marked. Are
20 you wearing a uniform?

21 A. Yes.

22 Q. And your partner's wearing a uniform?

23 A. Correct.

24 Q. And you were armed?

25 A. Yes.

1 Q. Okay. Once you were at that intersection
2 right there looking south, what exactly are you
3 seeing?

4 A. As soon as you hit that corner I would,
5 you could see down the way, and you could, you
6 could hear people. You could hear them talking.
7 And I was still rolling pretty slow. And as soon
8 as I could get a visual of really what was going
9 on I parked my car. I stopped my car. And we
10 just kind of sat there and was looking at, we
11 watched them for maybe two or three seconds.
12 That's when the guy ran up the stairs. He, he
13 only made it maybe halfway to three quarters up,
14 and he stopped, and then he, he was completely in
15 dismay and ran down. And that's also the person
16 that ran to me and said, hey, somebody's up there.
17 He's shot. He's hurt. He needs help.

18 Q. Now, you've testified that these
19 complexes are often dark. This is near midnight.
20 Is this complex dark?

21 A. Some parts of it, not always, not this,
22 not necessarily. This, this particular complex
23 actually had a lot of lights in it. What I stated
24 was that a lot of times a lot of complexes we go
25 into are dark. So, we turn our lights off and go

1 really slow. This particular complex actually is
2 pretty well-lit. At that time it was, because all
3 the outside lights are pretty, pretty good.

4 Q. When you're at this intersection here
5 before you drive down and park, can you see, you
6 can see a person outside apartment 2068?

7 A. He had been, he was downstairs, and then
8 he ran up halfway and then ran down.

9 Q. Okay. Now, are you seeing him from where
10 I have my finger now, or are you seeing him as you
11 drive down here and park?

12 A. As, as I'm cruising south.

13 Q. Okay. So, you're cruising down. You're
14 seeing one person run up to that second floor
15 apartment?

16 A. He didn't run up to the apartment. He
17 was on the stairway.

18 Q. He ran on the stairway. He didn't
19 actually enter the apartment?

20 A. No.

21 Q. You had your eyes on him, though?

22 A. Yes.

23 Q. Was there anyone else in your field of
24 sight?

25 A. Yes. There were maybe three or four

1 people down on the ground at apartment 1068. They
2 were on, there is, they all have balconies. Like
3 where the first victim was lying, they're all
4 balconies. And the, there was maybe two or three
5 people on that balcony, and they were, they were
6 the ones that were panicked.

7 Q. And these people appear, just from your
8 observation from inside the car as you drive
9 towards them, they appear to be upset?

10 A. Yes.

11 Q. And they appear to be yelling?

12 A. They're talking amongst each other.

13 Q. There seems to be some confusion among
14 them as to what's going on?

15 A. Yes.

16 Q. They're trying to figure out what's
17 happening?

18 A. I don't know what they were doing, but
19 that's what appeared to be.

20 Q. You're trying to figure out what's
21 happening?

22 A. Correct.

23 Q. So, you drive down. You pull your car
24 over and park. You park on the left-hand or
25 right-hand side?

1 A. In the middle of the road. I don't
2 recall.

3 Q. You just stopped the car in the middle of
4 the road?

5 A. Yeah.

6 Q. Do you have a, emergency lights on your
7 car?

8 A. Yes.

9 Q. Did you activate those?

10 A. No.

11 Q. Look at where my finger is right now in
12 the middle of the street. There are parking
13 spaces along this street, are there not?

14 A. Yeah. I do believe what it is, it's,
15 there is various covered and uncovered parking
16 spaces along both sides. I couldn't tell you
17 where they're at, but they do have them in that
18 complex.

19 Q. I mean, wouldn't it be fair to say this,
20 this diagram shows buildings, but it doesn't
21 actually show the covered parking that's in the
22 street area? Isn't that a fair statement?

23 A. Yes.

24 Q. Okay. So, you're driving down here. You
25 stop your car. You and your partner get out the

1 car. You see this person going up to the balcony
2 area outside the apartment. I'm sorry.

3 Did you say that he did or did not yell
4 something out?

5 A. No. He didn't say anything. When, what
6 happened was, he ran up and, and about three
7 quarters up you could see what was going on on the
8 balcony. And it was very clear. That's why I got
9 upset earlier. It was not, I mean, there was a
10 huge puddle of blood. It was coagulated blood.
11 You could clear, he was tucked in a fetal
12 position.

13 Q. Let me stop you. When did you make those
14 observations?

15 A. As I was following Detective Wallace up
16 the stairs and I entered the apartment.

17 Q. Okay. You didn't see those things from
18 your car?

19 A. No. What I'm saying is, when that
20 individual ran up halfway, that's what he saw.
21 And when he saw that, you could clearly see, I
22 mean, he looked and, I mean, from where I was at,
23 I could clearly see --

24 Q. Let me stop you. Forgive me. I have
25 something I want to try to do here, but let me

1 just ask you a few questions.

2 When you were in your car, though, you
3 could not see him, any person?

4 A. Yes, I could.

5 Q. You could not see the person who is on
6 the floor --

7 A. No, I could not.

8 Q. -- upstairs?

9 A. No.

10 Q. In fact, it would have been impossible
11 for you to see the person on the floor when you
12 were in your car down on the ground floor?

13 A. I don't know about impossible. No. I
14 didn't see him.

15 Q. Okay. And, in fact, when you turned your
16 car there to the left to head south and you're
17 looking all the way down here towards where these
18 people are outside that apartment, at that time
19 what were you able to see when the person was
20 going up the, up or down the stairs?

21 A. I saw him walk up the stairs, look. I
22 mean, his body language, he looked, and he turned
23 around. He ran downstairs, and he, he, he spoke
24 to the people that were standing on the, like he
25 was telling them what he saw. And he, he, his

1 hands were up in the air. I said, hey. And
2 that's when I was getting out of my car all at the
3 same time. I yelled at him to come over to my
4 car. He walked, he's like, hey. And as he's
5 coming towards me he's pointing upstairs telling
6 me that somebody up there needed help and they
7 were hurt. They had been shot.

8 Q. Okay. Did you later learn the
9 identification of this person who you were talking
10 to?

11 A. No, I didn't.

12 Q. Never did?

13 A. No.

14 Q. Okay. Your first desire at this point is
15 to investigate what's happening up there in that
16 apartment to see if someone needs help, correct?

17 A. Correct.

18 Q. You and your partner both get out of the
19 car, correct?

20 A. Correct.

21 Q. You both approach the apartment?

22 A. Correct.

23 Q. You both go up the steps, and you find
24 the body outside the apartment on the balcony?

25 A. Correct.

1 Q. And there is blood underneath that body?

2 A. It was all around his head on the ground,
3 and it was flowing in a westbound, you know, it
4 was like in a westbound flow.

5 Q. Was, was that person, to your appearance,
6 dead?

7 A. Yes.

8 Q. And was his entire body outside of the
9 apartment?

10 A. Yes.

11 Q. You then noticed the smell or scents of
12 some type of smoke from inside the apartment?

13 A. It was actual gunpowder. You could smell
14 the gunpowder, and you could see the smoke.

15 Q. And that would be consistent with someone
16 having fired a gun?

17 A. Yes.

18 Q. You don't know at that point whether the
19 person is inside or not, but you suspect he could
20 be?

21 A. Correct.

22 Q. The person that did the shooting? You
23 and your partner both enter the apartment?

24 A. Yes.

25 Q. You yell out as you enter the apartment?

1 A. Yes, before we entered actually.

2 Q. What did you yell out?

3 A. Detective Wallace actually did that. I,
4 he, we call it sounding out. What we do is, we
5 yell into the apartment, police, police. Come
6 out. Police, police. Anybody hurt? And we try
7 to get their attention. We wait for a few seconds
8 to see if anybody responds to us. We call it
9 challenging the apartment, give the person inside
10 a chance, an opportunity to come out. And if they
11 are a victim or, or they fear for their life, they
12 won't accidentally shoot us, thinking we're the
13 bad guy.

14 Q. Right. So, you're entering. Who
15 actually enters the apartment first?

16 A. I do.

17 Q. Okay. The front door, the door that
18 leads to the outside, is that the door that's
19 closed?

20 A. No. It's partially, it's probably maybe
21 halfway open.

22 Q. So, basically you're able to just push
23 that open?

24 A. Correct.

25 Q. You both enter into the den, that first

1 area?

2 A. Correct.

3 Q. Where do you go from that point?

4 A. As soon as we enter the apartment, we
5 entered really fast together. I mean, it's almost
6 like at the same time. You enter, because we're
7 covering each other. He's, he, when he first
8 entered the apartment, it's the living room area
9 directly ahead. When, if you just kept going is
10 the kitchen, but there is a bar that separates the
11 living room from the kitchen. We both made entry.
12 He paid attention to the kitchen and the two, and
13 the hallway area that you can't see behind, and
14 then I immediately drew my attention to the, the
15 first bedroom on the left, because the door was
16 partially open.

17 Q. Let me stop you. Are the lights on?

18 A. There was a kitchen light on, and I think
19 that was it as far as in the living room area.

20 Q. Your guns are drawn?

21 A. Yes.

22 Q. You're on high alert?

23 A. Yes.

24 Q. Okay. What is the first room that you
25 enter beyond this den?

1 A. The first bedroom I enter, it's a
2 bedroom, the very first bedroom on the left-hand
3 side. It's the north bedroom.

4 Q. You enter that --

5 A. Well, I tried, I tried to kick the door
6 open. It was partially open, maybe, you know, not
7 even a foot. So, I tried to, I tried to hit it
8 with my hand. It wouldn't move. And I tried to
9 kick it, and it wouldn't move. So, I did some
10 quick peeks around the door, you know, so if there
11 was somebody in there with a gun, that they, you
12 know, I was trying to be really quick. And as I
13 did that I could see two feet laying behind the
14 door. So, I knew that he was there. At that time
15 I --

16 Q. Let me stop you. So, he is on the floor
17 in that room?

18 A. Yes.

19 Q. And he's on the floor by the doorway?

20 A. Yes, behind the door.

21 Q. And, in fact, his body is blocking part
22 of the door?

23 A. His feet are sticking out the edge of the
24 door, and he's right behind the door.

25 Q. But you can't open the door because of

1 his body?

2 A. Right, not easily.

3 Q. Eventually you, there is a hallway off to
4 the right and two bedrooms and a bathroom over to
5 the right, correct?

6 A. To the right, if you enter the apartment
7 and you make a right, you have to go around a
8 couch. You make a right, and directly in front of
9 you, I think, is the bathroom. I don't remember
10 if there is a closet. There is a bathroom. And
11 then if you make another right, there is a bedroom
12 and a bedroom.

13 Q. Where precisely was the other body found?

14 A. The third victim was in the hallway.

15 Q. In the hallway to the right?

16 A. Correct.

17 Q. On the ground?

18 A. Correct.

19 Q. Okay. And that was the person who was
20 still alive or at least had some signs of life?

21 A. Correct.

22 Q. You and your partner eventually come back
23 out of the apartment, and you basically secure the
24 premises and wait, correct?

25 A. Correct.

1 Q. You wait for emergency personnel?

2 A. We were actually still in the apartment
3 when emergency personnel arrived, because what
4 happened was, he, because he showed signs of life,
5 he was face down. He was, his face was kind of
6 turned down into the floor. But there was, there
7 was so much blood that even if he was trying to
8 breathe, it was very labored. So --

9 Q. I understand.

10 A. We tried to --

11 Q. I understand.

12 A. We tried to assess him to see if we can
13 give him CPR or --

14 Q. But basically at this point you're
15 waiting for the emergency personnel. The
16 personnel arrived, correct?

17 A. Correct.

18 Q. They come in. They start attending to
19 these people?

20 A. Actually they, the only person they
21 attended to was the person in the hallway. They
22 checked, obviously we don't, you know, we don't do
23 that.

24 Q. Is anyone else coming into the apartment
25 at this time besides yourself, your partner, and

1 the emergency personnel?

2 A. There were. Detective Mead had entered
3 with us to, he was the third body that came up to
4 help us. And then I do believe he had a partner.
5 I don't know if he stayed at the door. The only
6 three officers were, that I'm aware of is
7 Detective Mead, Detective Wallace, and myself.

8 Q. You come back out of the apartment. Has
9 anyone put up a crime scene tape or done anything
10 yet to keep people away?

11 A. It was all going on simultaneously.

12 Q. So, within a few minutes, perhaps,
13 someone put up a crime scene tape?

14 A. I couldn't tell the time frame. I was
15 inside the apartment. Once I exited it was pretty
16 much under control. Patrol had arrived, and they
17 were, patrol, you know, primarily their function.
18 And they carry the crime scene tape in the car,
19 and they start doing, so they were setting that
20 up.

21 Q. The scene was secured, though?

22 A. Yes.

23 Q. You did not have people coming in and
24 wandering in and out of the apartment?

25 A. Absolutely not.

1 Q. Also you come back out of the apartment,
2 and you can see that there is a need for the tape,
3 because people are gathered outside, correct?

4 A. I personally didn't see that many people
5 gathered. There may have been. I, I can't answer
6 that.

7 Q. You saw some people gathered?

8 A. I personally did not. I don't recall
9 that.

10 Q. Did you hang around for very long?

11 A. Actually, no. We were there for a long
12 time, but homicide had arrived. The detectives,
13 homicide had arrived actually fairly quickly.
14 Once they arrived we attended their briefing, what
15 they call briefing, because we have to give them
16 our, you know, our account, because we were the
17 first ones there and saw what had transpired in
18 the apartment. So --

19 Q. Who else was at the briefing?

20 A. Homicide detectives, their squad.

21 Q. Is this being held outside near the cars?

22 A. At their cars.

23 Q. Is it happening outside the cars or
24 inside the cars?

25 A. They do their briefing outside the car.

1 Q. Do you recall how many people were there
2 at the briefing?

3 A. No, I don't.

4 Q. And so basically your role in
5 investigating the case is essentially to end at
6 this point?

7 A. Correct.

8 MR. BROOKS: Thank you. No further
9 questions.

10 THE COURT: Redirect?

11 MR. KANE: No, your Honor.

12 THE COURT: You may step down. Thank you
13 very much.

14 Who's next?

15 MS. PANDUKHT: State calls Detective
16 Michael Wallace.

17 THE BAILIFF: Detective Wallace, if you
18 will, remain standing, please, raise your right
19 hand, face the clerk.

20

21 MICHAEL ALLEN WALLACE,
22 called as a witness, and having been first duly
23 sworn to testify to the truth, the whole truth,
24 and nothing but the truth, was examined and
25 testified as follows:

1 THE CLERK: Please be seated. State your
2 full name and spell your last name for the record.

3 THE WITNESS: Michael Allen Wallace,
4 W-a-l-l-a-c-e.

5

6 DIRECT EXAMINATION

7 BY MS. PANDUKHT:

8 Q. How are you employed?

9 A. I'm currently employed as a detective
10 with the Las Vegas Metropolitan Police Department.

11 Q. How long have you worked for the Las
12 Vegas Metropolitan Police Department?

13 A. A little over 11 and a half years.

14 Q. Are you assigned to a particular unit at
15 this present time?

16 A. I'm currently assigned as homicide
17 detective at the homicide section.

18 Q. And how long have you been a homicide
19 detective?

20 A. Going on two years.

21 Q. Were you previously assigned to other
22 detective bureaus?

23 A. Yes, I was.

24 Q. Now, were you on duty on May 26th into
25 May 27th, 2003 around the hour of midnight?

1 A. Yes, I was.

2 Q. Were you with a partner or working alone
3 at that time?

4 A. I was working with Detective Spencer.
5 She was assigned as my usual partner at that time.

6 Q. Were you in the area of the Saratoga
7 Palms II East Apartments located at 28 --
8 2895 East Charleston?

9 A. Yes, I was.

10 Q. And that is in Clark County, Nevada?

11 A. Yes, it is.

12 Q. What was the purpose for you and
13 Detective Spencer to be there?

14 A. Detective Spencer and I were assigned a
15 uniformed detective position, and we were in an
16 unmarked vehicle. It's basically a patrol vehicle
17 that's unmarked. We've had some reports of
18 various type of criminal activity going on in that
19 particular corner of that complex, and we were
20 just investigating it to see if there is any
21 validity to those reports.

22 MS. PANDUKHT: Now, if I can approach the
23 witness to --

24 THE COURT: Certainly.

25