

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 JOSHUA C. SHUE,

) No. 67428

4 Appellant,

5 v.

) Electronically Filed
) Jul 21 2015 08:49 a.m.
) Tracie K. Lindeman
) Clerk of Supreme Court

6
7 THE STATE OF NEVADA,

8 Respondent.

9
10 **APPELLANT'S APPENDIX VOLUME V PAGES 824-1003**

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

11 STEVE WOLFSON
12 Clark County District Attorney
13 200 Lewis Avenue, 3rd Floor
14 Las Vegas, Nevada 89155

15 Attorney for Appellant

15 ADAM LAXALT
16 Attorney General
17 100 North Carson Street
18 Carson City, Nevada 89701-4717
19 (702) 687-3538

20 Counsel for Respondent
21
22
23
24
25
26
27
28

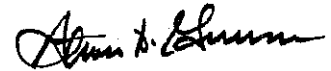
INDEX
JOSHUA C. SHUE
Case No. 67428

	<u>PAGE NO.</u>
Acknowledgment of Trial Date filed 10/17/2013.....	194
Bail Bond Receipt filed 05/09/2013	05/09/2013
Defendant's Trial Brief filed 08/12/2014	257-274
District Court Minutes from 03/13/2013 through 02/05/2015	342-376
Ex Parte Motion for Release of Medical Records filed 04/04/2014.....	241-242
Ex Parte Motion for Release of Medical Records filed 04/04/2014.....	245-246
Ex Parte Order filed 11/26/2014.....	329
Indictment filed 03/13/2013	001-014
Indictment Warrant filed 03/13/2013	110
Indictment Warrant Return filed 03/21/2013	119
Instructions to the Jury filed 08/29/2014	284-320
Judgment of Conviction filed 01/21/2015	330-334
Motion for Appointment of Attorney for Appeal filed 01/26/2015	335-336
Motion for Discovery filed 12/03/2013	213-219
Motion for Individual Voir Dire of Jurors by Counsel to Protect Defendant's Right to a Fair Trial filed 09/23/2013	173-177
Motion for Psychiatric Examination of Alleged Victim filed 09/27/2013	183-187
Motion in Limine filed 09/16/2013	168-170
Motion to Dismiss Indictment Because of Violation Based on Inadequate Notice filed 08/06/2014	254-256
Motion to Reset Bail as Previously Set by Magistrate Judge or Grant a Bail Less than \$75,000.00 filed 03/15/2013	111-112
Motion to Vacate and Reset Trial Date filed 09/27/2013	188-189
Motion to Vacate Trial Date and Reset filed 03/26/2014	226-228
Notice of Appeal filed 02/12/2015	337-341
Notice of Hearing filed 04/17/2014	253
Notice of Motion and Motion in Limine filed 04/03/2013	229-236
///	

1	Notice of Witnesses filed 09/03/2013	164-165
2	Notice of Witnesses filed 08/22/2014	282-283
3	Opposition to State's Motion in Limine filed 04/15/2014	249-252
4	Order Releasing Medical Records filed 04/04/2014	243-244
5	Order Releasing Medical Records filed 04/04/2014	247-248
6	Reply to State's Opposition to Defendant's Motion for Psychiatric Examination of Alleged Victim filed 10/23/2013.....	195-202
7	Reporter's Transcript of Preliminary Hearing heard 02/27/2013.....	015-037
8	Reporter's Transcript of Proceedings before the Grand Jury heard 03/12/2013.....	038-109
9	Return to Writ of Habeas Corpus filed 04/30/2013.....	132-158
10	Second Supplemental Notice of Witnesses filed 09/19/2013.....	171-172
11	State's Opposition to Defendant's Motion for Individual Voir Dire of Jurors by Counsel to Protect Defendant's Right to a Fair Trial filed 09/24/2013.....	178-182
12	State's Opposition to Defendant's Motion for Psychiatric Examination of Alleged Victim filed 10/07/2013	190-193
13	State's Opposition to Defendant's Motion to Dismiss Indictment filed 08/18/2014	275-281
14	State's Oppositon to Defendant's Motion to Reset Bail as Previously Set by Magistrate Judge or Grant a Bail Less than \$75,000.00 filed 03/20/2013	113-118
15	State's Opposition to Defendant's Motion to Vacate Trial Date and Reset filed 04/03/2014	237-240
16	State's Response to Defendant's Motion for Discovery filed 12/11/2013	220-225
17	State's Sur-Reply to Defendant's Reply to State's Opposition to Defendant's Motion for Psychiatric Examination of Alleged Victim filed 11/06/2013	203-212
18	Supplemental Notice of Witnesses filed 09/12/2013	166-167
19	Verdict filed 08/29/2014.....	321-328
20	Writ of Habeas Corpus filed 04/17/2013.....	120-131
21		
22		
23		
24		
25		
26	<u>TRANSCRIPTS</u>	
27	Transcript of Proceedings, Jury Trial—Day One	
28	Date of Hrg: 08/25/2014.....	538-823

1	Transcript of Proceedings, Jury Trial—Day Two	
2	Date of Hrg: 08/26/2014.....	824-1003
3	Transcript of Proceedings, Jury Trial—Day Three	
4	Date of Hrg: 08/27/2014.....	1004-1177
5	Transcript of Proceedings, Jury Trial—Day Four	
6	Date of Hrg: 08/28/2014.....	1178-1348
7	Transcript of Proceedings, Jury Trial—Day Five	
8	Date of Hrg: 08/29/2014.....	1349-1493
9	Recorder's Transcript of Proceedings, Calendar Call	
10	Date of Hrg: 08/21/2014.....	525-534
11	Recorder's Transcript of Proceedings, Calendar Call; State's Motion in Limine	
12	Date of Hrg: 05/29/2014.....	509-518
13	Recorder's Transcript of Proceedings, Defendant's Motion for Appointment of Attorney for Appeal	
14	Date of Hrg: 02/05/2015.....	1520-1521
15	Recorder's Transcript of Proceedings, Defendant's Motion for Discovery	
16	Date of Hrg: 12/17/2013.....	434-448
17	Recorder's Transcript of Proceedings, Defendant's Motion for Psychiatric Examination of Alleged Victim	
18	Date of Hrg: 10/08/2013.....	414-419
19	Recorder's Transcript of Proceedings, Defendant's Motion to Dismiss Indictment Because of Violation Based on Inadequate Notice	
20	Date of Hrg: 08/19/2014.....	519-524
21	Recorder's Transcript of Proceedings, Defendant's Motion to Vacate Trial Date and Reset	
22	Date of Hrg: 04/08/2014.....	457-467
23	Recorder's Transcript of Proceedings, Evidentiary Hearing	
24	Date of Hrg: 05/19/2014.....	468-508
25	Recorder's Transcript of Proceedings, Hearing; Defendant's Motion for Psychiatric Examination of Alleged Victim	
26	Date of Hrg: 11/07/2013.....	420-433
27	Recorder's Transcript of Proceedings, Sentencing	
28	Date of Hrg: 12/09/2014.....	1494-1496

1	Recorder's Transcript of Proceedings, Sentencing	
2	Date of Hrg: 01/15/2015.....	1497-1519
3	Recorder's Transcript of Proceedings, Status Check: CPS Records	
4	Date of Hrg: 02/04/2014.....	449-454
5	Recorder's Transcript of Proceedings, Status Check: CPS Records	
6	Date of Hrg: 02/20/2014.....	455-456
7	Transcript of Proceedings, Calendar Call; Defendant's Motion for Individual Voir Dire of Jurors by Counsel to Protect	
8	Defendant's Right to a Fair Trial	
9	Date of Hrg: 10/03/2013.....	409-413
10	Transcript of Proceedings, Defendant's Motion in Limine	
11	Date of Hrg: 09/26/2013.....	402-408
12	Transcript of Proceedings, Defendant's Motion to Reset Bail	
13	Date of Hrg: 04/25/2013.....	386-391
14	Transcript of Proceedings, Defendant's Motion to Reset Bail as Previously Set by Magistrate Judge or Grante a Bail Less	
15	than \$75,000.00; Indictment Warrant Return	
16	Date of Hrg: 03/28/2013.....	377-385
17	Transcript of Proceedings, Defendant's Petition for Writ of Habeas Corpus	
18	Date of Hrg: 05/02/2013.....	392-401
19	Transcript of Proceedings, Overflow	
20	Date of Hrg: 08/22/2014.....	535-537
21		
22		
23		
24		
25		
26		
27		
28		



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

JOSHUA C. SHUE,

Defendant.

CASE NO. C288172-1
DEPT NO. XXI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 2

TUESDAY, AUGUST 26, 2014

APPEARANCES:

For the State:

LEAH C. BEVERLY, ESQ.
MARIA LAVELL, ESQ.
Chief Deputy District Attorneys

For the Defendant:

TERRENCE M. JACKSON, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

KARR Reporting, Inc.

I N D E X

Opening Statement for the State by Ms. Beverly	6
WITNESSES FOR THE STATE:	
RAYMOND SPENCER	
Direct Examination by Ms. Beverly	15
Cross-Examination by Mr. Jackson	28
Redirect Examination by Ms. Beverly	35
VICENTE RAMIREZ	
Direct Examination by Ms. Lavell	36
Cross-Examination by Mr. Jackson	72
Redirect Examination by Ms. Lavell	86
Recross-Examination by Mr. Jackson	93
Follow-Up Examination by Mr. Jackson	97
Follow-Up Examination by Ms. Lavell	102
Further Follow-Up Examination by Mr. Jackson	105
Further Follow-Up Examination by Ms. Lavell	107
Further Follow-Up Examination by Mr. Jackson	108
Further Recross-Examination by Mr. Jackson	123
Further Redirect Examination by Ms. Lavell	125
RYAN JAEGER	
Direct Examination by Ms. Lavell	126
Cross-Examination by Mr. Jackson	155
Redirect Examination by Ms. Lavell	169
Follow-Up Examination by Ms. Lavell	175

E X H I B I T S

EXHIBITS ADMITTED FOR THE STATE:

1	Flash Drive - Video Files	52
2	Photo taken up Hazel Iral's skirt	43
3	Photo - Nude boys engaged in sexual act	49
4	Photo - Nude boy in shower	49
5	Photo	49
6	Photo - Nude boy laying prone on bed	49
7	Photo	49
8	Photo	49
9	Photo	49
10	Photo - Nude boy	49
11	Photo	49
31	Photo - Garage door of 609 Palm Wash residence	24
32	Photo - Placard identifying 609 Palm Wash residence	24
33	Photo - Front door of 609 Palm Wash residence	24
34	Photo - Downstairs area of 609 Palm Wash residence	24
35	Photo	24
36	Photo	24
37	Photo	24
38	Photo	24
39	Photo	24
40	Photo	24
41	Photo	24
42	Photo	24

E X H I B I T S (Continued)

EXHIBITS ADMITTED FOR THE STATE (Continued):

43	Photo	24
44	Photo	24
45	Photo	24
46	Photo	24
47	Photo - Staircase leading to bedroom	24
48	Photo	24
49	Photo - Bedroom	24
50	Photo - Bedroom	24
51	Photo - Bedroom	24
52	Photo	24
53	Photo	24
54	Photo	24
55	Photo	24
56	Photo	24
57	Photo	24
58	Photo - Bedroom	24
59	Photo	24
60	Photo - Desk	24
61	Photo - Sony VAIO laptop on desk	24
62	Photo	24
63	Photo	24
64	Photo - Desk with drawer removed	24
65	Photo - Contents of desk drawer	24

E X H I B I T S (Continued)

EXHIBITS ADMITTED FOR THE STATE (Continued):

66	Photo - Close-up of contents of desk drawer	24
67	Photo - Video camera	24
68	Photo	24
69	Photo	24
70	Photo	24
71	Photo	24
72	Photo	24
73	Photo	24
74	Photo	24
75	Photo	49

1 LAS VEGAS, CLARK COUNTY, NEVADA, AUGUST 26, 2014, 11:34 A.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 THE COURT: Are you a witness, sir?

5 UNIDENTIFIED SPEAKER: Yes, ma'am.

6 THE COURT: Yes. We do have the exclusionary rule.
7 So you do need to sit in the hall, or the vestibule is fine.

8 MR. JACKSON: I was going to invoke --

9 UNIDENTIFIED SPEAKER: Thank you.

10 (In the presence of the jury.)

11 THE COURT: All right. Court is now back in session.
12 The record should reflect the presence of the State through the
13 deputy district attorneys, the defendant and his counsel, the
14 officers of the court and the ladies and gentlemen of the jury.

15 Good morning, ladies and gentlemen. I apologize for
16 our tardy start. Our morning calendar went longer than what
17 was anticipated.

18 As I told you yesterday, we'll be beginning this
19 morning with the opening statements.

20 Is the State ready to proceed with their opening
21 statement?

22 MS. BEVERLY: Yes, Your Honor.

23 THE COURT: All right.

24 (Opening statement for the State.)

25 MS. BEVERLY: Good morning. In late 2012, a search

1 warrant was served on a Sony VAIO laptop computer belonging to
2 Joshua Shue, the defendant in this case. During the search of
3 that computer multiple videos and photos of children in various
4 states of nudity were found, including children belonging to
5 the defendant's then girlfriend Anita Iral.

6 Because of his actions, the defendant is charged in
7 this case with a total of 41 counts that were read to you
8 yesterday during the opening instructions, one count of child
9 abuse, 29 counts of use of child in production of pornography,
10 10 counts of possession of child pornography, and one count of
11 open and gross lewdness, and the purpose of an opening
12 statement is to give you as a jury a roadmap as to the
13 testimony and evidence that you will hear during this trial so
14 you have a context to place it into as we go through this
15 trial.

16 Now, during this trial you're going to meet Hazel
17 Iral, and Hazel is currently 19 years old, and she's going to
18 tell you that she knows the defendant Joshua Shue because
19 between 2010 and August 23rd of 2012, the defendant was dating
20 Hazel's mother Anita. You also -- she's also going to tell you
21 she has two brothers, including Kurt Iral, who you heard
22 yesterday is also a named victim in this case.

23 Now, Hazel is going to tell you that between 2010 and
24 2012, she was living at 3640 Kolendo Court, Apartment D, here
25 in Las Vegas, and at that apartment she lived with her mother

1 Anita Iral, her two younger brothers Kurt and Franzkie Iral,
2 and the defendant Joshua Shue, and you'll hear that Joshua
3 lived there, but he also lived in another residence where he
4 was renting a room. So he would go back and forth between
5 Hazel's house and his own house during that time period.

6 This is the defendant's house that you'll hear about
7 throughout this trial. The address of that house is 609 Palm
8 Wash Lane, and that's in Henderson, Nevada.

9 Now, how this all came about -- and you'll hear about
10 throughout this trial -- is that on August 23rd of 2012, Hazel
11 Iral reported to police that on the night before, August 22,
12 2012, the defendant had taken a picture up her skirt and had
13 inappropriately kissed her, and when she woke up in the
14 morning, she reported this to the police department, the Las
15 Vegas Metropolitan Police Department. When she did that,
16 Detective Ryan Jaeger began an investigation into Hazel's
17 allegations.

18 He interviewed Hazel, and he interviewed the
19 defendant Joshua Shue. You'll hear Detective Jaeger testify,
20 and he's going to tell you about this interview that he
21 conducted with Mr. Shue. During that interview Mr. Shue
22 admitted taking a picture up Hazel's skirt the night before.
23 He said he was doing it in a joking manner, but he admitted
24 taking that picture.

25 He also allowed detectives to search through his cell

1 phone that he had with him during the interview, and what was
2 interesting and that you'll hear during this trial is that his
3 cell phone contained zero data, no missed calls, no text
4 messages, no photos. The phone had been wiped completely
5 clean.

6 MR. JACKSON: I'm going to object to that as a
7 conclusion.

8 THE COURT: All right. That's sustained. That the
9 phone contained no record is what she believes the evidence
10 will show.

11 MS. BEVERLY: Thank you, Your Honor.

12 You're also going to hear that during the interview
13 Mr. Shue admitted that he had romantic feelings for Hazel, and
14 you'll hear that during the interview he also admitted to
15 taking other inappropriate photos of Hazel.

16 Now, based on this interview and based on his
17 interview with Hazel as well, Detective Jaeger was -- authored
18 two search warrants, one for Hazel's house, the Kolendo Court,
19 where the defendant would also stay sometimes, and one for the
20 defendant's other house at the Palm Wash Lane address, and that
21 search warrant was for the purposes of looking for the blue
22 camera where the photo had been taken up the skirt, other
23 computers, electronic devices, any other storage medias that
24 may contain additional photos.

25 Now, detectives served that search warrant at the

1 Kolendo address, and they were able to recover a blue Canon
2 camera that becomes of relevance a little bit later.
3 Detectives also searched the Palm Wash Lane address, and they
4 recovered multiple items from the room of Joshua Shue,
5 including a Sony VAIO laptop, a video camera, multiple
6 disposable cameras, multiple rolls of film, a desktop computer
7 and multiple CDs.

8 Now, this is Joshua Shue's room at the Palm Wash
9 address that was searched. This was before the search, and of
10 relevance is this desk over to the left part of the screen
11 containing a computer you see sitting on it. This is a closer
12 up of this Sony VAIO laptop computer which contains the
13 majority of the evidence in this case.

14 Also on that same desk where the computer was found
15 was also a drawer in the desk that becomes of relevance because
16 inside of that drawer were other multiple disposable cameras, a
17 video camera, condoms and various lubricants inside of that
18 drawer.

19 MR. JACKSON: Objection. Irrelevant.

20 THE COURT: Overruled.

21 MS. BEVERLY: Now, during this, detectives were able
22 to search the blue camera that was found at the Kolendo
23 address, and that search was done by Detective Ramirez, who
24 will be testifying today. Detective Ramirez is going to tell
25 you that he did a forensic analysis of that blue camera, and he

1 found the photo that was taken up the skirt of Hazel on August
2 the 22nd of 2012, and this is that photo, and you'll see that
3 during the trial.

4 Detective Ramirez is also going to tell you that he
5 conducted a forensic analysis of the Sony VAIO laptop computer
6 that we just saw in the previous pictures in Josh -- that was
7 found in Joshua Shue's room, and he'll tell you that when he
8 was conducting that analysis he was able to determine that the
9 computer was registered to Joshua Shue. As he was doing that
10 analysis as well, he was able to find two folders, the first
11 folder being named Yummm, second folder being named Hmmm, and
12 he'll tell you that those folders were actually hidden on the
13 computer.

14 As he continued his search of the computer, inside of
15 those folders Yummm and Hmmm were multiple videos of Hazel and
16 Kurt Iral nude in the bathroom of their Kolendo address,
17 showering, using the restroom and doing other bathroom
18 activities. In some of those videos you'll also see the
19 defendant actually setting up the camera inside the children's
20 bathroom.

21 Now, during this trial -- and I apologize in advance
22 for what you're going to see, but during this trial we have to
23 play parts of those videos. You will have the videos for each
24 count to take back with you in the jury room at the end of this
25 trial, and you're more than welcome to watch the whole length

1 of the video, but for purposes of the trial we will show the
2 clips of the videos for each count during this trial.

3 Now, in each video that we're going to go through and
4 each video that makes up the count, Hazel is going to identify
5 herself, her brother, their ages and the location where the
6 video was filmed, and she's going to tell you -- and you'll
7 actually be able to see in the video as well -- that she was
8 completely unaware that this video was being recorded, and
9 she'll tell you that the only reason that she found out about
10 this video is after the detectives did a search on the
11 computer, recovered the videos and then showed them to Hazel,
12 and she only fully watched the videos when she testified
13 previously at a Grand Jury.

14 Now, these are some of the images from the videos
15 that you're going to see --

16 MR. JACKSON: I'm going to object. They're not in
17 evidence at this time. I believe --

18 THE COURT: Counsel, approach.

19 MR. JACKSON: -- admitting --

20 THE COURT: Counsel, approach, please.

21 (Conference at the bench not recorded.)

22 MS. BEVERLY: So again you're going to see the videos
23 that are named in the complaint that was read yesterday during
24 this trial, and again we will have to go through parts of each
25 video so that way Hazel can identify herself and her brother

1 and their ages as well as the relevant location.

2 Now, in addition to these videos being found on the
3 computer, there were also multiple other images, an
4 unidentified male juvenile child in various sexual poses and
5 photos -- a photo of a male juvenile giving another male
6 juvenile oral sex. Those are four counts, 40 and 41 of the
7 indictment, and you'll see those throughout the trial as well.

8 So based on the defendant's conduct, based on the
9 items found on his computer, at the end of this trial, the
10 State's going to ask that you find him guilty of each and every
11 one of those 41 counts.

12 Thank you.

13 THE COURT: All right. Thank you, Ms. Beverly.

14 Does the defense wish to make an opening statement at
15 this time?

16 MR. JACKSON: Can I have the Court's indulgence a
17 moment.

18 Your Honor, the defense would rather reserve its
19 opening at this time.

20 THE COURT: Reserve its right. All right. Thank
21 you.

22 The State may call its first witness.

23 MS. BEVERLY: Thank you. The State calls Sergeant
24 Spencer.

25 MR. JACKSON: And the rule to exclude witnesses is

1 invoked at this time.

2 THE COURT: Right. The exclusionary rule is in
3 effect.

4 MR. JACKSON: Thank you.

5 THE COURT: And the bailiff --

6 You can get the next witness.

7 I believe she's not a witness.

8 And, Mr. Jackson, the bailiff knows that when people
9 come into the courtroom to make sure they're not witnesses.

10 Just right up here, up those couple of stairs, next
11 to me, and please remain standing facing that lady right there
12 who will be administering the oath to you in a moment.

13 THE WITNESS: Okay.

14 MR. JACKSON: Your Honor, before Sergeant Spencer
15 proceeds, I've received no reports in my discovery concerning
16 Sergeant Spencer. If the State has any, I would like them now.

17 THE COURT: Okay --

18 MS. BEVERLY: Can we approach?

19 THE COURT: You can approach.

20 (Conference at the bench not recorded.)

21 (State's witness, Raymond Spencer, sworn.)

22 THE CLERK: Thank you. Please be seated, and please
23 state and spell your name.

24 THE WITNESS: My name is Raymond Spencer.

25 R-a-y-m-o-n-d, S-p-e-n-c-e-r.

1 MS. BEVERLY: May I proceed, Your Honor?

2 THE COURT: You may.

3 MS. BEVERLY: Thank you.

4 DIRECT EXAMINATION

5 BY MS. BEVERLY:

6 Q Sir, how are you currently employed?

7 A I'm currently a sergeant with the Las Vegas
8 Metropolitan Police Department.

9 Q How long have you been with Metro?

10 A I've been with Metro for just over 12 years.

11 Q Okay. And what are in general the duties of a
12 sergeant with Metro?

13 A A Sergeant with Metro oversees first-line officers
14 and detectives in the function of their day-to-day job
15 functions.

16 Q And how is being a sergeant or detective different
17 from being a patrol officer?

18 A Patrol officers, who the public typically thinks of
19 when they think of police officers, they're uniformed. They're
20 in police cars or on motorcycles. They respond to your general
21 calls for service.

22 A detective is typically dressed in civilian clothes.
23 They respond and conduct investigations after the initial
24 patrol officer responds.

25 As a sergeant -- you have sergeants in patrol, and

1 you have sergeants that supervise detectives as well. My
2 current assignment, I'm a Detective Sergeant, supervising
3 detectives.

4 Q Okay. And are you currently assigned to the
5 sex-based unit of Metro?

6 A Yes, I am.

7 Q Okay. Were you working in that unit back in August
8 of 2012?

9 A Yes, ma'am, I was.

10 Q And were you a sergeant at that time?

11 A Yes, ma'am, I was.

12 Q Now, I want to direct your attention specifically to
13 August the 23rd of 2012. Were you working on that date?

14 A Yes, I was.

15 Q Okay. And were you working as a sergeant with the
16 sex-based unit?

17 A Yes, I was.

18 Q Okay. And on that day were you working a particular
19 shift?

20 A Yes, I was.

21 Q What shift were you working?

22 A I work day shift, which starts at 6 a.m. and
23 typically ends at 4 p.m.

24 Q And while you were working that day, were you
25 assigned to serve a search warrant for an address located at

1 609 Palm Wash Lane?

2 A Yes, I was.

3 Q And where did that warrant come from?

4 A That warrant was originated from Detective Ryan
5 Jaeger, who's one of the detectives that works for me.

6 Q And for this particular case that we're talking
7 about, was Detective Jaeger the lead detective, so to say, on
8 this particular case?

9 A Yes, he was the lead detective.

10 Q And did you have knowledge that he had authored and
11 prepared a search warrant for this particular address?

12 A Yes, he did.

13 Q And was that search warrant signed by a Judge?

14 A Yes, it was.

15 Q Now, did you in fact go and serve the search warrant
16 at 609 Palm Wash?

17 A Yes, I did.

18 Q Who were you with when you served the search warrant?

19 A Originally when I showed up, it was myself and
20 Detective Grivis [phonetic], and then later a CSI technician
21 assisted us.

22 Q Okay. Can you tell us how you and your fellow
23 members of Metro went about serving this particular search
24 warrant.

25 A Yes. When we got there, we tried to get into the

1 actual residence. We were delayed for at least about an hour
2 and a half because there was a dog inside the residence that
3 wasn't letting us in the house. So we had to get a trash can
4 to kind of push the dog out of the way so we could get the dog
5 outside before we could get in, and then we'd begin the
6 execution of the warrant.

7 Q Did you have to have someone try to come get the dog
8 so you don't have to shoot the dog, or how does that work?

9 A Yes. The actual address is in the city of Henderson.
10 At the time we were there, Henderson did not have animal
11 control on. I then tried to call the county to have their
12 animal control come help us. They wouldn't come help us. So
13 that's why we had to resort to one of the big Republic Service
14 trash cans to kind of protect us, so to say, from the dog.

15 Q Now, once you were eventually able to get into the
16 residence, was anyone home at the time?

17 A At the time we initially entered, no.

18 Q So tell us what happened when you first entered the
19 house.

20 A Myself and Detective Grivis, we cleared the house to
21 make sure there was nobody else in the residence, and then we
22 began the execution of the search warrant.

23 Q And what exactly were you and your fellow detective
24 supposed to be looking for in this residence?

25 A We were looking for any digital media inside of the

1 bedroom belonging to the defendant.

2 Q Okay. And by the defendant, who are you referring
3 to?

4 A Mr. Shue, sitting off to my left, wearing a jacket
5 and tie.

6 MS. BEVERLY: Okay. Let the record reflect
7 identification of the defendant, Your Honor.

8 Let the record reflect identification --

9 THE COURT: Oh, yes. I'm sorry.

10 MS. BEVERLY: It's okay. Thank you.

11 BY MS. BEVERLY:

12 Q And so fair to say you had knowledge that this
13 residence was occupied in part at least by Joshua Shue?

14 A Yes, ma'am.

15 Q Okay. And again you were looking for any type of
16 electronic storage, media, things of that nature?

17 A Correct, anything capable of storing electronic
18 media, from computers to thumb drives to cameras, anything of
19 the sort.

20 Q Where did you start your search?

21 A We started the search in the upstairs bedroom. When
22 you go up the stairs, you make a right, and it's the bedroom in
23 the back on the left at the end of the hallway.

24 Q And did you have knowledge of whose bedroom that was?

25 A Yes.

1 Q Whose bedroom was it?

2 A Mr. Shue.

3 Q Okay. And is that why you focused your attention
4 specifically on that room?

5 A Yes, ma'am.

6 Q Okay.

7 MS. BEVERLY: Court's indulgence.

8 THE COURT: That's fine.

9 MS. BEVERLY: Your Honor, for the record, I'm showing
10 defense counsel what's been marked as State's Exhibit Nos. 31
11 through 74.

12 THE COURT: All right.

13 BY MS. BEVERLY:

14 Q While Mr. Jackson is looking through those, let me
15 just ask you --

16 MR. JACKSON: Oh, wait. Before you ask, I want to
17 keep looking through these because I am still looking at these,
18 and --

19 MS. BEVERLY: Fine.

20 THE COURT: We'll just be at ease for a moment while
21 Mr. Jackson --

22 MR. JACKSON: I can't do two things at once. I'm not
23 that smart.

24 MS. BEVERLY: I'll wait, Your Honor.

25 THE COURT: -- reviews the photos.

1 MR. JACKSON: There's 74 photos here. It's going to
2 take me at least a minute to go through them.

3 MS. BEVERLY: I'll wait, Your Honor.

4 MR. JACKSON: Since I haven't seen these before --

5 MS. LAVELL: That's --

6 MS. BEVERLY: Your Honor, can we approach, please?

7 MR. JACKSON: As soon as I'm done looking at these.

8 THE COURT: Well, actually, Mr. Jackson, you can
9 approach now, and then you can resume looking at them, but
10 Ms. Beverly will not be allowed to question the witness until
11 you've had an opportunity to look at those.

12 (Conference at the bench not recorded.)

13 MR. JACKSON: It'll take me a minute.

14 THE COURT: That's fine. All right. Mr. Jackson, my
15 understanding is you were provided all possible photos, but you
16 didn't know what the exhibits would be. So take a moment to
17 look through what they're using as the exhibits in this case.

18 We'll just be at ease for a few minutes.

19 MR. JACKSON: Well, let me correct the record. If I
20 need to approach the bench, I will.

21 THE COURT: All right. So do you need to approach
22 the bench?

23 MR. JACKSON: If you don't want me to correct it in
24 front of the jury, I'll approach the bench.

25 THE COURT: All right. Mr. Jackson --

1 MR. JACKSON: I -- until I look at them, I don't know
2 if I've been provided all of them.

3 MS. BEVERLY: We'd like to approach.

4 MR. JACKSON: If I look at them, then I'll know if
5 I've been provided all of them.

6 THE COURT: Okay. I'll see counsel at the bench.

7 And certainly you're going to be given an opportunity
8 to look at the photos before Ms. Beverly resumes her
9 questioning.

10 (Conference at the bench not recorded.)

11 THE COURT: We'll just be at ease for a moment.

12 (Pause in the proceedings.)

13 THE COURT: And for the record, Mr. Jackson, you're
14 handing the photos back to Ms. Beverly. Did you have an
15 opportunity to look at all of those?

16 MR. JACKSON: I had a chance to glance at all of
17 them, yes.

18 THE COURT: All right. Ms. Beverly, you may proceed
19 with your direct examination of the officer.

20 MS. BEVERLY: Thank you, Your Honor.

21 BY MS. BEVERLY:

22 Q Okay. Sergeant Spencer, as we were talking about,
23 you had just indicated that you had and were focusing on the
24 bedroom belonging to -- that you had knowledge of that bedroom
25 belonging to Mr. Shue; is that correct?

1 A That's correct.

2 Q Okay. And while you were doing your search, were
3 photos taken during the execution of the search warrant?

4 A Yes, the CSI technician that responded out there with
5 us took overall photographs of the residence.

6 Q And were you present when those photos were taken?

7 A Yes, ma'am, I was.

8 MS. BEVERLY: Okay. May I approach the witness, Your
9 Honor?

10 THE COURT: You may.

11 BY MS. BEVERLY:

12 Q I'm going to show you what's been marked as State's
13 Exhibit No. 31 through 74. Can you just look through these on
14 your own and tell me if you recognize what's depicted in these
15 photos.

16 A Do you want me to talk as I go through them?

17 Q No, just general -- flip through them and see if
18 those -- if you recognize those.

19 A Okay. Yes, I do.

20 Q Okay. Were those photos taken during the execution
21 of the search warrant?

22 A Yes, they were.

23 Q Okay. And are these a fair and accurate copy of what
24 was viewed by yourself during the execution of the search
25 warrant?

1 A Yes, it was.

2 MS. BEVERLY: Okay. At this time, Your Honor, I
3 would move for the introduction of State's Exhibit No. 31
4 through 74.

5 THE COURT: Any objections, Mr. Jackson?

6 MR. JACKSON: No objection.

7 THE COURT: All right. Those exhibits will be
8 admitted.

9 (State's Exhibit Nos. 31 - 74 admitted.)

10 MS. BEVERLY: Permission to publish?

11 THE COURT: You may.

12 MS. BEVERLY: Thank you.

13 BY MS. BEVERLY:

14 Q Okay. First, I'm going to show you State's
15 Exhibit -- now admitted Exhibit No. 31. Let's see. Let's zoom
16 in on that a little bit. Can you see that on your screen?

17 A Yes, I can.

18 MS. BEVERLY: Can the members of the jury see that
19 okay?

20 (No audible response.)

21 BY MS. BEVERLY:

22 Q Okay. What are we looking at in State's Exhibit No.
23 31?

24 A That would be the front door of the exterior of the
25 residence.

1 Q Showing you State's Exhibit No. 32, what is this?

2 A That's the placard identifying 609 as being the
3 numbers to the residence.

4 Q Okay.

5 A And just to clarify, on that last photo, I think I
6 said front door. It's actually the garage door that we were
7 looking at.

8 Q Okay. Thank you. So just to be clear, on State's
9 Exhibit No. 33, would that be the front door of the house?

10 A That's correct.

11 Q Now showing you State's Exhibit No. 34 -- let's
12 see -- would this be a photo of just the residence, the
13 downstairs part of the residence in general?

14 A Yes.

15 Q Okay. And was this in a two-story house or a
16 one-story house?

17 A It was a two-story house.

18 Q Okay. And the room where you indicated was of
19 particular interest, was that upstairs or downstairs?

20 A That was upstairs.

21 Q Okay. Showing you State's Exhibit No. 47, what's
22 depicted here?

23 A When you're downstairs and you're looking at the
24 staircase from downstairs, looking upstairs to the upstairs
25 hallway.

1 Q Okay. Leading up to the bedroom belonging to Joshua
2 Shue?

3 A That's correct.

4 Q Okay. Showing you State's Exhibit No. 49, what are
5 we looking at here?

6 A That's from the hallway looking into Mr. Shue's
7 bedroom.

8 Q Showing you State's Exhibit No. 51, is this inside of
9 Mr. Shue's bedroom?

10 A Yes, if you're standing inside, the door would be off
11 to what would be my right, and that would be his bed on the
12 left.

13 Q And during the execution of your search warrant, was
14 there a particular part of this room that you focused in on?

15 A Yes, there was.

16 Q Okay. You can actually take your finger and draw on
17 the screen. If you can just circle what area you focused in on
18 for the jury.

19 Okay. And would that be the desk area?

20 A Yes, it is.

21 THE MARSHAL: The officer has to clear it on his
22 monitor. If you tap the bottom-right corner.

23 THE COURT: Tap it on the bottom. It'll --

24 BY MS. BEVERLY:

25 Q Okay. Showing you State's Exhibit No. 60, again, a

1 closer view of that desk?

2 A Yes, it is.

3 Q Okay. Now showing you State's Exhibit No. 61, what
4 are we looking at here?

5 A That's a Sony VAIO laptop computer that was sitting
6 on the desk when we served the warrant.

7 Q Were there drawers in this desk?

8 A Yes, there was.

9 Q Did you remove those drawers to look for anything in
10 those drawers?

11 A Yes, we did.

12 Q Okay. Showing you State's Exhibit No. 64, is this
13 after one of the drawers has been removed?

14 A Yes, it is.

15 Q Showing you State's Exhibit No. 65, what are we
16 looking at here?

17 A That's the contents of one of -- the bottom-right
18 drawer of that desk in the previous --

19 Q And can you describe for the record what -- oh,
20 actually, let me show you this. State's Exhibit No. 66, can
21 you describe for the record what types of items are in that
22 drawer.

23 A Yes, there's some disposable cameras. There is a
24 video camera, a regular camera, some lubrication and condoms as
25 well in the drawer.

1 Q And that was the drawer found in close proximity to
2 the Sony VAIO laptop computer?

3 A That's correct.

4 Q Once you found these particular items, what did you
5 do with them?

6 A We photographed those, then took those into evidence
7 to be booked in evidence.

8 Q Okay. And were those items actually booked into
9 evidence by your department?

10 A Yes, they were.

11 Q Okay. Specifically who?

12 A I believe Detective Grivis and LaFenyear [phonetic]
13 booked those both into evidence.

14 Q Okay. And was that the extent of serving the search
15 warrant, the extent of your -- in general -- extent -- excuse
16 me -- of your involvement in this particular case in general
17 serving of the search warrant?

18 A Yes.

19 MS. BEVERLY: Okay. All right. Nothing further.

20 THE COURT: All right. Thank you.

21 Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. JACKSON:

24 Q What time of day or night did you go to serve this
25 warrant?

1 A It was approximately 7 p.m. in the evening.

2 Q And you waited about an hour and a half because there

3 was a dog barking or there was a dog inside the house before

4 you went in?

5 A We couldn't get into the house. When we got there,

6 we tried to get in, but the dog -- he would run around to the

7 side, or he would run to the front. So I made several phone

8 calls --

9 Q Oh, wait. Look at me. I'm the one asking you the

10 questions, not the jury.

11 THE COURT: Well, he's allowed -- I mean --

12 MR. JACKSON: Well, maybe I'll stand over here so I

13 can hear his answers better.

14 THE COURT: Okay. Well, if that's the issue.

15 And, sir, just, you know, so everybody can hear you,

16 including obviously Mr. Jackson, that's the microphone right

17 there. When you turn away from looking straight, make sure you

18 move the microphone so that you can be speaking more directly

19 into the microphone.

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Okay. Yes, that just moves along on the

22 table there.

23 BY MR. JACKSON:

24 Q Okay. Now, Officer, how did you get in? Did you use

25 a key?

1 A Yes, I believe we had a key to the residence.
2 Q Who gave you the key?
3 A Detective Jaeger.
4 Q How did he get the key?
5 A You would have to ask Detective Jaeger, sir.
6 Q Okay. So you had a key from Detective Jaeger, but
7 you couldn't get in because you were afraid of the dog?
8 A They're -- we tried for an extensive amount of time
9 to get the dog to go into the backyard so we could get into --
10 Q Right.
11 A -- the residence, and that's why we finally -- after
12 calling Henderson animal control, animal control from Clark
13 County -- and I specifically remember it because I kind of got
14 in a long discussion with the supervisor from Clark County
15 because it was only about a mile from there.
16 Q Well, the question was: Were you afraid of the dog?
17 THE COURT: Yes. Just make sure you focus on the
18 question.
19 THE WITNESS: Okay.
20 THE COURT: And then of course, Ms. Beverly, if she
21 wants you to elaborate, she can follow up on redirect.
22 THE WITNESS: Yes, ma'am.
23 BY MR. JACKSON:
24 Q Were you afraid of the dog?
25 A Yes, I was.

1 Q How big was this dog?

2 A I don't --

3 Q About 15 pounds?

4 A I don't recall the specifics. I just didn't want to
5 get bit by the dog.

6 Q You have a picture of the dog in your Exhibits 31 to
7 74; is that right?

8 A There is a picture of a dog, yes.

9 Q And it's a fairly small dog; wouldn't that be fair to
10 say?

11 A Again, I -- I can just tell you I just remember the
12 dog was barking.

13 Q Okay. And then you put the dog in a -- in a
14 dumpster; is that what you put it in?

15 A No, we --

16 MS. BEVERLY: Objection. Misstates the testimony.

17 BY MR. JACKSON:

18 Q Well, what did you put the dog in --

19 THE COURT: Well, he can answer the --

20 THE WITNESS: No. We -- we took the -- it's the big
21 trash cans that Republic Services gives you that you put out on
22 the side of the street. We took that, and we pushed it,
23 putting it as a barrier between us and the dog so we could get
24 the dog to go into the backyard so we could close off the dog
25 and keep the dog in the backyard.

1 BY MR. JACKSON:

2 Q How was it --

3 THE COURT: And -- I'm sorry. Are you talking about
4 those metal dumpsters that commercial businesses get, or are
5 you talking, like, the -- something that a residential customer
6 might use?

7 THE WITNESS: The residential ones, the big black
8 square ones. They have ones -- I think they're, like,
9 96 gallons, the ones that you put on -- it's not a -- there's a
10 photograph of the dumps -- or the trash can in the house. It's
11 in one of the photographs.

12 BY MR. JACKSON:

13 Q Do they have a lid on top of them?

14 A I believe it did.

15 Q Well, how long did you keep the dog inside the trash
16 can?

17 MS. BEVERLY: I'm going to object as to relevance at
18 this point.

19 THE COURT: Well --

20 MR. JACKSON: Well, it depends on how long he was
21 doing the search. It's relevant.

22 THE COURT: All right. All right. You can answer
23 the question.

24 THE WITNESS: The dog was never in the trash can,
25 sir. We pushed -- we used that as a barrier to keep the dog

1 between us and -- or us and the dog so we could get the dog
2 outside so the dog wouldn't be inside the house during the
3 search warrant.

4 BY MR. JACKSON:

5 Q When you seized all these items up on the second
6 floor, were you using latex gloves when you picked them up?
7 When you seized the cameras, when you seized the condoms, when
8 you seized the other items, were your hands encased in latex
9 gloves?

10 A Yes.

11 Q Okay. So you wanted to preserve any fingerprints
12 that might be on these items; is that correct?

13 A I can say with those contents specifically, I was
14 more -- I didn't want to touch those contents.

15 Q The cameras?

16 A Or the cameras or the condoms or the lubrication.

17 Q Well, do you know if the cameras were ever dusted for
18 fingerprints?

19 A I don't know that, sir.

20 Q Before you lifted these items off the floor or off
21 the -- out of the desk or whatever, did you -- did you dust
22 these items for fingerprints?

23 A There -- I didn't -- we did -- there was no by myself
24 dusting or preserving fingerprints. We were simply collecting
25 evidence at the crime scene.

1 Q Now, did the search warrant say that you could seize
2 any condoms that were found in the desk drawer or by the
3 bedroom or in the bedroom area?

4 A I would have to look at the actual warrant, sir.

5 Q Did you look at the warrant before going there?

6 A Yes, I did.

7 Q So you were acting only according to the warrant
8 because someone -- you could only act pursuant to the warrant;
9 is that right?

10 A I was executing the search warrant that was obtained
11 by Detective Jaeger.

12 Q And you wouldn't exceed the bounds of the warrant; is
13 that correct?

14 A Again, I'd have to see the warrant, sir.

15 Q Detective Jaeger I assume asked that you seize any
16 condoms that were available in the house; is that correct?

17 A I don't know that, sir. What I said is I'd have to
18 see the warrant to find out if -- what language was in the
19 warrant specifically.

20 Q Are condoms illegal in this state?

21 A No, sir, they're not.

22 Q In fact, they're a necessary protection that people
23 have; is that right?

24 A That's correct.

25 MR. JACKSON: No further questions.

1 THE COURT: Do we have any redirect?

2 MS. BEVERLY: Just briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. BEVERLY:

5 Q I'm going to show you what's been marked as State's
6 Exhibit No. 58. I'm going to zoom in if I can on this photo.
7 It looks like in this photo, to the right there appears to be,
8 like, a jar of pennies. Do you see that in the photo? Do want
9 me to zoom in some? Can you see that?

10 A Yes.

11 Q Okay. Can you see what's next -- there's like a
12 white box next to the pennies?

13 A Yes.

14 Q Do you recall what that is?

15 A I believe they were baby wipes.

16 MS. BEVERLY: Okay. Nothing further.

17 THE COURT: Any recross, Mr. Jackson?

18 MR. JACKSON: No.

19 THE COURT: All right. And I see no juror questions.

20 Sergeant --

21 No juror questions?

22 (No response.)

23 THE COURT: All right. Sergeant, thank you for your
24 testimony. Please do not discuss your testimony with anyone
25 else who may be called as a witness in this case.

1 THE WITNESS: Thank you.

2 THE COURT: You are excused.

3 State, call your next witness.

4 MS. BEVERLY: Thank you, Your Honor. The State calls
5 Detective Ramirez.

6 MS. LAVELL: May I approach the clerk, Your Honor?

7 THE COURT: You may.

8 MS. LAVELL: Court's indulgence.

9 THE COURT: Okay.

10 And the clerk will administer the oath to the witness
11 in a moment.

12 (State's witness, Vicente Ramirez, sworn.)

13 THE CLERK: Thank you. And please state and spell
14 your name.

15 THE WITNESS: First name is Vicente. That's
16 V-i-c-e-n-t-e. Last name is Ramirez. That's R-a-m-i-r-e-z.

17 THE COURT: All right. Thank you. Please be seated.

18 MS. LAVELL: I can start while we're waiting for one
19 more exhibit.

20 DIRECT EXAMINATION

21 BY MS. LAVELL:

22 Q Sir, how are you employed?

23 A I'm employed by the Las Vegas Metropolitan Police
24 Department.

25 Q How long have you been with Metro?

1 A 19 years.

2 Q What is your current assignment?

3 A I am assigned to the Internet Crimes Against Children
4 detail.

5 Q Can you explain to the ladies and gentlemen of the
6 jury what duties you have as a detective assigned to the
7 Internet -- Internet Crimes Against Children detail.

8 A I basically conduct online investigations for any
9 child sexual exploitation. I also do forensic examinations
10 when we execute search warrants on computers which we believe
11 to contain child pornography.

12 Q Do you have any specialized training that allows you
13 to do forensic analysis of computers?

14 A Yes, I do.

15 Q Could you explain to the ladies and gentlemen what
16 that is.

17 A I basically have attended what's called EnCase.

18 And, for the reporter, that's capital E, lowercase N,
19 capital C, lowercase A, S, E.

20 EnCase is a forensic software. I have also attended
21 another forensic software called FTK, which is Forensic
22 Toolkit, which is authored by Access Data. I also have
23 training in cell phone through Katana Forensics. Also, I have
24 training through Cellebrite, which is another phone analysis;
25 and Search, which is a government agency; NIPSEY, which is a

1 Secret Service agency; and just various other forensic classes
2 and courses that I've taken since 2000 -- basically 2000.

3 Q So in addition to the academic classes or the
4 structured classes and seminars you've taken to afford you the
5 ability to do forensic exams on phones -- you mentioned -- and
6 on computers, do you also have on-the-job training in the sense
7 that you have actually done analyses on computers and phones
8 throughout your career?

9 A Yes.

10 Q Are you trained to do forensic analysis of computers
11 in such a way as not to destroy any of the evidence contained?

12 A Yes.

13 Q Could you -- well, and -- and I briefly would like
14 you to explain that to the ladies and gentlemen of the jury,
15 how that happens, and then we're going to talk about it
16 possibly a little bit more further down the road.

17 A Okay. Basically any time we receive any digital
18 device, be a computer, cell phone, external drive, thumb
19 drives, any type of disc that contains -- any storage device,
20 basically we have to make sure it's write blocked. So we have
21 to make sure that the evidence that we receive when we receive
22 it, it will stay in the same format and the same -- same
23 capacity as when we got it.

24 So what the softwares and write blockers allow us to
25 do is we can connect to that device. Let's just say it's a

1 computer hard drive. I connect to that computer hard drive
2 with my write blocker, which at this time I'm using what's
3 called a tableau write blocker. Then from there I connect that
4 to my forensic computer. So what it does is it copies that
5 drive -- my target drive that I'm going to examine, it copies
6 that perfectly bit by bit and allows me to have a working copy
7 so that that way the evidence is always going to stay as it
8 was, the state of whoever seized it or if I seized it myself.

9 So that working copy is where I'll do all my -- all
10 my searches. Any work I do I'll do it on that copy, but it'll
11 show exactly what was on that computer.

12 Q So you have a working copy so that you're not
13 manipulating in any way the actual download from the -- in this
14 case, let's say computer?

15 A Correct.

16 Q And when you -- when you're using your working copy,
17 is there any way that you can actually alter the images
18 unintentionally on the working copy?

19 A No.

20 Q I want to draw your attention to August of 2012. Did
21 you receive several items in relationship to an individual by
22 the name of Joshua Shue with a request that you do a forensic
23 analysis?

24 A Yes, I did.

25 Q Specifically, did you receive a blue Canon digital

1 camera?

2 A Yes.

3 Q Did you receive an HTC smart cell phone?

4 A Yes.

5 Q And did you receive a Sony VAIO laptop?

6 A Yes.

7 Q And in preparation for trial, have you reviewed your
8 reports in regards to some of these items?

9 A Yes.

10 Q Let's first talk about the blue Canon -- excuse me.
11 Let's first talk about the HTC smart cell phone. Did you
12 examine that cell phone to see whether or not it contained any
13 information?

14 A Yes.

15 Q And what did you determine?

16 A That it did not contain the information that the
17 detective directed me to look for.

18 Q And in fact did it contain any information
19 whatsoever?

20 A No.

21 Q Okay. If an individual wants to -- if an individual
22 is having issues with a cell phone -- let's just say it's on,
23 and it freezes. Can you explain to the ladies and gentlemen of
24 the jury how one might rectify that issue.

25 A If your phone is just locking up and freezing -- you

1 know, a lot of times with iPhones, they'll drag, and they're
2 real slow. The best thing to do to restore it or to try to get
3 it --

4 MR. JACKSON: I'm going to object. Is it relevant,
5 best way to restore a cell phone?

6 THE COURT: May I see counsel up here.

7 (Conference at the bench not recorded.)

8 MR. JACKSON: -- the record reflect my objection on
9 it.

10 THE COURT: All right. The objection is overruled.

11 And, Ms. Lavell, you may proceed with your
12 questioning.

13 MS. LAVELL: Thank you.

14 MR. JACKSON: Your Honor, can I approach the bench
15 again?

16 THE COURT: Sure.

17 MR. JACKSON: Just -- and last time.

18 (Conference at the bench not recorded.)

19 BY MS. LAVELL:

20 Q Okay. I think we were talking about how one might
21 fix an issue with a phone that has frozen in the on position.

22 A The easiest way would be to just remove the back
23 cover, remove the battery, let it set for a second, and then
24 reinstall it -- the battery, and just let it reset.

25 Q And in fact if one were to do that and it did reset,

1 would there be any reason to wipe it at that point?

2 A No.

3 Q Now, let's say that it doesn't reset when you put the
4 battery off. It's still frozen. If it's still frozen, is one
5 even able to manipulate it so that it can be wiped?

6 A No.

7 Q Okay. Let's talk about the blue Canon digital camera
8 that you were asked to conduct an analysis on. Were you --
9 were you told specifically what you were looking for in regard
10 to that particular item of interest?

11 A Yes.

12 Q And what was that?

13 A Images of a -- a female, a young female.

14 Q And was it an image of a picture up the female's
15 dress --

16 A Yes.

17 Q -- skirt -- okay. Did you find the image on the blue
18 Canon digital camera?

19 A I found it on a memory card, yes.

20 Q And then that was associated with the blue Canon
21 digital camera?

22 A Yes.

23 Q Had it -- had it been deleted or erased?

24 A Yes.

25 MS. LAVELL: Mr. Jackson, I'm going to approach with

1 this.

2 MR. JACKSON: Thank you.

3 MS. LAVELL: You're welcome.

4 May I approach the witness?

5 THE COURT: Sure.

6 BY MS. LAVELL:

7 Q I'm approaching with what's been marked as Proposed
8 State's Exhibit 2. Can you take a look at this and tell me if
9 you recognize it.

10 A Yes, I do.

11 Q And how do you recognize this?

12 A This is the image that I exported for the detective
13 from the SD card from the camera.

14 Q Fro the camera --

15 MS. LAVELL: Your Honor, at this time the State would
16 move to admit Proposed Exhibit 2.

17 THE COURT: Any objection?

18 MR. JACKSON: No objection.

19 THE COURT: All right. 2 is admitted.

20 (State's Exhibit No. 2 admitted.)

21 MS. LAVELL: Thank you.

22 BY MS. LAVELL:

23 Q Now, in addition to examining the phone and examining
24 the camera, you were also asked to examine a Sony VAIO laptop,
25 correct?

1 A That's correct.

2 Q And this was also associated with the defendant
3 Mr. Shue?

4 A Yes.

5 Q Have you ever met the defendant Mr. Shue?

6 A No, I haven't.

7 Q Okay. So it's fair to say that you're -- you weren't
8 involved in the investigation itself beyond what you did with
9 the items of evidence and the query into those items?

10 A That's correct.

11 Q Okay. Can you explain to the ladies and gentlemen --
12 now, you previously explained that you make a duplicate file so
13 that you're not in any way damaging the original that's on the
14 drive on the computer, correct? Did I understand that
15 correctly?

16 A Yes.

17 Q Okay. Once you do that, what's the first thing that
18 you did in relationship to this particular computer?

19 A Once -- once -- they're called E01 files. Once the
20 files are -- are completed, the first thing I look at is to
21 make sure that those files verify, that the duplicate is an
22 exact copy of that. So it'll give me two numbers, and those
23 two numbers have to match exactly. Once I know that that file
24 verified, then I can go ahead and start conducting my searches.

25 Q Okay. And I'm going to stop you --

1 MS. LAVELL: And approach with the Court's
2 permission?

3 THE COURT: Sure. You may move freely.

4 MS. LAVELL: Thank you, Your Honor.

5 MR. JACKSON: Thank you.

6 BY MS. LAVELL:

7 Q I'm showing you what's been previously admitted as
8 State's Exhibit 61. Can you take a look at this.

9 Do you recognize this?

10 A Yes, I do.

11 Q Is this the computer that you did the analysis on?

12 A Yes.

13 Q And if you continue -- so once you make sure that
14 they both mirror one another, what's the next thing that you
15 do?

16 A That's when I start conducting my searches. At this
17 time, I started conducting image searches, and if I find any
18 images that are relevant to the case, I go ahead and start what
19 they call bookmarking. I start tagging them to show the
20 detective later for -- he can actually review it and see if
21 it's relevant to his case.

22 I also start bookmarking any video files. So I'll
23 start reviewing all image files and all video files first. For
24 this type of case, it was strictly image files and video files.

25 Q And was it -- were you bookmarking and looking for

1 images of young children specifically, given this particular
2 case?

3 A Yes.

4 Q So in addition -- and we'll talk in a minute about
5 video files, but when you open the computer and you're
6 analyzing it, do you determine if there's any subscriber
7 information or anything that identifies this particular
8 computer to a particular individual?

9 A Yes.

10 Q Did you find something in this case connecting this
11 computer to anybody specifically?

12 A Yes.

13 Q And what was that?

14 A What we -- we run a search for the computer name,
15 just to start. So the computer was basically named to Josh
16 Shue.

17 Q Okay. And anything in addition to the computer being
18 named to Josh Shue?

19 A I typically look for any images or anything that
20 shows, you know, that person in an image, you know, whether it
21 be a home picture or something that starts to tie that person
22 to that computer.

23 Q Did you have a picture of Joshua when you were doing
24 that?

25 A Detective Jaeger provided me with the images.

1 Q And did you identify any images on the computer
2 that -- of the defendant Mr. Shue?

3 A Yes.

4 Q What were those images?

5 A I just -- home pictures, pictures of him and family.
6 I assumed that it was family members.

7 Q Okay. So in addition to photos of the defendant,
8 images of the defendant -- and I'm presuming those were
9 appropriate photos?

10 A Yes.

11 Q Okay. Family photos?

12 A Family photos.

13 Q You identified his name as well?

14 A Yes.

15 Q Now, you indicated that you bookmarked photos and
16 videos. Let's first talk about the photos. Can you explain to
17 the ladies and gentlemen of the jury where on the computer you
18 found photos.

19 A Photos, you know, typically are saved under My
20 Documents and under the user profile. You know, most people --
21 unless they're going to name them something else -- typically
22 just put them in My Pictures or My Videos or My Documents. So
23 most of these images, I believe -- without looking at the
24 report -- were under the user profile of Josh.

25 Q And just so we're clear for the record, would it

1 assist you if you reviewed your report --

2 A Yeah.

3 Q -- to determine where you specifically found the
4 photos we're going to be talking about?

5 A Yes.

6 Q Did you bring a copy of your report with you?

7 A I did of the videos but not of the photos.

8 Q You did of the videos and not of the photos, okay.

9 All right. So at this point you can't be a hundred percent
10 sure where the photos were on the computer other than the fact
11 that they were found on the computer associated with Mr. Shue?

12 A Correct.

13 Q I'm approaching with what's marked as State's -- and
14 if you'll just bear with me for a quick second -- State's
15 Proposed -- State's Proposed 3 through 11, and State's Proposed
16 75. Will you just briefly look at these and tell me if you
17 recognize these.

18 A Yes, I do.

19 Q And how do you recognize these?

20 A Those were the images I bookmarked.

21 Q From the defendant's computer?

22 A Correct.

23 MS. LAVELL: Your Honor, I would move to admit
24 State's Proposed 3 through 11, and State's Proposed 75.

25 MR. JACKSON: No objection.

1 THE COURT: All right. Those will all be admitted.
2 (State's Exhibit Nos. 3 - 11 and 75 admitted.)

3 MS. LAVELL: Permission to publish?

4 THE COURT: You may.

5 BY MS. LAVELL:

6 Q This is State's Proposed 3. Is this one of the
7 images that you found?

8 A Yes.

9 Q State's Proposed 4, is this an image that you found
10 on the computer as well?

11 A Yes.

12 Q And what is this image of? I'm going to zoom out.

13 A This is an image of what appears to be a boy under
14 the age of 16 nude in the shower exposing his penis and his
15 buttocks area.

16 Q State's 6, does this appear to be the same young man
17 laying prone on a bed exposing his penis?

18 A Yes.

19 Q State's 10, same young man?

20 A Yes.

21 Q And are the rest of the photos that we just -- that I
22 approached you with similar in content?

23 A Yes.

24 Q So those were all made -- the only photos that you
25 bookmarked because the other photos presumably then were not

1 photos that gave you any concern on the defendant's computer?

2 A Correct.

3 Q In addition to the photos, did you find any video
4 files?

5 A Yes, I did.

6 Q Is the search for video files the same as the search
7 for photos?

8 A No.

9 Q So when you -- you explained earlier about making a
10 copy. Is that specific to video files?

11 A Everything will be on the computer. Everything --
12 you know, whether it's an image file, document or video file,
13 they're all on that working copy. The way I get to them is
14 just different. For image files, it easier to go -- they call
15 it a gallery, where the software displays them all to you. For
16 video files, basically you can look at all the extensions of
17 the filenames.

18 In this case, a standard video file is called a, dot,
19 AVI. So once you go down your computer list, you just look for
20 any, dot, AVI, and typically if you've -- if you just put them
21 in alphabetical order, AVI will all list, you know, in a row.
22 So then once I do that, then I start to view each -- each video
23 file.

24 Q And you did that in this case?

25 A Yes.

1 Q And then you viewed the video files, and then you
2 bookmarked those that caused you concern?

3 A Yes.

4 Q Did you then provide copies of those video files
5 either to Detective Jaeger or to the State?

6 A Yes.

7 Q I'm approaching with what's been marked as State's
8 Proposed Exhibit 1. Do you recognize this flash drive?

9 A Yes.

10 Q Can you explain to the ladies and gentlemen of the
11 jury what a flash drive is.

12 A Basically -- I typically call it a thumb drive. It's
13 nothing but a storage device. It just allows you to put any
14 electronic file onto that device so you can move it from one
15 device to another or store -- you know, backup storage. A lot
16 of people like to use them to back up all their pictures and
17 images.

18 Q Was the State provided with a very large drive
19 containing the video footage?

20 A Yes.

21 Q And did Ms. Beverly make you aware that she had
22 transferred the images or the videos from the large drive that
23 you provided to this more accessible drive for the purposes of
24 trial?

25 A Yes.

1 Q Did you have the opportunity this morning to view the
2 videos on this drive and determine that they are true and
3 accurate copies of the videos on the drive that you provided?

4 A Yes.

5 Q And the videos on the drive that you provided were
6 true and accurate copies of the videos taken from the computer?

7 A Yes.

8 Q Or on the computer?

9 A Yes.

10 MS. LAVELL: Your Honor, I would move to admit
11 State's Exhibit 1.

12 THE COURT: Any objection?

13 MR. JACKSON: No objection.

14 THE COURT: All right. 1 is admitted.

15 (State's Exhibit No. 1 admitted.)

16 MS. LAVELL: Thank you, Your Honor.

17 BY MS. LAVELL:

18 Q All right. Let's talk a little bit about how or
19 where you found the videos that are now stored on State's
20 Exhibit 1. Can you explain to the ladies and gentlemen of the
21 jury if they were contained in folders?

22 A Yes.

23 Q Did the folders have names?

24 A Yes, there was two folders.

25 Q All right. And what was one of the folders called?

1 A One of them was Yummm, which is like Y-m-m-m, and the
2 second was Hmmm, like H-m-m-m.

3 Q Okay. And could it have been Y-u-m-m?

4 A That's possible, yes.

5 Q Okay. Would it refresh your recollection if you
6 looked at your report?

7 A Yes.

8 Q Or it might -- may refresh my recollection. I may be
9 wrong.

10 Is this the report you brought with you today?

11 A Yes, it is. That's correct. It's capital Y, then
12 lowercase u-m-m-m.

13 Q And then the other is Hmmm?

14 A Yes.

15 Q And in the files Yummm and Hmmm, it contained the
16 images that are now contained on this thumb drive?

17 A Correct.

18 Q Were these folders contained in a location where
19 you'd expect?

20 A As a forensic person, yes.

21 Q Okay. And where was that?

22 A They were contained under the user's profile.

23 Q All right. And what do you mean by the user's
24 profile?

25 A Just, you know, documents and settings, users. So in

1 the normal tree of a -- a program.

2 Q Okay. Were they hidden?

3 A Yes.

4 MR. JACKSON: Objection. Leading.

5 THE COURT: Yes, don't --

6 MS. LAVELL: Okay.

7 BY MS. LAVELL:

8 Q Can you explain to the ladies and gentlemen of the
9 jury the path that you needed to take to specifically find
10 these videos?

11 A Once -- once I identify the videos, then I start
12 looking at the structure to see where those videos are at. In
13 that structure, it'll also tell me the description of that
14 folder. It'll give me the date and time that folder was
15 created, and it'll tell me the location of the folder.

16 And in this case, those files -- those two folders
17 were in the proper directory, but they were hidden. So me as a
18 forensic person, you know, I can see it, but if it's a normal
19 user, they're not going to see it in the regular structure
20 because those files were hidden files.

21 Q And in order to hide a file, is that a conscious
22 decision someone makes, or does that just happen automatically?

23 A You have to go through a couple steps.

24 Q And so you go through a couple of steps so that
25 they're more difficult to find?

1 A Correct.

2 Q Do you recall the date the folders were created to
3 house these images?

4 A The Yummm folder I believe was created 6/1 of 2011,
5 and the Hmmm folder was created August 31th of 2011.

6 Q Now, having viewed the video files, did you notice
7 anything in regards to the time of the allegation of this
8 incident and the time and date stamp on the actual video files
9 themselves?

10 A Yes.

11 Q What was that?

12 A I noticed that a lot of the files had created --
13 created dates and modified dates that weren't consistent with
14 when the case actually, you know, occurred.

15 Q And in fact there were several that were years off --

16 A Yes.

17 Q -- is that -- is that true?

18 A That's correct.

19 Q All right. Can you explain to the ladies and
20 gentlemen of the jury how the date and time stamp on a video
21 may contradict the evidence in terms of when the video was
22 actually taken.

23 A Basically, you typically have a created date, a
24 modified date and a last accessed date. If -- if I have a
25 computer and I move a file from somewhere else, if I move those

1 images or files, any type of file, the created date and the
2 modified date typically stays the same, especially on, you
3 know, this type of file system. The last access means that
4 that's the last time that he opened it or he did something with
5 it.

6 So if those files weren't touched at all and they
7 were actually just moved, not copied, then those dates will
8 stay from wherever they were -- wherever they were made or
9 created originally. So if they were created on another
10 computer or on a video camera or something, whatever day and
11 time that device had, it will stay with the computer that I am
12 examining now.

13 Q But that does not affect -- in other words, if I were
14 to view a video, if I were to change the date stamp on a video
15 camera so that the time and date stamp on my videos was not
16 when I was actually videoing, I can still view my video, and
17 that's still going to stay the same as it was set?

18 A The video will -- will -- it won't touch the video.
19 It just -- it could just change dates and times.

20 Q But not the time stamp and date stamp on the video
21 itself?

22 A No.

23 Q Not when it was recorded?

24 A No.

25 MS. LAVELL: Okay. Court's indulgence.

1 BY MS. LAVELL:

2 Q Detective, I'm approaching you with what has been
3 previously admitted as State's 67. Can you take a look at this
4 item in the photo and tell me what that is.

5 A That looks -- appears to be a video camera.

6 Q Are you able to tell whether or not that has the
7 capabilities of videotaping the source of videos that you
8 downloaded? I don't mean contentwise, but, I mean, that the
9 type of video that you downloaded.

10 A It appears to be because it has a USB and a TV
11 output.

12 Q Okay. Thank you. Just so I'm clear and that the
13 jury is clear -- and I'm sure you were clear -- the -- if
14 someone's viewing a video and at the bottom or somewhere on
15 that video it has the date and time as to when it was -- the
16 day it was recorded and the time it was recorded, you indicated
17 that that's as a result of either someone not calibrating the
18 video camera to the current date and time or just leaving it at
19 the manufacturer's date or possibly even recording it --

20 MR. JACKSON: I'm going to object to that question.
21 It's a compound question.

22 THE COURT: Ask your question a different way.

23 MS. LAVELL: All right.

24 BY MS. LAVELL:

25 Q Just to be clear about your testimony in regards to

1 the date and time stamp on the physical video, did you just --
2 did you testify that that is something someone sets?

3 MR. JACKSON: I'm going to object. Asked and
4 answered.

5 THE COURT: Okay. Well, she's -- overruled.

6 Is that -- does someone necessarily set the time, or
7 could that be the time set by the manufacturer?

8 THE WITNESS: Both.

9 THE COURT: Okay.

10 THE WITNESS: It could be a default setting.

11 THE COURT: Okay.

12 THE WITNESS: Or it could be a setting that was
13 adjusted by that person.

14 THE COURT: Okay. And of course -- well, never mind.
15 I withdraw my question.

16 BY MS. LAVELL:

17 Q And just to be clear, someone can view that video,
18 and that's not going to affect that time stamp and that date
19 stamp as to when it was recorded?

20 A Correct.

21 MS. LAVELL: Pass the witness.

22 THE COURT: All right. Why don't we take our lunch
23 break.

24 So, ladies and gentlemen, we're going to go ahead and
25 take our lunch break until 2 o'clock. During the lunch break

1 you're reminded that you're not to discuss the case or anything
2 else related -- or anything related to the case with each other
3 or with anyone else. You're not to read, watch or listen to
4 any reports of or commentaries on the case, any person or
5 subject matter relating to the case. Don't do any independent
6 research by way of the Internet or any other medium, and please
7 don't form or express an opinion on the trial.

8 If you would please place your notepads in your
9 chairs and follow the bailiff through the double doors, we'll
10 see you back at 2.

11 (Jury recessed 12:56 p.m.)

12 THE COURT: And then, detective, don't discuss your
13 testimony with any other witnesses during our break or with the
14 State because you haven't been crossed yet.

15 All right. Just for Mr. Jackson's benefit, I
16 admonished the detective not to discuss his testimony during
17 the break, including with the State because he has not been
18 cross-examined yet.

19 All right. I just want to --

20 You can sit down, or you can be excused. You don't
21 really need to listen to this.

22 MS. LAVELL: You can go to lunch.

23 THE COURT: You're welcome to listen. I don't think
24 it has anything to do with you.

25 But, basically, to place on the record, during --

1 MS. LAVELL: Your Honor, I am sorry.

2 MS. BEVERLY: When is he due back?

3 MS. LAVELL: What time does he need to be back?

4 THE COURT: 2.

5 MS. BEVERLY: 2, okay.

6 THE COURT: During Ms. Beverly's opening statement,
7 she was about to show some exhibits. Mr. Jackson objected.
8 They approached the bench. I told Ms. Beverly that the better
9 practice is to show the exhibits to defense counsel that you're
10 going to use in your PowerPoint so that defense counsel has an
11 opportunity to review those and make objections, and the Court
12 can issue a ruling -- a preliminary ruling before you show them
13 to the jury. Ms. Beverly said she would voluntarily not use
14 the PowerPoint.

15 So my understanding is none of those exhibits were
16 shown to the jury, correct?

17 MS. BEVERLY: Correct. What was shown to the jury
18 was No. 1, the picture up the skirt, and I put that in there on
19 a good-faith basis that it will be introduced.

20 THE COURT: Okay.

21 MS. BEVERLY: Secondly, there were also -- I'm
22 sorry -- two sort of like screen-shots photos from one of the
23 videos that has now been admitted into evidence. In addition
24 to that, there were --

25 THE COURT: And the picture of the defendant's face.

1 MS. BEVERLY: Correct. In addition, there were two
2 other photos of unidentified boys, which I did stop once we had
3 the bench conference.

4 THE COURT: Okay. And for the record, Mr. -- and the
5 record will be clear I think. Mr. Jackson didn't object to
6 those earlier pictures. So that was withdrawn.

7 Now, then there was a big stack of pictures shown to
8 Mr. Jackson, and he said, I never -- wanted to look at them. I
9 said, Fine. Then he said, Well, I've never seen these before.
10 We came up to the bench.

11 And just going forward, you know, I would ask that
12 before you make an objection to suggest to the jury that
13 there's been some kind of violation of disclosure that you look
14 at the exhibits to make sure that it's really something you
15 haven't seen before.

16 Going forward, I want the State to show all of the
17 items that they intend to use as exhibits to Mr. Jackson so, A,
18 he knows whether or not it's something that has been disclosed
19 in discovery, and, B, he can look at them, and we don't have to
20 sit here. So I think going forward -- you know, if you have
21 4000 photos, and you're only going to use 15 of them, I think
22 Mr. Jackson -- in his defense -- does have a right to know
23 which 15 photos you're going to be using.

24 So going forward, that, and then I would just ask
25 that in lieu of objections like, you know, I haven't gotten

1 them, just approach the bench on that, and we'll try to resolve
2 it up here.

3 Finally, there was an objection regarding the witness
4 that just left the bench testifying about how to -- if your
5 phone is stuck, how to get it unstuck, and there was an
6 objection on relevancy, and based on the conversation at the
7 bench I overruled the objection because the State indicated,
8 well, that was going to come in. It was going to be tied up
9 through the statements that the defendant made.

10 And so, Mr. Jackson, would you like to make a
11 complete record on that objection?

12 MR. JACKSON: Well, I thought it was premature,
13 number one, for it coming in until we -- until it does get tied
14 up, and the other statement I made at the bench was that I
15 wanted bench conferences recorded because it's hard for me to
16 remember all the objections I make, and that's my own weakness,
17 and I apologize for that.

18 The other thing is that I find that if I need to make
19 an appeal, if the bench conferences aren't recorded, I don't
20 have an adequate record. That's both for Nevada Supreme Court
21 and for Federal Court, and the Court says we don't do it that
22 way in this court, and maybe for logistical reasons or other
23 reasons, but I --

24 THE COURT: And just so you know, it's not that we're
25 hiding anything, Mr. Jackson --

1 MR. JACKSON: No. No, I don't --

2 THE COURT: -- number one --

3 MR. JACKSON: I don't imply the Court is --

4 THE COURT: Can I make my record, too?

5 MR. JACKSON: Well, I thought -- I wasn't done with
6 my --

7 THE COURT: Well, I'm interrupting you.

8 MR. JACKSON: All right.

9 THE COURT: And I get to do that.

10 The reason we do it is because -- you know, my
11 feeling is that some departments utilize court reporters still,
12 and when you have a court reporter, you don't get a recording
13 of the bench conference, and number two, just logistically,
14 we've got the white noise on --

15 Right, Janie?

16 -- and if you try to record it with the white noise,
17 you don't hear anything, and I like to play the white noise
18 because otherwise the jury can hear what we're saying up here,
19 which defeats the point of a bench conference, and even with
20 the white noise, sometimes they can hear. So that's why we
21 don't record them.

22 My understanding of the case law is as long as we
23 incorporate the bench conferences on the record they don't need
24 to be recorded. You can certainly supplement anything that was
25 said at the bench conference, and, you know, I keep track of

1 them, and it's also reflected in the record itself because
2 it'll be, Can we approach the bench. So that's going to be
3 actually in the written transcript, as well as, Conference at
4 the bench. So that is where we are.

5 You know, it's my belief that it's more important to
6 play the white noise so that the jury doesn't hear what we're
7 talking about up here than to record the bench conference, and
8 in our -- according to our expert on the JAVS system, who is
9 our court reporter Ms. Olsen, you can't -- you can't really
10 have it both ways. So that's why we do it the way we do it.

11 MR. JACKSON: Well, for the record, I know that some
12 Courts do record their bench conferences.

13 THE COURT: I know Judge Leavitt, for example, does
14 record the bench conferences.

15 MR. JACKSON: And I also believe just because some
16 Courts don't doesn't necessarily make it right not to do it.
17 So my request is that we do it and find the technology to be
18 able to do it as the trial continues because I think it is
19 important for the record, and I'll state that again, and I
20 realize this Court is in charge of this court. So this Court
21 has the power to decide not to record the bench conferences,
22 but it's over my objection.

23 THE COURT: Well, Mr. Jackson, is there anything that
24 you want to add to what the Court has just now placed on the
25 record in terms of the discussions that have occurred at the

1 bench?

2 One of your objections was sustained. Your -- you
3 were told not to make speaking objections. So that really
4 wasn't sustained or not sustained because it wasn't an
5 objection to the evidence, and your objection on relevancy
6 grounds was overruled --

7 MR. JACKSON: I'll make -- I'm sorry. I didn't mean
8 to interrupt.

9 Yes, I would make -- that I feel somewhat intimidated
10 about making objections if I can't make speaking objections
11 because the problem is, when I see something that's
12 objectionable, if I can't make an objection spontaneously,
13 it -- every time I ask to approach the bench, I think that the
14 jury may be in some way influenced against me or my clients.

15 Now, making a simple objection, which is what I'm
16 accustomed to after doing this for 40 years, which is
17 appropriate -- for instance, the leading questions the
18 prosecution has been engaging in need to be responded to
19 quickly before something comes out that is clearly improper.

20 THE COURT: Well, no one's telling you, Mr. Jackson,
21 to not make objections or to not say, Objection, hearsay.
22 Objection, relevancy or whatever, and on the one about the
23 phone, I didn't know what the relevancy was, and I didn't want
24 the State to be allowed to say in front of the jury, Well, this
25 is how it's relevant. So I had them approach the bench.

1 That's why we did it that way.

2 Certainly, you know, A, you know, the general rule is
3 you don't make speaking objections. So I don't understand why
4 that would be intimidating to you after 40 years of practice,
5 number one, and number two, no one is telling you not to make
6 objections. For example, Objection, hearsay; objection, not
7 provided, you know -- not previously provided; objection,
8 discovery violation, something like that. What we don't want
9 is speaking objections, you know, and that's the general rule,
10 and that should be observed.

11 Now, I know we all in our practice have made speaking
12 objections in the past. I'm just asking you to try to refrain
13 from doing that. So I don't know why you feel intimidated by
14 what is considered, I think, widely and universally to be good
15 practice. Again, you're more than welcome to make objection,
16 relevance; objection, what have you.

17 Now, like I said, I asked the State to approach
18 because I didn't see the relevance of it, and they explained
19 the relevance, and then I thought, okay, well, rather than make
20 this detective come back after they've tied it in -- I think
21 that evidence is likely to be admitted, and so let's let him
22 testify to this right now. So that was the reason I asked you
23 to approach on that.

24 Typically -- you know, there were other objections,
25 Mr. Jackson, that were contemporaneously sustained, and the

1 State was told, That's leading, or, Rephrase your question. So
2 it's not like you're approaching the bench every other second.

3 MS. BEVERLY: Judge, can I --

4 THE COURT: Although it may certainly feel like that.
5 Yes?

6 MS. BEVERLY: Can I make a record of just a couple of
7 things. First, it's some scheduling issues, and then I just
8 want to be clear about the videos in this case. There were a
9 hundred and forty videos found. Now, the videos that are now
10 admitted into evidence are only the videos listed in the
11 individual counts in the complaint, which Mr. Jackson has had
12 knowledge of the whole time, and that's why we were
13 specifically trying to make sure that Detective Ramirez did not
14 say how many videos actually were found.

15 Now, I know that you had just said that you want us
16 to go through it with Mr. Jackson; however, in terms of the
17 videos, he's known which videos are going to be used because
18 they were specifically listed in the complaint. There's no
19 other videos that we're using. We're not even going to mention
20 how many videos so as not to prejudice Mr. Shue. So I just
21 want to make that clear that that's what's on the disc.

22 THE COURT: Okay.

23 MS. BEVERLY: And then additionally, Your Honor, we
24 do have to in some ways -- to protect Mr. Shue, lead in some
25 ways so they will not say the actual extent of this case

1 because it's much larger, especially with victim Hazel, how
2 this investigation started. We don't want her getting into
3 other things that were occurring.

4 THE COURT: Right. And some of those were -- I think
5 some of the irrelevant information was the subject of a motion
6 in limine.

7 MS. BEVERLY: Exactly.

8 THE COURT: So obviously the State can't, you know,
9 ask a question. What I would say though is on your police
10 officer witnesses, certainly as part of your pretrial you
11 should be telling them, Don't talk about this. So even if you
12 do ask an open-ended question, they should be pretried to
13 know that they're not supposed to talk about the other files,
14 and they're not supposed to talk about anything that the Court
15 has already said they're not supposed to talk about.

16 MS. BEVERLY: Absolutely.

17 THE COURT: So I would count on you to make sure you
18 briefed them. These are experienced police officers. So
19 there's no reason they should be blurting out something that is
20 irrelevant or the Court has already ruled is not coming in.

21 MS. BEVERLY: Absolutely, Your Honor. And we only
22 have two more witnesses, Detective Jaeger this afternoon, and
23 then Hazel.

24 THE COURT: And you're going to play the tape with
25 Detective Jaeger?

1 MS. BEVERLY: No, with Hazel.

2 THE COURT: Okay.

3 MS. BEVERLY: And so the problem is though, Judge, is
4 that last time when we had the evidentiary hearing, she was
5 able to bring her social worker with her because she's
6 essentially the only person this girl has, and so the social
7 worker is not available to bring Hazel and to be with her
8 during this process until tomorrow at 9:30, when I believe
9 we're going to start tomorrow.

10 THE COURT: I think we're starting at 10 or 10:30.

11 MS. BEVERLY: Oh, 10. I'm sorry. So we wanted to
12 finish up Detective Ramirez today, put on Detective Jaeger, but
13 we were asking the Court's permission if we could start with
14 Hazel in the morning. I don't want her testimony interrupted.

15 THE COURT: Well, it's already -- I mean, we're
16 coming back from lunch at 2. So probably we wouldn't be
17 finished with those other witnesses until about 4 anyway.

18 MS. BEVERLY: Okay. Thank you. I just wanted to --
19 so.

20 THE COURT: I mean, my only concern would be if it's
21 like 3:30 or something. That's kind of early to take the
22 break, but it looks like we're probably going to be going later
23 than that.

24 I mean, Mr. Jackson, do you have a lot of cross for
25 this officer?

1 MR. JACKSON: You know, probably less than half an
2 hour. I'm not going to -- I don't think I'm going to cross him
3 very intensely, no.

4 THE COURT: Okay.

5 MS. BEVERLY: And if necessary --

6 THE COURT: And then what about Detective Jaeger?
7 That's the statement and everything.

8 MS. BEVERLY: I'm sure he's going to be crossing him.

9 MR. JACKSON: It's going to be longer with Detective
10 Jaeger --

11 THE COURT: Okay.

12 MR. JACKSON: -- than with this officer.

13 THE COURT: Okay. So, I mean, basically, as long as
14 it's like 4 or 4:30ish I'm fine ending, you know, a little bit
15 early. I don't want to end super early because that's a waste
16 of the jury's time, but it doesn't look like we're going to be
17 there. So --

18 MS. BEVERLY: And if needed, both of us --

19 And thank you to Mr. Jackson for providing his
20 instructions very early.

21 I've also provided mine to the Court and to
22 Mr. Jackson. So whether that's tomorrow or Thursday morning,
23 we'll be ready to discuss jury instructions.

24 MR. JACKSON: I might have one or two more
25 instructions, but I've got to get back to my office to prepare

1 it, based on the testimony and whatever, but at most one or two
2 more.

3 THE COURT: All right. Well, okay. So we'll deal
4 with that, and then why don't we go to lunch because we've
5 already cut into our lunchtime.

6 MS. BEVERLY: Thank you, Judge.

7 MS. LAVELL: Thanks, Judge.

8 (Proceedings recessed 1:11 p.m. to 2:04 p.m.)

9 (Outside the presence of the jury.)

10 THE COURT: All right. One thing to place on the
11 record. I've decided to grant Mr. Jackson's request to record
12 the bench conferences although I don't think there's any legal
13 authority requiring me to do so; however, my court recorder
14 informs me that we need to have the JAVS technicians come up to
15 set it up before we can do that. We contacted -- or she rather
16 contacted them over the lunch break. They're in another
17 department right now. It takes about 15 to 20 minutes to do
18 that.

19 So we're going to get started, and then when we take
20 our break, hopefully he can come and set that up, but we're
21 going to get started because, as I said, it's my opinion that
22 we are not legally required to record those conferences.

23 So, Kenny, bring the jury in, and get the witness,
24 and we'll put him back on the witness stand.

25 MS. LAVELL: Thank you, Your Honor.

1 MS. BEVERLY: Thank you.

2 THE COURT: And I'm sorry. Refresh my memory. Had
3 you finished direct?

4 MS. BEVERLY: Yes, Your Honor.

5 (Jury entering 2:07 p.m.)

6 THE COURT: All right. Court is now back in session.

7 And, Mr. Jackson, you may resume your
8 cross-examination of the witness.

9 MR. JACKSON: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. JACKSON:

12 Q Officer, did you have a nice lunch?

13 A Yes.

14 Q Good. You've been an officer with the Metropolitan
15 Police Department for 19 years; is that correct?

16 A That's correct.

17 Q And what was your education before you became a
18 police officer?

19 A I graduated from UNLV with a Bachelor's degree in
20 Education.

21 Q Did you have any training in scientific matters
22 before -- while you were studying at UNLV?

23 A Just pretty much education, biology, chemistry, the
24 standard --

25 Q Did you study cell phone technology?

1 A Not at UNLV.

2 Q Now, you -- you've gone to various schools to learn
3 basically your craft as a police officer; is that correct?

4 A Correct.

5 Q And all of those schools were basically run or the
6 training was by other police officers or trainers in police
7 departments; isn't that correct?

8 A For police work or forensic analysis.

9 Q Okay. But most -- most of your instructors were --
10 were connected with law enforcement; would that be fair to say?

11 A Some schools.

12 Q Well, were there any that were run by just say
13 academic people other than FBI or the California Institute of
14 Law Enforcement or some other law enforcement agency, something
15 like that?

16 A Yes.

17 Q Tell me which ones.

18 A EnCase is a private entity. That is -- the last
19 instructor was -- he's a German national. He's the lead
20 instructor for all the forensic cases, and then Katana is a
21 private-owned firm also. He's Shawn Morrissey. He's not law
22 enforcement. FTK, which is Forensic Toolkit, is also a private
23 company.

24 Q Now, they have a lot of -- they have a lot of
25 contracts with law enforcement, do they not, EnCase and FTK?

1 A They only sell their product to law enforcement and
2 private.
3 Q Okay. Does Metro have contracts with EnCase and FTK?
4 A No.
5 Q No. Where do they get their cell phones and their
6 radio equipment and their computers and --
7 A We order the software from those private companies --
8 Q Oh.
9 A -- but not -- we don't have contracts with them. I
10 mean --
11 Q All right. Well, you do --
12 A -- I do a purchase order and request training, but
13 that's it.
14 Q All right. So you do pay -- Metro does pay some
15 money to these companies; is that correct?
16 A For my training, yes.
17 Q All right.
18 A Actually, can I correct that? Most of my training is
19 through a government grant.
20 Q All right. So the government pays for your training
21 because they want you to get trained as well as you can; is
22 that right?
23 A Correct.
24 Q Now, you work closely of course with the district
25 attorney's office; is that right?

1 A Correct.

2 Q How many times have you testified as an expert
3 witness in the last 19 years that you've been working with
4 Metro?

5 MS. LAVELL: Your Honor, I'm going to object as to
6 relevance.

7 THE COURT: Overruled.

8 You can answer.

9 THE WITNESS: I couldn't tell you how many times. I
10 do also testify in Federal Court. Last week was the last time;
11 I did a federal indictment.

12 BY MR. JACKSON:

13 Q Well, approximately, is it more than 10, more than a
14 hundred, less than 50? You know, I mean, a rough idea.

15 A More than 50.

16 Q All right. So you testified in court at least 50
17 times over the last 19 years. So five or 10 times a year would
18 be a fair estimate, would you say?

19 A A little more than that, correct.

20 Q All right. Now -- and would it be fair to say you
21 almost always testify at the request of law enforcement?

22 A Law enforcement or a federal agency, yes.

23 Q All right. And the federal agency you testify for
24 would usually be a law-enforcement-related agency; is that
25 correct?

1 A FBI, yes.

2 Q All right. So you don't ever testify -- have you
3 ever testified for a defense -- someone for the defense; is
4 that right?

5 A Testified for the defense?

6 Q Yes.

7 A No.

8 Q So if I wanted to subpoena you as an expert witness
9 to use your expertise as an expert about cell phones or your
10 expertise about computers, you would respectfully decline?

11 A I would forward that to the district attorney's
12 office and allow them to make that decision.

13 Q So you -- you basically work for them; is that right?

14 A No, but any time that I testify it has to be through
15 a subpoena. So if it's approved through the district
16 attorney's office, then that's fine.

17 Q They'd have to approve it if I wanted you to --

18 A As far as I'm concerned, yes.

19 Q Now, in this particular case, when you were called to
20 analyze some -- some information that was seized pursuant to a
21 search warrant, you were trying to be as careful and accurate
22 as you could be; is that correct?

23 A Correct.

24 Q You were trying to follow all the protocols you'd
25 been taught in analyzing this information; is that correct?

1 A Correct.

2 Q Now, you were -- I think there were three items you
3 said you analyzed fully, that one was a laptop, one was a cell
4 phone, and one was a camera; is that right?

5 A Correct.

6 Q Those were the three main items you -- you took and
7 analyzed in your forensic laboratory; is that right?

8 A Correct.

9 Q Was that at the Metropolitan Police Department where
10 you did that analysis?

11 A Yes.

12 Q Now, were there other police officers around while
13 you were doing that?

14 A The only people that are around the area are the
15 people that are in my unit.

16 Q And how many people were there?

17 A When I'm actually doing the actual analysis, none. I
18 have my own forensic office.

19 Q Did anybody -- no one assisted you in making this
20 analysis or came in while you were doing it or --

21 A No.

22 Q And how long did it take you to analyze all three
23 items that you analyzed?

24 A I couldn't actually put a time frame on that.

25 Q Was it a day? Was it two hours? You know, did it

1 take more than a day?

2 A Yes.

3 Q So you spent more than several days going through
4 these items?

5 A Correct.

6 Q Okay. Did you have any other cases you were working
7 on during that time?

8 A Yes.

9 Q So you didn't work on this one continuously for eight
10 hours. You were working on other cases during this time?

11 A Correct.

12 Q There's no possibility that you mixed up one case
13 from another while you were looking at the other cases, is
14 there?

15 A Not possible.

16 Q When you have one case, you set it down, and then
17 pick up another case or how does that work?

18 A I have three forensic workstations. So if I have a
19 case, I typically -- if it's a huge case, I'll work it on a
20 certain machine that I have, and if it's a smaller case, I'll
21 work it on a different machine. So I have three different
22 machines that -- forensic machines that I conduct my exams on.

23 Q Now, when you finish one case -- you say you've got
24 several cases, three different work stations -- do you set the
25 one case down and then lock up the files, or do you just leave

1 it out there on the table?

2 A No one can get into my computer.

3 Q No, that wasn't the question. When you finish
4 working on the three exhibits you have, do you -- do you -- do
5 you lock them up before you leave the room?

6 A The electronic files are on my computer, which is
7 locked.

8 Q Okay. If you go to the bathroom, no one can get in
9 your room?

10 A Nobody can get in my computer, no.

11 Q Can they get in the room that the items are kept in?

12 A If you're talking about items as far as -- wait.

13 Okay. Distinguish items. Okay. Because there is --

14 Q Well, there were three exhibits --

15 A Hold on, please.

16 Q One exhibit was -- let me just rephrase the question.

17 I believe you testified to three exhibits. One was a cell
18 phone. One was a laptop. And what was the third one?

19 A Um --

20 Q The camera, right?

21 A Camera.

22 Q Now, those three exhibits, did you keep them locked
23 up when you left the room, or were they just laying on the
24 table -- a table, like something like this or a desktop or --

25 A Once I get my working copy, once I do my acquisition

1 and I have my working copy, that original piece of evidence
2 gets locked up. So now that evidence is no longer out in the
3 open or open to the public or open to anybody, even in my
4 office.

5 Q All right. Now, but in order to use it you have to
6 take it out of the lockbox or whatever you keep it in, right?

7 A No.

8 Q Well, how do you use it when it's locked up? I don't
9 understand.

10 A Once I do --

11 Q I'm computer illiterate. So help me out.

12 A No problem. Let's just say if I was going to acquire
13 this. I go ahead and do the acquisition on this, and I have my
14 working copy on my computer. I no longer need this. I no
15 longer need the original evidence. That original evidence is
16 back and locked up and done. I never -- I never need to touch
17 it again.

18 Q Once you've got it on the disc. But how long did it
19 take you to get it on that disc, to download everything and get
20 everything transferred to the disc?

21 A It all depends on the size. So let's just say -- if
22 you had a 250-gig hard drive, let's just say it takes three
23 hours.

24 Q All right. So you spent the first three hours
25 transferring everything to the disc?

1 A Correct.

2 Q Now, you're saying no one can get access to your
3 computer?

4 A Correct.

5 Q Even if the -- people can get in that room, right?
6 Other people have access to the room?

7 A Sure.

8 Q Are there people in your unit that know how to hack a
9 computer?

10 A Two.

11 Q Some people are experts in computers in your unit,
12 right?

13 A Right.

14 Q So it's not completely true that no one would know
15 how to get into your computer; is that right?

16 A If they did, I would know.

17 Q They're not smart enough to fool you; is that right?

18 A No, we all work as a team, and they all know that
19 once my computer is doing an acquisition -- they can see that
20 it's doing an acquisition, and they're not going to touch it.

21 Q That's what you believe?

22 A That's what I know.

23 Q Now, were you ever asked to do an analysis of any
24 cell phones that Hazel Iral owned or had possession of?

25 A I don't know who owned them, but I was given some

1 cell phones in this case.

2 Q The question was: Were you ever asked to analyze any
3 cell phones of Hazel Iral? Did anyone tell you, This is Hazel
4 Iral's phone?

5 A They did not tell me whose they belonged to.

6 Q Okay. You testified to some pictures of some
7 unidentified males that you downloaded from your computer,
8 some -- two of which were committing sexual acts; is that
9 correct?

10 A Correct.

11 Q When you discovered those, you bookmarked them for
12 Detective Jaeger; is that correct?

13 A Correct.

14 Q Now, did you make any attempt to identify the
15 so-called unidentified males?

16 A I typically send any of those images to the National
17 Center for Missing and Exploited Children, and they're --
18 they're the ones that will tell me if those have been -- if
19 those images have been identified as a true victim, a possible
20 victim or not.

21 Q Did you get a positive response identifying them?

22 A I have not received a response from the National
23 Center for Missing and Exploited Children.

24 Q Was there any other response identifying those
25 children so that it gave you any clue as to who they were?

1 A Can I speak to counsel?

2 THE COURT: No.

3 MS. LAVELL: May we approach?

4 MR. JACKSON: No, you can't speak to counsel. That's
5 improper.

6 MS. BEVERLY: Can we approach --

7 THE COURT: I said no. Let's --

8 MS. LAVELL: May we approach?

9 MR. JACKSON: Your Honor --

10 THE COURT: You can approach the bench. I said
11 already he can't speak to counsel.

12 (Conference at the bench not recorded.)

13 THE COURT: Go ahead, Mr. Jackson.

14 BY MR. JACKSON:

15 Q Just a simple yes or no question. Are there any
16 police reports regarding those photos, 3 through 9? Just a
17 simple yes or no.

18 A Yes.

19 MR. JACKSON: All right. Your Honor, may we approach
20 the bench again?

21 THE COURT: Sure.

22 (Conference at the bench not recorded.)

23 BY MR. JACKSON:

24 Q Officer, in your analysis of the -- what was secured
25 during the search warrant -- you did get a laptop computer, and

1 when you got that, which was the first item you processed? Was
2 it the cell phone? Was it the laptop, or was it the camera?

3 A The SD card from the camera.

4 Q All right. And you found, I guess, one what would be
5 considered incriminating photo on that SD card, and that was
6 the picture that was admitted. I think it was State's
7 Exhibit 1 showing -- the picture taken apparently under the
8 skirt of a female person; is that correct?

9 A Correct.

10 Q And on the laptop, you found what appeared to be
11 videos of a female person; is that right? And also a male
12 subject -- a young male subject; is that right?

13 A Yes.

14 Q Now, when you examined the laptop in your forensic
15 laboratory -- before you examined it, did you process the
16 laptop for fingerprints?

17 A No.

18 Q Now, you have the capacity to do that in your
19 forensic laboratory, did you not?

20 A I could call ID.

21 Q All right. So that was always an option; is that
22 correct?

23 A It's not an option that we use but, yes.

24 Q All right. Now, was the -- do you know if the normal
25 procedure would be to preserve an item, like a laptop, so it

1 could be processed for fingerprints?

2 A If we're seizing any items of digital evidence, the
3 only evidence that's going to be preserved is the digital
4 evidence.

5 Q Well, now, sometimes -- in your training, you -- you
6 have studied fingerprint technology in your police science,
7 have you not?

8 A No.

9 Q You haven't?

10 A No.

11 Q Is it -- do you know whether or not it's possible to
12 lift fingerprints from a computer screen?

13 A Yes, you can.

14 Q All right. So you believe that's possible?

15 A Yes.

16 Q Now, it's also possible for more than one person to
17 use a computer. Isn't that possible?

18 A Yes.

19 Q And if you had the fingerprints of different people
20 on a computer screen, that might suggest that at least more
21 than one person had at least handled that computer; is that
22 correct?

23 A Yes.

24 Q And I presume you also didn't take any fingerprints
25 off either of the other items, either the camera or the cell

1 phone; is that correct?

2 A Correct.

3 Q You weren't asked to by Detective Jaeger; is that
4 correct?

5 A Correct.

6 Q And you didn't make any attempts to preserve them in
7 such a way that fingerprints wouldn't be smudged or anything
8 like that?

9 A No.

10 MR. JACKSON: I have no further questions at this
11 time. I reserve the right to recall him if necessary.

12 THE COURT: That's fine.

13 Redirect.

14 MS. LAVELL: Thank you.

15 REDIRECT EXAMINATION

16 BY MS. LAVELL:

17 Q Detective, you are a detective with the Las Vegas
18 Metropolitan Police Department, correct?

19 A Correct.

20 Q You're not a computer expert that hires out and
21 testifies for whichever side wants them to testify?

22 A Correct.

23 Q So your job is when -- when Metro detectives locate
24 digital sorts of information, they send it to your unit for you
25 to analyze?

1 A Correct.

2 Q As a Metro detective?

3 A Correct.

4 Q Part of a larger investigation?

5 A Correct.

6 Q And so like a lot of police officers and detectives,
7 you testify at criminal trials for the State; is that correct?

8 A Correct.

9 Q Isn't it true that it's Metro and other police
10 agencies that submit the criminal complaints or reports against
11 the defendants?

12 A Correct.

13 Q You work in -- specifically your expertise, if you
14 will, is forensic analysis of digital equipment?

15 A Correct.

16 Q You don't work in the latent-print lab?

17 A No.

18 Q You don't lift prints?

19 A No.

20 Q Are police officers the individuals that do that or
21 civilians?

22 A Civilians.

23 Q Okay. So you don't have any training in that area?

24 A No.

25 Q Would it be you -- as the forensic examiner, would it

1 be up to you to determine whether or not latents should be
2 lifted or up to somebody else involved in the investigation?

3 A That would be whoever the lead detective is in that
4 investigation at the -- at the scene.

5 Q So if Detective Jaeger has been identified as the
6 lead detective, then it would be up to him to determine whether
7 or not he believed it was necessary to have latent prints
8 lifted?

9 A Correct.

10 Q Is it fair to say, if he had believed it was
11 necessary that would've happened before these items even made
12 it to you?

13 A Correct.

14 Q Counsel was asking you a lot of questions about
15 whether or not people have access to your office, to your
16 computer, whether or not you have hackers working for you, and
17 is hacker really a fair definition of the law enforcement
18 officers that are working in the computer analysis?

19 A No.

20 Q Okay. But you do have people that are capable, like
21 yourself, to get into other people's computers?

22 A Yeah, well, I mean, we do network intrusion, and we
23 have units that do network intrusion, but it's usually to find
24 out who's intruding on --

25 Q Law enforcement?

1 A -- law enforcement agencies or, you know, large
2 companies that get intruded by hackers.

3 Q But are you aware of anybody within your unit that
4 goes around hacking into other detective's computers?

5 A No.

6 Q For the purposes of planting evidence or altering
7 evidence?

8 A No.

9 Q And you indicated if somebody had in fact gotten into
10 your computer, you would be aware of that?

11 A Absolutely.

12 Q How is that possible?

13 A One, I would -- my acquisition would have failed, and
14 then when -- when -- at the end, it's in the verification
15 phase, and I have a acquisition number and then a verification
16 number. So if anything -- even if my, say, power went out, and
17 it -- the acquisition stopped, it's going to -- it's not going
18 to match. So I know that that is not a clean acquisition of
19 the device that I'm acquiring.

20 Q And you testified earlier that you did in fact have a
21 clean acquisition?

22 A Correct.

23 Q So there was no interference?

24 A No.

25 Q I'm going to approach you again -- I'm going to

1 approach you again with -- bear with me -- State's 3 through 11
2 and 75. I'm going to ask you to look through those one more
3 time.

4 Do you need your glasses? Were you reaching for
5 glasses?

6 A I was going to, but I can see big pictures. I
7 just -- just little letters I can't.

8 Q Okay. Can you tell by looking at these pictures how
9 many different individuals are depicted in these photos?

10 A Three.

11 Q And so is it fair to say that there are multiple
12 photos of more or -- more or -- one or more of the individuals?

13 A Yes.

14 Q I am publishing State's 3. Can you see that on your
15 screen?

16 A Yes.

17 Q Aside from the young man that appears to be
18 performing oral sex on the other young man, does everybody
19 depicted in these photos -- what age does everybody depicted in
20 these photos appear to be?

21 MR. JACKSON: Objection. The pictures speak for
22 themselves.

23 THE COURT: Overruled.

24 BY MS. LAVELL:

25 Q Based on your training and experience and the fact

1 that you sadly observe these sorts of pictures --

2 MR. JACKSON: Your Honor, I object to her --

3 THE COURT: Sustained as to the --

4 MR. JACKSON: -- characterizing it to sadly.

5 THE COURT: Don't editorialize.

6 MS. LAVELL: Right.

7 BY MS. LAVELL:

8 Q You see a number of these pictures through the course
9 of your career?

10 A Correct.

11 Q Can you estimate the age of the individuals depicted
12 in the photos with the exception of the individual on his
13 knees?

14 MR. JACKSON: With all due respect, I object to him
15 giving an estimate on the age. Anyone on the jury can make an
16 estimate on the age as well as this officer. He's --

17 THE COURT: That's overruled. It goes to the --

18 MR. JACKSON: It doesn't -- he hasn't had any extra
19 training on age, as to anybody else.

20 THE COURT: Lay a better foundation, Ms. Lavell.

21 BY MS. LAVELL:

22 Q As part of your duties, you indicated that you
23 were -- you do forensic exams, and tell me the title of your
24 unit one more time.

25 A Internet Crimes Against Children.

1 Q So is it fair to say that when you are bookmarking
2 various photos or videos in all of your investigations, what
3 are you looking for?

4 A I'm looking for any -- any images of a child being
5 sexually exploited, under the age of 16.

6 Q And based -- so if you in fact bookmarked these
7 photos, you bookmarked them because they appear to you to be
8 under the age of 16?

9 A Correct.

10 Q And just to be clear, again, on State's 3, do both of
11 these individuals appear to be under the age of 16?

12 A The male that's standing appears to be under age 16.

13 Q So the male that is on his knees appears to be older
14 than 16?

15 A I can't really see enough of him to tell, but to me
16 personally, I would say, yes, that he's --

17 Q But you book --

18 THE COURT: Don't speculate if you can't see enough.

19 MS. LAVELL: Yes.

20 BY MS. LAVELL:

21 Q But specifically you bookmarked this photo --

22 A For the -- for the male standing.

23 MS. LAVELL: Nothing further.

24 THE COURT: Any recross?

25 MR. JACKSON: Just briefly.

RECROSS-EXAMINATION

1
2 BY MR. JACKSON:

3 Q Have you had any medical training?

4 A I worked sexual abuse before. So we would go to the
5 child symposium.

6 Q Have you worked in a doctor's office?

7 A For sexual abuse cases, yes.

8 Q Which doctor's office did you work in?

9 A Dr. Zabeegian [phonetic], and that's at the -- at the
10 child sexual abuse office in Sunrise Hospital.

11 Q What was your job there?

12 A Basically to do forensic exams for sexually abused
13 children.

14 Q Were you paid by the doctor?

15 A No.

16 Q So you weren't working in the doctor's office --

17 A Not working for him --

18 Q Okay.

19 A -- but I'm working at their office.

20 Q But you weren't being paid by the doctor as -- as in
21 part of his medical staff?

22 A No.

23 Q All right. So you weren't a physician or physician's
24 assistant?

25 A No.

1 MR. JACKSON: I have no further questions.

2 THE COURT: Anything else, Ms. Lavell?

3 MS. LAVELL: No, Your Honor. Thank you.

4 THE COURT: Any questions for this witness?

5 All right. May I see counsel at the bench, please.

6 (Conference at the bench not recorded.)

7 THE COURT: All right. Detective, we have a number
8 of juror questions up here. I'm just going to ask them in no
9 particular order.

10 Do you know if the computer was registered to
11 defendant?

12 THE WITNESS: In the registry file, the owner -- the
13 registered owner name came back to Josh Shue.

14 THE COURT: It says, Parties having access to laptop,
15 were user login -- how many -- what was the number of user
16 logins?

17 THE WITNESS: User accounts, I only saw public. I
18 would have to say two.

19 THE COURT: Okay. Were you able to ascertain who the
20 other user was?

21 THE WITNESS: No.

22 THE COURT: Okay. If other users use the laptop,
23 what was the user's usage log time?

24 THE WITNESS: Typically we don't go for a log time
25 because he had Windows 7. So since he had Windows 7 he had

1 just updated that, and we can't tell exactly -- like, exactly
2 what day he updated, but anytime you have a new operating
3 system it typically clears out a lot of those.

4 THE COURT: What was the download date of the videos
5 to the computer?

6 THE WITNESS: Download dates, there was -- there was
7 various download dates because there was various files. There
8 was numerous files. So they did vary, and again, you've got to
9 remember that once you move files, the date that -- that could
10 be on the computer could be from another device. So when you
11 move a file in -- you know, the file system is NTFS, and in
12 NTFS, when you move a file over, it will keep the original date
13 that was from whatever they used to create that. So there was
14 numerous files. So it would be hard to say exactly, like, just
15 one specific date.

16 THE COURT: Okay. What was the download date of the
17 pictures to the computer?

18 THE WITNESS: On the exhibits, I would have to look
19 at the exhibits and look at the file path and find -- tell you
20 exactly what the date was.

21 THE COURT: Okay.

22 MS. LAVELL: May I --

23 THE COURT: If we provided you with the exhibits --

24 THE WITNESS: Yeah --

25 THE COURT: -- would that assist you in answering

1 that question?

2 THE WITNESS: Actually the exhibits don't have the
3 file path.

4 MS. BEVERLY: Yes. It'd have to be, like, the file
5 number. I just printed them.

6 THE COURT: Oh, okay.

7 MS. BEVERLY: So --

8 THE COURT: So you didn't see -- in other words, you
9 didn't see any exhibits today as you've been testifying --

10 THE WITNESS: No.

11 THE COURT: -- that would aid you in answering that
12 question?

13 THE WITNESS: No.

14 THE COURT: All right. I don't know what else they
15 brought to court, but that's all we have right now.

16 All right. Were -- I think we kind of touched on
17 this already. Were there other users' profiles on the laptop?

18 THE WITNESS: Yeah. Well, most of them are public.
19 It was all public, and it was open.

20 THE COURT: Is the laptop password protected?

21 THE WITNESS: No.

22 THE COURT: The memory card, you stated that the
23 photo was deleted; is that correct?

24 THE WITNESS: Correct.

25 THE COURT: Okay. And how do you wipe off

1 information from a cell phone?

2 THE WITNESS: From a -- from a cell phone. Let's
3 just say it's an iPhone. You can actually go to your settings,
4 and there -- it says, Wipe iPhone. If you hit wipe iPhone -- I
5 mean, it has to be on to do it in the first place, and if you
6 get to there, and you hit wipe iPhone, it will wipe the whole
7 thing.

8 If it's just a generic or regular phone, some -- you
9 know, like Samsung, might say -- it will say, Erase -- Erase
10 phone. So if you hit that, it's gone.

11 THE COURT: All right. Thank you.

12 Mr. Jackson, did you have any follow-up --

13 MR. JACKSON: Yeah, just a couple --

14 THE COURT: -- based on that last series of
15 questions?

16 MR. JACKSON: -- follow-up questions.

17 FOLLOW-UP EXAMINATION

18 BY MR. JACKSON:

19 Q You said the laptop was not password protected. You
20 could determine that by your analysis?

21 A If I go into registry files, yes.

22 Q Okay. And you did make that analysis through the
23 registry files; is that correct?

24 A I got -- yeah, I'd have to look at my report to make
25 sure.

1 Q Now, when you looked at the pictures, these very
2 graphic pictures, 3 through 11, Exhibits 3 through 11, you made
3 an effort to try to determine the date that those would've been
4 downloaded to the computer; is that correct?

5 A Any bookmark will show the created, last written and
6 last access date.

7 Q You weren't -- you don't remember or you don't know
8 when they were -- or you weren't able to determine when they
9 were downloaded to the computer?

10 A No, I can determine. I just don't have that
11 information in front of me.

12 Q Okay. Now, when --

13 MR. JACKSON: Court's indulgence for a minute.

14 THE COURT: That's fine.

15 BY MR. JACKSON:

16 Q I think I have one last question. Is there any way
17 you can tell by looking at the videos what camera or what
18 digital device or what -- where the images you got off of the
19 computer came from? Can you tell looking at them where they
20 were downloaded from?

21 A With the videos, I can tell what camera was used to
22 record those videos, and the images, I would have to look at
23 the metadata to see where they came from, like what website.

24 Q Well, did you determine what camera the video data
25 came from?

1 A I'd have to go back and look at my report to see
2 exactly what -- what camera or what video recorder was used.

3 Q Can you do that for me?

4 A Sure.

5 MS. LAVELL: Mr. Jackson, if you want to approach the
6 witness with the documents he brought with him.

7 THE COURT: All right. Mr. Jackson is going to hand
8 you your report, and then just look at it quietly to yourself
9 to find whether or not it refreshes your -- your memory.

10 THE WITNESS: Are you talking about the path where
11 they came from?

12 BY MR. JACKSON:

13 Q I'm talking about if you can determine which actual
14 camera originally -- like video camera or whatever took the
15 pictures that were then downloaded to the computer that --

16 A Oh, so you want to know exact -- like, what video
17 camera --

18 Q Right.

19 A -- was used for this image --

20 Q Yeah.

21 A -- or for that?

22 Q Can you determine that?

23 A Not with what I've done right here, no.

24 Q Okay. So you can't determine that?

25 A Only if I look at the video. Because you can -- in

1 the video, you can see the camera being placed.

2 Q Well, would that be something that you would've done
3 in your analysis? Would that have been important?

4 THE COURT: Mr. Jackson, your notes are visible.

5 THE WITNESS: Yes, and there was -- there was
6 numerous --

7 MR. JACKSON: If you can read my writing, Your Honor
8 I'd be --

9 BY MR. JACKSON:

10 Q Would that have been something that you would've --
11 that you would've wanted to do?

12 A There are -- there is -- there was a couple of
13 cameras and other devices that were connected to that computer
14 before.

15 Q Well, did any of them match up to Mr. Shue's camera?

16 A The PICT, which is a -- on the path, PICT is a -- for
17 Sony. So that -- that path name with PICT, dot, AVI -- PICT,
18 then a number, then, dot, AVI, that comes back to one of those
19 video cameras.

20 Q Well, did you check it out to see if it was the one
21 that did that video?

22 A On the video, yes.

23 Q Did it?

24 A On the video you can see the video being placed.

25 Q Do you have that camera in evidence?

1 A Yes.

2 Q Okay. And did you match it up with the -- did you
3 anywhere in your report say that's the camera that was used?

4 A No.

5 Q Why not?

6 A Basically, all the digital files that I have have
7 already been loaded onto the computer. So I don't need the
8 camera.

9 Q You don't think that's a critical piece of evidence?

10 A It depends on what you're trying to prove.

11 Q Well, if someone else took the pictures, it might
12 prove that someone else did the crime, wouldn't it?

13 A If I saw someone else on those pictures, yes.

14 Q If the charge is taking photographs that are
15 illegal -- well, I'll withdraw the question, but you don't
16 have -- you don't have that in your report; is that correct?

17 A Not in this report, no.

18 Q All right. Do you have it in any report?

19 A I can go back to my files and pull it.

20 Q You don't have it with you today; is that right?

21 A No, I don't.

22 Q Today is the day you were subpoenaed to be in court?

23 A Correct.

24 MR. JACKSON: Thank you. No questions.

25 THE COURT: Ms. Lavell, any follow-up?

1 MS. LAVELL: Yes, just a little bit.

2 FOLLOW-UP EXAMINATION

3 BY MS. LAVELL:

4 Q So you indicated that in addition to the defendant's
5 profile on the computer there was at least one other and then
6 public profiles?

7 A Yes.

8 Q What are public profiles?

9 A Public profiles are just anybody that logs onto the
10 computer can use that computer. So the way the registry works
11 is it gives you, like, a -- what's called a SID number, and
12 it'll just say, like, You were assigned like 1006. This user
13 was assigned 1015. So there is no specific person, like, you
14 know, Vince signed on, or, you know, I didn't have my specific
15 user, like on your computer, you can have -- you are the
16 administrator, user 1, user 2, user 3, user 4.

17 Q So there's -- and I apologize. Because I am
18 completely computer illiterate, but you can have -- so it's not
19 password protected. So if the defendant is going to go onto
20 his own computer, he just has to start typing?

21 A Correct.

22 Q So the computer is not going to know it's the
23 defendant?

24 A No.

25 Q And if somebody else is typing, they're not going to

1 know it's them?

2 MR. JACKSON: I'm going to object to the leading
3 questions. We're -- you know, she might as well be --

4 THE COURT: Yes.

5 MR. JACKSON: -- testifying on the witness stand.

6 THE COURT: It is a little leading. I mean, say,
7 Would the computer know who was typing, as opposed to --

8 MS. LAVELL: Well, I thought I did, but I'll say it
9 that way.

10 THE COURT: Well, you said -- it's leading.

11 MS. LAVELL: Okay.

12 BY MS. LAVELL:

13 Q Would the computer know who is typing?

14 A No.

15 Q Now, I want to just kind of be clear what we're
16 talking about, the camera. I had previously shown you a camera
17 in one of the exhibits. Do you remember that?

18 A Yes.

19 Q Do you remember what kind of camera that was?

20 A It looks like a Sony.

21 Q Was that the one you talked about that was booked
22 into evidence?

23 A Yes.

24 Q You indicated that you -- from the -- from the
25 computer language -- I'm going to just talk completely

1 illiterate when it comes to this -- you can tell it's a Sony
2 that took at least some of the video files?

3 A Yes.

4 Q Or all of them?

5 A All the ones that I bookmarked.

6 Q Okay. So all of the ones that we showed -- we showed
7 you on the court's -- State's Exhibit 1 now, that SUB device?

8 A Yes. USB.

9 Q USB. Thank you. I know. So sad. So you indicated
10 when counsel asked you that you were able to tell it was a Sony
11 based on what you observed. Can you explain what you mean by
12 that.

13 A Just if it's a Canon, you'll see -- like, on --

14 Q I'm sorry. I meant you said you observed the
15 placement of it or something. What were you referring to?

16 A Oh, okay. When I was reviewing the video files, I
17 saw Mr. Shue taking that camera and placing it in the bathroom
18 for videotaping.

19 Q Okay. Thank you. And just one more. Were there any
20 photographs found that -- I just learned the word selfies,
21 where someone is taking pictures of themselves -- themselves
22 naked or unclothed --

23 A Yes.

24 Q Did you see anything of that?

25 A Yes.

1 Q Okay. What was -- who was the subject matter of
2 that?

3 A Mr. Shue took a selfie, naked.

4 Q Okay. So no females?

5 A Not that I saw.

6 MS. LAVELL: Okay. All right. Pass the witness.

7 THE COURT: Anything else, Mr. Jackson?

8 FURTHER FOLLOW-UP EXAMINATION

9 BY MR. JACKSON:

10 Q Now, are you basing your opinion on the camera that
11 was used based on your forensic analysis of the actual films
12 or -- or -- or the computers that you saw or on some other
13 analysis that you received from your police reports or what?

14 A I don't understand what you're --

15 Q All right. Did you get this information off of a
16 computer by looking at the computers, or did you get it off of
17 looking at photographs, or how do you determine what camera was
18 used just by visual inspection?

19 A No. Well, one, I can see Mr. Shue placing the video
20 camera in an area to videotape.

21 Q All right. So you're looking at -- you're looking
22 at -- by what you see, looking at -- it looks like that kind of
23 camera looking at a -- looking at a -- what looks like a film,
24 and you can recognize it by looking at this. It looks like
25 this kind of camera?

1 A Correct.

2 Q You can't tell by the way the film comes out or
3 anything like that?

4 A The other -- the other identifier would be, like I
5 said, the -- when you look at the string, it goes, dot, AVI,
6 and then it tells you the, like, PICT -- or a number and then
7 PICT. PICT is --

8 Q You didn't put any of this in your report though when
9 you wrote the report?

10 MS. BEVERLY: I'm going to object as misstating his
11 report.

12 THE COURT: Okay. Well, the -- that's overruled. If
13 the detective disagrees with the question, he can testify to
14 that.

15 THE WITNESS: I don't put something as general as
16 that because it's a general -- PICT or DSEI, DCIM, it all -- it
17 just depends on what camera you're using.

18 BY MR. JACKSON:

19 Q Many cameras look the same; is that correct?

20 A Sure. Yes.

21 Q In fact, they may make thousands of similar-looking
22 cameras. You can buy them at Walmart or buy them at camera
23 stores that look almost exactly alike; is that correct?

24 A Correct.

25 MR. JACKSON: No further questions.

1 MS. LAVELL: I just have one follow-up.

2 THE COURT: All right.

3 FURTHER FOLLOW-UP EXAMINATION

4 BY MS. LAVELL:

5 Q We've talked about your report. You generated a
6 report as a result of your examination of the computer?

7 A Correct.

8 Q And we were just talking about how you can identify
9 this particular camera or the video camera that took the images
10 as a Sony?

11 A Correct.

12 Q Was it a Sony? Is that what you said?

13 A Correct.

14 MS. LAVELL: And I'm going to request to publish this
15 just for demonstrative purposes. I'm not going to ask that it
16 be admitted.

17 THE COURT: Okay. Well, before you do that, show
18 Mr. Jackson what it is you want to --

19 MS. LAVELL: May I approach, Your Honor, real quick?

20 THE COURT: You may.

21 BY MS. LAVELL:

22 Q All right. I'm just going to show you and just have
23 you confirm that this is in fact the report that you generated.

24 A Yes.

25 Q Okay. And I'm just going to show you a path and just

1 specifically ask -- sorry -- I can't even tell what you're
2 going to see. Hold on. Okay. Can you see that?

3 A Yes.

4 Q All right. And what does that say?

5 A PICT, 0002, dot, AVI.

6 Q And from that figure, can you tell what sort of
7 camera was used?

8 A Typically, a standard Sony, PICT.

9 Q Okay. And that's what you were referring to when you
10 indicated that it wasn't just that you visually observed the
11 defendant placing a Sony camera in the bathroom, but, also,
12 when you downloaded the video footage, you were able to
13 ascertain it was taken by a Sony as well?

14 A Correct.

15 MS. LAVELL: I have nothing further.

16 THE COURT: Anything else, Mr. Jackson, based on just
17 that last --

18 MR. JACKSON: Yes.

19 FURTHER FOLLOW-UP EXAMINATION

20 BY MR. JACKSON:

21 Q Did you type this up, or is this report generated off
22 of some computer software?

23 A That's generated from the FTK software.

24 Q And how is it generated off the FTK software? Do you
25 have to type it in, or does it just --

1 A No. So if there are -- if I have an image that I'm
2 interested in, I bookmark it. So what that means is I put a
3 checkmark to bookmark it, and then I just -- once I bookmark
4 it, and then at the end, when all my reporting is done, you hit
5 create report, and it gives me the file path that that -- that
6 that image was in and everything else. So you don't have to --
7 you can't type anything in to change any of the paths or
8 anything.

9 Q All right. So this is -- you program this before
10 hand, and who does this? Who creates this program for you?

11 A The program was created by Access Data.

12 Q You didn't create the program?

13 A No.

14 Q You didn't develop the software?

15 A No.

16 Q So you don't even know how the software works; is
17 that right?

18 A Oh, I know how it works.

19 Q Did you -- did you design the computer software?

20 A No.

21 Q Are you familiar with computer programming?

22 A Yes.

23 Q What are the steps involved in creating this
24 software?

25 A The --

1 MS. LAVELL: And I'm going to object at this point,
2 Your Honor.

3 THE COURT: Yes, that's sustained.

4 MS. LAVELL: He didn't create it. He indicated he
5 didn't create it.

6 MR. JACKSON: We don't know that it's an accurate
7 software. I want to find out if he knows.

8 THE COURT: Do you know the answer to that question?

9 THE WITNESS: It's a hundred percent accurate.

10 THE COURT: Well, that -- that wasn't the last
11 question.

12 THE WITNESS: Oh.

13 MR. JACKSON: The question is: How -- what are the
14 steps in creating it. I was just asking him a few questions.
15 We'll find out his knowledge.

16 THE COURT: Do you know?

17 THE WITNESS: First, you basically have to create a
18 script that's going to run that.

19 BY MR. JACKSON:

20 Q What does that mean?

21 A A script is basically like if X is less than 32, go
22 to step 54. So it's just basic programming. So this one is
23 pretty much a JavaScript, just like EnCase uses JavaScript but
24 their own.

25 Q What's the data that's inputted?

1 A The data input is just the results of that. So the
2 file is the actual file from his computer. So all the program
3 does is takes the information that I bookmarked, that was shown
4 to me, and then it creates a report. So it doesn't change
5 anything. It just takes that and makes it to where the user
6 can look at what you actually bookmarked and where it came from
7 and the dates and times and everything else.

8 Q Have you heard the phrase G, I, G, O?

9 A G, I, G, O?

10 Q Yes. Do you know what that means?

11 A No.

12 Q Garbage in, garbage out.

13 MS. BEVERLY: I'm going to object.

14 THE COURT: Who is testifying here?

15 MS. BEVERLY: I am going to object --

16 BY MR. JACKSON:

17 Q Do you know what garbage in, garbage out means?

18 MS. BEVERLY: I am going to object at this point.

19 THE COURT: Mr. Jackson, that's sustained.

20 BY MR. JACKSON:

21 Q Do you know what garbage in, garbage out means?

22 MS. BEVERLY: I'm going to object.

23 THE COURT: Mr. Jackson, that's sustained unless you
24 want to rephrase the question.

25 MR. JACKSON: All right.

1 THE COURT: You can ask that in a different -- in a
2 different format.

3 BY MR. JACKSON:

4 Q If you didn't program the data yourself, how do you
5 know it's accurate?

6 A It's a multimillion-dollar company that all -- it is
7 one of the leading companies that -- forensically, and it's
8 forensically proven, and you can have any of their lawyers come
9 and testify to their accuracy, about MD5 hashes and everything
10 else.

11 Q Well, would you want -- I won't ask that question.
12 The amount of money that's paid for something doesn't
13 necessarily mean it's accurate, does it?

14 MS. BEVERLY: I'm going to object at this point, Your
15 Honor. He's testifying.

16 THE COURT: I think that's argumentative.

17 MR. JACKSON: All right.

18 BY MR. JACKSON:

19 Q There are multimillion-dollar airplanes that crash,
20 aren't there?

21 A Absolutely.

22 Q Okay. So the amount of money that you spend for
23 something doesn't necessarily mean it's accurate, is it?

24 A The person that built it didn't make it crash.

25 MS. LAVELL: Your Honor, at this point it's

1 argumentative. It's -- he's already asked and answered.

2 THE COURT: Move on, Mr. Jackson.

3 MR. JACKSON: I have no further questions.

4 THE COURT: Anything else, Ms. Lavell?

5 MS. LAVELL: Nothing further.

6 THE COURT: Any additional juror questions for this
7 witness?

8 (No response.)

9 THE COURT: All right. Detective, thank you for your
10 testimony. Please don't discuss your testimony with anyone
11 else who may be called as a witness in this matter.

12 THE WITNESS: Okay.

13 THE COURT: Thank you and you are excused.

14 THE WITNESS: Thank you.

15 THE COURT: Ladies and gentlemen, before we move into
16 the next witness we're going to take a quick recess until 3:20.

17 During this brief recess you're reminded you're not
18 to discuss the case or anything relating to the case with each
19 other or with anyone else. You're not to read, watch or listen
20 to any reports of or commentaries on the case, any person or
21 subject matter relating to the case, and please don't form or
22 express an opinion on the trial.

23 Notepads in your chairs, and follow -- oh, the
24 bailiff disappeared -- but you can find your way to the double
25 doors on your own.

1 There he is.

2 (Jury recessed 3:09 p.m.)

3 THE COURT: All right. Before we take our break, I
4 just want to place on the record that at the point where the
5 detective was reluctant to testify regarding the identity of
6 the child in the fellatio picture -- I forget what exhibit
7 number that is -- we approached the bench, and the State didn't
8 want to have him reveal that.

9 I told Mr. Jackson he could ask, you know, whether
10 the child was identified and whether as a result of the
11 identification he was found to have no relationship to the
12 defendant, which I thought was the point of the questioning.
13 Mr. Jackson chose not to ask that question but wanted a copy of
14 the police report in the other matter, the investigation
15 relating to the child in that picture. I said that the
16 detective would be ordered to provide the report for an
17 in-camera inspection, and the Court is going to look at it, and
18 then I'll either make it a court's exhibit -- well, either way
19 I'll make it a court's exhibit, and may or may not be turned
20 over to the defense.

21 And the State was directed to tell the detective that
22 he needed to provide that so that I could review that, and
23 Mr. Jackson could of course recall -- or the witness could be
24 recalled if Mr. Jackson wants to question him further about
25 that report. So that's where we are right now.

1 MS. LAVELL: If I can just add to that record, Your
2 Honor, please, the State has only found out that this youngster
3 had been identified on Friday, and because of the number of
4 photos he -- of him in the world -- and I don't believe that
5 the perpetrator has been identified yet -- we opted not to
6 utilize the fact that he'd been identified and in fact his age
7 had been determined.

8 THE COURT: Is this one of -- when you say the number
9 of photos, is this one of these children that has pictures
10 circulating all over the world?

11 MS. LAVELL: That's my understanding. There's
12 apparently a large number of photos of this young -- young
13 person, and --

14 THE COURT: Well, we have -- the detective has walked
15 back in the room. So if there's anything we want to know on
16 the record, we can ask him.

17 The young -- the young juvenile in the photo of
18 the -- I'm going to call it the fellatio photo -- is he
19 identified as someone who has been in photo -- a photo, either
20 one or more photos that's been circulated among the child-porn
21 circles, like some of these photos are?

22 THE WITNESS: Exhibit 3, that person, no, but all the
23 other exhibits, yes.

24 MS. BEVERLY: Because the -- the boy who was
25 receiving --

1 THE WITNESS: There were two different --

2 MS. BEVERLY: -- fellatio is different than the
3 little boy in the other photos.

4 THE COURT: Oh, okay. I thought we were talking
5 about the fellatio photo.

6 MS. BEVERLY: No.

7 THE COURT: So that boy has not been identified?

8 THE WITNESS: No.

9 THE COURT: Okay. It's the other boy --

10 THE WITNESS: Yes.

11 THE COURT: -- that's been identified?

12 THE WITNESS: In the shower, correct.

13 THE COURT: Okay. I wasn't clear on that, and that
14 boy -- those photos, are those the types of photos that have
15 been around for a long time? I know sometimes in these cases
16 we get photos from, like, the '70s?

17 THE WITNESS: No.

18 THE COURT: Or --

19 THE WITNESS: Can I say his age?

20 THE COURT: Well, for this part of the record, sure.

21 THE WITNESS: Okay. Basically, he was -- just turned
22 12 years old when those were taken. So, no, they haven't been
23 for a long time. It is an ongoing investigation. The person
24 that is responsible for taking all those photos and sexually
25 abusing him is a fugitive, a federal fugitive right now. I

1 mean, I'll tell you his name --

2 MS. LAVELL: No, I wouldn't tell his name.

3 THE WITNESS: -- is William --

4 MS. BEVERLY: No. No. No.

5 THE WITNESS: -- (Unintelligible.)

6 THE COURT: Well, here's what I've ordered -- and I
7 don't know if Ms. Beverly conveyed that to you -- for you to
8 provide the Court with those reports, and then I'll look at
9 them and decide whether or not it's discoverable to
10 Mr. Jackson, and then obviously if it is discoverable,
11 Mr. Jackson knows and the Court will order that he not
12 disseminate that information to anyone because it could
13 jeopardize an ongoing investigation. It may be that that
14 information is not really germane -- who the perpetrator is --
15 to this case.

16 So did anyone -- I mean, the question I would have is
17 did anyone do any investigation to see if the perpetrator in
18 those -- you know, if taking the photos of that boy is an any
19 way, like, you know, known to this defendant?

20 THE WITNESS: No.

21 THE COURT: You know, like they work together, same
22 neighborhood. Was any investigation done --

23 THE WITNESS: No, it was --

24 THE COURT: -- or we just don't know of anything?

25 THE WITNESS: It was after. That investigation was

1 well after this one.

2 THE COURT: Right.

3 THE WITNESS: And I didn't see anything that -- that
4 would tie -- I would've remembered some, you know --

5 MR. JACKSON: All right. But that's the main
6 question I wanted to ask him. I may want to recall him for
7 that because that's -- I wanted to see the police report before
8 I asked that question because I didn't want to ask it blind.
9 So that's the -- that's the only thing.

10 THE COURT: That's the information that you want to
11 know?

12 MR. JACKSON: Yes, that's the only thing I wanted to
13 put before the jury, that he wasn't directly connected to that
14 by, you know, being involved in it because the jury might be
15 left with a misimpression.

16 THE COURT: Well, I -- I said you could answer -- ask
17 it before, but I -- let's just do this then. If that's all you
18 want to know --

19 MR. JACKSON: That's all I want to know.

20 THE COURT: -- we can just have the detective come
21 back, and we'll say, Oh, there was another question, Detective,
22 and then Mr. Jackson can ask that --

23 MR. JACKSON: And then he can go, and I don't even
24 need to see the report.

25 THE COURT: -- and you can follow up or whatever.

1 MS. LAVELL: My follow-up will be, How old is the kid
2 in the picture. So I don't know if Mr. Jackson --

3 MR. JACKSON: And that's fine. I think the kid's
4 probably 12 years old. I don't dispute that it looks like
5 that. I ain't gonna worry about that.

6 MS. LAVELL: Okay.

7 MR. JACKSON: That's not the issue. I just want to
8 establish that Mr. Shue wasn't directly connected with that kid
9 because it was obvious to me that it was totally separate from
10 the other 40 pictures you got or the videos.

11 MS. BEVERLY: All right. That's fine.

12 THE COURT: Okay. So --

13 MR. JACKSON: All right. But I didn't want to ask
14 the question without seeing the police report.

15 THE COURT: So are you comfortable asking the
16 question now that we've had this discussion?

17 MR. JACKSON: Yes. Yes. I would expect the officer
18 being candid and straightforward. I just haven't got the
19 police report, and I didn't want to be blindsided.

20 THE COURT: All right. So, Detective, hang around,
21 and after we take our break you'll just come right back in, and
22 we'll reopen the questions.

23 THE WITNESS: Okay.

24 MS. LAVELL: So we're not going to ask you his name
25 or whoever's involved.

1 (Proceedings recessed 3:16 p.m. to 3:21 p.m.)

2 (Outside the presence of the jury.)

3 MS. BEVERLY: I know that Mr. Jackson wanted to ask
4 about was there any connection between the person -- that this
5 detective does know who took photos of the little boy. Is he
6 allowed to say that he knows who took the photos and that that
7 person is the subject of a federal investigation?

8 MR. JACKSON: I'm not going to ask about a federal
9 investigation. I'm just going to say, In your investigation,
10 have you determined that Mr. Shue doesn't have any connection
11 with those photos?

12 THE COURT: Okay. Well, they can say, Have you
13 identified who it is?

14 I mean, are you objecting that if they want to ask,
15 Is this the subject of a federal investigation, are you
16 objecting to that question?

17 MR. JACKSON: Do you want me to ask that, or does she
18 want to?

19 THE COURT: No. No. I'm saying, if they ask it, are
20 you going to object to it?

21 MR. JACKSON: Well, then I want the whole police
22 reports and whatever. I mean, it's -- you know --

23 MS. BEVERLY: Okay. We won't -- excuse me.

24 MR. JACKSON: If Mr. Shue isn't involved in the
25 federal investigation, isn't charged in federal indictment --

1 THE COURT: All right. Well, it could be construed
2 as maybe prejudicial if the federal government --

3 MR. JACKSON: Well, I -- I think it's a irrelevant.

4 THE COURT: That's fine. They're not going to ask
5 it.

6 You can say that he's the subject of an
7 investigation --

8 MS. BEVERLY: Right.

9 THE COURT: -- and he hasn't been identified -- or he
10 has been identified, and whether it's federal, state, local, it
11 doesn't matter.

12 MS. BEVERLY: Sure. And I guess we also -- you know,
13 he's asking, Is Mr. Shue connected, and I'm sure the jury is
14 going to be wondering, well, where did he get the photos from,
15 and the photos came from a website. So is he allowed to say
16 that the photos came from a -- I guess for lack of a better
17 word -- kiddie-porn website?

18 THE COURT: If that was disclosed as part of his
19 investigation in this case, then, yes. If it wasn't, then I
20 think we're opening up a whole new Pandora's box, and I don't
21 want to keep -- do you see what I'm saying?

22 MS. BEVERLY: I do. I do.

23 THE COURT: I mean, if when he did his investigation
24 of this laptop he traced it to a kiddie porn website and that
25 was in his report, then it's fair game. If it wasn't, then I

1 think that's going too far, and I don't want to now have to
2 open discovery again. So let's just -- I don't think it's that
3 necessary.

4 MR. JACKSON: You know what, before I ask any
5 questions, I want to see the report because, you know, the
6 prosecution wants to complicate it --

7 MS. BEVERLY: I'm not going to. I said, no, I'm not
8 going to.

9 THE COURT: Mr. Jackson, you're going to ask your
10 question. All they're going to ask is, Have you identified the
11 person, and is he the subject of an unrelated investigation?
12 Yes. Not federal, not state, nothing, just an investigation,
13 that's --

14 MR. JACKSON: Okay.

15 THE COURT: You know, I don't see that that is
16 prejudicial toward your client in any way.

17 MR. JACKSON: All right. That's fine.

18 MS. LAVELL: Okay. And we just want to make sure --

19 THE COURT: That's fine with Mr. Jackson. That's
20 what we're going to do.

21 MS. LAVELL: Thank you. And we just want to make
22 sure that the officer isn't asked if he somehow was involved
23 because he can't answer that. He doesn't know whether he is or
24 isn't.

25 THE COURT: Well, that's the point of it, is that at

1 this point he hasn't connected this defendant to that
2 investigation.

3 MS. LAVELL: But he can't say whether or not he knows
4 this person or doesn't know this person.

5 THE COURT: Of course not.

6 MS. LAVELL: He can just simply testify that -- that
7 someone other than the defendant took those photos.

8 THE COURT: And he's found no connection between the
9 two of them at this point.

10 MS. LAVELL: Right.

11 THE COURT: That's what -- all right.

12 Bring them in.

13 (Jury entering 3:25 p.m.)

14 THE COURT: All right. Court is now back in session.

15 And when we took the break, it was realized that

16 there were some additional questions for the detective.

17 So, Detective, obviously you're still under oath.

18 And, Mr. Jackson, go ahead.

19 MR. JACKSON: Thank you.

20 FURTHER RECROSS-EXAMINATION

21 BY MR. JACKSON:

22 Q Officer Ramirez, thank you, and I appreciate you
23 coming back. We have -- an issue arose concerning the photo
24 involving the young boy and the male having oral sex, and I
25 believe it's been determined that the young male has been the

1 subject of a -- another unrelated investigation; is that
2 correct?

3 A Not Exhibit 3.

4 Q Is that Exhibit 3? What exhibit is that that he's
5 in?

6 A That's the one where the male is receiving oral
7 copulation.

8 MR. JACKSON: Can we have a copy of those exhibits?

9 THE COURT: Counsel, approach. All we need is
10 Ms. Lavell, Mr. Jackson.

11 (Conference at the bench not recorded.)

12 BY MR. JACKSON:

13 Q It isn't the exhibit involving the oral copulation.
14 It's the other picture of the young boy that you believe was
15 involved in the ongoing investigation. I think maybe -- the --
16 State has advised me it's Exhibit No. 4.

17 A Correct.

18 Q All right. My mistake. I got my signals confused,
19 and I apologize for that. There's been some confusion around
20 this. And that investigation, you've advised me and the Court
21 that the defendant Joshua Shue is not involved in that
22 investigation; is that correct?

23 A That's correct.

24 Q And he, to your knowledge, based on the investigation
25 so far, did not take that picture in Exhibit 4; is that

1 correct?

2 A That's correct.

3 Q You have no information to believe that he is part of
4 that ongoing investigation at this time?

5 A That's correct.

6 MR. JACKSON: I have no further questions.

7 THE COURT: Ms. Lavell.

8 MS. LAVELL: Thank you.

9 FURTHER FOLLOW-UP EXAMINATION

10 BY MS. LAVELL:

11 Q So just so we all know who we're talking about I'm
12 publishing with the Court's permission State's Exhibit 4. Is
13 this the young man that you have recently identified?

14 A Yes.

15 Q And is he depicted in more than one State's exhibit?

16 A Yes.

17 Q There is an ongoing investigation involving an
18 individual thought to have taken these photos, not the
19 defendant; is that correct?

20 A Yes.

21 Q How old was the child in this particular picture?

22 A 12.

23 Q And do you know when this picture was taken?

24 A Yes.

25 Q So how old would he be now?

1 A Should be 14.

2 MS. LAVELL: Nothing further.

3 THE COURT: Any follow-up to that?

4 MR. JACKSON: No further questions.

5 THE COURT: Any additional juror questions?

6 All right. Detective, I see no further questions.

7 THE WITNESS: Thank you.

8 THE COURT: Now you are excused.

9 And the State will please call its next witness.

10 MS. LAVELL: Thank you, Your Honor. The State calls

11 Detective Jaeger.

12 (State's witness, Ryan Jaeger, sworn.)

13 THE COURT: Thank you. Please be seated and please
14 state and spell your name.

15 THE WITNESS: My first name is Ryan, R-y-a-n. Last
16 name is Jaeger, J-a-e-g-e-r.

17 THE COURT: All right. Thank you.

18 Ms. Lavell.

19 MS. LAVELL: Court's indulgence for one quick second.

20 FURTHER REDIRECT EXAMINATION

21 BY MS. LAVELL:

22 Q Sir, how are you employed?

23 A Currently I am a detective with the Las Vegas
24 Metropolitan Police Department.

25 Q How long have you been with Metro?

1 A A little over 16 years.

2 Q And in 2010, were you assigned to the sex-based crime
3 unit with Metro?

4 A I was.

5 Q In August of 2012, specifically August 23, 2012, did
6 you become involved in an investigation involving an individual
7 by the name of Joshua Shue?

8 A I did.

9 Q Do you see him present in the courtroom?

10 A I do.

11 Q Would you point in his direction and describe
12 something that he's wearing.

13 A He's right there wearing a dark blue suit and tie.

14 MS. LAVELL: Your Honor, may the record reflect that
15 the witness has identified the defendant?

16 THE COURT: It will.

17 BY MS. LAVELL:

18 Q Did you make contact with a young lady by the name of
19 Hazel in regards to this investigation?

20 A I did.

21 Q Do you recall Hazel's age at the time?

22 A At the time, she was 17.

23 Q Did you meet with her to discuss some concern she had
24 in regards to the defendant?

25 A I did.

1 Q What did she specifically tell you her relationship
2 was with the defendant?

3 A It was her mother's boyfriend.

4 Q And her mother's name?

5 A Anita.

6 Q And what was her reason for contacting law
7 enforcement?

8 A She stated that Mr. Shue took some pictures of her up
9 under her dress.

10 Q Did he indicate -- did she indicate that he had done
11 anything else to her?

12 A He had kissed her.

13 Q Did she indicate that he had said anything to her?

14 A They had a conversation, and during the conversation
15 he had told her that he was only with her mother because of
16 her.

17 Q Did she indicate that all of that happened on the
18 22nd of August, or did one or more things happen on the --

19 A That all happened on that night.

20 Q Okay. As a result of speaking with Hazel, did you
21 have cause to meet with the defendant?

22 A I did.

23 Q Where did you meet with him?

24 A I met with him at the LVMPD headquarters building.

25 Q When you met with him, did he voluntarily come down,

1 or did you pick him up?

2 A He drove, and we --

3 Q So did you contact him by the phone -- on the phone,
4 or did you meet with him and then ask him to respond?

5 A I met with him in person, and we kind of scheduled an
6 appointment for him to come to the headquarters building.

7 Q And he kept that appointment?

8 A He did.

9 Q Okay. Did you conduct a taped interview?

10 A I did.

11 Q Did you advise him of his Miranda rights?

12 A I did.

13 Q Did he agree to speak with you?

14 A He did.

15 Q Did you discuss with him some of the concerns or some
16 of the behaviors that Hazel had reported to you?

17 A Yes, I did.

18 Q Did you meet with him on the same day, August 23rd,
19 that Hazel had contacted police?

20 A Yes, I did.

21 Q What did the defendant say in regards to kissing
22 Hazel?

23 A He admitted that it happened.

24 Q Did he tell you where on her person he kissed her?

25 A He kissed her on the face.

1 Q On the cheek?

2 A That's correct.

3 Q Did he deny kissing her romantically?

4 A That's correct.

5 Q Did he -- did you ask him about taking a picture of
6 Hazel under her skirt?

7 A I did.

8 Q And what did he say about that?

9 A He admitted to doing it.

10 Q And did he say why he did it?

11 A He said he was kind of playing around, took the
12 picture and showed her the picture.

13 Q Did he say what he did with the picture after he took
14 it?

15 A He said she was kind of embarrassed by the picture.
16 So he deleted the picture.

17 Q Did Hazel when you spoke to her indicate that she had
18 given him permission or wanted him to take a picture up her
19 skirt?

20 A She did not want him to take a picture.

21 Q Did you talk to him about what camera he used to take
22 the picture up her skirt?

23 A I did.

24 Q What did he tell you?

25 A It was a blue Sony camera, a little digital camera.

1 Q Did you ask him about the comments that she said in
2 regards to him -- what did you say that she said?

3 A About?

4 Q The mother and her and him.

5 A That one of the main reasons he was with her mother
6 was because of her.

7 Q Did you ask him about that?

8 A I did.

9 Q When you first asked him about that, what did he say
10 in regards to that?

11 A He said that he cared for her and her two brothers.
12 He wanted to make sure that they were raised right.

13 Q So did he admit to having said, I'm only with your
14 mother because of you, explaining that he meant because he
15 cared about the kids?

16 A That's correct.

17 Q Later in the discussion, did he change his tune in
18 regards to what he meant when he said that to Hazel?

19 A (Nodded head.)

20 Q And what did he tell you?

21 A That there was some romantic thoughts there towards
22 Hazel.

23 MS. LAVELL: Court's indulgence.

24 Judge, may we approach?

25 THE COURT: Sure.

1 (Conference at the bench not recorded.)

2 THE COURT: Go on, Ms. Lavell.

3 MS. LAVELL: Thank you, Your Honor.

4 BY MS. LAVELL:

5 Q So when speaking with the defendant in regards to his
6 comment that he was only with the mother because of the kids,
7 he initially indicated to you that he meant because he really
8 cares about the kids. So he's staying with the mother?

9 A That's correct.

10 Q But then later he indicated that there was a
11 different reason?

12 A That's correct.

13 Q And what did he say?

14 A That he was noticing that she was a very attractive
15 girl.

16 Q Okay. So did you ask her a question in regards to
17 whether or not he viewed her romantically?

18 A Her or --

19 Q Viewed Hazel romantically?

20 A Did I ask him?

21 Q Did you ask him whether or not --

22 A Yes.

23 Q And did he indicate he did?

24 A He did.

25 Q And did he specifically say, I've told her that from

1 time to time because she could be really sweet, and she's an
2 attractive young lady?

3 MR. JACKSON: Objection. You know, let her ask the
4 question, what he said rather than just read his statement --

5 THE COURT: Okay. Your objection is to leading.

6 The objection as to leading is sustained.

7 BY MS. LAVELL:

8 Q Do you recall what the defendant said specifically in
9 regards to your asking him about whether or not he has romantic
10 feelings towards Hazel and that he had told her that before?

11 A That's correct. He had told her that.

12 Q Do you recall verbatim what he said in regard to
13 that?

14 A Not verbatim. I'd have to refer to the transcripts.

15 Q It would refresh your recollection if you referred to
16 the transcript?

17 A That's correct.

18 Q Page 15 of the defendant's statement.

19 A I'm on page 15 of this transcript.

20 Q Well, if you're able to just read it to yourself and
21 remember it, that would be great. If you can't do that, let me
22 know.

23 A Okay.

24 Q Okay. What did he say?

25 A He told her that from time to time he's explained to

1 her that she is very attractive, but he would never act on any
2 of those feelings.

3 Q Because she is a young lady?

4 A That's correct.

5 Q Did you ask him whether or not he'd ever taken any
6 other photos of Hazel?

7 A I did.

8 Q And what did he say?

9 A He admitted to taking pictures of them out and about,
10 doing family stuff.

11 Q Did he ever -- did you ask him whether he had taken
12 any inappropriate photos of her?

13 A I did.

14 Q What did he say?

15 A He said he had not.

16 Q Did you ask him specific areas of the house, whether
17 or not he had taken any photos of her there?

18 A I did. I asked him if he'd taken any pictures of her
19 in the bathroom.

20 Q What did he say?

21 A He said he did not.

22 Q Did you talk to him about seizing his computer?

23 A I did.

24 Q Okay. Did you ask him if you -- if you were to seize
25 his computer and do an exam what you might find?

1 A I did.

2 Q And what did he say?

3 A At that time he ended the interview and invoked his
4 right to counsel.

5 MR. JACKSON: I'm going to object, Your Honor.
6 That's --

7 THE COURT: Yes, that's sustained.

8 MR. JACKSON: May I approach with counsel?

9 THE COURT: Sure.

10 (Conference at the bench not recorded.)

11 THE COURT: Let's go until 3:55.

12 And then again, during the break you're reminded
13 you're not too discuss the case or anything relating to the
14 case with each other or with anyone else. You're not to read,
15 watch or listen to any reports of, or commentaries on the case,
16 any person or subject matter relating to the case. Please
17 don't form or express an opinion on the trial.

18 Notepads in your chairs and follow the bailiff
19 through the double doors.

20 (Jury recessed 3:43 p.m.)

21 THE COURT: Okay. After the last bit of testimony,
22 which, you know -- you're not -- they're not supposed to -- a
23 witnesses isn't supposed to comment if someone invokes their
24 right to counsel or their right to remain silent, which
25 happened, but Ms. Lavell up here at the bench -- and I don't

1 have the statement in front of me.

2 Up here at the bench, you indicated that that was
3 not --

4 Maybe we should excuse the detective.

5 MS. LAVELL: Yes.

6 MR. JACKSON: Yes.

7 THE COURT: You can wait in the vestibule because we
8 may be talking about your testimony.

9 THE WITNESS: Okay.

10 THE COURT: So technically you're not supposed to be
11 here to hear us talk about what you're going to say.

12 MR. JACKSON: That was going to be my request.

13 THE COURT: All right. And Mr. Jackson was about to
14 request that.

15 So, Ms. Lavell, according to the transcript, what
16 did -- what was actually said by the defendant?

17 MS. LAVELL: Well, the detective had indicated that
18 he laid his cards on the table and now it was time for the
19 defendant to come clean, and what the defendant said was,
20 Right. I think I need a lawyer, you know. That's not --

21 THE COURT: And then what happened?

22 MS. LAVELL: And then the officer said, Okay.

23 And then he said, Um, right -- um, right now. And
24 that was the officer that said that.

25 And then the defendant says, I'm not a bad person,

1 but I do have some things that aren't -- that aren't good, that
2 aren't on the up-and-up, if you know what I mean, referring to
3 his computer.

4 That's the question I was asking, and in fact, I
5 crossed out the lawyer part. So he didn't invoke his right,
6 and I think it needs to be made clear that he did not invoke
7 his right. Invoking your right is unequivocal. He did not.

8 And, you know, I -- obviously he ended the interview,
9 but I don't think that this is overly prejudicial, and
10 certainly we can clear it up that the officer used the wrong
11 terminology.

12 THE COURT: Well, we could clear it up by you saying,
13 Okay, directing your attention to the transcript, I'd like you
14 to read that part. You said he asked for counsel. Is that,
15 you know -- is that what happened?

16 And then, No, I was mistaken.

17 And, Did he continue to tell you something else?

18 Yes, he said that there was some bad things, or
19 whatever else he said.

20 MS. LAVELL: Because he didn't invoke. He just made
21 a comment. So I think I'm -- I think we can do it one of two
22 ways, Your Honor. We can -- I think for the purposes of -- did
23 you misstate when you indicated that he asked for a lawyer?

24 THE COURT: Yes. The reason -- I mean, part of the
25 problem is you can't make somebody look guilty because they

1 invoked their right to counsel. That's why it's a problem, in
2 addition to if you continue the questioning, but, you know, you
3 can't make someone look guilty because they ask for a lawyer,
4 and that's kind of the inference that we're left with, and so
5 we need to figure out how to clean that up because that's where
6 the problem is. Again, if somebody invokes their right, you
7 can't use it against them.

8 MS. LAVELL: Right.

9 THE COURT: Mr. Jackson.

10 MR. JACKSON: Well, I think Your Honor has hit the
11 nail on the head. The way to cure it -- clear it up is to
12 grant a mistrial, which is what I'm asking for because the
13 Supreme Court case law is clear. This is an experienced
14 detective. He isn't a rookie. He isn't -- it isn't his first
15 year, but how long has he been a police officer? 19 years. He
16 is working on the sexual assault detail. We've got two deputy
17 district attorneys here. They should know the law.

18 It isn't -- when you say, I think I need a lawyer,
19 that's enough. The issue was clear. Now, as soon as they said
20 it, I objected immediately, and he said it very clearly.

21 THE COURT: Well, I sustained the objection.

22 MR. JACKSON: Well, sustaining the objection isn't
23 enough. It doesn't cure the fact that he said, Oh, I need a
24 lawyer. They shouldn't have gone into this question. He
25 should've been -- I assume -- and these are experienced

1 prosecutors -- that they prepped their witness before coming
2 into court. It --

3 THE COURT: In Ms. Lavell's defense, she was leading
4 the detective, and you objected, and I told her don't lead the
5 detective. So she was, you know, kind of trying to lead him.

6 MR. JACKSON: Yeah, but this particular question, the
7 officer knows better, and the only remedy -- well, we can
8 strike the rest of the officer's testimony. He can say no
9 further questions, and I -- either that or declare a mistrial.
10 We can start again. I'm ready next week, and we can pick a new
11 jury and start again, but the only way to cure it is to grant a
12 mistrial.

13 I can't think of -- you know, instructing the jury,
14 saying that, Well, he invoked his -- he wanted a lawyer, every
15 TV show, they say, Oh -- the cops say, Well, the defendant
16 lawyered up. He must've been guilty. That's the inference
17 they always draw.

18 THE COURT: Well, what the State suggested --

19 MR. JACKSON: And this is --

20 Let me finish. I'm not done talking, Counsel. I'll
21 be done in about 30 seconds.

22 This is a particularly bad case. We've had jurors
23 say, Oh, this is a yucky case, a child pornography case. Oh,
24 my God, how can we sit on this case. In this case, you know,
25 he's a person charged with child pornography, facing a life

1 sentence, and the prosecution is saying, Oh, the first thing he
2 does is lawyer up after he's already made some admissions.

3 Now --

4 MS. LAVELL: Go ahead, Counsel.

5 MR. JACKSON: Well, I see another counsel has left.
6 I don't know where. Maybe we should wait until she gets back.

7 MS. LAVELL: She's looking for the file in case we
8 keep going.

9 THE COURT: Okay. Here's the thing. Like I said,
10 the problem is, you know, you can't create a negative inference
11 if someone tries to invoke their right to counsel or their
12 right to remain silent. Now, we may be able to clean it up if
13 we remove that inference.

14 And, Ms. Lavell, again, the way to do that would be
15 to say, Okay, you testified to that. I'd like you to look at
16 this transcript and refresh your recollection. Did the
17 defendant invoke his right to counsel? No.

18 Do it like that so that it's not, Well, he said, I
19 would maybe like -- because that's an equivocal invocation.
20 We're not going to get into an equivocal invocation in front of
21 the jury here.

22 And then he'll say, No, I -- no, that he didn't.

23 And then, you know, Did that -- you know, What did he
24 tell you, or did he, you know, admit to whatever the next thing
25 was?

1 MS. LAVELL: Right. And I think, you know --

2 THE COURT: And then that's it.

3 MS. LAVELL: And I think that because -- first of
4 all, he didn't invoke. So he did get it wrong.

5 THE COURT: Yes, but the point is that even if
6 someone's --

7 MS. LAVELL: No. I understand.

8 THE COURT: -- thinking about invoking -- my point is
9 you can't use a constitutional protection against somebody if
10 they're thinking of invoking. Do you know what I mean?

11 MS. LAVELL: No. I'm agreeing --

12 THE COURT: To make them look guilty, that defeats
13 the whole point.

14 MS. LAVELL: No. I'm completely in agreement with
15 you. He didn't invoke. So the officer did misstate, and I
16 don't even think we have to bring up the fact that he said, you
17 know, Maybe I need a lawyer, and so when he, you know -- so he
18 did misspeak because the defendant -- so I'm -- I mean, I'm
19 very comfortable --

20 THE COURT: But if you ask it that way, not, What did
21 the defendant say about a lawyer, because then you're
22 highlighting this whole lawyer issue --

23 MS. LAVELL: I'm not going to make --

24 THE COURT: -- to -- which, you know, may make him
25 look guilty. Refresh your recollection. Now, that you've

1 looked at it, is it true the defendant didn't invoke his right
2 to counsel? Yes. And he continued to speak with you? Yes.
3 And what did he say?

4 MS. LAVELL: Yes.

5 THE COURT: Blah. And then I think maybe we've
6 removed that negative inference.

7 MR. JACKSON: I don't think it removes the negative
8 inference, Your Honor. I'd like to draft an instruction saying
9 you can draw a negative inference against the police officers
10 for even raising that because I think it's totally improper
11 that when an experienced police officer raises such an
12 inflammatory thing in front of the jury with their experience.
13 I'll draft an instruction that I think might be able to cure
14 that. Otherwise, I think a mistrial is appropriate.

15 THE COURT: Well, I don't know that we need to have a
16 mistrial. Like I said, I think we maybe can cure this through
17 the proper questioning of the officer.

18 MR. JACKSON: Oh, I don't want him questioned at all
19 about -- about my client's not -- once he makes -- once he
20 makes the statement, I think I need a lawyer, that should
21 preclude any questioning about that, any further questioning at
22 all about it. I'm not going to ask him about his asking for a
23 lawyer.

24 MS. LAVELL: He wasn't questioned further.

25 MS. BEVERLY: He wasn't questioned further.

1 MS. LAVELL: He wasn't questioned further. He made a
2 statement, and the State's -- and the State is entitled to make
3 the jury aware of that statement. He didn't invoke. To --

4 THE COURT: All right.

5 MR. JACKSON: She's wrong on the law on that.

6 MS. LAVELL: We're talking about two different
7 things. The case law is very clear that in order to -- to be
8 required to stop questioning it has to be unequivocal. I want
9 to stop. I need -- I want a lawyer. That's not what happened
10 here.

11 I completely agree that we need to correct what was
12 said.

13 THE COURT: Right. Well, we need to get away from
14 the inference or that -- the suggestion that the defendant
15 thought about a lawyer when the questioning got tough because
16 then that's what makes him maybe look guilty, that, Okay, now I
17 better get a lawyer, and that's exactly what you're not allowed
18 to do.

19 MS. LAVELL: Right.

20 THE COURT: And so that's -- we need to get away from
21 that with the detective. We're going to see how it goes.

22 You know, your request is at this point denied
23 without prejudice. If I think we can clean up the record well
24 enough, then we're going to go forward. If I don't think the
25 record is cleaned up well enough, then I'll consider your

1 request, but I think we can clean it up with questioning the
2 detective, and then, you know, he made a -- he made a
3 spontaneous utterance, so to speak, and they can ask him, you
4 know, What else did he say? Blah, blah, blah.

5 And then if I think that cleans it up well enough,
6 then I'm going to say I think it cleans it up well enough. If
7 I don't, then I'll consider your request for a mistrial again.

8 MR. JACKSON: I'd like to supplement the record
9 tomorrow with further case law.

10 THE COURT: That's fine.

11 MR. JACKSON: I'll find some case law tonight.

12 THE COURT: But I'd like to try to clean the record
13 up, if we can, in a truthful manner, and he did misspeak. So
14 it's not misleading, or it's not lying if he says he misspoke,
15 that that's not what he did.

16 And then so maybe, Ms. Lavell, you can tell the
17 officer how you're going to answer -- ask the questions --

18 MS. LAVELL: Yes, Your Honor.

19 THE COURT: -- so he knows how to answer them, and we
20 can finish this up.

21 MS. LAVELL: Thank you, Your Honor.

22 MS. BEVERLY: Thank you.

23 THE COURT: And you're both welcome to supplement the
24 record.

25 MR. JACKSON: Can my client use the restroom now? He

1 would like to take a minute or two --

2 THE DEFENDANT: I want to talk to him anyway.

3 THE COURT: He's not allowed in the back.

4 THE DEFENDANT: Oh, that's fine. I'll wait.

5 THE COURT: I mean, he can use the one out there.

6 You both can -- well, you both can walk out there to make

7 sure --

8 MR. JACKSON: We can go out there.

9 THE COURT: That's fine.

10 (Proceedings recessed 3:54 p.m. to 3:58 p.m.)

11 (In the presence of the jury.)

12 THE COURT: All right. Court is now back in session.

13 Ms. Lavell, you may resume your direct examination of

14 the witness.

15 MS. LAVELL: Thank you, Detective -- thank you, Your

16 Honor.

17 BY MS. LAVELL:

18 Q Detective, the last question I asked you resulted in

19 you indicating that the defendant had invoked his right to an

20 attorney. Do you remember that?

21 MR. JACKSON: I'm going to object again. We're -- we

22 keep -- may I approach the bench?

23 THE COURT: All right. That's sustained.

24 (Conference at the bench not recorded.)

25 MR. JACKSON: -- Your Honor, and I want a motion for

1 a mistrial right now.

2 THE COURT: Mr. Jackson -- all right.

3 Ms. --

4 MR. JACKSON: This is the second time. I want it on
5 the record.

6 THE COURT: All right. Ms. Lavell --

7 MS. LAVELL: May I continue, Your Honor?

8 THE COURT: You may approach.

9 (Conference at the bench not recorded.)

10 BY MS. LAVELL:

11 Q Detective, if I show you the transcript --

12 MR. JACKSON: I thought we --

13 THE COURT: I meant she -- I want her to move on,

14 and --

15 MR. JACKSON: And the record reflect my continuing
16 objection to the prosecutor's --

17 THE COURT: The record still reflects, Mr. Jackson --

18 MR. JACKSON: -- violation of my client's --

19 THE COURT: Mr. Jackson --

20 MR. JACKSON: -- Fifth Amendment rights --

21 THE COURT: -- your record --

22 MR. JACKSON: -- and I want the record to clearly
23 reflect that I think --

24 THE COURT: I think it does.

25 MR. JACKSON: -- that it's prosecutorial misconduct

1 of the highest order.

2 THE COURT: Mr. Jackson, I think you've made your
3 record. I need you to sit down, and Ms. Lavell is going to
4 proceed with her questioning, and you may make contemporaneous
5 objections to each question if you find them objectionable.
6 Okay.

7 So, Ms. Lavell, go on.

8 MS. LAVELL: Thank you.

9 BY MS. LAVELL:

10 Q Is it possible that you were incorrect when you made
11 that statement?

12 A That's correct. I misspoke.

13 Q And I'm going to bring up the transcript that we're
14 utilizing, and I want you to review this and tell me, isn't it
15 correct that the defendant never invoked and never asked for
16 attorney --

17 MR. JACKSON: I'm going to object to that as a legal
18 conclusion, and I again move for a mistrial.

19 THE COURT: Okay. Counsel, approach.

20 (Conference at the bench not recorded.)

21 BY MS. LAVELL:

22 Q All right. So after you indicated to the defendant
23 that you were able to do a computer analysis or you were going
24 to have a forensic analysis done of his computer to determine
25 whether or not there was anything inappropriate on that

1 computer, did he say anything in regards to the forensic
2 analysis?

3 A He did.

4 Q What did he say?

5 A He said that you were going to find -- that I was
6 going to find stuff.

7 Q Okay. And did he indicate what sorts of stuff,
8 whether -- and if you don't know, I don't want you to guess.
9 If you --

10 A He just said bad stuff.

11 Q Okay. Would it refresh your recollection to look at
12 the transcript?

13 A Yes, it would.

14 THE COURT: Yes. Detective, if you don't remember,
15 just say you don't remember. Don't guess or speculate, and
16 then Ms. Lavell can do whatever she's going to do. That wasn't
17 a question. It's just going forward.

18 THE WITNESS: Yes, it's a 60-page --

19 BY MS. LAVELL:

20 Q I understand. And that's why --

21 THE COURT: All right. Okay.

22 MS. LAVELL: Page 42, Counsel.

23 BY MS. LAVELL:

24 Q Does that refresh your recollection?

25 A It does.

1 Q Can you read what the defendant said in regards to
2 your telling him that you were going to do a forensic exam of
3 his computer.

4 A I did. It said -- he said, I'm not a bad person.

5 MR. JACKSON: Your Honor, I'm going to object again.
6 The reason I'm going to object is because he said this after he
7 invoked his right to counsel --

8 THE COURT: All right --

9 MR. JACKSON: -- on page 42 --

10 THE COURT: All right.

11 MR. JACKSON: -- line -- I'm going to say this --

12 MS. BEVERLY: Can we approach?

13 MR. JACKSON: -- line -- in the middle of the page --

14 THE COURT: Counsel --

15 MR. JACKSON: -- he said --

16 THE MARSHAL: Counsel, approach the bench.

17 THE COURT: Counsel, approach.

18 MR. JACKSON: -- I think I need a lawyer.

19 THE COURT: That calls for a legal ruling.

20 MR. JACKSON: Yes, but I'm making my objection on the
21 record.

22 THE COURT: Okay. And your objection is noted on the
23 record, and it's overruled.

24 (Conference at the bench not recorded.)

25 THE COURT: Your objection is noted. Your

1 continuing --

2 MR. JACKSON: Can I --

3 THE COURT: -- objection to the further questioning
4 of --

5 MR. JACKSON: Can I reflect that it's --

6 THE COURT: -- this detective --

7 MR. JACKSON: -- on the United States Constitutional
8 grounds.

9 THE COURT: Mr. Johnson -- Mr. Jackson, I'm -- your
10 continuing objection to Ms. Lavell's continued questioning of
11 the detective is noted on the record.

12 MR. JACKSON: On Fifth Amendment grounds. Thank you.

13 THE COURT: All right. Thank you.

14 BY MS. LAVELL:

15 Q All right. In addition to saying, I'm not a bad
16 person, what did he say in regards to what you might find on
17 his computer?

18 A I do have some things that aren't -- that aren't
19 good. They aren't on the up-and-up, if you know what I mean.

20 Q Now, after speaking to the defendant, did you cause
21 search warrants to be drafted 609 Palm Wash Lane, in Henderson,
22 the defendant's residence?

23 A I did.

24 Q Did you also cause a search warrant to be drafted for
25 3640 Kolendo Court, No. D, in Las Vegas, the victim's

1 residence?

2 A I did.

3 Q Are both of those residences in Clark County, Nevada?

4 A They are.

5 Q Did someone other than you serve those search
6 warrants?

7 A That's correct.

8 Q Now, I think when we were speaking earlier you
9 indicated that -- that the defendant had taken the photo under
10 Hazel's dress using a Sony -- a Sony camera?

11 A I believe it was a Canon.

12 Q Okay.

13 A A blue in color Canon camera.

14 Q Now, did you also talk to the defendant in regard to
15 whether or not he might have anything on his personal cell
16 phone?

17 A I did.

18 Q Did he have his personal cell phone with him when you
19 met with him?

20 A Yes, he did.

21 Q Did he say anything to you in regard to -- to your
22 inquiring whether he would have -- and what were you -- what
23 were you asking specifically what he might have?

24 A I asked him if I could see what pictures he had on
25 his phone.

1 Q And what did he say as a result of that question?

2 A He consented to allow me to look at the pictures of
3 his phone.

4 Q Did he say anything to you in regards to the phone
5 prior to giving it to you?

6 A He did not.

7 Q In terms of whether or not it would contain any
8 content?

9 A He said that he's had problems with it, and that it's
10 been rebooting. He's had to reboot it to fix -- like, it would
11 freeze every once in a while.

12 Q And when did he indicate -- and did he use the word
13 boot, or did he use some other word?

14 A I believe he used some other word.

15 Q Okay. Would it refresh your recollection if you
16 looked at your -- the transcript of your conversation with the
17 defendant?

18 A It would.

19 MS. LAVELL: Court's indulgence.

20 THE COURT: That's fine.

21 BY MS. LAVELL:

22 Q Well, while we're looking for the page so that we can
23 refresh your recollection to the word that the defendant used,
24 did you actually take possession of his phone?

25 A I did.

1 Q While you were visiting with him?

2 A I did.

3 Q And did you -- did you personally look at the phone
4 to determine whether or not there was anything in the phone?

5 A I did.

6 Q Okay. Did you find anything in the phone?

7 A There was no content in it whatsoever. There wasn't
8 a call log. There wasn't any photographs. There was nothing
9 in the phone's memory.

10 Q Okay. And you used the word rebooted, but we're
11 going to --

12 MS. LAVELL: Court's indulgence.

13 Page 24, Counsel.

14 MR. JACKSON: Thank you.

15 THE WITNESS: The exact word --

16 MR. JACKSON: Can he -- can she ask him a question
17 before she shows him what he's going to testify to.

18 THE COURT: That's sustained. If you need to refresh
19 his recollection, then he needs to say he -- he doesn't
20 remember.

21 MR. JACKSON: Otherwise, we can just put the --

22 MS. LAVELL: Well, he --

23 THE COURT: Mr. Jackson, I sustained your objection.

24 MR. JACKSON: Thank you.

25 THE COURT: You don't need to say anything else.

1 MS. LAVELL: He actually did say he didn't recall,
2 and I was looking. It just took me a long time to find it, and
3 that's why there's a separation.

4 BY MS. LAVELL:

5 Q You indicated that you were -- you didn't remember
6 exactly what he said in regards to his phone. Would it -- and
7 I asked if it would refresh your recollection if you viewed the
8 preliminary hearing transcript, and you indicated that it
9 would --

10 MR. JACKSON: There is no preliminary hearing in this
11 case. I don't believe --

12 BY MS. LAVELL:

13 Q -- I'm sorry -- the defendant's statement, and you
14 indicated that it would. So can I get you to look at this and
15 see if that --

16 THE COURT: Okay. Yes, look at it, read it to
17 yourself. Tell us whether or not that refreshes your
18 recollection as to what was said.

19 THE WITNESS: The exact word was resetting instead of
20 rebooting.

21 BY MS. LAVELL:

22 Q Did he indicate to you when he had most recently
23 reset his phone?

24 A He did, earlier that afternoon.

25 Q Did he indicate to you whether or not it was before

1 or after Hazel called the police in regards to the defendant?

2 A After.

3 MS. LAVELL: I'm going to pass the witness.

4 THE COURT: All right. Mr. Jackson, cross.

5 MR. JACKSON: May I approach the bench with --

6 THE COURT: You may.

7 (Conference at the bench not recorded.)

8 MR. JACKSON: May I approach the witness, Your Honor?

9 THE COURT: You may move freely.

10 CROSS-EXAMINATION

11 BY MR. JACKSON:

12 Q Is this the statement the prosecutor has been showing
13 you? Is this the one that you've been --

14 A Yes, that's --

15 Q All right.

16 A -- the transcribed statement.

17 Q And did you help prepare this, or is this the one you
18 reviewed before coming into court?

19 A It is.

20 Q Now, this one -- you say the specific crime Mr. Shue
21 was originally charged with was capturing an image; is that
22 correct?

23 A That's correct.

24 Q When you initially were investigating the case, he
25 was investigated for capturing the image of another; is that

1 correct?

2 MS. BEVERLY: Judge, can we approach? Can we please
3 approach?

4 THE COURT: Sure.

5 MR. JACKSON: Is there an objection to my question?

6 (Conference at the bench not recorded.)

7 BY MR. JACKSON:

8 Q I'm going to rephrase the question. The page of this
9 voluntary statement under specific crime, it says, Capturing
10 the image; is that right?

11 A That's correct.

12 Q All right. You were the detective in charge of this
13 investigation; is that correct?

14 A That's correct.

15 Q How many other detectives or officers were involved
16 in this --

17 THE COURT: Your notes are up.

18 MR. JACKSON: I'm sorry?

19 THE COURT: Your notes are up. Either she can shut
20 the JAVS off, or you need to move your pad.

21 MR. JACKSON: Oh, is this blocking?

22 THE MARSHAL: No, it's the one --

23 MR. JACKSON: Oh, this one. Oh, I see. All right.

24 THE COURT: Okay. She shut it off. You can leave
25 your stuff there, Mr. Jackson. You can leave your stuff on the

1 Elmo.

2 MR. JACKSON: All right. I'll just move them all
3 back here.

4 BY MR. JACKSON:

5 Q Can you hear me from here?

6 A I can.

7 Q I'm more comfortable here. How many other officers
8 were assisting you in this investigation?

9 A On my team there's four detectives and one sergeant.

10 Q You were the main person involved in gathering the
11 evidence and preparing this case; is that right?

12 A In preparing the case, that's correct.

13 Q And you were working closely with the deputy district
14 attorneys involved in prosecuting this case; is that correct?

15 A That's correct.

16 Q You were the one chiefly responsible for bringing --
17 putting the evidence together in this case; is that correct?

18 A That's correct.

19 Q Now, you took statements from a number of people in
20 this case; is that correct?

21 A That's correct.

22 Q Now, did you take statements from people before the
23 Grand Jury hearing?

24 A That's correct.

25 Q Did you have occasion to interview Anita Iral?

1 A Interview her --

2 Q Yes.

3 A -- no. I'm kind of confused what you mean by
4 interview. Have I talked to her? Or did I --

5 Q Well, interview. Do you -- as a detective, you
6 interview someone, right?

7 A Well, my definition of an interview is something
8 that's put on a recording and going to be transcribed later or
9 a written statement. That I did not do.

10 Q Did she testify in front of the Grand Jury?

11 A That I don't know. I don't know if she -- I
12 testified, but I don't know if she testified.

13 Q You're the lead officer in charge of the case; is
14 that right?

15 A That's correct.

16 MS. LAVELL: I'm going to --

17 MS. BEVERLY: We are going to object. How would he
18 know who I called at the Grand Jury?

19 THE COURT: Well, he can say then that he doesn't
20 know. I don't think that's an appropriate objection. I mean,
21 if he knows, he knows. If he doesn't -- you can clear it up in
22 your redirect examination if you think it's confusing.

23 BY MR. JACKSON:

24 Q You don't consult with the deputy district attorney
25 about who are the important witnesses she should call before

1 the Grand Jury? That's not your --

2 A Not --

3 Q -- input?

4 A I do not.

5 Q Okay. Did she ask you, you know, who might be
6 available to testify in front of the Grand Jury?

7 A She does not have to clear who she subpoenas through
8 me, no.

9 Q All right. Now, but the question -- let me rephrase
10 the question about interviewing Anita Iral. Did you have any
11 conversations with her?

12 A I did.

13 Q All right. Now, you had conversations with Hazel
14 Iral; is that correct?

15 A That's correct.

16 Q How many conversations did you have with Hazel Iral?

17 A I don't know the exact number. So I'll say a few.

18 Q More than five?

19 A Less than five.

20 Q Okay. Now, would it be fair to say Hazel Iral was a
21 reluctant witness at first?

22 A That would not be fair to say, no.

23 Q Okay. She was a cooperative witness at all times
24 then?

25 A That's correct.

1 Q Okay. The case -- were you responsible for ensuring
2 Hazel Iral was present for court?

3 A No, I was not.

4 Q You weren't involved in contacting her as a witness
5 or making arrangements for her transportation to and from
6 court?

7 A No, I was not.

8 Q Did you ever get any phone records from Hazel Iral?

9 A I did not.

10 Q Did you ever request her iPhone to check its
11 contents?

12 A I did not.

13 Q Did you ever check her Facebook page?

14 A I did not.

15 Q Okay. Was she ever investigated to determine her
16 background concerning this event?

17 A She was not.

18 Q Okay. Did you know whether she had any kind of
19 background that might make her -- either her credibility as a
20 witness or any difficulties with her --

21 MS. LAVELL: Your Honor, I'm going to object, and I'm
22 going to ask to --

23 MR. JACKSON: Well, it's a question for the lead
24 investigating detective.

25 THE COURT: Well, wait a minute. Mr. Jackson, she

1 made an objection.

2 MR. JACKSON: Okay.

3 THE COURT: The objection is overruled. You can
4 continue your questioning.

5 BY MR. JACKSON:

6 Q All right. Did you do any background investigation
7 of Hazel Iral in your duties as the lead investigating
8 detective in this case?

9 A I did.

10 Q Okay. And was there anything in her background that
11 caused you any concern about her viability as a witness?

12 A Not that I can remember.

13 Q Not that you can remember. Did you have anything in
14 your reports that might suggest that there was any problems
15 with her viability in your record? And you can check your
16 notes.

17 A I do not. No, I do not.

18 Q What kind of things would make a witness maybe
19 someone that you might have some questions about their --
20 either their veracity or their viability as a witness in court?

21 MS. LAVELL: Your Honor, I'm going to object.

22 It's --

23 MR. JACKSON: Oh, that's a perfectly proper --

24 MS. LAVELL: Can I finish my objection?

25 THE COURT: Well, no -- I don't -- I'll see counsel

1 up here.

2 (Conference at the bench not recorded.)

3 BY MR. JACKSON:

4 Q Let me ask you some general questions about a
5 witness. If a witness is evidenced mental instability, would
6 that make them a less reliable witness in general?

7 A It would.

8 Q All right. If a witness has been receiving --

9 MS. LAVELL: And I'm going to object, and I'm going
10 to ask --

11 MR. JACKSON: I haven't even asked a question.

12 MS. LAVELL: I'm going to object, and I'm going to
13 ask to approach.

14 THE COURT: All right. I think, Mr. Jackson, can you
15 just --

16 (Conference at the bench not recorded.)

17 THE COURT: That's sustained as to the last issue.

18 You can continue this line of questioning,
19 Mr. Jackson.

20 BY MR. JACKSON:

21 Q You want to scrutinize a witness very carefully for
22 bias; isn't that correct?

23 A That's correct.

24 Q And your duty as an investigator is to look at every
25 little nuance in a witness to determine whether or not someone

1 or something might motivate them to be favorable to one side or
2 the other; is that right?

3 A That's correct.

4 Q Sometimes a witness is favorable to the defense
5 because they either feel sympathetic to them, or favorable to
6 the prosecution because they feel either wronged, or feel the
7 prosecution is on their side or whatever; is that correct?

8 A I lost you on --

9 Q Okay. Well, a witness might have one reason or
10 another or favoring one side more than the other; is that
11 correct?

12 A That's correct.

13 Q And if someone was influencing a witness improperly,
14 that's something that should come out; isn't that correct?

15 A That's correct.

16 Q All right. And you try to find out to make -- if you
17 can?

18 A That's correct.

19 Q All right. Now, one of the persons that would have
20 the most knowledge about Hazel Iral, a young woman, would be
21 her mother; is that correct?

22 A That's correct.

23 Q She would be the one that would probably know her the
24 longest; is that right?

25 A That's correct.

1 Q And of course you didn't interview her mother about
2 Hazel Iral?

3 A I did not.

4 Q Did anyone else in the police department interview
5 her mother?

6 A No.

7 Q Were you present during the search of Mr. Shue's
8 residence?

9 A I was not.

10 Q You directed what should be taken in that search?

11 A I authored the search warrant; that's correct.

12 Q Okay. Now, did you authorize the search and seizure
13 of condoms?

14 A Once again, I would have to see the search warrant.
15 There were several things listed in the search warrant.

16 Q Do you have a copy of the search warrant with you?

17 A I have one -- I have it out there if you want me to
18 get it.

19 Q You just don't remember authorizing that?

20 A There's -- there's so many things listed on there.
21 It's a --

22 MS. LAVELL: I'm sorry.

23 Counsel should have a copy of the search warrant. It
24 was provided to him.

25 THE COURT: Okay. Mr. Jackson can either refresh his

1 memory or not refresh his memory. It's his cross-examination.

2 And then, Ms. Lavell, if you would like to cover the
3 search warrant, then you can show it to the officer. I'm not
4 going to make Mr. Jackson do it. He can proceed with his
5 questions however he wants to proceed with them.

6 THE WITNESS: Sir, if it's -- on the search for an --

7 THE COURT: So there's no question before you right
8 now.

9 THE WITNESS: Okay.

10 THE COURT: Ms. Lavell as you know will have the
11 opportunity for cross -- redirect if she wants to go over any
12 of these things.

13 BY MR. JACKSON:

14 Q Did you direct the forensic evaluation of what you
15 wanted from the forensic evaluation that was completed by the
16 preceding officer who just testified?

17 A You'll have to ask that again.

18 Q Detective Ramirez, did you -- did you direct him what
19 you were looking for?

20 A Yes.

21 Q All right. Before he did his evaluation, did you
22 tell him specifically what to search for?

23 A That's correct.

24 Q Do you know how long Detective Ramirez took to
25 complete his evaluation?

1 A I -- it was a while. I couldn't give you the exact
2 amount -- number of days.
3 Q A week or more?
4 A That's correct.
5 Q Okay. And during that time -- well, let me rephrase
6 that. Did you have more than one communication with him during
7 the time he was doing his evaluation?
8 A Yes.
9 Q Did you go to the forensic evaluation lab at any time
10 while he was doing his evaluation?
11 A I did.
12 Q How many times?
13 A A few, multiple.
14 Q So more than once?
15 A That's correct.
16 Q Just to consult with him or to go in the lab and
17 assist him with his evaluation?
18 A That's correct.
19 Q Are you trained in the evaluation of --
20 A Not at all.
21 Q Did you bring him more photos or more discs to
22 evaluate while he was doing his evaluation?
23 A No.
24 Q Did you have more than one case at a time going
25 Mr. Ramirez was working on?

1 A Did I have more than one case working, or --
2 Q More than one case --
3 A -- working with --
4 Q -- that you were working with Detective Ramirez on?
5 A That's correct.
6 Q So you'd go in and out of his office on more than one
7 occasion with different cases; is that right?
8 A That's correct.
9 Q Did you basically have keys to his office and go in
10 there and drop off things whenever it was important to go in
11 there?
12 A No, he works in a secure facility that I don't have
13 access to. He would have to allow me in.
14 Q There's no -- there's a code to get in, or you have a
15 key to get in?
16 A There's, like, a proxy card to get in. I don't have
17 access.
18 Q Do you know who has access to that?
19 A Other than Detective Ramirez, I don't know who all
20 has access there.
21 Q You contacted Mr. Shue by phone; is that correct,
22 when you first had contact with him?
23 A I don't think so. I think it was in person.
24 Q So you went and knocked on his --
25 MR. JACKSON: Can I sit down, Your Honor?

1 THE COURT: You may.

2 MR. JACKSON: All right. Thank you. My legs are

3 bothering me this late in the day.

4 BY MR. JACKSON:

5 Q Officer, when you first had contact with him, you

6 went to his house?

7 A No.

8 Q Where did you meet him first?

9 MS. BEVERLY: Judge, can we approach?

10 Judge, can we approach?

11 THE COURT: Sure.

12 MR. JACKSON: All right.

13 (Conference at the bench not recorded.)

14 MR. JACKSON: All right. Your Honor, I'm going to

15 withdraw that question.

16 THE COURT: Okay.

17 MR. JACKSON: I'm going to move on.

18 BY MR. JACKSON:

19 Q Detective --

20 MR. JACKSON: Court's indulgence for a moment.

21 THE COURT: That's fine.

22 MR. JACKSON: Your Honor, we'll pass the witness.

23 THE COURT: All right. Redirect.

24 MS. BEVERLY: Court's indulgence.

25 MS. LAVELL: Thank you, Your Honor.

REDIRECT EXAMINATION

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

BY MS. LAVELL:

Q Detective, Mr. Jackson was asking you a lot of questions about Hazel, specifically if you investigated her, if you looked into her phone or her brother's phone. Was she a suspect of anything?

A She was not.

Q She was the complaining party?

A She was the victim; that's correct.

Q And you met with her on the 23rd, correct?

A That's correct.

Q And you've already testified to what she indicated the defendant had said and done?

A Yes.

Q Then you -- you testified that you met with the defendant?

A I did.

Q And he admitted to kissing her, although he said it was on the cheek?

A Yes.

Q He admitted to taking a photograph up her skirt?

A That's correct.

Q And he admitted to telling her that he was only with the mother because of her, that he had romantic feelings for her?

1 A That's correct.

2 Q So what she was alleging was corroborated?

3 A That's correct.

4 Q Now, in regards to the -- the images that were
5 ultimately found on the computer that was impounded via your
6 search warrant, was there any evidence to suggest that Hazel
7 had any clue that she was being videotaped in the bathroom?

8 A There was not.

9 Q Counsel also asked you about the search warrant and
10 whether or not -- whether or not the search warrant authorized
11 seizure of, say, condoms. Do you remember that question?

12 A Yes.

13 Q Do you know what all was impounded as a result of the
14 search warrant?

15 A I have it all written down. Off the top of my head,
16 I do not.

17 Q Okay. Would it refresh your -- are you familiar with
18 a property report?

19 A Yes.

20 Q If you reviewed the property report, will you be able
21 to determine whether or not condoms and various other items
22 were actually impounded?

23 A Yes.

24 MR. JACKSON: That's not the -- that isn't whether
25 the search warrant authorized it. It's what -- I -- I'll agree

1 that they impounded that. That's already come out in evidence.

2 MS. BEVERLY: No, they didn't impound that. That's
3 why I want to approach.

4 THE COURT: Okay. Well, it should be the return
5 and -- which says what was impounded.

6 MS. LAVELL: That's fine.

7 MR. JACKSON: All right. Your Honor, if they want to
8 admit it, that's fine.

9 THE COURT: She can ask if she wants to get into
10 that. I mean --

11 MR. JACKSON: All right. I opened it up. She can
12 admit what they impounded.

13 MS. LAVELL: I'm not trying --

14 MR. JACKSON: But let me --

15 MS. LAVELL: Well, I wasn't trying to admit --

16 THE COURT: No, she can get into the question of
17 how -- you know, whether you asked that same question or not,
18 Ms. Lavell can ask it.

19 BY MS. LAVELL:

20 Q In addition to the property report, are you familiar
21 with a search warrant return?

22 A I am.

23 Q And just for the edification of the jury, what is a
24 search warrant return?

25 A The search warrant return is everything that's

1 collected during the search warrant. On the search warrant, we
2 have to list where we want to search, why we want to search
3 there and what we're looking for, and then once that's granted,
4 when we do the search, everything that's taken on the search is
5 annotated on the search warrant return.

6 Q If I were to show you both the property report, which
7 is specific to this case, and the return, which is specific to
8 the search of 609 Palm Wash, the defendant's residence, will
9 you be able to tell me whether or not condoms were even
10 impounded?

11 A Yes.

12 Q If you could just look at the return and the property
13 report.

14 A No condoms were impounded.

15 MS. LAVELL: Court's indulgence.

16 THE COURT: That's fine.

17 BY MS. LAVELL:

18 Q All right. I'm publishing what has previously been
19 admitted as State's Exhibit 65. There is a screen, and it's
20 not on yet, but it will be.

21 THE COURT: Because the Elmo is off.

22 MS. LAVELL: I have to do this?

23 THE COURT: No, I think Janie has to do it.

24 MR. JACKSON: And, Counsel, show it to me -- oh,

25 thank you.

1 MS. LAVELL: It's previously admitted.
2 MR. JACKSON: Okay.
3 THE COURT: What exhibit is it?
4 MS. LAVELL: It's State's Exhibit 65.
5 MR. JACKSON: I don't know if this is inside the
6 scope of my cross-examination.
7 THE COURT: Well, overruled.
8 MR. JACKSON: Okay.
9 BY MS. LAVELL:
10 Q Do you see -- do you see the condoms that Mr. Jackson
11 referenced in his question to you inside the drawer?
12 A Yes, I do.
13 Q Do you see various other items, like the lubricant
14 and the soothing care that are not contained on that return or
15 that property report?
16 A Yes, I do.
17 Q So simply because someone photo -- law enforcement
18 photograph certain items at a crime scene does not mean they
19 impound all of those items?
20 A That's correct.
21 MS. LAVELL: Court's indulgence.
22 Nothing further.
23 THE COURT: Anything else, Mr. Jackson?
24 MR. JACKSON: No questions.
25 THE COURT: All right. Any juror questions for the

1 witness?

2 All right. I'll see counsel at the bench, please.

3 (Conference at the bench not recorded.)

4 THE COURT: We have a few juror questions up, and if,
5 you know, you don't know the answer, just tell us that, or
6 please refer it to another witness.

7 Was the phone reset prior to the defendant's visit at
8 the Metro office and after you're in-person visit? Do you know
9 when the phone was reset, in other words?

10 THE WITNESS: Mr. Shue indicated that it was reset
11 before the interview at headquarters.

12 THE COURT: All right. Could you tell how often the
13 phone needed resetting or how many times it had been reset
14 prior to your interview?

15 THE WITNESS: That's not a question I could answer.
16 I'm not one of the tech guys. Detective Ramirez could answer
17 that.

18 THE COURT: Okay. Why was Hazel Iral's mother not
19 questioned? Why didn't you feel it was necessary to interview
20 her?

21 THE WITNESS: She wasn't real cooperative.

22 THE COURT: Okay. Were the contacts listed in the
23 defendant's address book -- were there contacts in the
24 defendant's address book contacts list?

25 THE WITNESS: That I can't remember. I know that.

1 there was no call logs or text messages or anything. I don't
2 know if I looked in the contacts.

3 THE COURT: Was the call log history and/or text
4 message history investigated using the cell phone carrier?

5 THE WITNESS: Once again, I couldn't answer that.
6 That is Detective Ramirez.

7 THE COURT: Okay. But you didn't direct anybody --

8 THE WITNESS: I did not direct anybody.

9 THE COURT: -- to contact the carrier and get cell
10 phone records or anything like that?

11 THE WITNESS: No, I did not.

12 THE COURT: Okay. And were other rooms searched
13 beside -- besides Mr. Shue's room?

14 THE WITNESS: No, we searched just Mr. Shue's room
15 because he had -- he had roommates at the house, and our scope
16 of the search just involved his room.

17 THE COURT: All right. Mr. Jackson, did you have any
18 follow-up to that last series of juror questions?

19 MR. JACKSON: No questions.

20 THE COURT: Ms. Lavell, did you have any follow-up?

21 MS. LAVELL: Yes, thank you.

22 FOLLOW-UP EXAMINATION

23 BY MS. LAVELL:

24 Q So just to be clear, the location where the computer
25 was located is Mr. Shue's residence where he lives with

1 roommates, not with Hazel and her family?

2 A That's correct.

3 Q And his roommates were not accused of anything by
4 Hazel?

5 A They were not.

6 Q So is it fair to say you attempted to talk to Hazel's
7 mother Anita, but she would not cooperate with you?

8 A That's correct.

9 Q And there was a question in regards to whether or not
10 the cell phone was reset or wiped before the interview at the
11 detective bureau, and your answer was, Yes?

12 A Yes.

13 Q However, you previously testified that it was after
14 the police report was filed, correct?

15 A That's correct.

16 MS. LAVELL: Nothing further.

17 THE COURT: Mr. Jackson?

18 MR. JACKSON: Court's indulgence.

19 No further questions.

20 THE COURT: Any additional juror questions for this
21 witness?

22 (No response.)

23 THE COURT: All right. Detective, I see no further
24 questions here. Please don't discuss your testimony with
25 anyone else who may be a witness in this matter, and you are

1 excused.

2 All right. Ladies and gentlemen, we're going to go
3 ahead and take our evening recess. The Court has a calendar on
4 various unrelated civil matters in the morning. So we will
5 reconvene at 10:30.

6 During the evening recess you are admonished that
7 you're not to discuss the case with each other or with anyone
8 else. You're not to read, watch or listen to any reports of or
9 commentaries on this case, any person or subject matter related
10 to the case. Do not do any independent research by way of the
11 Internet or any other medium, and please don't form or express
12 an opinion on the case.

13 If you'd all please place your notepad in your
14 chairs, follow the bailiff through the double doors, we'll see
15 you back here at 10:30.

16 (Jury recessed 4:53 p.m.)

17 THE COURT: All right. The reason I told the jury
18 not to be back until 10:30 is because I would like you folks
19 all here tomorrow at -- let's say 9 -- no, let's say
20 10 o'clock, prepared to argue the issue of the mistrial and
21 whether or not that was an equivocal or unequivocal invocation
22 of the right to counsel, and if it was an unequivocal
23 invocation, then what impact the fact that it was testified
24 about has on the trial, and if it was an equivocal --
25 unequivocal, whatever was the last one I didn't say -- what

1 impact that would have.

2 So Mr. Jackson had indicated he wanted to bring some
3 case law. That's fine. If the State has some case law they
4 want to bring, that's fine. Due to the late hour today, I
5 don't expect anybody to brief the issue. You certainly can if
6 you want to, but I'm just expecting some case law and argument.
7 So that's why I want you here 30 minutes before the jury gets
8 here so we can argue about that.

9 MS. BEVERLY: Thank you, Judge.

10 MR. JACKSON: Thank you, Your Honor. I'll try to be
11 in the law library at 7 o'clock, but I may sleep in till about
12 7:30. So who knows?

13 THE COURT: All right. Well, as long as you're here
14 by 10.

15 MR. JACKSON: All right. I'll do my best.

16 MS. LAVELL: No, not by 10. By 9.

17 THE COURT: No, just 10.

18 MR. JACKSON:

19 THE COURT: Because we have our civil calendar at
20 9:30.

21 MS. LAVELL: Okay. So we don't have to be here until
22 10. Okay.

23 / / /

24 / / /

25 / / /

1 MR. JACKSON: I'll be in the law library at 9.

2 THE COURT: So 10. So 10 for you guys. The jury is
3 here at 10:30.

4 (Proceedings recessed for the evening 4:55 p.m.)
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

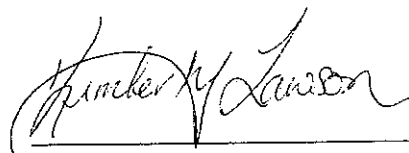
CERTIFICATION

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

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

KARR REPORTING, INC.
Aurora, Colorado


KIMBERLY LAWSON

KARR Reporting, Inc.

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
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
84

No. 67428

V.

Respondent.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846

ADAM LAXALT
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

17
18
19
20
21
22
23
24
25
26
27

HOWARD S. BROOKS
WILL WATERS

JOSHUA C. SHUE
NDOC # 1133873
c/o HIGH DESERT STATE PRISON
PO Box 650
Indian Springs, NV 89070

BY

Employee, Clark County Public Defender's Office