

IN THE SUPREME COURT OF THE STATE OF NEVADA

QUINZALE MASON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal from a Judgment of Conviction in Case Number CR14-1830
The Second Judicial District Court of the State of Nevada
Honorable Elliott A. Sattler, District Judge

JOINT APPENDIX VOLUME FOUR

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UNCERTIFIED
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8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF WASHOE

10 HONORABLE ELLIOTT A. SATTLER, DISTRICT JUDGE

11 STATE OF NEVADA,

12 Plaintiff,

Case No. CR14-1830

13 vs.

Dept. No. 10

14 QUINZALE MASON,

15 Defendant.

16 ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS

17 TRIAL - DAY 3

18 FEBRUARY 11, 2015; WEDNESDAY

19 RENO, NEVADA

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22
23
24 Reported by:

LORI URMSTON, CCR #51

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1 RENO, NEVADA; WEDNESDAY, FEBRUARY 11, 2015; 9:00 A.M.

2 --o0o--

3 (Outside the presence of the jury:)

4 THE COURT: Okay. We'll go on the record in
5 CR14-1830, the State of Nevada versus Quinzale Mason.
6 The record will reflect that we are meeting in the
7 courtroom outside the presence of the jury. Mr. Mason
8 is present with his attorney, Mr. Hylin. Mr. Young is
9 here on behalf of the State of Nevada. We are here to
10 finalize the jury instructions.

11 The Court has met with counsel this morning and
12 tentatively established the order and number of jury
13 instructions that will be given. We did that pursuant
14 to NRS 175.161 and Washoe County Rule of Criminal
15 Procedure 7. So now we are just going to put on the
16 record and number the jury instructions.

17 Counsel, as we go through the instructions, if you
18 have any objections, please make the objection as we
19 get to the instruction and then we will create a record
20 regarding that. Failure to make an objection at this
21 point, I will assume, means that you're waiving any
22 objection to the instruction.

23 So with that, Instruction No. 1 is ladies and
24 gentlemen of the jury.

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1 Instruction No. 2, if in these instructions.

2 Instruction No. 3, if during this trial.

3 Instruction No. 4 is 2 pages and it is the Amended
4 Information instruction alleging just Count I and Count
5 II.

6 Instruction No. 5 an, Amended Information.

7 Instruction No. 6, the penalty provided by law.

8 Instruction No. 7, there are two kinds of evidence,
9 direct and circumstantial.

10 Instruction No. 8, nothing that counsel say.

11 Instruction No. 9, it is the duty of the attorneys.

12 Instruction No. 10, neither side is required.

13 Instruction No. 11, to the jury alone belongs the
14 duty.

15 Instruction No. 12, the fact that a witness has
16 been convicted of a felony.

17 MR. HYLIN: Your Honor, I'll be objecting to the --
18 and requesting the removal of the second sentence in
19 that which states "The fact of such a conviction does
20 not necessarily destroy or impair the witness's
21 credibility."

22 I think that essentially says, okay, you can
23 consider the -- you can consider the credibility of the
24 witness if he's been convicted of a felony, but, ah, it

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1 really doesn't matter anyway.

2 THE COURT: Mr. Young.

3 MR. HYLIN: That's what that second sentence says.

4 MR. YOUNG: Your Honor, I would submit is a correct
5 statement of the law. It doesn't make any statement
6 that the jury must disregard it. It just simply says
7 that they -- taken in the totality they may consider
8 and give whatever weight the jury chooses to a felony
9 conviction. In conjunction with the balance of the
10 instructions, it's an accurate statement of the law.

11 THE COURT: The Court finds that Instruction No. 12
12 as written is an accurate statement of the law.
13 Further, the Court finds that the sentence that follows
14 the sentence Mr. Hylin is complaining about does
15 clarify and provide additional context to what the jury
16 should consider in weighing a felony conviction. And,
17 therefore, the Court will give the instruction as
18 written over Mr. Hylin's objection.

19 The next instruction is inconsistencies or
20 discrepancies. And that will be number 13.

21 MR. HYLIN: And I will object to that.

22 THE COURT: And what's the objection to that one,
23 Mr. Hylin?

24 MR. HYLIN: Well, it's already covered in a

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1 previous instruction that states to the jury alone
2 belongs the duty of weighing the evidence and
3 determining the credibility of witnesses. I can read
4 the whole thing if you'd like. It's Instruction No.
5 11 --

6 THE COURT: No, that's all right.

7 MR. HYLIN: -- the one I'm referring to. And it
8 gives a fairly thorough treatise there of what they're
9 to be considering as far as the witnesses are
10 concerned. And I realize that now they speak of
11 inconsistencies on the proposed number 13. I assume
12 you --

13 THE COURT: Right, that's number 13.

14 MR. HYLIN: Number 13 where it says inconsistencies
15 or discrepancies in the testimony of a witness. Again,
16 what that essentially does is it minimizes the -- and
17 molds the way the jury is supposed to consider people.
18 Well, that's why we have juries, is to use their common
19 sense in conjunction with Instruction No. 11 to gauge
20 the trustworthiness of the testimony of the jurors --
21 excuse me -- of the witnesses.

22 So this is, you know, a state-generated instruction
23 that essentially says, "Look, if there's
24 inconsistencies in the testimony, who cares. No big

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1 deal. Don't pay any attention to it."

2 THE COURT: Well, Mr. Young, if you'd like to
3 respond to that.

4 MR. YOUNG: I guess briefly. It's, again, an
5 accurate statement of the law taken in conjunction with
6 the balance of the instructions. It tells the jury
7 that they are the deciders of the facts, that they can
8 consider the credibility, including inconsistencies or
9 discrepancies. And taking this specific instruction 13
10 as a whole, I think it doesn't mandate that they rule
11 one way or the other, decide one way or another. It
12 says you can consider it and give it whatever weight
13 you feel is appropriate, particularly that last
14 sentence.

15 THE COURT: The Court will give the instruction as
16 noted over the objection of Mr. Hylin. Instruction No.
17 2 discusses the fact that juries are to consider all of
18 the instructions as a whole and not to single out one
19 sentence or phrase to the exclusion of others.

20 And so when the jury -- or if the jury were to
21 consider possibly the testimony of witnesses and
22 balance that against the reasonable doubt instruction
23 that we know statutorily the Court must give, the Court
24 believes that it's appropriate to give them some way to

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1 balance or weigh the credibility of the witnesses. And
2 it is important for the jury to know that just because
3 there may be one inconsistency city or some
4 inconsistencies, they need to weigh those things and
5 not automatically and just come to some specific
6 conclusion. Instruction No. 13 gives them the ability
7 to weigh that.

8 Further, Instruction No. 13 does inform the jury
9 that it's up to them to decide what weight to give
10 inconsistencies or discrepancies. They may choose to
11 discredit all of the testimony if that is what their
12 final conclusion is. And so the Court will give
13 Instruction No. 13 as written.

14 Instruction No. 14 is the testimony of one witness.

15 Instruction No. 15, a statement made by a
16 defendant.

17 Number 16 is the expert witness instruction.

18 17, every person charged.

19 Instruction No. 18 is the defendant not testifying
20 instruction. As I stated yesterday, NRS 175.181 -- and
21 I think yesterday I said .185, but it's .181 -- directs
22 that only the defendant can proffer this instruction.

23 Mr. Hylin, on behalf of Mr. Mason is it his desire
24 to have this instruction given to the jury?

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1 MR. HYLIN: That is accurate, Your Honor, and the
2 language that exists in the instruction.

3 THE COURT: So Instruction No. 18 will read to the
4 jury as written.

5 Instruction No. 19, in every crime.

6 Instruction 20 is the intent instruction.

7 21 is the statutory reasonable doubt instruction.

8 22, every count charges a separate and distinct
9 offense.

10 23 is the elements of Count No. I.

11 24 is the elements of Count No. II 2.

12 25 is the statutory definition of a deadly weapon.

13 26 is the instruction that the State is not require
14 to have recovered the deadly weapon. Mr. Hylin, you
15 had indicated you wanted to object to this instruction.

16 MR. HYLIN: That is accurate, Your Honor. I'm
17 objecting to this instruction which would be numbered
18 number 26.

19 THE COURT: Yes.

20 MR. HYLIN: That is already covered by Instruction
21 No. 10 which states "Neither side is required to call
22 as witnesses all persons who may have been present at
23 any of the events disclosed by the evidence or who may
24 appear to have some knowledge of the events." And this

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1 is the salient language, "or to produce all objects or
2 documents mentioned or suggested by the evidence."

3 So, in other words, Instruction No. 26 really isn't
4 needed. And I also think that it also relieves the
5 State again of some of their burden of proof simply
6 because they don't have a certain piece of evidence.
7 As I mentioned before we were on the record, the State
8 could probably offer a dozen instructions that kind of
9 aid them in proving their case, for instance, you know,
10 don't pay any attention to Detective Blas, because
11 Detective Blas isn't required under the law to gather
12 every little piece of evidence that is deemed
13 appropriate by the defense or, you know, the State
14 isn't required to swab the car, the State isn't
15 required to do this, the State isn't required to do
16 that.

17 And I think this is an old instruction that's been
18 covered. I've looked up some of the case law on it, at
19 least in California. And I don't -- you know, I know
20 it's an instruction that's commonly given, but that
21 doesn't mean just because through traditional that is
22 correct.

23 So in my opinion, and I think under the tenets of
24 due process and the requirements in the Constitution

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1 that require the State to prove every element beyond a
2 reasonable doubt, adding instructions which relieve
3 them of that burden or lightens the burden in any way
4 are objectionable.

5 THE COURT: Mr. Young, what's the citation? I
6 think it was to Harris or Harrison versus State.

7 MR. YOUNG: Harrison v. State, H-a-r-r-i-s-o-n, 96
8 Nevada 347. It's a 1980 case. The pinpoint page is
9 350 to 351.

10 MR. HYLIN: I am in receipt of that case. And
11 actually the Supreme Court at that time gave the
12 argument pretty short shrift as you can see from the
13 opinion. They simply stated that the argument has no
14 merit. You know, it might be nice to have some case
15 law from this millennia. It might be appropriate.

16 THE COURT: Well, one moment. As a point of
17 interest, I actually --

18 How about something from 2008, Mr. Hylin? In
19 Newman versus State, N-e-w-m-a-n versus the State of
20 Nevada, 124 Nevada 1496, 238 Pacific 3d, 842, the issue
21 specifically was raised.

22 I'm looking for a page number. One moment. For
23 some reason my computer is not providing me with page
24 numbers. But I can tell you that the Nevada Supreme

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1 Court actually did address this issue.

2 Specifically in Newman versus State, it says,
3 quote, "Fifth, we reject Newman's contention that her
4 appellate counsel was ineffective for failing to argue
5 on appeal that the jury was improperly instructed. The
6 State was not required to have recovered a deadly
7 weapon or produced a deadly weapon in court in order to
8 prove the use of a deadly weapon in the commission of a
9 crime. The State is not required to produce the actual
10 weapon at trial in order to enhance the defendant's
11 sentence for the use of a deadly weapon," close quote.

12 And it's -- then it has Footnote 17. Footnote 17
13 is a citation to Harrison versus State, 96 Nevada 347.
14 So the Nevada Supreme Court in 2008 addressed this very
15 issue.

16 The Court will give the instruction as indicated.

17 Instruction No. 27 is the term willfully. So it's
18 the definition of willfully.

19 Instruction 28 is the motive instruction.

20 29 is the--

21 MR. HYLIN: I was going to object to the motive
22 instruction also, Your Honor.

23 THE COURT: Okay. Instruction 28 then. We'll go
24 back. Your objection, Mr. Hylin.

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1 MR. HYLIN: Well, even though motive -- well,
2 here's my premise. Motive is not an element of the
3 offense, so why are we instructing people, the jury, on
4 where the motive fits in? First of all, it's a common
5 sense concept with the jury. I don't think that the
6 Court needs to be, you know, again, making a lighter
7 burden on the State by saying, "Well, yeah, you know,
8 you can consider motive."

9 And I know what some of the response is going to
10 be. It also states in there that the absence of motive
11 may tend to establish innocence. And I did read that
12 in another California opinion. This is Cal J 2.51, if
13 I recall. But nonetheless, you know, the motive is not
14 an element of the offense. And I think in the jurors'
15 minds it elevates motive to an element of the offense.
16 And if there's evidence of motive, which the State is
17 going to argue in this particular case, then they
18 essentially say, "Okay. Here's your green light.
19 We've proven our case, because this fellow has the
20 motive to do it."

21 So I'm going to object on those due process grounds
22 where it relieves the State of part of its burden of
23 proof.

24 THE COURT: Prior to Mr. Young responding to the

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1 argument, I would like to note that I did something
2 that I advise attorneys not to do on a regular basis;
3 that is, when I cited to Newman versus State, 124
4 Nevada 1496, the reason that there were no page numbers
5 associated with it is that it's an unpublished
6 disposition of the Nevada Supreme Court.

7 Supreme Court Rule 253 says that the parties shall
8 not cite to unpublished opinions. And it is one of my
9 personal pet peeves when attorneys do. And, therefore,
10 I violated my own pet peeve by citing to that. It was
11 inadvertent on my part, because I pulled it up on
12 Westlaw and just clicked on the case and it took me
13 directly to the page citation -- or excuse me --
14 directly to the citation of Harrison versus State. But
15 then when I just went back and looked at it again, the
16 reason that there were no page numbers associated with
17 it is that it was an unpublished opinion.

18 The Court would note that it's not the only
19 unpublished opinion that addressed that issue. Rather
20 than citing to the other unpublished opinion regarding
21 Harrison versus State, the Court will simply note that
22 the Nevada Supreme Court in its recent unpublished
23 decisions has not shown any indication that it intends
24 on modifying or updating the law. And, therefore, the

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1 Court's reasoning regarding that previous objection
2 Mr. Hylin made will remain.

3 Regarding the motive instruction, Mr. Young.

4 MR. YOUNG: Your Honor, it's an accurate statement
5 of the law. And the very first sentence instructs that
6 motive is not an element. So there's no confusion
7 there. Again, in conjunction with the balance of the
8 instructions and this instruction in its entirety,
9 particularly the last sentence, it advises the jury
10 that they can give the presence or absence whatever
11 weight they feel is entitled to be given to that
12 evidence. And there was evidence of motive here.

13 So there's plenty of instructions in this packet
14 that don't address the elements as Mr. Hylin cited.
15 The majority of them in fact don't. It's a proper
16 statement of the law and I would suggest should be
17 given. It certainly does not reduce any burden upon
18 the State.

19 THE COURT: The Court will give the instruction as
20 noted. The purpose of the jury instructions is to
21 advise laypeople on the law that they are to apply in
22 coming to their decision. And so the Court does have
23 to take into consideration the fact that they may not
24 be aware of the fact that motive, that is, the why a

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1 crime was committed, is not a specific element.

2 And so the Court believes that it is appropriate to
3 give the instruction as noted and the Court will
4 provide the jury instruction over objection. And it
5 will be numbered 28.

6 One moment.

7 I had to go back and check. The Supreme Court rule
8 that prohibits the citation of unpublished opinions is
9 Rule No. 123, not 253. So I mistake there.

10 So we'll go back to numbering the instructions.

11 28, again, is the motive instruction. It will be
12 given over objection.

13 29 is the transferred intent instruction.

14 Mr. Hylin.

15 MR. HYLIN: Yes, I've reviewed this, Your Honor.
16 Frankly, I looked high and low to find a defense
17 instruction that throws a stick in Mr. Young's spokes,
18 but Nevada is different than probably the majority of
19 the jurisdictions. It has a very, very broad -- a very
20 broad interpretation of this common law doctrine. So I
21 don't have an objection or a countervailing--

22 THE COURT: No stick to throw in his spoke.

23 MR. HYLIN: No stick to put in the spoke.

24 THE COURT: Instruction No. 30, you are to consider

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1 only the evidence.

2 31, it is your duty as jurors.

3 And 32 is the upon retiring.

4 And I will sign the district court judge line.

5 And then there will be verdict forms for Count I,
6 not guilty and guilty, and Count II, not guilty and
7 guilty.

8 The Court has been provided an additional
9 instruction by the State. And the additional
10 instruction by the State reads, "If you find the
11 defendant attempted to suppress evidence against
12 himself in any manner, such as by concealing evidence,
13 such attempt may be considered by you as circumstances
14 tending to show a consciousness of guilt; however, such
15 conduct is not sufficient by itself to prove guilt and
16 its weight and significance, if any, are matters for
17 your consideration.

18 Mr. Young, I indicated to you when we were
19 informally settling the jury instructions that the
20 Court would not be inclined to give the instruction.

21 MR. YOUNG: And I understand that, Your Honor. I
22 offered this instruction and will still offer the
23 instruction. It's Cal J 2.06. It related to the
24 evidence of the gold four-door Hyundai vehicle that's

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1 registered to Eboni Spurlock.

2 The State's basis is that there is both direct and
3 circumstantial evidence showing and supporting that it
4 was the defendant who drove the vehicle to the area
5 based on witnesses placing him on the scene, leaving in
6 the vehicle, Ms. Spurlock testifying that the vehicle
7 was there in the morning but not there when she
8 returned from work shortly before the shooting. And
9 the defendant was located in a house just a few blocks
10 away from the vehicle. So I would offer it and
11 understand the Court's position.

12 THE COURT: As previously noted, the Court -- or
13 excuse me -- as previously noted in the informal
14 settlement of jury instructions, the Court is very
15 concerned about the inference of consciousness of guilt
16 regarding the location of the vehicle in this case.
17 Certainly the instruction itself is an accurate
18 statement of the law. However, the Court will not give
19 the instruction.

20 The Court finds that while the argument that
21 Mr. Young makes may be appropriate in front of a jury,
22 the Court also doesn't -- the Court does not find that
23 it should be -- let me say it again. The Court does
24 not find that that argument should be buttressed by the

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1 jury instruction. It would draw too large a conclusion
2 in the Court's mind. Further, there has been no
3 testimony, direct testimony, that Mr. Mason himself was
4 the person who placed the vehicle there.

5 I'm trying to think of the name of the officer. It
6 wasn't Officer Lancaster. Was it officer Kleidosty who
7 was observing the vehicle, Mr. Young?

8 MR. YOUNG: Yes.

9 THE COURT: Officer Kleidosty did testify that he
10 observed the vehicle. The Court would also note that
11 the vehicle was in close proximity, a block or two
12 away, from where the defendant was eventually seen
13 immediately prior to being taken in custody, but
14 there's absolutely no evidence that he, the defendant,
15 was the person who placed the vehicle there. And,
16 therefore, the Court will mark this jury instruction as
17 refused pursuant to Local Rule of Criminal Practice 8E.

18 MR. YOUNG: Thank you, Your Honor.

19 THE COURT: Mr. Young, do you have any additional
20 jury instructions that you wish to offer?

21 MR. YOUNG: No. Thank you, Your Honor.

22 THE COURT: Do you have any objection to the jury
23 instructions 1 through 32 as numbered?

24 MR. YOUNG: None. Thank you.

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1 THE COURT: Mr. Hylin, do you have any additional
2 jury instructions to proffer?

3 MR. HYLIN: No, I do not, Your Honor.

4 THE COURT: And do you have any objections to the
5 jury instructions 1 through 32 other than the
6 objections that you have already made and the Court has
7 ruled upon?

8 MR. HYLIN: Not other than the objections I've
9 already placed on the record, Your Honor.

10 THE COURT: Then those objections have been
11 preserved for the record and the Court will give the
12 jury instructions as noted. And so I will go have my
13 staff prepare packets of jury instructions for each --

14 Let me just do this before we do that.

15 Mr. Mason, you don't need to stand. But now that
16 we are formally on the record, yesterday at the close
17 of the court's day I did discuss with you the fact that
18 you have a right to testify or not to testify and that
19 you needed to discuss that with Mr. Hylin. It's my
20 understanding that you have done that and it's your
21 decision not to testify. Is that correct?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right. So, Mr. Hylin, will the
24 defense be putting on a case this morning?

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1 MR. HYLIN: No, Your Honor. When the jury
2 convenes, I'll rest on the record.

3 THE COURT: Well, I don't even know if you need to
4 do that. It's up to you if when the jury comes in --

5 MR. HYLIN: Well, that's okay. If you don't think
6 it's required, that's fine.

7 THE COURT: It's up to you. Sometimes I know that
8 the counsel are uncomfortable drawing attention to the
9 fact that you're not doing anything. I'm not
10 suggesting you're not doing anything. You understand
11 that's --

12 MR. HYLIN: No, I understand. I appreciate that,
13 though.

14 THE COURT: If you don't want me to say anything
15 about it, the State has rested, and so then the next
16 thing that we'll do is when the jury comes in -- I have
17 the jury instructions, one packet for each juror, on
18 their chairs when they enter the room. Then I read the
19 jury instructions and then I have all the jurors pass
20 the jury instructions back down to the bailiff so
21 they're not looking through the jury instructions while
22 counsel is making closing argument. I want them to be
23 able to focus solely on you and what you're talking
24 about. And oftentimes if they have packets of paper,

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1 then they're just kind of flipping through those.

2 So they will have the instructions when they get
3 back into the jury room and they'll have their copies
4 when I'm reading them to them, but while you're making
5 your argument, then they're not looking at them. So
6 it's up to you to use the overhead if you'd like to and
7 draw any attention to specific instructions you want.

8 MR. HYLIN: Thank you.

9 THE COURT: Ms. Bailiff, where did Deputy Gray go?

10 THE BAILIFF: He's in dealing with the jury.

11 THE COURT: If you could let Deputy -- well, I
12 understand that you probably need to be out here with
13 Mr. Mason, but if you could let Deputy Gray know we're
14 going to be photocopying the jury instructions and then
15 we'll be ready to go.

16 Court's in recess.

17 (A recess was taken.)

18 (Within the presence of the jury:)

19 THE COURT: We'll go back on the record in
20 CR14-1830, the State of Nevada versus Quinzale Mason.
21 Mr. Mason is present in court with his attorney,
22 Mr. Hylin. Mr. Young is here on behalf of the State of
23 Nevada.

24 Counsel, will you acknowledge the presence of the

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1 jury?

2 MR. YOUNG: The State will, Your Honor.

3 MR. HYLIN: Yes, Your Honor.

4 THE COURT: The jury is all present.

5 Good morning, ladies and gentlemen. I need to
6 offer you an apology. We are starting a little bit
7 late this morning. It's not the fault of the
8 attorneys. It's my fault. I had some other issues
9 that I was attending to. So you were here waiting
10 longer than I wanted you to be waiting, but I
11 appreciate the fact you were all here on time. It was
12 completely my fault that we didn't start promptly at
13 9:30 this morning. So I do offer you my apologies.

14 As we discussed yesterday -- I guess we didn't
15 discuss it. As I told you yesterday, the attorneys and
16 I had to get together and settle the jury instructions.
17 That's the law that you use in deciding the facts in
18 the case. If you remember, I told you you're the
19 judges of the facts; I provide the law to you; and then
20 with the facts and the law you come to a conclusion.
21 We have done that. And each of you has a packet of
22 jury instructions there on your chair with you.

23 It is required that I read the jury instructions to
24 you. It's not because I don't think you know how to

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1 read. It's because the courts want to make sure that
2 all the jury instructions are thoroughly explained to
3 you. But I wanted you to have a copy of them so you
4 can review them as I go through them as well.

5 Now, at the conclusion of the jury instructions, at
6 the conclusion of my reading the jury instructions to
7 you, what I'll have you all do is pass them down to
8 Deputy Gray so you're not looking at them while the
9 attorneys are making their closing arguments.

10 I read the jury instructions to you and then the
11 attorneys get to argue now the case to you. And then
12 you go back and you take as much time as you need to
13 come to whatever conclusion you come to in this case.

14 So with that, I will read the jury instructions to
15 you.

16 (The jury instructions were read.)

17 THE COURT: And I have signed the jury packet. And
18 then associated with it will be not guilty and guilty
19 forms or Count No. I, battery with a deadly weapon, and
20 not guilty and guilty forms for Count No. II, assault
21 with a deadly weapon.

22 Now, ladies and gentlemen, I would ask that you
23 pass the packets down to your right and Deputy Gray
24 will collect those.

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1 On behalf of the State, Mr. Young, would you like
2 to make your closing argument?

3 MR. YOUNG: Yes, please, Your Honor. Thank you.
4 If I could use the podium again.

5 THE COURT: You may.

6 MR. YOUNG: Ladies and gentlemen, this case began
7 with losing money. As simple and innocuous as that
8 sounds, Quinzale Mason just couldn't let that go and so
9 he grabbed a gun and he got into Eboni Spurlock his
10 girlfriend or on-again/off-again girlfriend and
11 cohabitant's vehicle and went looking for Anthony
12 Holly. And when he found Mr. Holly in the front area
13 of the parking lot of Delphine Martin's apartment unit,
14 he pulled into the apartment complex, he got out of his
15 vehicle, and he shot at least two times at Anthony
16 Holly. And in doing that, he struck four-year-old
17 Cecelia. That was August 9th of 2014.

18 And that leads us -- those actions, those
19 completely irresponsible and driven-by-anger actions,
20 lead us to this courtroom this week and ultimately
21 today.

22 For his actions he was charged with battery with a
23 deadly weapon for striking Cecelia and assault with a
24 deadly weapon for the assault he committed on Anthony

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1 Holly. And, ladies and gentlemen, the evidence you've
2 heard the last two days and what we'll discuss a little
3 bit this morning shows how the evidence is convincing,
4 it's overwhelming, and it's clear that Mr. Mason
5 committed those acts.

6 Now, there's a few jury instructions -- the judge
7 just read you the entire packet. There's a handful of
8 instructions I want to highlight right now. And rather
9 them putting them up on the board since the screen is
10 back there -- again, you'll have a copy of these in the
11 room when you're deliberating.

12 But what jury instruction 17 says is "The
13 defendant" -- and, again, this is something that
14 everybody is used to hearing. In a criminal case, a
15 defendant -- in this case, Mr. Mason -- is presumed
16 innocent until and unless I establish his guilt beyond
17 a reasonable doubt. So that's a burden on me
18 representing the State of Nevada.

19 I asked you in voir dire if you would hold me to
20 that burden. I'm asking you again now. Hold me to my
21 burden that the law requires for me to prove the
22 charges against Mr. Mason beyond a reasonable doubt.

23 Now, Instruction No. 21 tells you -- it's a
24 definition of what reasonable doubt means. And it's

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1 important -- I want to talk about this very briefly,
2 because it doesn't mean that I am required to prove the
3 defendant's guilt beyond all doubt. It's beyond a
4 reasonable doubt.

5 And jury instruction 21 tells you what that means.
6 And what it says, among other things, on this paragraph
7 is after you consider all the evidence, if you feel an
8 abiding conviction of the truth of the charge, or in
9 this case charges, if you feel an abiding conviction of
10 the truth of that charge, then I've satisfied my
11 burden. That is proof beyond a reasonable doubt.

12 So consider that, ladies and gentlemen, when you're
13 deliberating in the jury room and considering and
14 holding me to the burden that the law requires.

15 Now, the two offenses as charged in this case,
16 battery with a deadly weapon -- again, Instruction No.
17 23 outlines the specific elements. And what
18 instruction 23 does is say these are the three elements
19 that the State must prove beyond a reasonable doubt in
20 order for you to return a guilty verdict against
21 Mr. Mason for battery with a deadly weapon.

22 And instruction 24 does the same thing for Count
23 II. Instruction 24 outlines -- I'm not going to go
24 over the specific elements. You'll have them in the

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1 room. But 24 outlines the two elements, again, that I
2 must prove beyond a reasonable doubt to rebut that
3 initial presumption of innocence that is afforded to
4 Mr. Mason.

5 One thing I want to discuss with respect to 24.
6 You will see on element one there's an A and a B
7 option, if you will. I would submit in this case both
8 A and B have been proven beyond a reasonable doubt, but
9 you only need to find one, in other words, the
10 defendant did either unlawfully attempt to use physical
11 force against Anthony Holly or the defendant did
12 intentionally place Anthony Holly in reasonable
13 apprehension of immediate bodily harm. Either A or B
14 or, of course, both if you find satisfies element 1.

15 So they're alternative, if you will, to one
16 another. I would suggest that both have been
17 satisfied, but either one of those works.

18 Then obviously element 2 talks about the deadly
19 weapon which I would submit, frankly, is not an issue
20 in this case.

21 Now, I do want to take a moment with respect to
22 instruction 29. That is what is referred to as the
23 transferred intent instruction. And it's the
24 two-paragraph instruction which starts "If an illegal

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1 and unintended act results from the intent to commit a
2 crime," and it goes on.

3 And how it ends is -- at least that first
4 paragraph, "The doctrine applies in any case where
5 there is intent to commit a criminal act and the only
6 difference between the actual result and the
7 contemplated result is the nature of the personal
8 injury sustained."

9 What that effectively means, folks, is this. The
10 State is -- battery with a deadly weapon as charged is
11 against Cecelia. This instruction tells you that the
12 State is not required to prove that the defendant had
13 any intent to strike Cecelia. The evidence certainly
14 shows that Cecelia just happened to be in the wrong
15 place at the wrong time. I'm not required to prove
16 that he had any intent against Cecelia.

17 If you find that the defendant had the intent
18 against Mr. Holly, that intent transfers to Cecelia.
19 So please don't misinterpret that it's my burden to
20 prove that he had any intention to use force against
21 Cecelia. That's what instruction 29 tells you.

22 And then the last instruction I briefly want to
23 discuss is instruction 7 which talks about two kinds of
24 evidence being direct and circumstantial. And it talks

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1 about what direct evidence is, what circumstantial
2 evidence is. And I like to use an analogy. And please
3 understand this analogy has nothing to do with this
4 case, but it will help you understand the difference
5 between those two concepts.

6 Assume just for a moment that what I am trying to
7 prove is that an individual crossed a snowy meadow.
8 Again, nothing to do with the case. I'm not trying to
9 minimize by using this -- the facts of the case. But
10 in order to prove that an individual crossed the snowy
11 meadow, direct evidence might be a witness saying, "I
12 saw subject A start on the east side of the meadow,
13 walk across the meadow and end on the west side of the
14 meadow."

15 That would be direct evidence of somebody saying,
16 if the jury were to believe that witness, direct
17 evidence, that that subject crossed the snowy meadow.

18 Circumstantial is a little bit different. And,
19 again, to prove that same premise of crossing a snowy
20 meadow, you might have a witness say, "At 9 o'clock I
21 saw the person on the east side of the meadow."

22 You might have another witness say, "15 minutes
23 later I saw that same individual on the west side of
24 the meadow."

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1 And then the third person say, "Later when I went
2 out there, there were some foot tracks across that
3 meadow that weren't there before 9 o'clock."

4 Now, if the jury were to believe all of those
5 components, that likewise would prove that the subject
6 crossed the snowy meadow even though there's no one to
7 come in and say, "I actually saw that."

8 And the reason I bring that up is because there's
9 some evidence in this case that you heard, mainly from
10 Mr. Stanley and Mr. Holly, as far as not actually
11 seeing the gun being fired by the defendant, but
12 circumstantially it's proveable. We'll talk about
13 that. But, again, that's the difference between direct
14 and circumstantial.

15 What this instruction tells you, number 7, is
16 either or both direct and circumstantial evidence can
17 be used by you. You're not limited to one or the
18 other. You can consider all of the evidence in
19 totality in reaching your verdict.

20 Okay. So August 9 -- let's get into what the
21 evidence proves and shows in this case. During the
22 morning Mr. Holly was playing craps, dice, on the
23 street with a group of individuals, including the
24 defendant. And Mr. Holly started winning money and he

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1 started winning Mr. Mason's money and an argument
2 ensued. And if you recall the testimony from
3 Mr. Holly, someone said, "Hey, he has some physical
4 issues."

5 Mr. Holly said, "That triggered with me, because my
6 aunt had the same thing, so I stopped. I backed off.
7 I went to my place. I got out of there."

8 His testimony was he got a snack. He then went out
9 in the parking lot and started playing with the dog.
10 It was over. It was not over, of course, to Mr. Mason.

11 Mr. Holly testified while he was in the grass
12 area -- if you recall, Exhibit 2 -- if you recall, kind
13 of there's this -- it's kind of covered by the trees,
14 but there's this grass area to the front of the complex
15 closest to Patton Drive. And this obviously is the
16 apartment unit or the building that Delphine and
17 Stanley Huey's apartments are in. And he's up here in
18 this grass area playing with the dog. No issue. He's
19 moved on. And he sees the defendant driving up the
20 street in his gold car, what was registered to Eboni
21 Spurlock.

22 He pulls into the parking lot. Mr. Holly testified
23 that the defendant was the sole occupant of the car.
24 Kind of through the window he sees something. He

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1 hears, as he described, a click clack which he
2 testified based on his background knows to be the
3 cocking of a gun. He starts running away.

4 Now, this is some of the evidence going to support
5 the assault with a deadly weapon charge. Reasonable
6 apprehension of immediate bodily harm. He's running
7 away from an individual who's upset at him from that
8 morning and driving up with a firearm.

9 He testifies that he kind of trips and falls near
10 the stairway as it comes down. Shots are fired. And
11 he peels and runs around the back of this unit hopping
12 some fences. His testimony was he had some scratches
13 on his chest. He runs out of his shoe. He testified
14 he was scared for his life. He's getting shot at.

15 Again, factors that you can consider in support of
16 Count -- I'm going in reverse order a little bit -- but
17 Count II, the assault with a deadly weapon charge.

18 And you recall Eboni Spurlock's testimony. As he
19 runs past her, what's he say? "Your baby daddy just
20 shot a kid." Immediately. Immediately. He knows who
21 was shooting at him. He didn't see the gun when it was
22 being fired at him, but he knows.

23 He testified that after he got away he gets into
24 his house, he gets some clothes, he runs into a friend

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1 of an uncle or an uncle's friend, asks for a ride to
2 Grand Sierra Resort where he felt there was safety
3 where his wife was working.

4 Now, you heard testimony he is a three-time
5 convicted felon. As the instructions tell you, you can
6 certainly consider that in judging Mr. Holly's
7 credibility. You can consider the fact he's a
8 three-time felon. Let's weigh that in believing or
9 disbelieving what he testifies to.

10 The State did not hide the fact that he's a
11 three-time felon. But just because he's a three-time
12 felon doesn't automatically mean that he is prohibited
13 from being in fear for his life as he testified.

14 And we know he's in fear because of running,
15 because of running out of his shoe, because of scraping
16 himself up while jumping over fences, leaving the scene
17 and getting away, which he later returns to speak with
18 officers. That's how we know he's in fear.

19 He's a three-time felon. Yes, he is. But on
20 August 9th he was put in fear by Mr. Mason pulling and
21 shooting at him.

22 Now, also when considering his past, his criminal
23 history, his three felonies that he testified to,
24 consider his testimony. Don't consider it in isolation

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1 but consider it in context with everything else. Is
2 his testimony supported or rejected by the balance of
3 the evidence?

4 And the reason I ask you to do that, aside from the
5 law allowing you to do that, is because if he were to
6 take the stand, "he" being Mr. Holly, and say something
7 that was so farfetched and so off from all the other
8 evidence, then those three felonies would carry a
9 little more weight. But consider how his testimony is
10 supported by the others that you heard.

11 Now, during the shooting Cecelia was struck, as
12 you heard by Dr. Cinelli, by metallic fragments which
13 he opined being a ricocheted bullet. You recall his
14 testimony. And there was some discussion about
15 assumptions. His final opinion was a ricocheted
16 bullet.

17 Now, how do we know that it was a ricocheted
18 bullet? It's based on the same evidence that we heard
19 throughout the course of the trial. It was a fresh
20 injury; it was a penetrating wound injury. He
21 testified that there was no rock or wood detected in
22 the entry wound of her leg. The metallic fragment, he
23 said — his words, not mine, metal inserted into her
24 leg by a high-energy mechanism.

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1 What could that be, folks? It's the bullet, the
2 ricocheted bullet, while Mr. Mason was shooting at
3 Mr. Holly. And, again, that transferred intent. The
4 State doesn't need to prove that Mr. Mason intended to
5 shoot Cecelia. It all comes back to the person who was
6 taking Mr. Mason's money, that being Mr. Holly.

7 We have photos of the injuries. I'm not going to
8 show them to you right now. You'll have them. But
9 you'll recall that the penetrating wound photo, the
10 x-ray.

11 Is there really any question of what that is that's
12 in her leg? No. There's not.

13 Now, Delphine Martin, does she give a story that is
14 completely off base from what Anthony Holly testified
15 to or is it very similar to the accounting of
16 Mr. Holly?

17 And when we go -- when I go through now Delphine's
18 testimony and then a little bit of Huey Stanley's
19 testimony, consider the timing of when they gave their
20 statements and the places that they gave their
21 statements. Were they all huddled up in the same room
22 talking about, "Well, here's what we're going to say,"
23 and, "Let's get all of our statements the same," as the
24 police showed up? No.

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1 Anthony Holly, as soon as the shots ring out, he's
2 gone. He doesn't give his statement, as you heard from
3 Officer Kassebaum, until about three hours later when
4 he returned.

5 Do Huey Stanley and Delphine Martin converse and
6 talk about what their stories are going to be? No.
7 Because we know Huey Stanley is on 911 immediately and
8 we know that Delphine Martin is so hysterical on scene
9 that they're not really able to have any substantial
10 conversation with her. She's transported to the
11 hospital.

12 So all three of these individuals who gave
13 amazingly similar accounts of what happened give their
14 statements at different times and different locations.

15 So Delphine Martin sees Holly in front of her
16 apartment, which, again, going back to Exhibit 2 would
17 put Mr. Holly up in this area, which, again -- now
18 we're going to verge into Mr. Stanley. He said, "Yeah,
19 I remember Mr. Holly being up here," consistent with
20 that.

21 Now, Mr. Stanley, he's outside, there's nothing
22 going on. So it's reasonable to believe that when he
23 recalls the shooting happening when Mr. Holly is back
24 here, he just didn't watch him walk up and back.

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1 That's reasonable, but there's nothing going on at that
2 time.

3 But Delphine Martin says the same thing that
4 Anthony Holly said. Walked my dog up to the grass
5 area; Mr. Mason pulls into the parking lot, same area;
6 gets out of the vehicle. And what does Delphine say?
7 She actually sees the defendant with a gun shooting at
8 Anthony Holly. Now, that, folks, is direct evidence
9 supporting the charges.

10 She says that Anthony Holly when the vehicle pulls
11 in here by Mr. Mason is up near the car. Exactly what
12 Anthony Holly told you.

13 She also said that the defendant was the sole
14 occupant of the vehicle. She also tells you that near
15 the stairs Anthony Holly fell and he runs around and
16 leaves the scene. Again, all -- I don't want to say
17 identical, but very, very similar to Anthony Holly's
18 testimony.

19 The last question that I asked her: "Is there any
20 doubt that you saw the subject shooting?"

21 She said, "No."

22 "Is there any doubt that it was Quinzale Mason who
23 was the shooter?"

24 And she said, "No."

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1 And while she doesn't know Mr. Mason on a social
2 level, she's seen him in the area. Mr. Holly has seen
3 him in the area. Huey Stanley has seen the defendant
4 in the area. They know who he is. So it's not a
5 random person coming up who they've never seen and
6 trying to figure out who this is. They know who the
7 shooter was.

8 Delphine Martin had no issues with the defendant.
9 She had none. She's positive it was the defendant who
10 was shooting.

11 Now, Huey Stanley, again, I don't need to go
12 through all of his testimony, but is it similar or is
13 it completely different than what you've already heard?
14 He recalls Anthony Holly being up -- excuse me -- up in
15 front of Delphine's residence, which we know happened,
16 the defendant pulling in in the gold four-door vehicle.
17 We know it happened. The evidence supports it.
18 Mr. Mason being the one to exit the car. He sees
19 something in his right hand, doesn't know what it is.
20 Again, this is now getting into circumstantial
21 evidence. He's not able to say it's a gun, but the
22 evidence is pretty clear what that something that he
23 had in his hand is.

24 He gets out of view and shots are fired. And then

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1 Mr. Mason gets back in his car and drives southbound on
2 Patton. And you heard the 911 call immediately. "I
3 know who it is." He describes the car; he describes
4 the direction of travel. You hear kind of the
5 pandemonium going on in the background.

6 When Mr. Mason got out of his vehicle -- and I say
7 "his vehicle." Technically Eboni Spurlock's registered
8 vehicle. But when he gets out of that vehicle that
9 both he and Eboni used, Mr. Stanley had an unobstructed
10 view. He couldn't see the shooting, but he sees
11 Mr. Mason get out with something in his right hand,
12 comes out of view, immediately shots are fired, and
13 Mr. Mason leaves.

14 Mr. Stanley immediately upon officers' arrival
15 points out where the shooter lives. Right across the
16 street, one unit down, the top unit closest to the
17 street.

18 This is Exhibit 1. I apologize for walking up, but
19 it's just easier than pulling the screen up.

20 This is the building that Delphine Martin and Huey
21 Stanley live in. This one right above is the one that
22 Anthony Holly lived in. Well, one building over and
23 down, the top unit closest to the street is 2366
24 Patton. Huey Stanley pointed this out immediately to

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1 officers. And we know from the evidence who lived in
2 that unit, Eboni Spurlock and the defendant.

3 The testimony of those three individuals who all
4 put the defendant on scene and either directly or
5 circumstantially shooting that gun is supported by
6 Steve Maes. Now, Mr. Maes, what's he doing on Patton
7 Drive? He is helping somebody move in. Zero
8 association with the area, zero association with
9 anybody involved in this case, zero association with
10 Mr. Mason. None whatsoever.

11 His testimony, exact same vehicle description.

12 He pulls into -- if you recall, he did it on the
13 overhead -- this parking lot where Mr. Maes is working
14 and the unit just to the south of 2366 helping his
15 friend move in. He pulls in, circles around, stops
16 just in front of, amazingly, 2366 Patton and yells out
17 looking for someone.

18 He doesn't know who the driver is, but black male,
19 beard, gold car, all consistent. And the evidence
20 shows who that actually was, the sole occupant.

21 he drives northbound out of the parking lot, loses
22 site, but his testimony, within 12 seconds, 12 seconds,
23 of exiting that parking lot shots are fired and then
24 that same vehicle leaving the scene southbound on

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1 Patton.

2 So does he -- is he able to identify the driver?
3 Does he know the driver? No. But taken in collection
4 with the balance of the evidence, it's clear who he
5 saw. And again, recall what his connection to that
6 area and this case is. There's none.

7 And what he also sees is the red hat that the
8 driver is wearing, which, of course, launches us into
9 the DNA evidence that you heard, because when the car
10 is later searched, in the bag is a red 49ers hat.

11 Now, he said, "Well, Phillies or Reds," but the
12 color scheme is the same.

13 And you heard evidence from Mr. Gresko that
14 Mr. Mason is the source, the source, of the dominant
15 DNA profile from the shirt as well as the hat. And to
16 acquire a source is 1 in 8 trillion, substantially
17 greater than the world population.

18 Now, I'm not asking you, ladies and gentlemen, to
19 base your verdict and your decision on simply the red
20 hat, just like I'm not asking you to base your decision
21 simply on what Huey Stanley said in isolation or what
22 Delphine Martin said in isolation or Anthony Holly said
23 in isolation, but consider the information that
24 Mr. Maes provided through his testimony in conjunction

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1 with everything.

2 He sees this vehicle leaving that parking lot
3 driving to the area of the shooting scene, shots fired
4 and leaves, and then the red hat is located in the
5 vehicle. And we're going to get to the vehicle here
6 shortly. But you're able to consider that in
7 conjunction with everything. It's one more layer
8 connecting Mr. Mason to the car that was abandoned in
9 Sun Valley after fleeing the shooting scene on Patton
10 Drive.

11 So let's talk about the car. How do we know it was
12 Eboni Spurlock's car at the shooting scene? Because as
13 you heard from the testimony, nobody was able to obtain
14 a license plate. Right? So how do we know it was the
15 license plate 432LTY that was registered -- that
16 there's registration records and Eboni Spurlock said,
17 "Yeah, that's my vehicle."

18 Well, three people, all of whom know -- again, not
19 know personally, socially, but know who he is,
20 identified Mr. Mason as the one getting out of that
21 vehicle.

22 The vehicle had been seen at 2366 Patton Drive.
23 The vehicle matches -- or the description matches Eboni
24 Spurlock's car. It is supported by Steve Maes's

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1 testimony. Recall Eboni Spurlock's testimony. When
2 she left for work in the morning -- I think she says
3 she works 4:00 to 11:00. If your memory is different
4 than that, your memory controls. But somewhere in that
5 range in the morning.

6 And when she left, her car wasn't working. That's
7 why she got a ride from a coworker. So the car is on
8 Patton. When she gets home, she says at 11:00 or
9 11:30, the car is no longer there. And who are the two
10 people that drive her vehicle? Herself, one, and the
11 defendant. Those are the two people that have access
12 to her Hyundai.

13 Now, this gold vehicle which was there in the
14 morning and is now gone immediately after the shooting,
15 which matches the description of that vehicle and three
16 witnesses say the defendant got out of, most
17 importantly later on August 9th is located in Sun
18 Valley. And you recall the testimony that it appeared
19 abandoned, there was nobody there.

20 This is Exhibit 16 -- this is just so we all get
21 our bearings -- the vehicle in question, Eboni
22 Spurlock's vehicle. But you recall the testimony by
23 Officer Kleidosty that the windows were down or
24 partially down. Well, this is Exhibit 19. And you'll

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1 get a closer look at this in the jury room. But if you
2 look at the door once it's opened up for searching the
3 car, you can actually see, yeah, the window is down, at
4 least this front passenger window is down.

5 So this vehicle which is at Patton Drive on the
6 morning of August 9th now appears to be abandoned in
7 Sun Valley with the windows down, off of a dirt road
8 access or a dirt access road, out of view of any paved
9 street.

10 You recall the testimony that Fifth and Tornado,
11 where that is, you can't see the vehicle because it's
12 up this road that has an elevation and behind a fence.

13 Instruction 3 -- not instruction -- Exhibit 3 shows
14 you the distance. The lower left area is Patton Drive.
15 The upper right, the areas that's highlighted, is
16 effectively where the vehicle was found.

17 What it's doing up there is that the defendant
18 after the shooting fled the scene and ditched it in an
19 area that he thought wouldn't be found. Now,
20 amazingly -- this is Exhibit 4. You recall here's
21 Fifth and Tornado, that intersection.

22 I hope everyone can see this. I apologize if I'm
23 cutting anybody off.

24 Here's that dirt access road that comes -- kind of

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1 parallels Trapper and Sun Mesa. And there's this fence
2 line that runs there. The vehicle was parked just
3 around this turn around this fence back in this area
4 that has nothing to the east of it.

5 And where is the defendant located the next day
6 within, what, 12 hours of the car being located when
7 he's finally -- the surveillance from the airport?
8 He's located at 619 Lone Cedar Lane. So we're
9 talking -- I'll let you do the math -- a handful of
10 blocks from where this vehicle is apparently abandoned.

11 that's how we know that's the vehicle, all those
12 factors. Again, I ask you respectfully, don't take one
13 factor in isolation, consider them all in totality.

14 All of that conclusively shows that it was Eboni
15 Spurlock's car leaving the scene of the shooting and it
16 was Eboni Spurlock's car that was abandoned off of
17 Fifth and Tornado close to the house that Mr. Mason was
18 located in within 24 hours of the shooting.

19 Finally, you have evidence of statements by
20 Mr. Mason that were made in the course of this
21 investigation. Now, there's an instruction, a jury
22 instruction, which talks to you about admission and
23 confession testimony.

24 Wilma Gray and Officer Koger. Now, let me start

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1 with Ms. Gray. She loves her grandson. It was
2 uncomfortable for her to take the stand and testify to
3 what happened. And, again, in judging credibility of
4 what witnesses say, consider, as the instruction tells
5 you, any bias and interest that she might have in the
6 case.

7 Now, she did testify that in her conversations with
8 Mr. Mason he admitted to her to possessing a gun. I
9 believe her exact words is because he said, "I'm a
10 little man and I need protection," or something along
11 those lines.

12 So she does testify that he admitted to her he has
13 a gun. And that corresponds certainly to the other
14 evidence that he was seen shooting a gun. But the
15 testimony that she provided as to her conversation with
16 him is that she talked to Mr. Mason on the 8th, being
17 her birthday, and then again on the 10th.

18 Now, we know that all the statements that I was
19 asking her about and then ultimately Detective Jenkins
20 testified to didn't happen on the 8th, because the
21 alleged crime, the BBD, the ADB, didn't happen until
22 the 9th. So we know that that conversation didn't
23 occur on the 8th. But taking her testimony and
24 Detective Jenkins' testimony in conjunction, she told,

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1 according to Detective Jenkins, that Mr. Mason called
2 her on the 9th sometime after noon which would be spot
3 on consistent with the date and timing of the shooting
4 itself, as police were dispatched at about 12:15 on the
5 9th.

6 When Officer -- or excuse me -- Detective Jenkins
7 said, "Hey, we're looking for your grandson,
8 Quinzale" -- I understand she explains this away, being
9 Ms. Gray, but what Detective Jenkins testified that she
10 responded is "I know, because he shot a kid."

11 And when Detective Jenkins asked, "How do you know
12 that?" she said, "Because Quinzale told me."

13 Now, Ms. Gray said she didn't even know that it had
14 anything to do with a kid, she didn't have that
15 information. And so that information had to come from
16 somebody with knowledge. And that person would be, of
17 course, the defendant.

18 Again, while she denied it when she testified,
19 Detective Jenkins testified that in speaking with
20 Quinzale Mason sometime on the afternoon of the 9th,
21 Mr. Mason said, "I'm looking for a way out of Reno."

22 And the one time that Detective Jenkins spoke with
23 Ms. Gray was at 3 o'clock in the morning on
24 August 10th. So, again, 15 hours or thereabout after

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1 the shooting. You recall at one point Ms. Gray kind of
2 slipped up a little bit and said, "Well, I told Officer
3 Jenkins and I told Quinzale to turn himself in."

4 Well, if that's the case, then we know she had
5 already talked to him which would put us on the
6 9th sometime in the afternoon. And she kind of
7 corrected herself and said, "Well, it could have been
8 the other officer," but we know from the timing of how
9 this all played out.

10 Folks, Ms. Gray is the defendant's grandmother. I
11 get it. But the evidence supports the timeline that
12 she actually spoke to the defendant on August 9th in
13 the afternoon and it was the defendant who said, "I
14 shot a kid."

15 Now, Officer Koger, you heard that he didn't even
16 have time to activate his recorder it happened so fast.
17 Upon handcuffing the defendant, he says, "I was going
18 to the station to turn myself in. This has been
19 messing me up."

20 Well, what's he referring to? Of course he's
21 referring to what happened the day before. He's messed
22 up, to use his words, because he shot a four-year-old
23 girl. That in itself further supports Officer Jenkins'
24 timing of the call that Ms. Gray had with the defendant

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1 rather than how Ms. Gray testified in court.

2 And in the backseat, of course, of Officer Koger's
3 car he says, "Thank you for not shooting me."

4 And when the officer said, "Well, you know, we
5 won't do that unless you give us a reason," what's his
6 response?

7 "What I did was violent and so you may have thought
8 I would be violent with you, too."

9 Again, I don't mean to be facetious, but what
10 violence is the defendant speaking about? The shooting
11 from less than 24 hours before.

12 So, folks, like I've mentioned a couple times, I
13 ask that you -- respectfully I ask that you consider
14 all the evidence in totality. We had two days of trial
15 which is relatively quick. You did hear from a number
16 of witnesses. But consider how all of the witnesses
17 and all of the testimony they provided fits and how
18 there's really nothing that was testified to that is so
19 outlandish that you can just discard as being trivial
20 or unsubstantiated.

21 If you consider everything, the three people who,
22 again, don't have any issues with the defendant, know
23 who he is, identify him as the shooter, either from
24 directly seeing it, as Delphine did, or

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1 circumstantially putting him there, immediately shots
2 and leaving, if you consider that with Mr. Maes, if you
3 consider that with the information about Eboni
4 Spurlock's car, the location it was later located, and
5 that location in relation to where the defendant was
6 located, and the statements that he made, and
7 everything else that we've discussed -- and, again,
8 that presumption of innocence that the defendant is
9 certainly entitled to is destroyed and the presumption
10 of innocence has been rebutted and the State has
11 proved -- I would submit respectfully to you has proved
12 both charges beyond a reasonable doubt.

13 Mr. Mason shot a handgun; it struck Cecelia -- a
14 bullet struck Cecelia or at least a ricochet. The
15 transferred intent shows that you can find him guilty
16 of battery with a deadly weapon.

17 And in shooting at, towards, or brandishing a gun
18 and discharging it when Mr. Holly is running away, you
19 can find him guilty of Count II, assault with a deadly
20 weapon as well.

21 I would ask that you consider all the evidence in
22 sum. I would ask that you return guilty verdicts as to
23 both Count I and Count II. Thank you.

24 THE COURT: Thank you, Mr. Young.

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1 Mr. Hylin, your closing argument on behalf of
2 Mr. Mason.

3 MR. HYLIN: Yes. Thank you.

4 Good morning. That's a nice neat little package,
5 but there's a lot of flaws here in not only the
6 testimony but inconsistencies in the facts themselves
7 that create reasonable doubt in this case.

8 I don't know how many of you have seen the movie My
9 Cousin Vinny where two cars virtually alike are
10 involved in this case and the first car that's the
11 subject of this movie is a green small Buick. It's an
12 older movie. But the kids are charged with robbing
13 this store. And they were in this green car and
14 essentially the evidence all surrounds the appearance
15 of this car.

16 And toward the end of the movie they figure out
17 through evidence that's gathered by the sheriff that
18 there is another green car exactly like it that was
19 found in the possession of the people that had the gun
20 that shot the clerk. It's not an impossible story.

21 So even though the District Attorney -- the Deputy
22 District Attorney, Mr. Young, would have you believe
23 that these cars are the same, there's some very, very
24 remarkable differences here. And I'll get into those

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1 as we start to talk about the car. But there was
2 testimony that's inconsistent amongst the people.

3 So let's start with Mr. Huey Stanley.

4 Mr. Holly and Delphine testified that he was
5 standing by this brown car or gold car, however it's
6 described, as it drove up into the parking lot. But
7 Mr. Stanley said that Huey -- excuse me. Anthony was
8 standing by his Blazer.

9 Now, this is a -- this is not perhaps in your mind
10 initially going to be something that -- so two of the
11 witnesses say Anthony Holly is here where I'm pointing
12 with the tip of my pen where the car pulled up off of
13 Patton Drive. Huey Stanley says his Blazer was parked
14 over here on the other end of the building and Anthony
15 Holly is standing over by the Blazer.

16 Now, this isn't remarkable testimony in and of
17 itself, but it exemplifies how people see things and
18 what witnesses do with the information that is lodged
19 in their brain. Now, keep in mind this event was six
20 months ago. And you'll hear me talk about the lapse of
21 time in other contexts here, too.

22 I'm not saying that everybody has to have a perfect
23 memory that goes under oath and testifies in a court of
24 law, but if you're going consider the testimony

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1 consistent and they're going to corroborate the State's
2 case, you have to also consider these inconsistencies.
3 And that's one of them.

4 Mr. Huey said it was a brown car that pulled in
5 there. And he later in his testimony, I'll concede --
6 "Well, it was gold. It was gold."

7 But here we have the passage of time again. And if
8 these -- is it conceivable that these folks that live
9 there in the neighborhood -- and Mr. Stanley is
10 directly up above Delphine's apartment -- that they
11 never talked about this incident ever again and they
12 never said who did what and shared their stories about
13 what was going on? Of course. It would be unnatural
14 if they didn't ever speak about it again.

15 So when he said, "Well, it was a gold car, it was a
16 gold car, you know, it wasn't brown," is he saying this
17 because the other two said it was a gold car or
18 somebody else said it was a gold car and that seems to
19 be the thing that they should be talking about is a
20 gold car because it fits the scenario that the State
21 wants to present?

22 Well, let's talk about some other inconsistencies.
23 Mr. Stanley is sitting by his apartment door up on the
24 second floor here. And it doesn't show it here,

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1 perhaps because this roof extends over it, but there's
2 a walkway there that he described and that he
3 oftentimes sits outside his door in his chair enjoying
4 the out of doors mostly because of his -- I think he
5 said COPD.

6 And he sees the car drive up. But this was an
7 unremarkable event. There was nothing that caused him
8 any alarm or any other predisposition to be concerned
9 about this car driving up in the driveway in this first
10 parking spot here.

11 So he said a fellow got out of the car and
12 disappeared underneath the walkway so he couldn't see
13 him anymore. But he said -- here's what he said. And
14 I brought this to his attention and, you know, he
15 admitted he had said this at the preliminary hearing
16 also. That when he got out of the car, the fellow got
17 out of the car, he had one hand on the door and the
18 other hand on the roof, but he never described what was
19 in his hand on the roof or the hand that was touching
20 the car. He said the hands were there. No gun.

21 And that's Mr. Stanley's version of what he
22 observed when the car pulled in the parking lot and
23 then the fellow disappeared underneath the walkway. He
24 probably had a view of him for -- what? -- a second

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1 perhaps. Not very much time to perceive somebody or
2 anything for that matter.

3 And as you'll see, as time goes by, people have
4 made different descriptions about the car, too. But
5 one thing -- I will concede that one thing that they
6 seem to be consistent on is they name Mr. Mason as the
7 person who got out of that car. But let's talk
8 about -- no witness there, whether it was Mr. Stanley,
9 whether it was Anthony Holly or whether it was Delphine
10 described him, the person that got out of the car, as
11 having a hat on, let alone a red hat. None of them saw
12 a hat.

13 Now, this is -- I'll tie this together when we talk
14 about Mr. Maes later on. But nobody talked about a red
15 hat, nor did they describe the shirt. If you recall --
16 I'll mention it now, because I'll talk a little more
17 about Mr. Maes -- Mr. Maes said the person that pulled
18 in the lot up on the other side of the street where he
19 was moving somebody in had a white shirt on and a red
20 cap. Then he said that same -- that same gold car went
21 up the street.

22 Well, there's a couple other flaws in Mr. Maes's
23 perception or testimony there that I'll discuss in a
24 minute. But it's important to show that the three

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1 people that testified that they saw Mr. Mason get out
2 of that car and start shooting with a gun couldn't
3 describe his clothes. And remember when he got out of
4 the car, there wasn't -- this wasn't anything where the
5 adrenaline is rushing and your memory goes blank
6 because you just can't seem to get it together to
7 remember what it was because your mind is racing.
8 Every human being has been through that same
9 experience.

10 So there's no description of the clothes and
11 there's no description of the hat, as Mr. Maes
12 deliberately said this guy had a red cap on and a white
13 shirt. So as we know from all the evidence that was
14 gathered in this bag that they did the DNA test, there
15 was no white shirt in there. It was a dark pullover
16 shirt.

17 the car didn't pull in fast. It didn't come
18 screeching around the corner and pull in there. The
19 description by Huey Stanley was it just pulled in and
20 parked right in that first spot. Nobody thought
21 anything about it. And that's consistent with them not
22 thinking that there's any big deal when this car pulls
23 in the parking lot.

24 So at that point in time there's nothing unusual

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1 that's been perceived by Huey Stanley. The fellow goes
2 underneath the walk and then he hears "boom, boom," at
3 least two and maybe even more than that. I think he
4 described somewhere around four, was his testimony,
5 rounds went off and what he thought was a gun.

6 Now, what did -- this is where the testimony gets
7 convoluted. He says that Anthony ran around the back
8 of his Blazer. He said he tried to go in front, but if
9 you recall, Huey Stanley said there was a barbecue
10 there and he couldn't go in front of Mr. Stanley's
11 Blazer that was parked right in this area here where
12 the tip of my pen is. He couldn't go in front of it
13 because there was a barbecue there. Yet Delphine
14 testified that Anthony ran in front of that and then
15 went around the corner and he fell twice doing it.

16 Now, those differences in testimony become
17 important when you see what their perception is. And
18 I'll tell you why. Mr. Huey said as soon as he heard
19 the "boom, boom, boom," he hit the deck. He was down
20 on the deck and crawling back in his apartment. So
21 he's going through his door and he can't see what's
22 going on. And he certainly isn't seeing where the
23 shooter is shooting, because he can't even see the
24 shooter. He actually admitted that.

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1 So without seeing where the gunman is aiming, he
2 doesn't know what's really going on down there. He
3 hears the sounds.

4 And listen, I'm not trying to make fun of what went
5 on here and I'm not trying to humiliate Mr. Stanley,
6 but these perceptions and the misperceptions you're
7 hearing about need to be dealt with in your
8 deliberations.

9 So we have Anthony Holly. You know, Mr. Young
10 talked about his prior felonies. Felonies are
11 introduced in our courts of law for the purposes of
12 impeachment. And impeachment means that this is kind
13 of a dishonest person, he's not really to be trusted.
14 And the testimony that he gives here now isn't worthy
15 of your trust.

16 He says he saw the defendant, but he was standing
17 here and a car pulled in from right here. Okay. If
18 Mr. -- if Anthony Holly is standing up here where I'm
19 pointing -- in this area where I'm pointing my pen,
20 what do you see here? What am I circling with my pen?

21 So this car comes in from Patton in an area like
22 this and parks. And according to Anthony Holly and
23 Delphine, he's standing here right near the car. Now,
24 he doesn't say that he looks in the car. When the car

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1 pulls up, he says the window was down and he heard a
2 click that he associated with the rack of a pistol on a
3 gun.

4 And he said he immediately, immediately took off
5 running. Yeah, he took off running. And which
6 direction did he run? He ran -- according to Delphine
7 he ran right in front of the building and then around
8 the corner here. He fell a couple times. According to
9 Huey Stanley he went around the Blazer, he was standing
10 here to begin with, and then disappeared on this side
11 of the property.

12 Well, if he's running in that direction, he can't
13 be looking behind him. He's looking at where he's
14 going as fast as he can. And, again, I'm not making
15 fun of him, but I didn't see any eyes in the back of
16 his head, and he couldn't see where that pistol was
17 being aimed either. So far we have nobody that saw
18 where this pistol is being aimed. I'll tie this
19 together in a bit.

20 Well, let me mention it right now so I don't try to
21 sound mysterious. Look, nobody -- Officer Kassebaum
22 testified that he searched the area for impact, you
23 know, bullet impact evidence. He found none, none in
24 the wood structure, you know, none on the pavement.

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1 And there was -- if you recall, I made a point of
2 showing this retaining wall back up here. And if we
3 look at -- this is Exhibit 7, by the way. The one I
4 was just showing you -- I apologize -- was Exhibit 2.
5 And these will be back in the jury room with you.

6 So this isn't a great picture, but it shows from
7 the Patton Drive looking westbound through the parking
8 lot. And if you recall, the building there is shown as
9 the apartment building that they were in. And Delphine
10 was down in this area sitting by her door with her
11 child Cecelia. The car came in and parked right here.
12 And Anthony Holly was running back toward the Blazer
13 here in the background.

14 What's behind there? There's a big, tall, concrete
15 block retaining wall. And what's on -- what's on the
16 ground is pavement, albeit not in great condition. But
17 Officer Kassebaum thought that, well, if there was --
18 you know, if the bullets were going to hit at a shallow
19 angle, they would usually cause a linear scuff mark
20 where they hit the pavement and bounced up. If bullets
21 hit the concrete block back here, they're going to
22 leave a mark. And you can all imagine this. When
23 somebody is shooting, particularly with a moderately
24 powered pistol like a 9 millimeter, it's going to leave

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1 a mark somewhere.

2 There is no strike evidence anywhere shown here in
3 this case, anywhere. The point is, where was that
4 pistol pointed? Was the pistol pointed in the air?
5 They couldn't find any strike marks anywhere, no
6 ricochet marks, no nothing. So what is that particle
7 in Cecelia's leg? The doctor didn't know. But I'll
8 get there in a minute.

9 So we'll stay back on this particular photograph
10 here. If Anthony Holly was running in the direction of
11 this Blazer back here, you would think you would find a
12 bullet hole in the Blazer, you would find a bullet hole
13 in this retaining wall, you'd find a bullet hole or a
14 ricochet off of these stairs, off of the building, but
15 you don't.

16 Now, listen, Mr. Young wants you to ignore this
17 mystery, that all of a sudden this particle ends up in
18 Cecelia's leg, but it's important to understand -- and
19 I'll tie this together with the instructions a little
20 later on.

21 So Delphine, when she testified, no hat and she
22 didn't describe any clothes either of whoever got out
23 of that car and started shooting. Now, she said she
24 didn't really pay any attention to what was going on

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1 until Anthony started running.

2 Now, here's the peculiar thing. She stated
3 that -- she said that she saw the person on the car and
4 she says it's Mr. Mason, that the person shooting from
5 the car was shooting at Anthony Holly. Now, I'll show
6 you why you should seriously, seriously dispute this
7 testimony in your deliberation.

8 If we go back to the State's Exhibit 2, Delphine is
9 sitting by her door in this area right next to the
10 wall, right next to her door. Anthony Holly, according
11 to her testimony, is running from here in front of the
12 building around this way. Or if you want to accept
13 Huey Stanley's testimony, he is running this way and he
14 goes around the Blazer and then down to the side of the
15 building.

16 Delphine testifies that she saw Anthony Holly fall
17 twice. Anthony Holly even testified that when he hit
18 the stair, the stair rail, it caused him to fall. He
19 actually fell twice according to Delphine. The bullet
20 never struck him. If the shooter is shooting at
21 Anthony Holly and he fell twice and he shot at him once
22 on the ground, you certainly if he missed him would
23 have seen a ricochet mark off of the asphalt. It's not
24 there.

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1 So back to Delphine, however. She says she's
2 watching Anthony run this direction. If she's seeing
3 Anthony run this direction and she's down here and
4 she's seeing him go back here and she sees him fall,
5 it's in this area where I'm making a little circle with
6 my pen. I challenge you to watch him fall here, fall
7 twice, by the way, and still have one eye cocked down
8 here down the sidewalk to see where the shooter is
9 shooting. It's virtually impossible. And she's not a
10 chameleon where the eyes can diverge and look in all
11 directions at the same time. Humans don't work that
12 way. They can focus their eyes in parallel in one
13 direction and that's it.

14 So Delphine either watched Anthony, which is the
15 more trustworthy version, where she sees him fall and
16 consistent with Anthony Holly's testimony that he fell
17 first when he hit the stair rail, or she can see down
18 toward Patton Drive. She can't be looking at the same
19 time.

20 Now, consider this also. She said as soon as she
21 heard the sound of the shots, she tried to cover her
22 daughter who was sitting on the ground. That means she
23 had to get on the ground and cover her daughter with
24 her body. So how much could she actually see at that

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1 point in time?

2 Why am I bringing this up? Do these people in
3 this -- that happened to experience this thing at 2397
4 Patton Drive, did they all get together and talk about
5 what happened and, of course, their stories congeal?
6 I'm not saying they're bad people. Everybody talks
7 about important events in their lives, and particularly
8 remarkable events like this, they'll talk about it and
9 they'll talk about it, but over a six-month period what
10 becomes fact and what becomes something that somebody
11 said that stuck in your head and you think, "Yeah,
12 maybe that's the way it was, I saw the guy shooting at
13 Anthony" -- but by her own testimony it's virtually
14 impossible for her to see both.

15 As I mentioned, she's crouched over trying to
16 protect Cecelia, but in fairness, it wasn't described
17 exactly what she did, but she said she was bending over
18 trying to protect Cecelia, but she certainly describes
19 in fair detail the path that Anthony took.

20 Now, there's another thing that came over the 911
21 call that you heard for Huey Stanley. You'll have that
22 in the evidence room. You can play it back there if
23 you want. And this is something, if I recall, Mr. Maes
24 stated too. He heard somebody screaming down there.

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1 But over the 911 call they were saying, "They shot the
2 baby. They shot the baby."

3 Well, what's wrong in that? It's not "He shot the
4 baby." It's "They shot the baby."

5 Maybe a small difference now, but when you add up
6 all of the inconsistencies in this entire scenario, it
7 makes a big difference, because you have to take all
8 these little things that seem like a minor chip around
9 the edge, you know, of the piece of pie, but by the
10 time you put them all together, the pie gets consumed
11 by the inconsistencies, because it just couldn't be
12 that way.

13 So let's talk about the car. This is the car that
14 the State actually wants you to believe was driven by
15 Mr. Mason that came up there and parked in that spot at
16 2297 Patton. You recall what Mr. Maes said about the
17 rear window? Oh, maybe he did, maybe he didn't, but
18 I'll tell you what he said. He said the rear window
19 was busted out. The rear window is not busted out on
20 there.

21 So with Mr. Maes we have somebody in a white shirt
22 and a red cap in -- I'm going to use the polite term --
23 an unloved car. He called it a ghetto car and
24 described it with the rear window punched out or broken

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1 out.

2 As you can see here, the rear window is fine on
3 this car. This is the one that was found in Sun
4 Valley. That nexus really hasn't occurred yet in this
5 case, but nonetheless, they find this car and they want
6 it to be the car that drove up in front of that -- in
7 front of that house, in front of the apartment
8 building. So, therefore, that's what they expect you
9 to believe, but it's not consistent with the testimony.

10 So if you -- Mr. Young emphasized that the car went
11 around in the parking lot where Mr. Maes was, did a
12 U-turn, headed up Patton Drive. And Mr. Maes actually,
13 I think reluctantly, admitted that he couldn't actually
14 see where it went because the trees were in the way,
15 but he said maybe 10 or 12 seconds later he hears some
16 gunshots.

17 So this is where you get into the instruction where
18 you have circumstantial evidence. So they want you to
19 believe that -- you know, that this is the same car
20 that drove in, did the U-turn, but there's so many
21 inconsistencies in it, you really can't consider this
22 same gold car.

23 Mr. Maes didn't really give a make or mark of the
24 car. This is a Hyundai Accent, you know, Eboni

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1 Spurlock's car, the one that they want you to believe
2 that was driven to the scene. So we have those
3 inconsistencies there.

4 And let me show you -- again, this is Exhibit 14.
5 Do you remember what Delphine said about the left
6 front? There was a big, huge, two-foot-in-diameter
7 spot of black primer on that car that she said she saw.
8 Now, this -- look, this is -- that's really significant
9 as far as the identity of this car, because you can see
10 from this photograph on Exhibit 17, there's no black
11 primer, there's nothing wrong with the -- she said it
12 was on the left front -- the driver's side -- by the
13 driver's side front wheel is what her exact testimony
14 was. There's no primer there. So she's describing a
15 car that's probably different.

16 I don't have any statistics on how many gold cars
17 inhabit the United States, or even Reno, but they're
18 really common. You see gold cars just about
19 everywhere. And small gold cars are probably a lot
20 more popular than large gold cars. So that's what we
21 have, here is another misdescription of this car.

22 And they want to tag Mr. Mason with this, so they
23 picked this car because they think he was driving it up
24 there and got out and started shooting. But here's the

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1 lack of information that they have regarding the car.
2 Nobody on the scene got the license plate. Nobody on
3 the scene described the make or model of that car.
4 They did describe some dark tinted windows. Some of
5 them say the windows were rolled down. So how did they
6 know? Another inconsis -- that's an inconsistency,
7 within an inconsistency.

8 So now we talk about what else was on the car that
9 Detective Blas didn't do. Oh, by the way -- let me see
10 if that photo is there. This is also very important.
11 This is a feature of a car that would be easily
12 describable by whoever perceived it to be there. And
13 as this car pulled in -- as whatever car it was pulled
14 in to the parking spot so that it could be perceived by
15 Mr. Stanley and Delphine, nobody described the bumper
16 this way. That's a very, very significant difference.

17 So what are all the flaws regarding the identity of
18 this car? No license plate, you know, there's no make
19 or model of the car that was described by Delphine or
20 Mr. Stanley. They certainly would have noticed this
21 bumper and been able to describe that, but that wasn't
22 done. Nobody said anything about this bumper being
23 that way.

24 The windows were supposedly rolled down. So how

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1 did they know that they were dark tinted? As you can
2 see, as the camera looks in this thing with the sun
3 shining down on it, you can't even see in the vehicle,
4 even from the front window. You can see part of the
5 dash there where I'm pointing my pen and that's it.
6 Even look at the surrounding vehicles. It would be
7 very, very difficult to perceive anyone in the driver's
8 seat of that car.

9 Then you couple on the other side where I showed
10 you the other picture of this car. There's no primer
11 there as described by Delphine. It's not the same car.
12 They want you to think it's the same car, but it's not.
13 So they go about their investigation assuming that this
14 is the car. And it is an assumption.

15 And by the way, we don't convict people in America
16 based on assumptions. It's not what it's about. It's
17 proof beyond a reasonable doubt.

18 So let's talk a little bit about Detective Blas and
19 how they used this car to establish some continuity in
20 the case. So what I'm showing you here is Exhibit 19
21 now.

22 THE COURT: Mr. Hylin, on the larger screen to your
23 left -- I'm sorry -- to your immediate left there's a
24 little button in the lower right-hand corner that will

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1 take the red arrow off of the screen there.

2 MR. HYLIN: I'm sorry. I didn't see it was on
3 there. Thank you, Your Honor.

4 THE COURT: And, counsel, I don't mean to -- I'm
5 not cutting your argument short.

6 We will be breaking for lunch in the next couple of
7 minutes, ladies and gentlemen, just so you know.

8 MR. HYLIN: Do you want to do it now, Your Honor?
9 That's fine.

10 THE COURT: It's certainly up to you, Mr. Hylin.
11 We started a little late. So, again, I'm not in any
12 way limiting the amount of time that you have to argue
13 your case. I just want to do it at a reasonable time
14 both for the convenience and comfort of the jury as
15 well as the parties. So maybe if we can -- if you want
16 to break now, we can do that.

17 MR. HYLIN: That's fine with me, Your Honor. I
18 will just be starting into Detective Blas's testimony,
19 so this is a good spot to break.

20 THE COURT: Okay. Ladies and gentlemen of the
21 jury, I think it might be a good idea then to break.
22 The case has not been submitted to you yet. Argument
23 has begun. But you are not to discuss the case, so I
24 need to read you the admonition again.

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1 You are instructed not to discuss the case among
2 yourselves or with anyone else or to form any
3 conclusions concerning the case until it is submitted
4 to you. You're not to read, look at or listen to any
5 news media accounts relating to this case should there
6 be any. You're not to form any opinion about the case
7 until it is finally submitted to you.

8 . Do not experiment or investigate. Do not visit the
9 scene. Do not refer to any outside sources for
10 instructions on the law. Rely only on the court for
11 legal instruction.

12 Ladies and gentlemen, why don't we come back at
13 approximately -- when I say "approximately," I
14 immediately wish I hadn't said that. Why don't we back
15 here at 1:15. That's going to give you a little bit of
16 extra time for lunch, but I think that will give the
17 appropriate amount of time both for you to go do the
18 things you need to do and then we'll come back and
19 conclude the closing arguments after the noon hour. So
20 we'll be back, again, at 1:15 p.m.

21 Remember that admonition. You're not allowed to
22 talk amongst yourself or with anyone else about the
23 case because it is not submitted to you yet for
24 consideration.

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1 All rise for the jury.

2 (Outside the presence of the jury:)

3 THE COURT: Deputy Gray, did we order lunch already
4 for the jurors?

5 DEPUTY GRAY: We have not.

6 THE COURT: Okay. Why don't we do that. We can
7 order them lunch. I know that jury deliberations --
8 well, no, strike that. We're not going to do that,
9 because they're going to be able to go out and do lunch
10 on their own.

11 Be seated, everybody.

12 The nurse from the Washoe County Sheriff's Office
13 is en route for Mr. Mason's medical needs, and so I did
14 want to make sure that we took that break right around
15 that period of time so Mr. Mason can get his insulin
16 injection and also get his lunch and make sure that his
17 physical needs are taken care of. And so we will be in
18 recess until 1:15.

19 Deputy Gray, when the nurse comes, just have her
20 assist Mr. Mason. I would request that Mr. Mason
21 remain here in the courtroom at least briefly for the
22 jurors to be able to clear the jury room if they need
23 to so they do not see Mr. Mason being escorted in the
24 company of the sheriff's office.

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1 Anything else on behalf of the State, Mr. Young?

2 MR. YOUNG: No. Thank you.

3 THE COURT: On behalf of Mr. Mason, Mr. Hylin?

4 MR. HYLIN: No, Your Honor.

5 THE COURT: Just so the parties also know, it is my
6 practice to release the alternate juror when the
7 jury begins their deliberations unless there's no
8 reason to have -- in this case it a female -- to have
9 her remain.

10 Mr. Young, do you have any objection to that?

11 MR. YOUNG: When you say "release," as far as let
12 her leave the courtroom or the courthouse?

13 THE COURT: Yes.

14 MR. YOUNG: I have no objection to that so long as
15 she -- I know typically they at least provide a phone
16 number in case she's needed to come back. But short of
17 that, no, I have no objection.

18 THE COURT: If the parties have a strenuous
19 objection, I can make the alternate remain here in the
20 building. I don't have her remain here in this
21 courtroom while her fellow jurors are deliberating, but
22 she will remain in the building. But generally I like
23 to let them go and I give them the admonition before
24 they leave and then we also make sure that we've got a

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1 cell phone number where we can reach that person. So
2 if that is the framework, is that all right with the
3 State?

4 MR. YOUNG: For that I have no objection.

5 THE COURT: Mr. Hylin?

6 MR. HYLIN: That's fine with me, Your Honor.

7 THE COURT: Then that will be the process that we
8 will employ in this case. We'll be back on the record
9 at 1:15. Court is in recess.

10 (The lunch recess was taken.)

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1 RENO, NEVADA; WEDNESDAY, FEBRUARY 11, 2015; 1:25 P.M.

2 --oOo--

3 THE COURT: Will counsel stipulate to the presence
4 of the jury? Mr. Young.

5 MR. HYLIN: The State will.

6 THE COURT: Mr. Hylin?

7 MR. HYLIN: Yes, I will.

8 THE COURT: Ladies and gentlemen, we'll go back on
9 the record in the State of Nevada versus Quinzale
10 Mason, CR14-1830. Mr. Hylin will continue now with his
11 closing argument.

12 Go ahead, Mr. Hylin.

13 MR. HYLIN: Thank you, Your Honor.

14 Good afternoon.

15 When I left off I was about ready to start talking
16 about Detective Blas and his phase of the investigation
17 when he's gathering the items out of the car. And the
18 photo that was at issue is here. If you recall, this
19 is the -- I'm sorry. This is Exhibit 19, by the way.
20 All these things will be in the jury room and you'll be
21 able to inspect them themselves.

22 Now, I asked a lot of questions of Detective Blas
23 and a lot of the procedural stuff, too. But when you
24 distill all this down, he found some items in this car

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1 here which has been well established that it's Eboni
2 Spurlock's car. That's essentially undisputed. In the
3 glove box there they found the registration. She
4 confirmed it's her car. So why would it be a shock
5 that Mr. Mason's items are sitting in that car?

6 But one of the important things that Steve Gresko
7 told you with the DNA is it doesn't tell you the time
8 any of these items were put in that car, it doesn't
9 tell you what time anything happened, it doesn't say
10 when month-wise, year-wise, day-wise. DNA essentially
11 shows that there's DNA, say, on the hat and the shirt.
12 And they're in a car that was essentially the family
13 car. Eboni used it most of the time when she went to
14 work, but it was also driven by Mr. Mason. So it's no
15 shock.

16 What the State wants you to do now is relate this
17 back and say, "Oh, that's got to be the car that pulled
18 in at the scene." But because of the discrepancies
19 that I showed you before, it couldn't be the car.
20 There's no big two-foot primer mark as testified to by
21 Delphine. Nobody described the bumper on this car. As
22 I showed you in the other photograph, it's
23 jobberywockey, it's been partially pried loose or at
24 least loosened from its brackets. The back window

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1 isn't out. The State wants you to just overlook all
2 these inconsistencies in the car that pulled in that
3 lot.

4 Well, you can't overlook the inconsistencies.
5 They're there. You know, they're the elephant in the
6 parlor is the old legal term. And you have to get
7 around that elephant in order to find that this is the
8 car that was at that -- at 2397 Patton Drive. You
9 can't do it.

10 So what they've done is gathered some of the items
11 in here, did a DNA test on the hat particularly and
12 said, "Bingo. This has got to be the car."

13 No, it doesn't have to be the car. It doesn't have
14 the characteristics that were described by Mr. Maes or
15 anybody there on the scene. You know, the only
16 similarity is it was a small gold car. Small gold car.
17 That's it. And that's why there's a huge discrepancy
18 in the State's case.

19 So I'm not really making fun of Detective Blas, but
20 they look for what they want to look for. And he found
21 what he wanted to find. But when I started going over
22 with him on some of the other items like, "Well, why
23 didn't you swab the steering wheel? Why didn't you
24 swab the doorknob? Why didn't you swab this?" and,

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1 frankly, he came up with a bushel basketful of excuses.
2 Mostly he said, "Well, it deteriorates in the weather."

3 Well, there wasn't any weather. Nobody testified
4 to any rain. Nobody testified about going through a
5 car wash. Nobody testified to any of that sort of
6 stuff. The fact of the matter is they collected this
7 car from where it was parked out at Sun Valley.

8 By the way, perhaps if you would have swabbed all
9 that stuff it would have told us who drove it out
10 there, because, if you recall, Steve Gresko testified
11 that the last driver of the car, particularly on the
12 steering wheel, would probably wipe out the DNA from
13 all the previous drivers. But because he didn't do
14 those tests and he didn't do, you know, a thorough
15 investigation, we'll never know now. We can't know.
16 So that really doesn't inure in the favor of the State.

17 If the State is not going to do a proper
18 investigation so that you nail all these little details
19 down, don't give them credit for it. You can't give
20 them credit for it.

21 So at any rate, when -- all I can say, we would
22 have found out who drove the car out there. Mr. Young
23 wants you to believe that it was Mr. Mason, but I'm
24 telling you, you have not heard one scintilla of

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1 evidence of who parked that car there. Not one. So
2 it's not even logical to conclude that that car was
3 parked there by Mr. Mason. It's rank speculation.

4 And let's go back to what I had said about the A
5 word, assumption. It's an assumption. We don't
6 convict on assumptions in this country. That's not the
7 way it's done. We convict on reasonable -- if they
8 have proved it beyond a reasonable doubt, which they
9 have not.

10 Also, in this car they found no shell casing, they
11 found no gun. I asked Detective Blas if he had -- you
12 know, if he had done a gunshot residue test. It's
13 called a GSR test in the investigative business. Well,
14 he didn't even bother to think about it. But if
15 somebody is shooting a gun near the car, near a human
16 being, just like he said, "Well, I don't know. That
17 gunshot residue can go quite a ways. It will get on
18 somebody, you know, that's in the proximity."

19 Yeah, it will get on somebody in the proximity, but
20 it will also get on the car and it will also get on
21 Mr. Mason.

22 Did they do a gunshot residue of the clothes that
23 they think that he was wearing that are in that little
24 white bag that they collected? No, they did not. Is

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1 it because -- did they intentionally not do a gunshot
2 residue test on those clothes? That's a very, very
3 serious question, very serious question, because that
4 would have been a lot more conclusive if they would
5 have come up with a gunshot residue on those clothes,
6 but they didn't do a gunshot residue test.

7 They didn't do a gunshot residue test on the
8 T-shirt, not on the hat. They didn't do it on the car.
9 If you're shooting a gun over the top of the car or
10 over the top of the hood, some of the gunshot residue
11 and the gunshot powder will land on that car.
12 Detective Blas even admitted that. But they didn't do
13 that test. So now this is what we have.

14 We have the car that's in these exhibits that
15 you've already seen that they want you to believe was
16 the car that pulled up in front of that apartment. So
17 either through investigative omission or investigative
18 sleight of hand, this is what they're doing to you.
19 They're trying to get you to believe that that car is
20 this gold car when in the reality the gold car that was
21 described by the people on the scene can't be this one.
22 A very, very important fact.

23 Now, the airport trip. Detective Jenkins got an
24 anonymous tip that mom was coming up. You know, this

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1 is -- Valerie Stewart is Mr. Mason's mom. Got an
2 anonymous tip. Well, anonymous tips I think are
3 probably everywhere frowned upon. They're more akin
4 to, you know, a cheesy rumor that goes around your
5 place of employment, which are very dangerous items.

6 So they got an anonymous tip that mom was coming up
7 from Phoenix to whisk Mr. Mason away and take him
8 somewhere where he wouldn't be found. Well, first of
9 all, that's not particularly bright, taking him down to
10 mom's place in Phoenix. Don't you think somebody could
11 fly down there or the Phoenix Police Department could
12 investigate or if they had a warrant out for him they
13 go collect him at Valerie Stewart's house in Phoenix?

14 Second of all, Valerie Stewart flew up here. You
15 know, they're not going to hitchhike home and they
16 didn't have a car to get home. So this anonymous tip
17 has a lot of incredulity attached to it to begin with.

18 Now, I'm not faulting Detective Jenkins for
19 following up on it, but the State touts Detective
20 Jenkins as the truth teller, as the person that is
21 going to verify this story to make it look like there
22 was this grand plot, but, you see, nobody else except
23 this anonymous tipster and Detective Jenkins has
24 anything to say about going back to Phoenix. All the

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1 rest of the testimony that we heard is he was going to
2 turn himself in.

3 I know the State wants you now to view that as some
4 sort of admission of guilt. But, you know, that's what
5 the -- you know, the State, being all government
6 entities that suspect somebody of a crime, either put
7 out a warrant or they go searching for somebody. And
8 if that suspect knows that they're a suspect and they
9 start to flee the jurisdiction, that in itself is
10 evidence of flight or a crime. That didn't occur in
11 this instance.

12 Everybody in that car told them that "We're going
13 to turn him in." And that's the proper thing to do,
14 for a suspect to do, is go confront the authorities and
15 clear his name. Instead he got arrested and taken to
16 the hospital. But notwithstanding that, that is not
17 evidence of guilt when a suspect goes to turn himself
18 in.

19 There's been thousands of cases that collectively
20 that everybody in this room would have either read in
21 the newspaper or heard about on TV news where somebody
22 is suspected of doing something and they just go turn
23 themselves in at the police station. Perhaps they're
24 interviewed by the police, perhaps not. But that's the

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1 proper thing to do.

2 So now the State wants you to imbue Mr. Mason with
3 a cloak of guilt because he went to turn himself in.
4 Well, that's not proper. Now, they never got there, so
5 I guess the State can argue, "Well, I don't know. They
6 were going to run." But there's no evidence of that.
7 The only evidence is that he was going to turn himself
8 in.

9 Now, let's take the veracity of Detective Jenkins.
10 She took the notes on her hand. The reason there's a
11 big pregnant pause here is if you're setting up on the
12 telephone and you're going to interview a suspect, what
13 detective makes notes on their hand?

14 I had a question, why did Detective Jenkins call at
15 3 o'clock a.m. Well, all right, fine. That may be her
16 shift. I didn't check the roster and I didn't subpoena
17 anything from the Reno Police Department to show that
18 she was or was not on shift that night. All right.
19 Fine. She choose 3 a.m., an unusual time to be calling
20 somebody, but the reality is that if she set up the
21 call at 3 a.m., she's intentionally calling. And a
22 professional detective would either have a laptop there
23 making notes or they would have a pad and paper there
24 making notes. Instead she says she made notes on her

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1 hand. Not particularly credible.

2 But the thing that really destroys her credibility
3 is that Ms. Gray testified on the stand that Mr. Mason
4 called her the day before on August 8th to wish her a
5 happy birthday. That was her birthday.

6 Now, you got to ask yourself, why would he call on
7 the 9th after this incident would have happened to talk
8 to her and say he shot a kid, but he's calling her to
9 wish her a happy birthday? This just doesn't add up.
10 And it was clear from the stand after I cross-examined
11 Detective Jenkins that she had misinterpreted the call
12 on the 8th to have occurred on the 9th and used that in
13 her report and her testimony to bolster the idea that
14 Ms. Gray had talked to Mr. Mason before Detective
15 Jenkins had called when Ms. Gray made it clear as a
16 bell that what she actually did was tell Detective
17 Jenkins that, "Yeah, I talked to him yesterday. He
18 called to wish me a happy birthday."

19 And she got it conflated and thought, "Okay. So he
20 called before and gave you this information," which
21 really wasn't the case.

22 Now, that really doesn't go to the core of this
23 particular case. And there's a lot of things that
24 occur in the case here that are peripheral, that are

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1 collateral matters almost. And the fact that he was
2 going to turn himself in is essentially a collateral
3 matter.

4 But let's go back to Dr. Cinelli now. And I'm
5 going -- this is going to lead into where I start
6 talking about some of the instructions. Dr. Cinelli,
7 who is a medical man, by the way, and no doubt very
8 respectable -- he has an incredible resume. And he has
9 a very, very admirable job doing the trauma surgery
10 that he does. I want it understood that I'm in no way
11 demeaning him. But when he's called into a courtroom
12 on a forensic basis like this, he's not in his
13 operating room, he's not in the ER, he's in a
14 courtroom. And he has a job to do here.

15 And he was essentially subpoenaed by the State to
16 tell you that his analysis would be that this would be
17 a ricochet. But how can he possibly say that? He
18 admitted on the stand that they never extracted the
19 metal in there, they never tested the metal, if indeed
20 it is metal.

21 You know, he says it looks on the x-ray like it's
22 metal, but he made a contrast showing you the gold ring
23 that the x-ray tech or whoever it was was holding
24 little Cecelia's leg and this gold ring showed up real

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1 bright like there was a light in it. And he used that
2 as an example of how metal shows up. And then he
3 points to the fragment, which is clearly bright. I'm
4 not disputing that. It's not -- you know, I'm not
5 saying that he's way off base saying this. But the
6 critical part is that they don't know the chemical
7 composition of that metal.

8 And if you don't know the chemical composition of
9 the metal or even the physical appearance of the metal,
10 you can't say it's a bullet fragment. And Dr. Cinelli
11 was very careful not to say that that wasn't a bullet.
12 As a matter of fact, I went into it, you know, a direct
13 hit. If you notice in the Amended Information for the
14 charge dealing with Cecelia, they say that the
15 defendant shot Cecelia.

16 No, he didn't shoot Cecelia. He wasn't pointing
17 the gun at Cecelia. Whoever was doing the shooting
18 there wasn't pointing the gun at Cecelia, because he
19 testified -- and he was familiar with firearms -- that
20 if it was -- if it was a round that came out of that
21 9 millimeter, a metal round, it clearly would have gone
22 through Cecelia's leg. And those bullets have enough
23 force that it would even shear the bone and have gone
24 through the bone if it would have hit the bone.

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1 Now, he did characterize it as a higher velocity,
2 but if you notice on those x-rays, you'll see that the
3 fragment is stuck between the two bones and it may be
4 touching them. It's a little bit difficult to tell
5 from those x-rays. It may be touching those bones, but
6 it could be a metal fragment from somewhere else.

7 Why is this important? Because it doesn't appear
8 that this weapon from whomever was firing it was aimed.
9 It certainly wasn't aimed at Cecelia. And it's really
10 doubtful that it was aimed at Anthony Holly. There's
11 no hits anywhere near where Anthony Holly was. There's
12 no bullet strike, no bullets, you know.

13 So what's left to be concluded? That whoever was
14 firing the firearm wasn't really pointing it where
15 everybody assumes -- again, an assumption -- assumes
16 that they're pointing that pistol. And that doesn't
17 make any sense, because you can't find any evidence of
18 the rounds hitting somewhere near it. It ranges from
19 three to five shots being fired here. They found --
20 they only found two casings, but they never found any
21 bullets whatsoever.

22 So if the bullets did hit something, they didn't
23 see any evidence of it. And the piece of metal in
24 Cecelia's leg is now a mystery. It's still there and

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1 it's a mystery.

2 All right. So what's the big deal here? Carl, why
3 are you making such a big deal out of this?

4 Well, let me take you through the logic that these
5 instructions do. And I'll show you each individual one
6 as we go along. This is Instruction No. 19. And I'll
7 see if I can't zoom in a little bit here.

8 This is the two things that make up a criminal
9 event in American law. And this is virtually every
10 jurisdiction in the United States, including the
11 federal jurisdiction. This is basic criminal law that
12 every law student learns in his first semester.

13 "In every crime there must exist a union or joint
14 operation of act and intent." In the law it's called
15 an actus reus and the intent is called the mens rea.
16 And the intent is the mental state that is required to
17 exist before you can convict anybody of a crime in this
18 country. There has to be that mental state, not just
19 the act, not just the big "boom boom" that was
20 testified to coming from the firearm, but there has to
21 be -- you have to have beyond a reasonable doubt in
22 your mind that whoever fired that pistol had the mental
23 intent to commit the crime that's charged by the
24 District Attorney's Office.

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1 The burden is always upon the prosecution to prove
2 both act and intent beyond a reasonable doubt. Well,
3 there's not -- the act is the "boom, boom, boom." I
4 don't think any witness was incredible enough so that
5 you would conclude that it didn't sound like a firearm
6 was being fired. It may be blanks or something else,
7 but it was fired. But the criminal intent here is the
8 issue that we're dealing with.

9 So the crime of battery, which you relate this
10 back -- this is Instruction No. 23, by the way. "The
11 crime of battery with a deadly weapon as set forth in
12 Count I of the Amended Information" -- you'll have the
13 Information in there -- "consists of the following
14 elements: The defendant did willfully and unlawfully
15 use force or violence upon the person of Cecelia M.
16 with the use of a deadly weapon."

17 But, see, the use -- the use, force or violence
18 upon the person of Cecelia M. is what they have to
19 prove. They have to prove beyond a reasonable doubt
20 that there was the criminal intent to harm Cecelia with
21 that deadly weapon.

22 Well, here's where the State -- well, let me put up
23 Instruction No. 24 also which is the assault with a
24 deadly weapon. This is in Count II. "The crime of

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1 assault with a deadly weapon as set forth in Count II
2 of the Amended Information consists of the following
3 elements: That the defendant did, A, unlawfully
4 attempt to use physical force against Anthony Holly or,
5 B, intentionally place Anthony Holly in reasonable
6 apprehension" --

7 Well, if you look in paragraph A, we still run into
8 the same language, "unlawfully attempt to use physical
9 force against Anthony Holly." The problem with that is
10 if there was no aiming of the weapon at him, in other
11 words, if there were shots in the air or shots
12 somewhere elsewhere where they never find these rounds,
13 they haven't established the criminal intent. And they
14 can't establish it beyond a reasonable doubt because
15 they don't have the evidence that those rounds were
16 going where the State wants them to be to convict him
17 of that crime delineated in A, in section A.

18 But that's not all there is to these. Not only
19 have they not proved that intent, but what they want to
20 do now, to get this back to Cecelia, is use the concept
21 of transferred intent. I'm not going to read all this,
22 but it's instruction 29 if you want to make a note of
23 these and go through the analysis. It's instructions
24 19, 23, 24. And the transferred intent is instruction

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1 29.

2 So transferred intent is a common law doctrine.
3 What do I mean by "common law"? Common law existed
4 clear from hundreds and hundreds of years ago, perhaps
5 even thousands of years ago. And this concept is as
6 old as the hills. It's hundreds and hundreds of years
7 old. It's not established necessarily by statute in
8 all the jurisdictions. It's established in common law,
9 however. And it has various breadth in the states, but
10 in Nevada it's a very broad concept.

11 So what it does, as Mr. Young explained to you
12 earlier -- and I know -- I'm not trying to bore you
13 with specifics, but you're given the instructions and
14 it's really important that you be able to analyze them
15 according to how they tell you to do your analysis.

16 So this concept of transferred intent means that --
17 and, you know, this is -- I'm going to explain the
18 weaknesses as we go along, that a piece of bullet --
19 the State's theory is that a piece of bullet somehow
20 got cleaved off and went into Cecelia's leg while the
21 shooter was pointing the weapon and trying to hit
22 Anthony. Okay. That's it in a nutshell. Shooter
23 trying to hit Anthony; piece of bullet ends up in
24 Cecelia. They are claiming that the crime is complete

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1 at that point against Cecelia through this doctrine of
2 transferred intent. In other words, they take the
3 intent that the shooter is trying to hit Anthony Holly
4 and transfer it over to Cecelia, because if we use a
5 standard criminal analysis -- this is why this doctrine
6 exists -- somebody could go shoot at a bunch of other
7 people, miss them, hit somebody in the background, kill
8 them, and they fall over dead, but you couldn't convict
9 them of the crime of hitting the bystander without the
10 doctrine of transferred intent. That's why it exists.

11 It's not unsensical to do this. But here's the way
12 the analysis works here. The same intent that it takes
13 to convict on Count I for Cecelia is the same intent
14 that they want to transfer from Anthony Holly over to
15 Cecelia. If the aim can't be established and they
16 can't establish a path of bullets that prove beyond a
17 reasonable doubt that anybody, be it Mr. Mason or
18 anybody else who had that pistol in their hand and
19 shooting, if they can't prove beyond a reasonable doubt
20 that that intent was there for Anthony Holly, they
21 can't use it against Cecelia. Can't use it.

22 And since they can't prove beyond a reasonable
23 doubt that that weapon was being fired at Anthony,
24 because there's no path of the bullet that they can

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1 establish -- I'll tell you what a crime scene would
2 look like. They would have little cones on the ground
3 where each impact was and they would have little
4 stickers on the wall and be taking pictures of -- let's
5 say that concrete block retaining wall on the west side
6 of the property there, they would have had a big
7 sticker, you know, on there with photos of where the
8 chip came out and probably even perhaps pieces of the
9 bullet. But they can't establish that. The bullets
10 aren't anywhere and neither are the evidence of any
11 bullets hitting anything around there.

12 And as for the piece of the particle in Cecelia's
13 leg, they don't know that either. Now, it's a strange
14 truth that Cecelia ends up with a particle in the leg,
15 but that particle in the leg just with the gunshot is
16 not enough to prove Count I beyond a reasonable doubt.
17 They have to be able to prove that that shooter
18 intended to hit Anthony, intended to batter Anthony, to
19 transfer that intent to batter over to Cecelia. They
20 have not done so.

21 If I could have just a moment, Your Honor.

22 THE COURT: Certainly.

23 MR. HYLIN: You know, Officer Koger got up there
24 who was taking Mr. Mason away from the scene where he

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1 was stopped there by the overpass of 395 and stated
2 that Mr. Mason said, "I'm glad you didn't shoot me."
3 But I got to explain to you, that's not evidence of
4 guilt. You know, if you got several police officers
5 that are surrounding your car and you've got pistols,
6 firearms pointed at you, and you're a suspect in a
7 case, whether you're guilty or not, you're real glad
8 they didn't open fire on you. And that's what that
9 statement means. It's self-contained. It's not
10 evidence of guilt. "Thank you for not shooting me."

11 Now, the other statement that Officer Koger
12 exclaimed -- he says words to the effect -- and here
13 I'm saying "to the effect" because that's basically
14 what they were -- "I know what I did was violent and I
15 didn't want you to shoot me."

16 Well, this is coming through Officer Koger how many
17 hours after he wrote his report? And he didn't record
18 it. Listen, I knew when I was asking those questions
19 that Officer Koger wasn't just going to come up and
20 say, "I'm a bad dog here. I didn't record it."

21 And what his explanation is is fairly simple. It's
22 "Well, we're not required to have the recording device
23 on."

24 Well, that may or may not be true. But if somebody

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1 is saying some spontaneous statements, which started
2 outside his car, by the way, outside the police unit,
3 you know, he should have had that recording on. But
4 it's not. So we have to take his word for it now.

5 And the State wants you to believe that Koger's
6 rendition of what was said in that car is accurate, but
7 all you have is that one person who didn't bother to
8 record it and didn't bother to purify it by making sure
9 that there was no doubt about -- or no doubts about his
10 credibility. It could have been recorded and played
11 for you. It was not.

12 I think I've covered just about everything else in
13 my notes here. You know, I always close by saying
14 this, but I really sincerely mean it. Sometimes
15 lawyers are boring, sometimes they're obnoxious,
16 sometimes they're arrogant, but most of all, they're
17 out for their clients and what we do here is for our
18 clients.

19 And what you do here for us is a valuable service.
20 And I meant it when I started my voir dire. I
21 explained that our system is always connected to our
22 society through you folks. You're the ones that do
23 this.

24 And our justice system, I can guarantee you, would

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1 be far different, it would be far more like the things
2 you find overseas in the continental system in Europe
3 where those are closed systems and they thrive amongst
4 themselves without input from the community.

5 And we really -- and I say "we." I mean we all
6 have that same feelings that we thank you so very much
7 for sitting here. But most importantly, my job is to
8 make sure that the State -- to show you that the State
9 did not prove their case beyond a reasonable doubt.
10 And I'm asking you to acquit my client, Mr. Mason.
11 Thank you.

12 THE COURT: Thank you, Mr. Hylin.

13 Mr. Young, would you like rebuttal argument?

14 MR. YOUNG: Thank you.

15 Ladies and gentlemen, I'll be relatively brief in
16 relation to my initial argument. I do, of course, want
17 to address some of the things that were stated by
18 Mr. Hylin and ask that you -- again, as I stated in my
19 initial close, rather than focusing on what one witness
20 says and is there a way to explain that away and then
21 look at the second witness and is there a way to
22 explain that away, and the third and the fourth and so
23 on, consider all of the testimony and all of the
24 evidence together and ask yourself does it flow and

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1 does it make sense.

2 And what I would submit is once you do that -- and
3 you don't look at items of evidence in a vacuum or in
4 isolation -- is that it all does make sense and it's
5 all very clear what happened on August 9th.

6 Now, Mr. Hylin spent some time discussing
7 inconsistencies. And primarily those inconsistencies
8 were about Mr. Holly's location when the shots were
9 fired and a description of the car and the red hat,
10 whether Mr. Holly was wearing a red hat.

11 Well, Mr. Holly's location -- again, if you recall
12 Mr. Stanley's testimony, he was ducking and dodging in
13 front of his -- well, Delphine's unit. And if you
14 recall Delphine Martin and Mr. Holly's testimony, he
15 was up near the front and then as he ran back was
16 ducking and dodging.

17 Okay. Ask yourself again how significant that is.
18 And in doing that, consider the jury instructions. 11
19 talks about how credibility is your determination
20 alone. I can't tell you whether to believe or
21 disbelieve someone. Nobody can except for yourself.
22 That's your job in this case as a juror. But it tells
23 you how much credit should be given to somebody. You
24 base that on a number of factors, and starting here

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1 with character, conduct, manner upon the stand, fears,
2 bias, impartiality, reasonableness or unreasonableness
3 of their statements, strength or weakness of
4 recollection, viewed in light of all the other facts in
5 evidence. And that's all I'm asking you to do. Just
6 consider it in conjunction with everything else.

7 Number 13 talks about specifically inconsistencies.
8 This acknowledges what we all know, is that something
9 might happen and people might see it a little bit
10 differently. But that doesn't absolutely destroy what
11 they say. And this tells you to look at is it an
12 innocent misrecollection? Is it willful falsehood?
13 Are they coming in and purposely testifying in a way
14 falsely and, as this says, willfully falsely? Or is it
15 just a vehicle pulls into the parking lot -- all three
16 individuals know who he is, know the car. It's
17 innocuous. He's there for a handful of seconds and
18 then he starts firing.

19 And Delphine Martin says, "I'm scared for my kid.
20 I've never been in this before. I see blood on my
21 hands. I start hyperventilating."

22 The officer confirms that and says she's in no
23 condition to talk. Huey Stanley hits the ground.
24 Anthony Holly is running away.

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1 So are these discrepancies, if you want to call
2 them that? Are they the subject of innocent error or
3 willful falsehood as the instruction asks you to
4 consider?

5 The car description. Now, Mr. Hylin made a couple
6 of times a statement that Mr. Maes said the back window
7 was broken out. You as the triers of fact determine if
8 that evidence was ever admitted in this case. I submit
9 that the only evidence of a broken back window was the
10 black VW bug that picked up Mr. Holly and left the
11 scene. There was no evidence admitted by Mr. Maes or
12 otherwise that the gold sedan had a broken-out back
13 window, none at all.

14 The bumper up front that was broken. No one
15 testified to that. True. And Ms. Martin said there
16 was some primer on the driver's side and the picture
17 doesn't show that. True. Willful falsehood? Innocent
18 error? Shooting.

19 If you find that those minor discrepancies is
20 enough to cause you reasonable doubt, that's your right
21 to do. I would submit it's not when you take it in
22 conjunction with everything else.

23 Now, I'm going to try my best not to bounce around
24 too much and I apologize if I do.

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1 But as far as the gold car and Mr. Hylin -- you
2 know, small gold cars are common. I'm not going to
3 disagree with that. And there was no license plate
4 number obtained and there was no make or model and
5 there's no description of, again, this damage to the
6 bumper. All true. But you even heard Ms. Spurlock
7 talk about the license plate. I'm not sure what my own
8 license plate number is.

9 So ask yourself, does it make sense that initially
10 somebody pulling in the parking lot who they all
11 recognize and know and then a shooting immediately
12 happens, are they going to get the make and model when
13 they all said, "I don't really know vehicles"? Are
14 they going to get the license plate? Are they going to
15 pay much attention to the small minutia or are they
16 going to focus on the shots being fired?

17 And as Delphine clearly said confidently, without
18 doubt, it was the defendant shooting at Anthony Holly.
19 And how many gold cars are there out there that
20 resemble the description of the car in question, are
21 registered to Eboni Spurlock, is at the residence that
22 morning but is gone at the time of the shooting and is
23 located after the shooting abandoned out of view of the
24 public within a few blocks of where the defendant is

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1 located?

2 So did the State present anybody to say, as
3 Mr. Hylin pointed out, "Well, we know that it was the
4 defendant that drove the car there"? No. That would
5 be direct evidence. And you don't have that here. But
6 recall the snowy meadow example. How do we know that
7 vehicle that ended up in Sun Valley is the vehicle?
8 From all those facts. That's circumstantial evidence
9 that you may certainly consider in this case.

10 Now, there's no gun found. There was no GSR.
11 There was no swabs. Detective Blas explained why that
12 wasn't done. There is a -- going on a 24-hour gap --
13 23 hours between the shooting just around noon or noon
14 15 on the 9th and when the defendant is contacted
15 later. Does it make sense to do GSR? Detective Blas
16 said no. There's nothing rebut that. There's no
17 evidence to rebut that assertion by Detective Blas.

18 Is there any reason to swab all the areas?
19 Detective Blas said no. And the same reason that
20 Mr. Hylin pointed out, that, well, you kind of expect
21 his clothes to be in there. You would also expect his
22 DNA to be in there. So would that tell us anything
23 when we know he drives that vehicle?

24 We heard that touch DNA is different than

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1 biological. It's not guaranteed it's going to even
2 leave anything anyway. And it's outside and the
3 windows are -- a whole number of things.

4 So should it have been done? The testimony you
5 heard was no, he didn't even second guess that. But
6 even if it was, would it tell you anything different
7 than what we already know?

8 Now, Mr. Hylin discussed the statements that the
9 defendant made, "I was going to turn myself in," and
10 that's not evidence of guilt. Okay. Again, you give
11 that statement as much weight as you feel is
12 appropriate. If you feel "I'm going to turn myself in"
13 is consciously the defendant saying "I know what I did
14 is wrong," fine. If you feel that a guy just turning
15 himself in because he knows the police are looking for
16 him, that's fine with me, too. But if Mr. Mason did
17 not do anything wrong, if he was not involved in this
18 shooting, he wouldn't make the additional statements
19 that he did. He wouldn't say, "This has been messing
20 me up." Would he?

21 He wouldn't say, "What I did was violent." And
22 there's no recorder going because there was no
23 intention to even speak with him. Contrary to what
24 Mr. Hylin said, Officer Koger wasn't transporting him

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1 anywhere. He just had him in the backseat of his car
2 while REMSA was coming. And he makes these statements
3 immediately.

4 So, again, if you want to fault Officer Koger for
5 not initiating his recording device when he has no
6 intention of even speaking with the defendant, that's
7 your right to do. You can fault him if you'd like.
8 All I'm asking you to consider is he had no intention
9 of speaking to him in the first place and he had no
10 intention of asking him any questions. Is there any
11 reason to activate a recorder?

12 Same with Detective Jenkins. Mr. Hylin said she
13 was calling to interview a suspect. No, she wasn't.
14 She was calling to try to find Quinzale Mason. And why
15 was it 3 o'clock in the morning? Because what he had
16 did just a few hours earlier was violent and they
17 needed to find him and he was gone. And we know where
18 he was. He was in a house in Sun Valley.

19 So is she supposed to wait until 8 a.m. to call?
20 No. She's trying to find out where he is. She's not
21 interviewing a suspect. She's not planning on a long
22 dialogue that she needs to take notes. And then
23 Ms. Gray starts making these comments. And, yeah, she
24 wants to get him out of here.

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1 Same as Mr. Koger. He initially said, "Well, words
2 to the effect." If you recall, we stopped based on the
3 objection. And I actually showed him his report to
4 refresh his memory of the exact quotes he put in his
5 report. The officers do reports to get accuracy of
6 what was said. And that's what Detective Jenkins and
7 Officer Koger did in this case.

8 Did she misinterpret what Ms. Gray said being the
9 8th? Of course not. Because on the 8th this crime had
10 not even been committed yet. And on the 9th when he
11 calls her, she's thinking, "Hey, he's calling me for my
12 birthday." And they have a good relationship. You
13 heard her testify, "I love my grandson." And she makes
14 the comments that she would have not known other than
15 him telling her.

16 Very briefly with Dr. Cinelli. And Mr. Hylin
17 brought up, well, this is a courtroom, it's not his
18 office. He was subpoenaed by the State to say ricochet
19 bullets. Folks, if you feel that he said that on the
20 State's behalf, again, that's you judging his
21 credibility. But he is a person in the medical
22 profession who treated Cecelia. And his opinion, his
23 diagnosis per his testimony, was she suffered from a
24 ricochet bullet. There is no evidence that was

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1 introduced in this case to contradict that. There is
2 none.

3 And when Mr. Hylin says, well, maybe it was blanks,
4 well, that doesn't explain the metallic fragment in her
5 leg. Dr. Cinelli was clear. His opinion: ricochet
6 bullet. And we don't have bullet strikes. And it's,
7 well, there's this concrete wall behind, which we saw
8 in the picture, and there is asphalt and the like.
9 Well, you heard some explanation about that, but you
10 also saw the dirt embankment behind there as well.

11 Again, what I ask you to do is don't consider all
12 these pieces in isolation. We know Cecelia suffered a
13 penetrating wound. The evidence is clear on that. The
14 only evidence as to what that wound is is a ricochet
15 bullet which just so happens to be consistent with
16 Anthony Holly running in the direction of where she was
17 sitting with her mom.

18 All right. Just a few more points, ladies and
19 gentlemen. As Mr. Hylin said, I too appreciate your
20 time and attention in this case. Now, I'm almost done.
21 There's a few more things I want to highlight.

22 The suggestion was made in Mr. Hylin's closing
23 argument that over the last five months or whatever
24 it's been since August 9th that the three people who

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1 all identified Anthony -- excuse me -- Quinzale Mason
2 as the person who got out of the car and ended up doing
3 the shooting have had -- his words, have had time to
4 congeal and make up their stories.

5 Well, again, like I mentioned in my first closing,
6 all three gave statements to the police. Mr. Stanley,
7 as he told you, did a written statement and spoke with
8 the dispatcher on 911 immediately. Mr. Holly was gone
9 and came back and spoke with officers, specifically
10 Officer Kassebaum. Delphine Martin after going to the
11 hospital and able to calm down spoke with Officer
12 Stockwell when he responded the hospital.

13 So they all made statements back at the time that
14 this occurred. So it's not that everyone was silent
15 for the last five months and has all this time to talk
16 about it. And on top of that, Delphine, you heard her
17 say, she moved. Mr. Holly didn't want to even get
18 involved.

19 So does it make sense that they would all get
20 together and come up with this master plan of what
21 happened and to frame Mr. Mason and say it was him and
22 say that, "Yeah, he was shooting at Anthony Holly
23 versus in the air?" That's for you to decide. But it
24 doesn't make any sense.

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1 And Mr. Hylin said, well, there's, you know -- if
2 you recall this part of his argument, "Well, it was
3 they, they, they," which means more than one person.
4 But where did we hear "they"? From the 911 call. And
5 who said it? I'm going to play the call again for you,
6 because it's important. But who said they drove up and
7 shot the baby? That was Glorietta who Mr. Stanley said
8 "wasn't outside with me because she had gone into the
9 bathroom."

10 And even on the 911 call, you hear as she's passing
11 the phone to Mr. Stanley who did see everything, or the
12 majority of it at least, you even hear her say when
13 she's transferring the phone to him, "Oh, I was coming
14 out of the bathroom. I don't know what happened. I
15 wasn't there."

16 When Mr. Stanley gets on the phone, immediately,
17 this is as the shooting just finished and 911 is being
18 called, before officers have even arrived, what does he
19 say? "I know who it was. I know where he lives. He
20 was the only person in the car. I saw the direction
21 the car went."

22 Anything inconsistent from his testimony that he's
23 had six months to manufacture in his head? No.

24 So let me play it for you. You listen to it. And,

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1 again, listen to if even once Mr. Stanley uses the word
2 "they," because he doesn't. Let me play it for you.
3 This is Exhibit 25. Again, I can't stress the timing
4 of this call, that shots were just fired. As you heard
5 from the testimony, Delphine is going into hysterics,
6 which makes sense, because her daughter was just shot.
7 And 911 is called immediately. And without any time to
8 figure out what to say, this is initially what
9 Glorietta says and candidly doesn't know much and uses
10 "they" and then it's passed over to Mr. Stanley. It's
11 consistent with what he testified to in this case.

12 (Exhibit 25 was played.)

13 MR. YOUNG: That's what was said immediately after
14 the shots. Only one person. "I've seen him around.
15 He lives up here."

16 Then when Officer Lancaster pulls up, he points out
17 the exact unit which matches, again, all the balance of
18 the evidence which I'm not going to go through. Black
19 male, beard. It all fits.

20 So, folks, I'm not -- I'm going to try not to take
21 too much more of your time.

22 Again, the transferred intent with the battery. To
23 be clear, the State does not need to show that
24 Mr. Mason intended or wanted to strike Cecelia.

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1 Willfully using force or violence. The term
2 "willfully" here is described in instruction 27. It
3 even says there, "does not require in its meaning,
4 among other things, any intent to injure another." All
5 it says is "implies a purpose or willingness to commit
6 the act."

7 So he willfully is discharging a firearm. There's
8 evidence that he is shooting the firearm at Mr. Holly
9 as he's running away. We know that from Delphine
10 Martin and all the circumstantial evidence. And in the
11 course of that, Cecelia is hit. The transferred
12 intent, that's all that is required for Count I.

13 For Count II, the assault with a deadly weapon, did
14 attempt to use force against Anthony Holly. The
15 evidence supports that. Or alternatively that he did
16 intentionally place Mr. Holly in reasonable
17 apprehension of immediate bodily harm. Racking the
18 gun, getting out of the car, shooting a firearm as
19 Mr. Holly is running way, that's satisfied as well.

20 And then, of course, for both Counts I and II, it
21 has to be done with the use of a deadly weapon which,
22 again, isn't really much in dispute here.

23 So, folks, I'm going to finish with this. I
24 appreciate your time. This is instruction 30. This

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1 has not yet been discussed, but I'm going to close with
2 this. Let me read it first and then discuss it.

3 The top paragraph reads, "Although you are to
4 consider only the evidence in the case in reaching a
5 verdict, you must bring to the consideration of the
6 evidence your everyday common sense and judgment as
7 reasonable men and women. Thus, you are not limited
8 solely to what you see and hear as the witnesses
9 testify. You may draw reasonable inferences which you
10 feel are justified by the evidence, keeping in mind
11 that such inferences should not be based on speculation
12 or guess."

13 So, folks, here's what this means. On Monday of
14 this week all you came into court as prospective
15 jurors. You were all selected to sit in this case as
16 jurors. You check in and you come out of the jury room
17 and you have stickers identifying yourself as jurors.
18 Very shortly you're going to be released into the jury
19 room to deliberate as jurors for this case. But what
20 this instruction tells you, folks, is that prior to all
21 of that, prior to this Monday when you began your jury
22 service for this case, all of you have lived
23 respectively your individual lives and all of you
24 through the course of those lives have garnered common

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1 sense as reasonable men and women.

2 And the law does not require you to shed that
3 common sense. The law does not require you to ignore
4 your common sense when you go into that jury room and
5 deliberate.

6 So if you feel that I have failed to meet my burden
7 of proof, then the defendant would be not guilty. But
8 to do that, you have to disregard the three witnesses
9 who all identified the defendant, you have to disregard
10 all of the balance of the testimony of the vehicle not
11 being on scene and being located in Sun Valley and
12 being close to where the defendant was ultimately found
13 and the statements that he made and everything else.
14 But you would also have to disregard your common sense.
15 Because when you look at the totality of the evidence,
16 it's clear that it was the defendant who was the
17 shooter. And it's clear that he was shooting at
18 Anthony Holly. And it was clear in the course of that
19 that Cecelia was struck by a -- as the doctor said, a
20 ricochet bullet.

21 Use your common sense. Use that in conjunction
22 with the evidence. And if you do that, I would submit
23 that the conclusion to be reached is that the defendant
24 is guilty of both counts.

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1 THE COURT: Thank you, Mr. Young. Mr. Young, would
2 you mind moving the TV screen and the monitor, please.
3 Thank you.

4 Ms. Clerk, if you could swear in Deputy Gray and
5 his fellow deputies to take custody of the jury.

6 (The oath was administered.)

7 THE COURT: Ladies and gentlemen of the jury, in a
8 moment I am going to send you back into the jury room
9 where you will begin your deliberations. And I won't
10 read you the jury admonition, because you now get to
11 talk about the case, you get to discuss the facts, you
12 get to review the instructions and the evidence and
13 come to the conclusion that you come to.

14 The one person who will not be doing that is the
15 alternate. We always have an alternate in every case.
16 Sometimes we have more than one. Just in case one of
17 your fellow jurors is unable to complete deliberations,
18 we have that alternate who can come in and we would
19 begin deliberations anew.

20 Ms. Vasquez, you're actually the alternate in this
21 case, and so you will not be deliberating with your
22 fellow jurors, but what I can tell you is that I have
23 spoken to both attorneys and they've agreed to release
24 you from the courthouse. So you'll be free to go about

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1 your business, but you'll be the only person I have to
2 read the admonition to one more time.

3 You're not allowed to discuss the case until the
4 case is concluded. So you need to follow that
5 admonition again. Give Deputy Gray your cell phone
6 number or some way we can get ahold of you. And that
7 way, once the case is over with, he'll call you and
8 he'll let you know that the case is finished and then
9 you can discuss it with anybody you want to. But I do
10 appreciate your service. I know you've been paying
11 close attention to these proceedings and I appreciate
12 the fact that you served your community. You get the
13 same credit for jury service if you're the alternate or
14 if you're not the alternate. So thank you again for
15 being here.

16 Ms. Vasquez, you are instructed not to discuss the
17 case among yourselves -- well, among yourself. I don't
18 know how you discuss it with yourself. But don't go
19 talking to yourself about it, Ms. Vasquez.

20 You're not to discuss the case with anyone else or
21 to form any conclusions concerning the case until it is
22 submitted to you. You're not to read, look at or
23 listen to any news media accounts relating to the case
24 should there be any. You're not to form any opinion

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1 about the case until it is finally submitted to you.

2 Do not experience or investigate. Do not visit the
3 scene. Do not refer to any outside sources for
4 instructions on the law. Rely only on the court for
5 legal instructions.

6 All rise for the alternate juror.

7 Okay. Everybody else can be seated.

8 Once Deputy Gray comes back, then I'll send you
9 back into the jury room and you can begin your
10 deliberations. So just one moment.

11 You will have, just so you know, the evidence and
12 everything else go back there with you.

13 Mr. Young, did you get the CD out of the computer?

14 MR. YOUNG: No. I'll do that right now.

15 THE COURT: Deputy Gray, has Ms. Vasquez left?

16 DEPUTY GRAY: Not yet, Your Honor.

17 THE COURT: Just one moment then and then I'll
18 excuse you for your deliberations.

19 All rise for the jury.

20 (Outside the presence of the jury:)

21 THE COURT: Please be seated.

22 The record will reflect that the jury has retired
23 to the jury room. Informally prior to the resumption
24 of the case after the lunch recess I discussed with

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1 counsel the fact that Mr. Mason has dialysis scheduled
2 this afternoon at approximately 3 o'clock. It is now
3 2:35, and so the jury will begin their deliberations,
4 but it's reasonable to assume at some time in the near
5 future that Mr. Mason will no longer be with us here in
6 the courtroom.

7 The Court will allow the jury to continue their
8 deliberations and we will wait on their call. However,
9 we will not take the jury's verdict, assuming the jury
10 comes to a conclusion, sometime after Mr. Mason leaves.
11 The procedure that the Court will follow is that the
12 jury will be brought back in, the verdicts will be
13 taken by the clerk, and they will be kept locked by the
14 court clerk until tomorrow morning when Mr. Mason will
15 again join us.

16 Is that the process that the State agrees to,
17 Mr. Young?

18 MR. YOUNG: I have no objection to that, Your
19 Honor.

20 THE COURT: Mr. Hylin?

21 MR. HYLIN: Yes, that's fine, Your Honor.

22 THE COURT: Assuming that that does occur, the jury
23 then will be again given the admonition and they will
24 be allowed to go home tonight. The Court does also

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1 acknowledge that there may be the possibility that we
2 have to go forward with Count III tomorrow. So we'll
3 have the jury come back at 8:30 in the morning and we
4 will take up whatever additional business we have to
5 take up tomorrow.

6 Counsel, if you could please give Ms. White your
7 cell phone number so we can get ahold of you. I like
8 to keep people about no more than ten minutes away in
9 case there are any questions for the jury. Thank you,
10 counsel.

11 Court's in recess.

12 (A recess was taken.)

13 (Within the presence of the jury:)

14 THE COURT: We'll go back on the record in
15 CR14-1830, the State of Nevada versus Quinzale Mason.
16 Mr. Mason is not present. His attorney, Mr. Hylin, is
17 present. Mr. Young is here on behalf of the State of
18 Nevada.

19 Mr. Young, do you stipulate to the presence of the
20 jury less the alternate?

21 MR. YOUNG: Yes, Your Honor.

22 THE COURT: Same for you, Mr. Hylin?

23 MR. HYLIN: Yes, Your Honor.

24 THE COURT: Ladies and gentlemen, who is your

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1 foreperson?

2 JUROR CORNISH: I am.

3 THE COURT: Mr. Cornish. Have a seat, sir.

4 I want to let you know something that is going on.
5 As you can see, Mr. Mason is not with us. Mr. Mason
6 has some physical issues that needed attention, and so
7 he's not here today.

8 A defendant does have a right, a constitutional
9 right, to be present when the verdict is returned in
10 his case. It is approximately 10 minutes until 5:00.
11 And so I won't be able to take your verdict today.
12 But, Mr. Cornish, what I would like you to do is
13 provide the packet of verdict forms to Deputy Gray.
14 And he is going to provide them to me and I will place
15 them in this envelope and then I will seal it. And we
16 will not discuss the verdict until tomorrow.

17 I need you to come back at 8:30 a.m. tomorrow
18 morning so we can return your verdict, whatever your
19 verdict may have been.

20 So with that, I'll provide the jury instructions
21 themselves to the clerk. And I apologize on behalf of
22 Mr. -- well, I don't apologize on behalf of Mr. Mason.
23 It's not his fault that he has some physical needs that
24 need to be taken care of. But I want to thank you for

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1 your attention to this issue. I know that I told you
2 it was going to be four days at the most. So we will
3 be back tomorrow morning at 8:30 a.m. so Mr. Mason can
4 be here. At that point I will open the envelope and
5 then we will publish your verdict.

6 Now, what's very important is that you are now not
7 discharged from the admonition. So when you do home,
8 the jury admonition still applies. Your service is not
9 over yet. I'll let you know when you're allowed to
10 talk to your friends and family and to talk to each
11 other. So it's important also to keep in mind when you
12 come back tomorrow morning -- I know you've reached a
13 decision on these charges, but you cannot discuss your
14 decision with each other. All deliberations have to be
15 conducted as a group. And so it would be inappropriate
16 for one or two of you to come in tomorrow morning and
17 start talking about your deliberations.

18 Does everybody understand that? I need to see
19 everybody's head. Okay. So I've got positive nods
20 from everybody.

21 One moment.

22 And I will tell you that this envelope tastes
23 awful.

24 So the record will reflect that I have sealed the

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1 envelope. I'll place my initials on the seal and date
2 it. And I'll direct the clerk to maintain custody of
3 the envelope. She'll lock it up so no one will have
4 any access to it.

5 So, ladies and gentlemen, your work is almost
6 finished. That's all I can tell you. I appreciate,
7 again, the diligence that you've shown in these
8 proceedings and I need you back here at 8:30 in the
9 morning tomorrow. So when you go home, again, don't
10 talk to anybody. Remember that.

11 You are instructed not to discuss this case among
12 yourselves or with anyone else or to form any
13 conclusions concerning the case until it is submitted
14 to you. You are not to read, look at or listen to any
15 new media accounts relating to this case should there
16 be any. You're not to form any opinion about the case
17 until it is finally submitted to you.

18 Do not experiment or investigate. Do not visit the
19 scene. Do not refer to any outside sources for
20 instructions on the law. Rely only on the court for
21 legal instructions.

22 And remember, back here at 8:30 in the morning
23 tomorrow and no discussion when you get together about
24 what you did today. That portion of this case is not

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1 over.

2 All rise for the jury.

3 (Outside the presence of the jury:)

4 THE COURT: Please be seated.

5 The record will reflect that the jury has returned
6 to the jury room. Counsel, my judicial assistant is
7 preparing the jury instructions for Count III in the
8 event that we'll need those instructions.

9 I can tell you I didn't look at the verdict forms
10 when I stuck them in the envelope, so I have to idea
11 what the jury's decision is in this case.

12 So if we could just stand by, I can let know what I
13 did was simply take out a number of them that were
14 duplicative of instructions that had been given
15 initially. It is my intention to number the additional
16 instructions and then give them the entire packet back,
17 because they use the same instructions for the ex-felon
18 in possession of a firearm in the bifurcated portion of
19 these proceedings, so they get the whole packet back.
20 There's no reason to put in certain instructions. So
21 just relax for a moment.

22 Mr. Hylin and Mr. Young.

23 MR. HYLIN: Thank you, Your Honor.

24 THE COURT: Thank you.

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1 This will be off the record momentarily.

2 (A discussion was held off the record.)

3 THE COURT: Let's go back on the record. We'll go
4 back on the record in CR14-1830. The record will
5 reflect that we have remained in the courtroom since
6 the jury has recessed and briefly discussed in an
7 informal way the proposed jury instructions that will
8 be given regarding being an ex-felon in possession of a
9 firearm, or more accurately, being a felon in
10 possession of a firearm.

11 The Court has four proposed jury instructions and
12 verdict forms of not guilty and guilty for Count III of
13 the Amended Information. The Court will number the
14 instructions as follows: The instruction that begins
15 "The Defendant Quinzale Mason" will be Instruction No.
16 33. "The elements of being a felon in possession of a
17 firearm" will be 34. The instruction that says "you
18 may consider all" is 35. And the instruction that says
19 "both the defense and the State" will be 36.

20 The Court would note that in the informal meeting
21 that we just had, the issue of a potential stipulation
22 was discussed by the parties. Specifically there is
23 the possibility that Mr. Mason will stipulate that he
24 is a convicted felon. The Court would note that

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1 Instruction No. 33 as it is currently numbered lists
2 the offense that the defendant was convicted of as
3 voluntary manslaughter with the use of a deadly weapon.
4 However, the instruction that is numbered 36 discusses
5 the contemplation of the parties that there may be a
6 stipulation in the case, the stipulation being that
7 Mr. Mason will simply stipulate to the jury that he is
8 a convicted felon.

9 If Mr. Mason and the State enter into that
10 stipulation, then the State will provide an alternate
11 Instruction No. 33 that omits the language describing
12 the nature of the offense in Clark County, Nevada. If,
13 however, there is no stipulation, the Court will give
14 Instruction No. 33 as it is currently written and the
15 Court will remove Instruction No. 36. And so we will
16 just wait on Mr. Mason's decision regarding that issue.

17 With that understanding, Mr. Young, do you have any
18 additional instructions that you wish to offer
19 regarding Count No. 1?

20 MR. YOUNG: No. Thank you, Your Honor.

21 THE COURT: And do you have any objection to the
22 instructions that the Court has indicated that it will
23 give?

24 MR. YOUNG: No. Thank you.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Mr. Hylin, on behalf of Mr. Mason, do
2 you have any additional instructions that you would
3 like to give?

4 MR. HYLIN: No, I do not, Your Honor.

5 THE COURT: And do you have any objections to the
6 procedure that the Court just outlined regarding
7 instructions 33 and 36?

8 MR. HYLIN: No. I concur, Your Honor.

9 THE COURT: All right. Then we will be in recess.
10 The record will reflect that Mr. Mason was taken to the
11 Washoe County Sheriff's Office at approximately -- I
12 think it was about 3:15. Deputy, was it about 3:15?

13 THE BAILIFF: Yes, Your Honor.

14 THE COURT: -- at approximately 3:15 in the
15 afternoon while the jury was deliberating so he could
16 receive his dialysis treatment. He will be back
17 tomorrow morning at 8:30 a.m. at which point we'll
18 unseal the jury's verdicts and then we will decide how
19 we will proceed with these further issues.

20 Anything else, Mr. Hylin?

21 MR. HYLIN: Nothing, Your Honor.

22 THE COURT: Mr. Young, anything else?

23 MR. YOUNG: No. Thank you, Your Honor.

24 THE COURT: Then I will return the entire packet of

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1 jury instructions to the clerk and simply request that
2 she hold on to those until tomorrow at 8:30.

3 Court is in recess.

4 The record will reflect that the jury instructions
5 will also be locked with the jury verdicts in the
6 court's-- and time I say "lockbox."

7 MR. HYLIN: The magic box.

8 THE COURT: I think of Al Gore when I say
9 "lockbox." But they will be in the court's lockbox.
10 And the record will also reflect that the bailiff,
11 Deputy Gray, has returned all of the exhibits to the
12 court clerk.

13 Court is in recess.

14 (The proceedings were adjourned at 5:07 p.m.)

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ROUGH DRAFT TRANSCRIPT

1 ACKNOWLEDGMENT

2 I, LORI URMSTON, Certified Court Reporter, in and
3 for the State of Nevada, do hereby acknowledge:

4 That the foregoing proceedings were taken by me
5 at the time and place therein set forth; that the
6 proceedings were recorded stenographically by me and
7 thereafter transcribed via computer under my
8 supervision; that the foregoing is a true ROUGH DRAFT
9 transcription of the proceedings to the best
10 of my knowledge, skill and ability and has not been
11 proofread, corrected or certified.

12 I further certify that I am not a relative nor an
13 employee of any attorney or any of the parties, nor am
14 I financially or otherwise interested in this action.

15 I declare under penalty of perjury under the laws
16 of the State of Nevada that the foregoing statements
17 are true and correct.

18 DATED: At Reno, Nevada, this 6th day of
19 May, 2015.

20
21
22 LORI URMSTON, CCR #51

23
24 LORI URMSTON, CCR #51

ROUGH DRAFT TRANSCRIPT

1 CODE: 4185
2 PEGGY B. HOOGS, CCR #160
3 HOOGS REPORTING GROUP
4 435 Marsh Avenue
5 Reno, Nevada 89509
6 (775) 327-4460
7 Court Reporter

UNCERTIFIED
DRAFT TRANSCRIPT

8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF WASHOE
10 THE HONORABLE ELLIOTT A. SATTler, DISTRICT JUDGE

11 -oOo-

12 STATE OF NEVADA, Case No. CR14-1830
13 Plaintiff, Dept. No. 10
14 vs.
15 QUINZALE MASON,
16 Defendant.
17 =====

18 ROUGH DRAFT TRANSCRIPT
19 TRIAL
20 DAY 4
21 FEBRUARY 12, 2015

22
23
24 Reported By: PEGGY B. HOOGS, CCR #160, RDR, CRR

CALIFORNIA CSR #5958

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-oOo- APPEARANCES -oOo-

FOR THE PLAINTIFF:

ZACH YOUNG, ESQ.
Deputy District Attorney
1 South Sierra Street
Reno, Nevada 89501

FOR THE DEFENDANT:

CARL HYLIN, ESQ.
Deputy Public Defender
350 South Center Street
Reno, Nevada 89501

1 (The following proceedings were held outside
2 the presence of the jury.)

3 THE COURT: Let's go on the record in the
4 State of Nevada vs. Quinzale Mason, CR14-1830. Mr. Mason
5 is present in court with his attorney, Mr. Hylin.
6 Mr. Young is here on behalf of the State of Nevada.
7 We're meeting outside of the presence of the jury.

8 Good morning to all of you.

9 Mr. Mason, last night after you were taken to
10 have your dialysis treatment, we left the jury
11 deliberating, and so they continued to deliberate, and
12 they came back at approximately 4:45 yesterday with a
13 verdict. I have not looked at the verdict forms. I
14 actually took them from the jury and sealed them in an
15 envelope. I have the envelope here with me, and so I
16 know that you wanted to be present when the jury came
17 back and returned the verdict, so we have not heard from
18 the jury yet regarding what the outcome of your case is.

19 There is a possibility that we will go
20 forward with Count 3 of the Amended Information.
21 Mr. Mason, Count 3, as you know, is charging you with
22 being a felon in possession of a firearm. One of the
23 elements of that offense is that you are a convicted
24 felon. In order to prove that, what the State does is

1 they provide a certified copy of a prior criminal
2 conviction that is provided to the jury.

3 My understanding is that you have discussed
4 with your attorney the concept of stipulating to the fact
5 that you are simply a convicted felon and, therefore,
6 waiving the requirement for the State to produce the
7 certified copy of the prior criminal conviction.

8 You don't have an obligation to do that.
9 It's completely up to you whether or not you enter into a
10 stipulation with the State, but if you do stipulate,
11 you're waiving an element -- one of the elements of that
12 offense.

13 Do you understand that?

14 THE DEFENDANT: Hold on.

15 THE COURT: Okay.

16 (A discussion was held off the record.)

17 THE COURT: Mr. Mason, did you have an
18 opportunity to speak with Mr. Hylin and have any
19 questions about what I just told you answered?

20 THE DEFENDANT: No, sir.

21 THE COURT: No, sir, or yes, sir?

22 THE DEFENDANT: I mean yeah. I understand
23 it, yeah.

24 THE COURT: You talked to Mr. Hylin, and he

1 was able to answer any questions you may have had about
2 that stipulation?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: What you're doing by stipulating
5 is simply waiving that one element of the offense.
6 You're not waiving anything else. You're simply
7 acknowledging that you are a convicted felon, and so in
8 doing that, you and the State have agreed that the State
9 won't tell the jury what the offense is. It's just that
10 you're a convicted felon.

11 Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Is that what you want to do? I
14 just want you to understand if you don't want to do
15 that -- and, again, you have no obligation to do
16 so -- what will happen is the State will mark a certified
17 copy of the prior felony conviction and that will be
18 admitted, assuming it's constitutional.

19 Mr. Hylin has told me he has already reviewed
20 it and it is constitutionally valid, and so that document
21 will go to the jury, and they'll see your prior felony
22 conviction for voluntary manslaughter with the use of a
23 deadly weapon.

24 So are you going to stipulate just that

1 you're a convicted weapon or do you want the State to
2 produce the certified copy of the criminal conviction?

3 THE DEFENDANT: I'll stipulate, Your Honor.

4 THE COURT: I appreciate that.

5 MR. HYLIN: We are offering that, the defense
6 is, Your Honor, and that's pursuant to Edwards vs. State,
7 122 Nev. 378, a 2006 case, which follows Old Chief vs.
8 United States, 519 U.S. 172.

9 THE COURT: Then what the Court will do is
10 withdraw the previously marked Jury Instruction No. 33
11 and instruct the clerk to mark "withdrawn" on that, and
12 then this morning, Mr. Young provided a new Instruction
13 No. 33, and I will number that right now, and that will
14 be read to the jury.

15 It is my intention this morning to call the
16 jury in to take their verdict, and then if the defendant
17 was convicted of one or both of the felony offenses
18 alleged in Count I and II of the Amended Information,
19 what I will do then is inform the jury that they do have
20 one additional task that they need to address. I will
21 read them the jury instructions, just the jury
22 instructions that are new, 33 through 36, and I will send
23 them back into the jury room to continue to deliberate,
24 and then we will wait on their return. And, again,

1 that's assuming that the defendant is found guilty of one
2 or both of the offenses in the Amended Information.

3 We will not have an opening statement, there
4 will be no additional evidence presented based on the
5 stipulation, and there will be, obviously, no closing
6 arguments presented.

7 Does anyone object to that procedure?

8 Mr. Young?

9 MR. YOUNG: I have no objection.

10 THE COURT: Mr. Hylin on behalf of Mr. Mason.

11 MR. HYLIN: I have no objection, Your Honor,
12 considering that all the evidence concerning Count 3 has
13 already been placed before the jury as far as the firearm
14 is concerned.

15 MR. YOUNG: Very briefly, it probably goes
16 without saying, but I am agreeing to the offer of the
17 stipulation for the --

18 THE COURT: I assumed as much based on our
19 conversations yesterday.

20 MR. YOUNG: It probably did not need to be
21 said, but for the record.

22 THE COURT: I like when it goes without
23 saying and then they say it anyway.

24 MR. YOUNG: I do that every now and then.

1 THE COURT: All rise for the jury.

2 (The jury entered the courtroom.)

3 (The following proceedings were held outside
4 the presence of the jury.)

5 THE COURT: Good morning, ladies and
6 gentlemen.

7 Will counsel stipulate to the presence of the
8 jury less the alternate? Mr. Young?

9 MR. YOUNG: The State will, Your Honor.

10 THE COURT: Mr. Hylin?

11 MR. HYLIN: Yes.

12 THE COURT: Ladies and gentlemen, as we
13 discussed yesterday, Mr. Mason was not available when you
14 returned your verdict, and so, as you saw, I sealed your
15 verdicts in this envelope. Those of us who are old
16 enough to remember Johnny Carson, I feel like Karnick. I
17 have the envelope, and I can hold it up to my head and
18 tell you the answer.

19 What I will do now is unseal the envelope and
20 provide your verdict forms to the clerk so they may be
21 published.

22 Mr. Mason, generally I request the defendant
23 stand when the verdicts are read, but in your case I know
24 you have some problems with your legs, so you may remain

1 seated.

2 THE CLERK: "In the Second Judicial District
3 Court in the State of Nevada in and for the County of
4 Washoe, the State of Nevada, plaintiff, vs. Quinzale
5 Mason, defendant, Case No. CR14-1830, Department No. 10,
6 Verdict: We, the jury in the above-entitled matter, find
7 the defendant Quinzale Mason guilty of Count I, battery
8 with a deadly weapon, dated this 11th day of February,
9 2015, Foreperson;

10 "Verdict: We, the jury in the above-entitled
11 matter, find the defendant Quinzale Mason guilty of
12 Count II, assault with a deadly weapon, dated this 11th
13 day of February, 2015, Foreperson."

14 THE COURT: Ladies and gentlemen of the jury,
15 is this your verdict, so say you one, so say you all?

16 (Collective affirmation by the jury.)

17 THE COURT: Does either party wish to have
18 the jury polled? Mr. Hylin?

19 MR. HYLIN: Yes, Your Honor.

20 THE COURT: Miss Clerk, please poll the jury.

21 THE CLERK: Juror No. 1, is this your verdict
22 as read?

23 JUROR NO. 1: Yes.

24 THE CLERK: Juror No. 2, is this your verdict

1 as read?
2 JUROR NO. 2: Yes.
3 THE CLERK: Juror No. 3, is this your verdict
4 as read?
5 JUROR NO. 3: Yes.
6 THE CLERK: Juror No. 4, is this your verdict
7 as read?
8 JUROR NO. 4: Yes.
9 THE CLERK: Juror No. 5, is this your verdict
10 as read?
11 JUROR NO. 5: Yes.
12 THE CLERK: Juror No. 6, is this your verdict
13 as read?
14 JUROR NO. 6: Yes.
15 THE CLERK: Juror No. 7, is this your verdict
16 as read?
17 JUROR NO. 7: Yes.
18 THE CLERK: Juror No. 8, is this your verdict
19 as read?
20 JUROR NO. 8: Yes.
21 THE CLERK: Juror No. 9, is this your verdict
22 as read?
23 JUROR NO. 9: Yes.
24 THE CLERK: Juror No. 10, is this your

1 verdict as read?

2 JUROR NO. 10: Yes.

3 THE CLERK: Juror No. 11, is this your
4 verdict as read?

5 JUROR NO. 11: Yes.

6 THE CLERK: And Juror No. 12, is this your
7 verdict as read?

8 JUROR NO. 12: Yes.

9 THE COURT: The jury's verdicts will be
10 entered as part of the record in this case.

11 Ladies and gentlemen, I've been slightly
12 disingenuous with you about your responsibilities.
13 Yesterday when I told you you would come back and we
14 would simply read the verdict to the defendant, that was
15 not completely accurate. It depended on what your
16 verdict was.

17 There was one additional charge contained in
18 the Amended Information. That charge was being a felon
19 in possession of a firearm. The Nevada Supreme Court, in
20 a case by the name of Brown vs. State requires that we
21 bifurcate, which means we have two separate hearings or
22 trials, regarding an allegation of certain felony
23 offenses, and then if there's an additional offense of
24 being a felon in possession of a firearm.

1 So what the Supreme Court tells us we have to
2 do, we have to hear that first offense first, and then
3 you come back and make a decision on the offense of being
4 a felon in possession of a firearm.

5 For that reason I have additional jury
6 instructions that I need to read you. There is one
7 additional task that you have, and that is, you must
8 determine if the defendant is guilty of being a felon in
9 possession of a firearm.

10 I'll read the jury instructions in a moment.
11 There are only four additional jury instructions, but
12 what I want to emphasize to you is, all of the other jury
13 instructions still apply in this case, so I'm going to
14 give you back the packet of jury instructions numbered 1
15 through 32, and then there will be four additional
16 instructions, Instructions 33 through 36, attached to
17 them, and then there are two verdict forms, one guilty
18 and one not guilty, for being a felon in possession of a
19 firearm.

20 As I told you when I instructed you
21 yesterday, you're not obligated to find the defendant
22 guilty of this or any offense. It is just one additional
23 offense that the State has alleged. The State's burden
24 is exactly the same. They must prove beyond a reasonable

1 doubt that the defendant committed the offense of being a
2 felon in possession of a firearm. All the other jury
3 instructions apply and you're allowed to consider all of
4 the evidence that you have listened to in coming to a
5 conclusion whether or not the State has proven that
6 offense.

7 So what I'll do for you now is read you Jury
8 Instructions No. 33 through 36. I'm not going to give
9 you each a packet of these because it's very short.

10 (Jury instructions 33 through 36 were read to
11 the jury.)

12 THE COURT: So, ladies and gentlemen of the
13 jury, I will direct that the Court provide you -- strike
14 that -- the clerk provide you with all of the exhibits
15 again to aid in your deliberation should you need to
16 refer to any of them, I am providing you with a packet of
17 original jury instructions so you may refer to them, and
18 we will await your decision.

19 All rise for the jury.

20 Again, there's no admonition again. Go back
21 and discuss the case.

22 Court's in recess.

23 (A recess was taken.)

24 (The jury entered the courtroom.)

1 THE COURT: Will counsel stipulate to the
2 presence of the jury? Mr. Hylin?
3 MR. HYLIN: Yes, Your Honor.
4 THE COURT: Mr. Young?
5 MR. YOUNG: Yes.
6 THE COURT: Mr. Cornish, I've been informed
7 you have an additional verdict; correct?
8 JURY FOREPERSON: Correct.
9 THE COURT: Would you provide that to Deputy
10 Gray.
11 The clerk will read the verdict regarding
12 Count III.
13 THE CLERK: "Verdict: We, the jury in the
14 above-entitled matter, find the defendant Quinzale Mason
15 guilty of Count III, being a felon in possession of a
16 firearm, dated this 12th date of February, 2014."
17 THE COURT: Is this your verdict, so say you
18 one, so say you all?
19 (Collective affirmation by the jury.)
20 THE COURT: Mr. Hylin, would you like the
21 jury polled?
22 MR. HYLIN: Yes, I would.
23 THE COURT: Why don't we poll the jury, then,
24 as to Count III.

1 THE CLERK: Juror No. 1, is this your verdict
2 as read?
3 JUROR NO. 1: Yes.
4 THE CLERK: Juror No. 2?
5 JUROR NO. 2: Yes.
6 THE CLERK: Juror No. 3?
7 JUROR NO. 3: Yes.
8 THE CLERK: Juror No. 4?
9 JUROR NO. 4: Yes.
10 THE CLERK: Juror No. 5?
11 JUROR NO. 5: Yes.
12 THE CLERK: Juror No. 6?
13 JUROR NO. 6: Yes.
14 THE CLERK: Juror No. 7?
15 JUROR NO. 7: Yes.
16 THE CLERK: Juror No. 8?
17 JUROR NO. 8: Yes.
18 THE CLERK: Juror No. 9?
19 JUROR NO. 9: Yes.
20 THE CLERK: Juror No. 10?
21 JUROR NO. 10: Yes.
22 THE CLERK: Juror No. 11?
23 JUROR NO. 11: Yes.
24 THE CLERK: Juror No. 12?

1 JUROR NO. 12: Yes.

2 THE COURT: Ladies and gentlemen of the jury,
3 now I'm not kidding. Your work here is finished. Thank
4 you very much for your service. I understand that it was
5 a little bit disjointed there the last couple of days,
6 yesterday and today, but it was just required based on
7 the nature of the case.

8 There's only a couple of things that I ask of
9 you at this point. One of them is that at the end of
10 every trial I have the jurors fill out a very brief
11 questionnaire. You're not obligated to do so, so if you
12 don't want to, you don't have to. I can guarantee you I
13 review every single one of them.

14 The reason I have the questionnaire done is I
15 want to know what I can do to make jury service for the
16 next 12 people sitting in the seats that you're sitting
17 in better, so if you have suggestions in any way that I
18 can make the process better, please let me know. Some
19 people say we can give better coffee and we can make the
20 facilities a little bit better. I think that eventually
21 might have to be taken up with the county commission. We
22 might need a new building at some point.

23 So you as former jurors, if you have a strong
24 feeling about the jury room, maybe at some point we can

1 take that up. I can't do anything about the facilities,
2 but if there is something about them that made you
3 uncomfortable, I need to know about it so we can address
4 that in the future.

5 The other thing I want to tell you is that
6 you are now completely free from the admonition. You can
7 talk to anybody that you want to about your jury service.
8 I can tell you, based on my past experience as a trial
9 attorney, that oftentimes it's helpful for the attorneys
10 to call the jurors and find out what it is that they did
11 well or areas possibly they can work on to improve.
12 There's nothing inappropriate about the attorneys or
13 somebody from the attorneys' offices calling you and
14 wanting to discuss the case with you, and so if that call
15 does come, it's up to you whether or not you want to talk
16 to them or not. I'm not saying that you should or that
17 you have to. I know, as I said before, Mr. Young and
18 Mr. Hylin are both very courteous gentlemen, but if they
19 call and you want to talk to them, feel free to do so.
20 If you don't want to talk to them and you tell them that
21 and they persist, then you call me and I'll take care of
22 it for you, but I can't imagine that occurring.

23 The last thing I'll tell you is, I do make it
24 a habit or a practice to meet with my fellow judges in my

1 office after jury service. So Deputy Gray will let you
2 know, if you want to talk to me in my office about your
3 jury service or I can answer possibly any questions that
4 you may have had about the process or the way that we do
5 things, I'll be happy to meet with you once you've
6 collected your belongings and you may come back.

7 So just talk to Deputy Gray about that if
8 you'd like to do that. If I don't have the opportunity
9 to thank you in person under those circumstances, let me
10 just one final time say thank you on behalf of your
11 community for the service that you provided this week.

12 Ladies and gentlemen, you will rise for the
13 jury.

14 (The jury exited the courtroom.)

15 THE COURT: The record will reflect the jury
16 has retired to the jury room.

17 Mr. Mason, we do need to prepare a
18 Presentence Investigation Report in your case, so,
19 Ms. Clerk, do we have a date for sentencing?

20 MR. HYLIN: Your Honor, I was going to ask
21 that it be set in as close as possible. His medical
22 condition is deteriorating rapidly, and because of his
23 incarceration, they took him off of the donor list for a
24 transplant.

1 THE COURT: Okay.

2 MR. HYLIN: So, you know, it's become kind of
3 critical as far as that is concerned, so I know -- I know
4 what the parameters are with the Division, but I think
5 they can probably squeeze out a PSI earlier than the
6 normal routine, so I would ask that we could set in as
7 soon as possible.

8 THE COURT: Mr. Young, the prior criminal
9 conviction out of Las Vegas, what year was that?

10 MR. YOUNG: 2006, I believe, Your Honor.

11 THE COURT: The only reason I ask is that we
12 can use a Presentence Investigation Report that's not
13 less than five years old, but if it was outside that
14 window, then we do need to do a new Presentence
15 Investigation Report.

16 MR. YOUNG: The first judgment and conviction
17 was December 18, '06, so going on nine years ago.

18 THE COURT: So we can't use that old PSI.

19 Ms. Clerk, if we could set a date as soon as
20 possible for Mr. Mason.

21 Mr. Mason, we do have to do a Presentence
22 Investigation Report, and that usually takes about 45
23 days, but if we can set it maybe 30 days, then if the
24 Division can't do that, then I'll talk to them about it,

1 but I understand Mr. Mason's condition. I think
2 Mr. Hylin's request is a reasonable one.

3 MR. HYLIN: Thank you, Your Honor.

4 THE CLERK: Mr. Hylin, would March
5 19th -- that's a Thursday -- that's a little bit over 30
6 days because February is a short month. Or March 17th?

7 MR. HYLIN: Either one is fine. The
8 Department 1 calendar is the same day, so what I'll have
9 to do is be in front of the calendar or trail it to the
10 end, but that should be fine.

11 THE COURT: We'll accommodate you one way or
12 the other, Mr. Hylin.

13 Which day do you prefer, Thursday the 19th or
14 Tuesday the 17th, Saint Patrick's Day or the 19th.

15 MR. HYLIN: Let's do it the 19th.

16 THE COURT: We'll set this for sentencing on
17 Thursday, March 19th at 8:30 a.m., and Mr. Hylin will
18 contact my staff and let them know if you want to go
19 first or last. It will be completely up to you,
20 Mr. Hylin, but we'll accommodate you.

21 MR. HYLIN: Thank you, Your Honor.

22 THE COURT: Mr. Mason, I'm going to order you
23 cooperate with the Division of Parole & Probation in the
24 preparation of a Presentence Investigation Report. I'm

1 also ordering you bring in \$25 on the day of your
2 sentencing. That's an administrative assessment fee that
3 I'll order in addition to anything else I do on that
4 date.

5 Do you understand that?

6 THE DEFENDANT: Am I supposed to have, like,
7 \$25 on my books for that?

8 THE COURT: Yeah. If you have \$25 on your
9 books, that would be great. If you don't or you can't
10 get it, I understand, but it is a requirement you pay a
11 \$25 administrative assessment fee.

12 Court's in recess.

13 (Proceedings concluded.)

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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, PEGGY B. HOOGS, Certified Court Reporter
5 in and for the State of Nevada, do hereby certify:

6 That the foregoing proceedings were taken by
7 me at the time and place therein set forth; that the
8 proceedings were recorded stenographically by me and
9 thereafter transcribed via computer under my supervision;
10 that the foregoing is a ROUGH DRAFT transcription of the
11 proceedings and has not been proofread or certified.

12 I further certify that I am not a relative
13 nor an employee of any attorney or any of the parties,
14 nor am I financially or otherwise interested in this
15 action.

16 I declare under penalty of perjury under the
17 laws of the State of Nevada that the foregoing statements
18 are true and correct.

19 Dated this 6th day of May, 2015.

20
21 /s/ Peggy B. Hoogs

22 Peggy B. Hoogs, CCR #160, RDR

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 6th day of July 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Terrence P. McCarthy, Chief Appellate Deputy,
Washoe County District Attorney's Office

I further certify that I deposited a true and correct copy of the foregoing in the United States Mail, postage prepaid, and addressed to:

Mr. Quinzale Mason (#1135809)
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, Nevada 89702

John Reese Petty
Washoe County Public Defender's Office