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Respondent.

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Case No. 68710

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1 wanted to talk to her and Lorenzo was like, You ain't talking
2 to her. And he goes, I just want to talk to her. So me and
3 Lorenzo and Amanda walked back to Lorenzo's room and he asked
4 me to give him a ride. Lorenzo asked me to give him a ride
5 home.

6 Q Well, let me back up a little bit. So when you said
7 that Lorenzo and Bobby were arguing in the parking lot, was
8 Bobby's focus on speaking with Amanda, or was it that he was
9 mad at Lorenzo?

10 A I don't think he was really mad at him except for
11 the fact that, you know, he thought they were screwing.

12 Q Okay. But what I'm saying is when they're going
13 back and forth you said that Bobby, all he was saying was I
14 just want to talk to Amanda, and Lorenzo was saying, no,
15 you're not talking to her.

16 A Yeah. He said, No, you ain't talking to her, and we
17 continued to walk back to the room.

18 Q Okay. Was Amanda there as well when this was going
19 on between the two of them?

20 A Yes.

21 Q At some point does Amanda eventually talk to Bobby?

22 A Yes.

23 Q When is that?

24 A When me and Lorenzo went in the room and she talked
25 to Bobby on the side of the building.

1 Q When she went around and talked to Bobby on the side
2 of the building, could you see where they were?
3 A No.
4 Q Were you with Lorenzo at his room?
5 A Yes.
6 Q And do you remember where his room was located?
7 A Building 1.
8 Q How long would you say you were in that room?
9 A Five minutes, 10 minutes maybe.
10 Q Could you hear Bobby and Amanda on the side of the
11 building?
12 A No.
13 Q An at this time is Shannon still in the car not part
14 of this?
15 A Yes.
16 Q Okay. So you said Lorenzo asked -- Lorenzo asked
17 you to give him a ride home?
18 A Yes.
19 Q Did you know where home was?
20 A Yes.
21 Q And how did you know that?
22 A Because I knew him.
23 Q So you knew where he lived?
24 A Yes.
25 Q And where did he live?

1 A He lived at the Siegel Suites.

2 Q About how far is the Siegel Suites from the Arizona
3 Charlie's?

4 A About half a mile. Maybe a mile.

5 Q So is it not far by car?

6 A No.

7 Q Did you know before you got there this night that
8 Lorenzo even had a room at the Arizona Charlie's?

9 A No.

10 Q So when he asked you to take him home, does he tell
11 you anything about what he's got to do at the room?

12 A No. He just said he was going to check out.

13 Q So he's going to check out. Did he tell you where
14 to meet him?

15 A I told him I would meet him at valet.

16 Q Because he had to go inside and check out with the
17 hotel?

18 A Yes.

19 Q And he asks you this while Bobby and Amanda are on
20 the side of the building?

21 A Yes.

22 Q So when you go into Lorenzo's room, does he gather
23 up his stuff?

24 A Yes.

25 Q So did you see what he had with him?

1 A I think he had two backpacks, a backpack or two.

2 Q Did you see him put anything into those backpacks?

3 A No.

4 Q Did you ever see him with a gun at the Arizona
5 Charlie's?

6 A No.

7 Q All right. So at some point does this -- an
8 argument escalate with Bobby at the Arizona Charlie's?

9 A Yes.

10 Q Okay. What happens with that?

11 A They were just arguing back and forth. The security
12 asked Bobby to leave the property.

13 Q So you said they were arguing back and forth. Who
14 was arguing?

15 A Lorenzo and Bobby.

16 Q What was being said between the two of them?

17 A I'm gonna kick your ass, and yeah, fuck you, you
18 ain't gonna kick nobody's ass.

19 Q All right. Who said, I'm going to kick your ass?

20 A I think Bobby said that he's gonna, you know, gonna
21 kick his ass. And then Lorenzo said, "You ain't gonna kick --
22 no, fuck you, I'm gonna kick your ass mother fucker."

23 Q All right. And did Lorenzo say anything about where
24 they could possibly have this ass kicking?

25 A Yeah. He said, "Meet me at my house."

1 Q Did he say when?

2 A In 30 minutes. And he said, "Meet me at my house in
3 30 minutes mother fucker. I'll kick your ass."

4 Q Okay. So Lorenzo was telling Bobby, I'm gonna kick
5 your ass, we're gonna have this fight, we'll do it in 30
6 minutes at my apartment?

7 A Yes.

8 Q And did Bobby know where that was?

9 A Yes.

10 Q So Bobby had been to Lorenzo's apartment before?

11 A Yeah.

12 Q So security though, asked Bobby to leave?

13 A Yes.

14 Q At some point in this argument, did you ever see
15 Bobby throw anything or lunge at anyone?

16 A No.

17 Q How many times would you say Lorenzo told Bobby to
18 meet him at his house so they could fight?

19 A Three or four.

20 Q Do you recall testifying previously at a preliminary
21 hearing?

22 A Yes.

23 Q And was that in February 2014?

24 A Yes.

25 Q Do you recall saying that Lorenzo told Bobby to meet

1 him at his house approximately ten times?

2 A Yeah, I guess.

3 Q So how many -- would it be somewhere three and ten
4 times?

5 A Yes.

6 Q At this point when you see what's going on, do you
7 do anything to try and defuse the situation?

8 A There wasn't nothing you could do. Neither one of
9 them was gonna listen.

10 Q All right. Well, when Bobby's told by security to
11 leave, does Bobby leave?

12 A Yes.

13 Q At that point, do you just agree to take Lorenzo or
14 the defendant home?

15 A Yeah.

16 Q Were you trying to maybe separate them?

17 A Yeah.

18 Q Did you -- were you worried at all about this fight
19 occurring once you got home -- or back to Lorenzo's place?

20 A Yeah. I didn't want them -- I didn't want them to
21 fight. I figured if I took him home then -- and I thought
22 Bobby was walking.

23 Q So you thought it would take Bobby a lot longer to
24 get there?

25 A A lot longer, yeah.

1 Q All right. So at this point do you get back in the
2 car with Shannon and go around to the valet?

3 A Yes.

4 Q While you're waiting at the valet, does anyone come
5 out and get into the car?

6 A Yes.

7 Q Who does?

8 A Lorenzo and Amanda.

9 Q Do you know where in the car Lorenzo and Amanda
10 get in?

11 A In the back.

12 Q They're both in the back seat?

13 A Yes.

14 Q Do you know -- and so Shannon would be the front
15 passenger seat?

16 A Yes.

17 Q Do you know where Lorenzo sat in the back seat?

18 A I think he sat behind me, behind the driver seat.

19 Q And then so Amanda would have been behind Shannon?

20 A Yes.

21 Q During this drive to get back to Siegel Suites, is
22 there any talk in the car between you and Amanda and the
23 defendant?

24 A Yeah. We -- a little bit.

25 Q Was there any talk about what had just happened?

1 A Not really.

2 Q Did you ever hear whether or not Lorenzo and Amanda
3 were talking amongst themselves in the back seat?

4 A They were whispering some -- they were whispering
5 something. I couldn't hear.

6 Q So you couldn't hear what they were saying?

7 A No.

8 Q All right. So --

9 MS. DiGIACOMO: The Court's indulgence.

10 (Ms. DiGiacomo confers with the clerk.)

11 BY MS. DiGIACOMO:

12 Q So I'm going to show you what's been marked and
13 admitted as State's Exhibit No. 5. Do you recognize what's
14 depicted in this aerial photograph?

15 A Yes.

16 Q Do you see where the Arizona Charlie's is?

17 A Yes.

18 Q And is that down in the lower right-hand corner?

19 A Yes.

20 Q And do you see the Siegel Suites in the upper
21 left-hand corner?

22 A Yes.

23 Q What was the route that you took to get home to
24 the -- or get back to the Siegel Suites?

25 A Boulder Highway.

UNCERTIFIED ROUGH DRAFT

1 Q Just a straight shot?

2 A Yes.

3 Q And when you get to the Siegel Suites, showing you
4 State's Exhibit No. 4, do you recognize that's Siegel Suites?

5 A Yes.

6 Q All right. You can touch the screen with your
7 finger and make lines. So can you show the jury how you
8 pulled in to the Siegel Suites and where you went?

9 A I pulled in here and I went down to the left, down
10 and around to the back right about here.

11 Q Okay. When you -- so when you come in to the Siegel
12 Suites, you can either go left or right?

13 A Yes.

14 Q So you went left?

15 A I went left.

16 Q And you went all the way down to the second
17 building, it looks like towards the end of the second building
18 that would have been on your right-hand side?

19 A Yes. Yes.

20 Q And what was the point of going to that particular
21 building?

22 A That's where Lorenzo lived.

23 Q Do you know where he lived?

24 A On the third floor.

25 Q So when you got to the Siegel Suites, do you

1 recall --

2 Let me zoom in. Can you clear that, please.

3 When you got to the Siegel Suites and you came here,
4 did you stop your car in the roadway, did you pull into a
5 stall?

6 A Pulled into a parking spot.

7 Q Which side? So if you're driving in --

8 A The building side.

9 Q -- would you have pulled into a stall on the right
10 or the left?

11 A On the right.

12 Q On the right. In front of the stairs where you go
13 to Bobby's -- or excuse me --

14 A Yes.

15 Q -- Lorenzo's apartment?

16 A Yes.

17 Q So when you pull into that stall, do you get out of
18 the car?

19 A No, not at first.

20 Q All right. Who gets out of the car?

21 A Lorenzo.

22 Q Does Amanda get out, or is she still in the car
23 then?

24 A She was still in the car.

25 Q What happens when Lorenzo gets out of the car?

1 A He sees Bobby up on the third floor.
2 Q Could you see Bobby on the third floor?
3 A Yes.
4 Q Could you hear Bobby?
5 A Yes.
6 Q What was Bobby doing up on the third floor?
7 A He was just waiting for him to get there, waiting
8 for Lorenzo to get there.
9 Q Was he banging on the door?
10 A No.
11 Q Was he yelling and screaming?
12 A No.
13 Q So you could just see he was up there in front of
14 the door waiting?
15 A Yes.
16 Q And you said Lorenzo gets out and sees him?
17 A Yes.
18 Q At this point what do you do?
19 A I got out of the car.
20 Q Why did you get out of the car?
21 A I got out of the car because I was, you know, I
22 didn't want to see them fight. So I told Amanda and Shannon
23 to take the -- I asked Amanda if she could drive. She said,
24 Yeah. I told her to take the car and go over to the bar or
25 something, across the street to the bar. I didn't want them

1 to see them if they got in a fight.

2 Q Okay. So let me back you up. You said go across
3 the street to a bar. Is there a bar close by that it's common
4 for people who live at the Siegel Suites to go to?

5 A Yes. Right across the street.

6 Q What's the name of that?

7 A 4 Mile.

8 Q And let me zoom out here on State's Exhibit 4.
9 Where is the bar in relation to the Siegel Suites?

10 A Right here.

11 Q Okay. So it would be the bottom right-hand corner?

12 A Yes.

13 Q So it's across Boulder Highway?

14 A Yes.

15 Q So you said, Hey, take the car, get out of here?

16 A Yeah.

17 Q And why did you do that?

18 A In case they got in a fight. They didn't need to
19 see it.

20 Q And what kind of fight were you thinking was going
21 to happen?

22 A Well, if they was going to get in a fight, it
23 probably would have been a pretty good one.

24 Q But would it be a fistfight, or did you -- were you
25 afraid there would be weapons involved?

1 A No. A fistfight.

2 Q That's what you were expecting?

3 A Yeah.

4 Q So does your car that you were driving leave?

5 A Yes.

6 Q And Amanda's driving it?

7 A Yes.

8 Q And what route does Amanda take to leave?

9 A She goes out the back. She keeps going the same way

10 I came in. She goes out --

11 Q You can draw on there.

12 A Okay. She goes out this way.

13 Q So she continues to go east and goes around the

14 other building in the back?

15 A Yeah. Supposedly from what I hear, they stopped

16 right here and pulled in.

17 Q No. I understand what you may have heard. But I

18 just want to know what you saw. You saw her --

19 A Yeah. I seen them go around the back and go around

20 the building.

21 Q All right. And after they go around that corner,

22 could you see the car anymore?

23 A No.

24 Q So now what happens?

25 A Lorenzo and Bobby started arguing back and forth.

1 Q Is Bobby still at the top of --

2 A He was coming down the stairs.

3 Q Now where are you standing?

4 A To the right, right there to the left of Lorenzo.

5 Q All right. Are you in a parking stall, a parking
6 lot, are you on a sidewalk?

7 A I was standing on the sidewalk.

8 Q Let me show you State's Exhibit No. 8. Can you see
9 in this -- let me zoom out. Sorry. Can you see in this
10 photograph where you and Lorenzo would have been standing?

11 A Yes.

12 Q Where? And you can --

13 A Right about here.

14 Q Now, you put a mark on the back top right-hand
15 corner of the Chevrolet truck that's got the license ending in
16 862?

17 A Yeah. But we was on the sidewalk in front of it.

18 Q So you would have been on the sidewalk. Would you
19 have been between the Chevrolet and the silver car to its
20 right?

21 A About there.

22 Q All right. But you're on the sidewalk?

23 A Yes.

24 Q So showing you State's Exhibit No. 10, this is a
25 different view of the same area in the parking lot, correct?

UNCERTIFIED ROUGH DRAFT

1 A Yes.

2 Q Do you see about where you would have been standing
3 on the sidewalk?

4 A Yes.

5 Q Where was that?

6 A I was about here, and Lorenzo was about right
7 there --

8 Q So it --

9 A -- where the stairs come down.

10 Q It appears that Lorenzo's almost right where the
11 sidewalk comes out from the apartment buildings?

12 A Yes.

13 Q All right. And you would have been just to his --

14 A Left.

15 Q -- left, which would have been east?

16 A Yes.

17 Q Correct. So you see -- you said Bobby's coming down
18 the stairs?

19 A Yes.

20 Q Showing you again defense exhibit number -- excuse
21 me, State's Exhibit No. 8, where are the stairs, do you see
22 them in this picture, that Bobby had to come down?

23 A Right here.

24 Q So would he have had to walk down a flight and then
25 walk back to get the other flight to come down --

1 A Yes.

2 Q -- because they're kind of at an angle?

3 A Yes.

4 Q How long did it take Bobby to get from the top down?

5 A A minute or two.

6 Q Was he running down those stairs?

7 A [No audible response.]

8 Q Just walking down?

9 A Yes.

10 Q Is he saying anything as he's coming down?

11 A That he wanted to talk to Amanda.

12 Q So that's all he wanted was to talk to Amanda?

13 A Yeah.

14 Q And he was telling this to who?

15 A Lorenzo.

16 Q And what was Lorenzo saying?

17 A He said he wasn't talking to -- you're not talking

18 to her. She don't want to talk to you.

19 Q Did anyone bring up -- well, either Bobby or Lorenzo

20 bring up wanting to fight now that they're back at the Siegel

21 Suites?

22 A Yes.

23 Q Who was that?

24 A Lorenzo.

25 Q What was Lorenzo saying?

UNCERTIFIED ROUGH DRAFT

1 A He told him, he said, "Fuck you. I thought you was
2 gonna -- I thought you was gonna kick my ass or something."

3 Q Wait. I'm sorry. I couldn't hear that. Can you
4 get a little closer to the microphone?

5 A He said, "Fuck you. I thought you was gonna kick my
6 ass."

7 Q That's what Lorenzo --

8 A Lorenzo said to Bobby.

9 Q And so Lorenzo's the first person to bring up a
10 fight?

11 A Yes.

12 Q And what was Bobby's response?

13 A Bobby said, "I don't want to fight you. I just --"
14 you know. He said, "I don't want to fight you. Just you
15 ain't -- you're not gonna fuck her."

16 Q So Bobby was concerned about Lorenzo fucking Amanda?

17 A Yes.

18 Q So he says, I don't want to fight you, I just don't
19 want you to fuck her?

20 A Yeah.

21 Q And what was Lorenzo's response to that?

22 A He said -- he said, "Oh, yeah, I'm gonna fuck her.

23 I'm gonna fuck her and I'm gonna show her what a real man is."

24 Q At that point, what was Bobby's reaction?

25 A He lunged forward and hit him.

UNCERTIFIED ROUGH DRAFT

1 Q He hit --

2 A Lorenzo.

3 Q Bobby hit Lorenzo?

4 A Yes.

5 Q How did he hit him?

6 A Swung and punched him.

7 Q Now, you just made a motion with your right arm.

8 You had your right hand in a fist, and you made a motion as if
9 you were coming around and punching somebody kind of up high

10 by their face --

11 A Yeah.

12 Q -- is that correct?

13 A Yes.

14 Q So you saw Bobby with his right hand swing at

15 Lorenzo's face?

16 A Yes.

17 Q Did the punch that Bobby threw at Lorenzo actually

18 make contact with Lorenzo?

19 A Yes.

20 Q Where did it make contact?

21 A I think it hit right here in his eye, side of his

22 face.

23 Q Now, you're saying the right side around the right

24 eye --

25 A Well, it would have been the left side of his face.

1 Q Okay. So around the left side of the eye on the --
2 closer to the ear?

3 A Yes.

4 Q Not closer to the bridge of the nose?

5 A Yeah.

6 Q And you actually saw the contact?

7 A Yes.

8 Q At this point, when Bobby throws this punch, does
9 Bobby keep throwing punches?

10 A No.

11 Q What does Bobby do?

12 A Just stood there.

13 Q So he punched, threw a punch and stood there. What
14 did Lorenzo do?

15 A He spun around, staggered a little bit and lifted.

16 Q Was he -- you kind of made a motion with your eyes
17 as if he might have been a little stunned from the punch?

18 A Yes. Yes.

19 Q So you said he, Lorenzo kind of spun a little bit?

20 A Mm-hmm.

21 Q You mean like spun and kind of turned away from
22 Bobby?

23 A Yes.

24 Q And what happened at that point?

25 A When he did that he was staggering a little bit, he

1 lifted up his shirt and pulled out the gun.

2 Q Now you just made a motion. You're wearing a button
3 down shirt?

4 A Yes.

5 Q Is your shirt tucked in?

6 A No.

7 Q Was -- what was Lorenzo wearing that night?

8 A I think he had like a T-shirt on with, you know, a
9 colored T-shirt, but I'm not sure.

10 Q A colored T-shirt?

11 A Yeah.

12 Q Was it tucked into his pants?

13 A No.

14 Q So you made a motion. You took your left hand and
15 lifted up the bottom of your shirt --

16 A Yes.

17 Q -- while you took your right hand to about the
18 center of your -- where your pants would buckle, and it looked
19 like you pulled out a gun.

20 A Yes.

21 Q Is that what Lorenzo did?

22 A Yes.

23 Q At this point when that happens, are you saying
24 anything?

25 A Yeah. I said, "What the fuck you doing, dude."

1 Q To Lorenzo?

2 A Lorenzo.

3 Q What's Bobby doing?

4 A He's like, What are you going to do, shoot me.

5 Q All right. What happens? What does Lorenzo do once
6 he pulls out the gun?

7 A He aims it at him and pulls the trigger and it
8 clicked. It just clicked. It misfired.

9 Q So is it immediate motion, pulls out the gun, points
10 it and shoots --

11 A Yes.

12 Q -- or is there a pause or anything?

13 A No. No hesitation at all.

14 Q All right. And it's a click?

15 A Yes.

16 Q So the gun didn't fire?

17 A No.

18 Q What does Bobby do at this -- well, let me ask you
19 this. When Lorenzo pulled out the gun, aimed and fired and it
20 was a misfire, where was the gun pointed?

21 A At Bobby.

22 Q Where at Bobby?

23 A Right about on around here [indicating]. He just
24 threw it up and boom, you know, click [indicating].

25 Q Now, you got your hand kind of sideways. Did he

1 throw it up sideways?

2 A [No audible response.]

3 Q So the gun is parallel to the ground?

4 A Yes.

5 Q It's not --

6 A No. He didn't have it like that. He had it like
7 that [indicating].

8 Q Okay. And so he's aiming it, from where you just
9 pointed, at the center mass of Bobby's chest?

10 A Yes.

11 Q So when he pulled out the gun, aims, it misfires,
12 what did Bobby do at this point?

13 A Bobby just starts backing up. He's like, Whoa, what
14 are you gonna do, shoot me dude.

15 Q You said Bobby's backing up?

16 A Yes.

17 Q Now, let me ask you this. When looking back at
18 State's Exhibit No. 8 -- well, I don't -- can you see where
19 this altercation would have occurred? Was it still on the
20 sidewalk by where the stairs come out, or was it in the
21 parking lot?

22 A It was -- well, Bobby went around the vehicles
23 backing up.

24 Q Okay. So which vehicles did Bobby go around?

25 A These, the silver car and whatever ones were down

1 further.

2 Q Well, let me ask you --

3 A Like a couple of them.

4 Q -- if you can understand. Let me show you State's
5 Exhibit 46. Have you ever seen this before?

6 A No.

7 Q Does it appear though to be a --

8 THE COURT: Mr. Bateman, would you clear that screen
9 for us?

10 MR. BATEMAN: Yes.

11 THE COURT: Thank you.

12 MS. DiGIACOMO: Thank you.

13 BY MS. DiGIACOMO:

14 Q Does it appear to be a kind of a diagram of the
15 scene?

16 A Yes.

17 Q All right. And so if you're looking at what's been
18 marked as V2, does that appear to be what would be
19 representative of the Chevrolet truck that we see in State's
20 Exhibit 8?

21 A Yes.

22 Q And then there's V3, appears to be the silver car
23 that we see in eight just to the right of the Chevrolet?

24 A Yes.

25 Q And there's two other cars next to -- V4 and V5,

1 correct?

2 A Yes.

3 Q Do you recall there being four cars there?

4 A Yeah. I thought it was like four or five.

5 Q All right. So can you show us on here where the
6 initial punch happened between Bobby and Lorenzo?

7 A Right about here.

8 Q Okay. So you made an X, or I guess an arrow right
9 in front of V3 on the sidewalk where the sidewalk from the
10 building comes out?

11 A Yes.

12 Q When Lorenzo pulls out the gun, where would Lorenzo
13 be? Would he be -- can you do an X for where Lorenzo is and a
14 circle for where Bobby was on that sidewalk?

15 A When he pulled out the gun?

16 Q Yes.

17 A Lorenzo was right there, and Bobby was here.

18 Q So Bobby's on the other side, he's to the west of
19 Lorenzo?

20 A Yes.

21 Q Yes?

22 A Yes.

23 Q So when he pulled out the gun, you said that now
24 Bobby goes around, he starts -- you made a motion too, when
25 you said he was backing up. You kind of had both of your

1 hands up to your side open as if showing there's nothing in
2 your hands?

3 A Yes.

4 Q With your arms bent at the elbow?

5 A Yes.

6 Q Is that what Bobby did?

7 A Yes.

8 Q So Bobby's got his hands up showing nothing in his
9 hands, and he's backing away from Lorenzo?

10 A Yes.

11 Q Where did Bobby back away to? And you can just draw
12 a line and show us.

13 A He went -- I think he went in between the two cars
14 right to get -- to get --

15 Q So he went in between --

16 A Yeah. Maybe here, right, to get away from him. And
17 then Lorenzo went after, you know, started walking towards
18 him, he went around him and then started heading back this
19 way.

20 Q Okay. So Bobby went around one of the cars and then
21 went back east down the sidewalk?

22 A Yes.

23 Q Now, do you see on here where Bobby eventually fell?

24 A Right about here.

25 Q Okay. So when Bobby went around the car and came

1 back to the sidewalk, so he kind of did a full circle?

2 A Mm-hmm.

3 Q Yes?

4 A Yes. Yes.

5 Q Where did Lorenzo go?

6 A Went around the same way Bobby did. He was going
7 after him.

8 Q He followed the path?

9 A Yes.

10 Q So the whole time Bobby's backing up with his hands
11 up saying, What are you gonna do, shoot me?

12 A Yes.

13 Q And what does Lorenzo do?

14 A The second he -- then he cocks it back, slides it
15 and then aimed it at him and shot him in the stomach, I guess,
16 or, you know, in the lower stomach is what I -- I don't know
17 exactly where he shot him.

18 Q Do you know how fast is Bobby moving around these
19 cars to get away from Lorenzo?

20 A Pretty quick.

21 Q And Lorenzo's coming right after him?

22 A Yeah. Yes.

23 Q And as Lorenzo is walking after him, he cocked the
24 gun?

25 A Yes.

UNCERTIFIED ROUGH DRAFT

1 Q To put a bullet in the chamber?

2 A Yes.

3 Q And did he hesitate or pause before he lifted the
4 gun to shoot at Bobby?

5 A No.

6 Q Where -- do you remember about where Bobby was when
7 he was shot?

8 A Right about here. He was like two steps and turned
9 around and fell.

10 Q So Bobby kind of runs around the car and Lorenzo
11 follows him, and then they're back on the sidewalk when
12 Lorenzo shoots him?

13 A Yes.

14 Q After Lorenzo shoots him, what does Bobby do?

15 A He's like [indicating], then he turned, you know,
16 staggered back like two, turned around and fell on his face.

17 Q Okay. You said -- I don't know how to make this
18 clear, but he made some sort of like gasping sound once he was
19 shot?

20 A Yeah. Like a uhh.

21 Q Like -- okay. And then he -- you said he took two
22 steps, turned and fell face down?

23 A Yes.

24 Q And you said he fell on his face?

25 A Yeah. He fell face down.

1 Q So did he use his arms at all to try and stop his
2 fall?
3 A No, I don't think so. They were laying to his side.
4 Q So he ends up face down with his arms right by his
5 side?
6 A Yes.
7 Q What are you doing at this point?
8 A I was like, What the fuck are you doing, dude.
9 Q To who?
10 A Lorenzo.
11 Q And what did Lorenzo do or say?
12 A He just fucking, he didn't say anything. He just
13 fucking [unintelligible] and stood over the top of him and
14 boom, shot him again.
15 Q So you saw Lorenzo just walk over to where Bobby was
16 laying on the ground face down?
17 A Yes.
18 Q And you said he just pulled up the gun, shot him
19 while he was down on the ground?
20 A Yes.
21 Q Did he say anything at that point?
22 A No. Then he -- well, he throws his arm over
23 [indicating] and says, "I'm out nigga."
24 Q So when you say he throws his arm out, did he point
25 the gun at you?

1 A Yeah.

2 Q And he says, I'm out nigga?

3 A Yeah.

4 Q And what did you do at that point?

5 A I didn't know what to do.

6 Q Were you just kind of frozen, or did you --

7 A I don't remember too much after that.

8 Q Do you remember when Bobby was shot, do you recall

9 was he standing straight up, or was he trying to avoid the

10 shot or anything like that?

11 A He was just like trying to avoid, I guess, however

12 he can avoid it.

13 Q When defendant points the gun at you, says I'm out

14 nigga, what does he do then?

15 A Took off. Started walking.

16 Q Did you see what he did with the gun?

17 A I thought he stuck it back in his pants.

18 Q So he started walking which way?

19 A Towards Boulder Highway.

20 Q And on this map, would that be going to the left?

21 A Yes.

22 Q All right. What do you do at this point?

23 A I went over to Bobby.

24 Q And what happened when you went over to Bobby?

25 A He was laying there, he was like gurgling.

1 Q You could hear gurgling?

2 A Yes.

3 Q And from where he fell face down, did you ever --
4 did he move at all from that position?

5 A No. No.

6 Q So what happens at this point?

7 A He -- well, a man -- his dad came over. I didn't
8 know his dad was there.

9 Q Did you know his dad at all?

10 A No. I just met his dad.

11 Q Met his dad because of this?

12 A Yes.

13 Q So at the time you see a guy come over, you don't
14 know who it is?

15 A No.

16 Q And what happens?

17 A We tried to roll Bobby over, and the blood started
18 coming down the side, you know, down the sidewalk, and it got
19 all over my hands and I freaked out.

20 Q So you freaked out because there's blood on your
21 hands?

22 A Yeah.

23 Q What did you do at that point?

24 A Walked -- I just started walking.

25 Q Walking which way?

1 A Towards Boulder Highway.

2 Q And why?

3 A Just I don't know. It freaked me out.

4 Q It freaked you out having the blood on your hands,
5 or seeing the situation?

6 A Seeing that and then, you know, the blood on my
7 hands.

8 Q So did you stick around to see, talk to the police
9 when they came?

10 A No.

11 Q Did you think it would have been important to tell
12 the police you saw it?

13 A Yeah.

14 Q But at that point, that's not what you were thinking
15 about?

16 A No.

17 Q When Lorenzo had lifted his shirt and pulled out the
18 firearm, did you have any indication he had a firearm on him
19 at all?

20 A No.

21 Q So you could not see that firearm until he lifted
22 his shirt?

23 A Yes.

24 Q When the defendant pulled out the gun, do you recall
25 what his, I guess, demeanor was like or his facial

1 expressions, what he was doing when he pulled out the gun and
2 it -- and then it misfired?

3 A He was pissed.

4 Q But he said -- you said he was pissed. Do you
5 recall giving a statement to the police --

6 A Yes.

7 Q -- a couple weeks after this happened?
8 Do you recall what you told the police?

9 A Yeah.

10 Q What did you tell the police?

11 A Yes. When he pulled the gun out and it misfired, he
12 was kind of like giggling.

13 Q The defendant was giggling?

14 A Yeah.

15 Q So was he a pissed kind of giggling, or what do you
16 mean?

17 A Yeah. Like he was pissed that it misfired.

18 Q And it's at that point though he pulls the slide
19 back and it cocks?

20 A Mm-hmm.

21 Q Is that a yes?

22 A Yes. Yes.

23 Q How close would you say Lorenzo was to Bobby when he
24 shot him and actually hit him that first time?

25 A Probably like 9 feet.

1 Q So it's not that they were face to face?
2 A No.
3 Q So Bobby couldn't reach out and grab for the gun or
4 hit him or anything?
5 A No.
6 Q So you leave. Where do you go?
7 A I went across the street to the bar.
8 Q The 4 Mile Bar that you showed us already in the
9 picture?
10 A Yes.
11 Q And when you got there, who did you find?
12 A Amanda.
13 Q Did you, since -- did you follow the same route that
14 Lorenzo took to get out of the apartment complex?
15 A No.
16 Q Did you see where Lorenzo went?
17 A No, I didn't.
18 Q When you were walking to leave, did you hear sirens
19 coming?
20 A Yes.
21 Q And at that point when you heard the sirens, did you
22 decide to stay and wait, or did you run out of there?
23 A I walked -- I went across the street.
24 Q Did you find your car when you got over there?
25 A Yes.

1 Q Who was in the car when you got there?
2 A Amanda.
3 Q And what about Shannon?
4 A She -- she started walking.
5 Q Shannon started walking where?
6 A I think she went into the trailer park next to the
7 4 Mile.
8 Q Could you see her as you were coming up to the car?
9 A No.
10 Q Does she eventually come back to the car?
11 A No. I had to go look for her.
12 Q So when you get to the car, it's just Amanda.
13 What's she doing?
14 A She's sitting there smoking a cigarette.
15 Q What did you tell her?
16 A I told her, I said, "Lorenzo just shot Bobby."
17 Q What was her reaction?
18 A She didn't give a shit.
19 MS. LEMCKE: I would object. Hearsay.
20 MS. DiGIACOMO: I said her reaction.
21 THE COURT: Overruled.
22 MS. DiGIACOMO: All right. So it was like she
23 didn't give a --
24 THE COURT: Without telling what she said --
25 MS. DiGIACOMO: Yes.

1 THE COURT: -- what did she do.

2 BY MS. DiGIACOMO:

3 Q Well, she didn't say I don't give a shit, did she?

4 A No.

5 Q That's what you're interpreting her reaction to be?

6 A Yeah. Yes.

7 Q So why are you thinking, or what did she do that
8 made you think she didn't give a shit?

9 A Nothing.

10 Q Just cold face?

11 A Yes.

12 Q No concern?

13 A Nope, not at all.

14 Q Not upset?

15 A Not at all.

16 Q Not crying?

17 A No.

18 Q Just you said he just shot Bobby and she didn't
19 care?

20 A No.

21 Q What did you do at this point?

22 A I got -- I asked her where Shannon was and she said,
23 I don't know and she started walking. So I went -- I drove in
24 through the trailer park to see if she walked down through
25 there, and I found her.

1 Q Right. Now, at this point is Amanda still with you?

2 A Yes.

3 Q Are you trying to get rid of her at this point or

4 are you going to take her somewhere?

5 A I was going to take her to Boulder Station.

6 Q And did you do that?

7 A Yes.

8 Q And why did you take her to Boulder Station?

9 A That's where she wanted to go.

10 Q So she didn't want to go back over to the crime

11 scene?

12 A No.

13 Q Now, you said you've known Bobby for many, many

14 years before this happened?

15 A Yes.

16 Q Had you ever known him, had you ever seen him with a

17 gun?

18 A No.

19 Q Never known him to carry a gun?

20 A No.

21 Q Did you know that he would -- whether he would use

22 any illegal narcotics?

23 A Yeah.

24 Q What did he do?

25 A Meth.

1 Q And sir, I have to ask you, are you a convicted
2 felon?

3 A Yes.

4 Q And what is that for?

5 A PCS. Possession.

6 Q Possession of a controlled substance --

7 A Yes.

8 Q -- with intent to sell?

9 A Yes.

10 Q Is that from 2007?

11 A Yes.

12 MS. DiGIACOMO: I have nothing further of this

13 witness.

14 THE COURT: Cross.

15 MR. SLIFE: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SLIFE:

18 Q And that felon was for meth, sir?

19 A Yes.

20 Q And you've used meth as well, right?

21 MS. DiGIACOMO: Objection, Your Honor.

22 THE WITNESS: Yes.

23 THE COURT: Approach.

24 (Bench conference - not transcribed.)

25

1 BY MR. SLIFE:

2 Q All right. So you were also convicted of conspiracy
3 to commit theft in 2005?

4 A Yes.

5 Q And in the early morning hours of the date we're
6 talking about, December 22, the 24 hours before that had you
7 used methamphetamine?

8 A Have I?

9 Q Had you used methamphetamine the 24 hours before the
10 shooting?

11 A No.

12 Q You spoke to police on January 2?

13 A Yes.

14 Q About 11 days after the shooting?

15 A Yes.

16 Q Had you used methamphetamine the 24 hours prior to
17 that?

18 A No. Prior to talking to them?

19 Q Prior to talking to them.

20 A No.

21 Q All right. Let's talk a little bit about you
22 picking up Luis and going to Arizona Charlie's, okay?

23 A I didn't pick him up to go to Arizona Charlie's. I
24 picked him up at Arizona Charlie's.

25 Q Let's talk a little bit about you going to Arizona

1 Charlie's, all right?

2 A Yes, sir.

3 Q You gave Luis a ride home from Arizona Charlie's?

4 A Yes.

5 Q And you saw him pack his bags from Arizona

6 Charlie's?

7 A Yes.

8 Q You never saw him pack a gun?

9 A No.

10 Q You never heard him talking about having a gun at

11 Arizona Charlie's?

12 A No.

13 Q You never heard him talk about having a gun in the
14 car ride home?

15 A No.

16 Q And Luis, you said, had a T-shirt on, right?

17 A I think it was a T-shirt.

18 Q And you never saw a gun or anything in his

19 waistband, you never saw -- right?

20 A No.

21 Q You never saw what appeared to be the print of a gun

22 close to the T-shirt in his waistband?

23 A No.

24 Q Bobby had a black sweatshirt on though, right?

25 A Yes. No. I think it was a gray sweatshirt.

1 Q Okay. It was a sweatshirt though?
2 A Yes.
3 Q You never patted Bobby down for any weapons, right?
4 A No.
5 Q You never pulled up Bobby's sweatshirt and saw if he
6 had a gun, right?
7 A No.
8 Q And you said that you gave Lorenzo a ride because
9 you didn't want them to fight --
10 A Yeah.
11 Q -- right?
12 A Yes.
13 Q You wanted to get Lorenzo back to his apartment?
14 A Yes.
15 Q You didn't think Bobby would have time to get there?
16 A Yes.
17 Q And so in your mind, if Bobby hadn't have showed up,
18 there wouldn't have been a fight, would there?
19 A Probably not.
20 Q You had known Lorenzo for a few months?
21 A Yes.
22 Q But you had known Bobby for five to six years?
23 A Yes.
24 Q In that five to six year period you went to his
25 house?

1 A Yes.

2 Q How many times do you think?

3 A A few.

4 Q A few?

5 A Yeah.

6 Q You knew a lot of Bobby's friends?

7 A I knew a few of them.

8 Q But you had never met his father in that five to six

9 year period?

10 A No. His father just started coming back around. He

11 didn't even really know his father.

12 Q To your knowledge Robert was right-handed?

13 A Yes.

14 Q And prior to the shooting, you saw Robert punch Luis

15 in the face?

16 A Yes.

17 Q In the eye?

18 A Yes.

19 Q And that was with his right hand?

20 A I believe so.

21 Q And I believe on the stand, when you made the

22 punching motion, he had leaned his shoulder into the punch?

23 A He come around [indicating].

24 Q And for the record, your right shoulder is leaning

25 into the punch?

1 A Yes.

2 MR. SLIFE: May I approach the clerk, Your Honor?

3 THE COURT: Yes.

4 (Mr. Slife confers with the clerk.)

5 BY MR. SLIFE:

6 Q I'm showing you what's already been admitted as
7 State's Exhibit A [sic]. All right. Your testimony is that
8 at the time of the first shot you were standing by this tree?

9 A Yeah. About there.

10 Q And your testimony is that at the time of the first
11 shot Lorenzo was pissed?

12 A Yeah. Well, they were arguing back and forth.

13 Q So he was pissed?

14 A Yeah. I would guess so.

15 Q But he was also giggling?

16 A No. After the first shot?

17 Q Well, I thought your testimony just a few minutes
18 ago was that he was pissed and he was also giggling.

19 A After the first shot he was giggling, because it
20 misfired, and he was -- it's like he was frustrated.

21 Q And it's your testimony today that when you pulled
22 up and you saw Bobby on the third floor, that he was not
23 pounding on the door and he was not screaming?

24 A No.

25 Q How far away was Luis from Robert when the first

1 shot went off?

2 A About 9 feet.

3 Q Do you remember talking to police and telling them
4 it was 15 to 20 feet?

5 A Yeah. Then I said around maybe 10.

6 Q All right. And at the time of the first shot, is it
7 true that Bobby was backing up?

8 A Yes.

9 Q He was straight up?

10 A Yes.

11 Q And that you thought after the shooting that Lorenzo
12 had put the gun in his back waistband?

13 A No. I thought he stuck it back in the front.

14 Q In the front. Okay. All right. So here we are,
15 your friend of five to six years is shot, right?

16 A Yes.

17 Q And you don't call police?

18 A I didn't have a phone.

19 Q Okay. You went to this -- you went to the mile bar?

20 A The 4 Mile Bar.

21 Q You met up with Amanda?

22 A Yes.

23 Q She had a phone?

24 A I don't know if she did or not. There was -- the
25 police were already there before I even got to the 4 Mile Bar.

1 Q Okay. You met up with Shannon?
2 A Yes. I went and picked her up.
3 Q She had a phone?
4 A No.
5 Q The people at the bar had a phone?
6 A Yes. Why would I call the police. They were
7 already there.
8 Q You never called police and said, hey, I was a
9 witness, I'd like to tell you what happened?
10 A No. I was screwed up for a few days.
11 Q Okay. And so your friend again five to six years is
12 shot, you don't wait around and help?
13 A I went over to him.
14 Q You didn't help his father perform CPR.
15 A I couldn't.
16 Q You didn't help his father perform CPR?
17 A I don't know CPR.
18 Q Okay. You didn't wait for the ambulance?
19 A No.
20 Q You took off?
21 A Yeah. I went across the street.
22 Q And you didn't speak to police until 1 1/2 weeks
23 later?
24 A Yes.
25 Q On January 2?

1 A Yes.

2 Q And that's after them trying to get ahold of you?

3 A Yes. I believe so.

4 Q They reached out to you, you didn't reach out to
5 them?

6 A Yeah. I was seeing -- have you ever seen anybody
7 get shot?

8 Q They reached out to you --

9 A It kind of fucks you up, you know.

10 Q Sir, they reached out to you, you didn't reach out
11 to them?

12 A Yeah.

13 Q And you met up with them at a Walmart?

14 A Yes.

15 Q Okay. Now, when you first spoke to Robert in the
16 Arizona Charlie's parking lot, he was angry at Amanda?

17 A Yes. Well, wasn't really angry. He was pissed that
18 she was with him, yeah.

19 Q Okay. He was mad though?

20 A Yeah.

21 Q And he was pissed off?

22 A Yes.

23 Q And he was pacing back and forth?

24 A Yes.

25 Q And he was pissed off because he thought her and

1 Lorenzo were screwing?

2 A Yes.

3 Q Lorenzo had told you they weren't screwing?

4 A Yes.

5 Q Are you aware that he was so angry that he slapped
6 her that day?

7 A No.

8 Q Were you ever made aware of that after the fact?

9 A No. I didn't know he slapped her at all.

10 Q To this day you've never heard that?

11 A Oh, I heard it in the end. Now I know that he
12 slapped her supposedly.

13 Q And you said that he loved her.

14 A Yes.

15 Q That he thought of her as his girlfriend?

16 A That's what I thought.

17 THE COURT: Who is he are we talking about now?

18 MR. SLIFE: Thank you, Your Honor.

19 BY MR. SLIFE:

20 Q Bobby.

21 A Yes.

22 Q And Bobby was in love with her?

23 A Yes.

24 Q But you had only seen Amanda a few times?

25 A Yes.

1 Q You had never spoken to Amanda about her feelings
2 for Bobby?

3 A No.

4 Q You didn't know if Amanda loved Bobby back?

5 A No, I didn't.

6 Q You didn't know if Amanda thought of Bobby as her
7 boyfriend?

8 A No.

9 Q Were you aware that the night -- that night Bobby
10 had dropped off Amanda to help a client, and by client I mean
11 prostitution?

12 A No.

13 Q You were not aware of that?

14 A No.

15 Q Your testimony today was that at some point Lorenzo
16 and Bobby ran around one of the vehicles in the parking lot?

17 A Yes.

18 Q Do you remember speaking to police back on January
19 2?

20 A Yes.

21 Q And at that time you were doing your best to be
22 truthful?

23 A Yes.

24 Q You were doing your best to be detailed?

25 A Yes.

1 Q To give them the complete story?

2 A Yes.

3 Q And you understood this was a very serious matter?

4 A Yes.

5 Q And you understood you were talking to homicide
6 detectives?

7 A Yes.

8 Q In that statement you never said anything about a
9 chase around the car.

10 A Yes, I did.

11 Q Would you like to look at your statement and show me
12 where that is?

13 A I don't have it.

14 Q I have it right here.

15 A Okay.

16 MS. DiGIACOMO: Objection. Argumentative.

17 THE COURT: Overruled. He's just saying he has it
18 if he'd like to show it to him, right?

19 MS. DiGIACOMO: So he's going to read the entire
20 statement right now?

21 THE COURT: No. Do you want to show it to him?

22 MR. SLIFE: Sure.

23 BY MR. SLIFE:

24 Q Sir, would you -- okay. Let me do it like this.

25 That statement was recorded --

1 A Yes.

2 Q -- right?

3 A I guess, yes.

4 Q And that was put into a transcript?

5 A Yes.

6 Q Okay. And this is a transcript of your statement to
7 detectives on January 2?

8 THE COURT: Okay. Well, you're just holding
9 something up. So you need to show it to him.

10 MR. SLIFE: Okay. May I approach, Your Honor?

11 THE COURT: Yes, please.

12 MR. SLIFE: All right. This is the statement that
13 you gave to detectives on January 2, 2014.

14 THE WITNESS: Yes.

15 THE COURT: If you'd just look through it and see if
16 you -- have you ever seen it before?

17 THE WITNESS: Yes.

18 THE COURT: Okay. So look through it and see if --

19 MR. SLIFE: I believe you might have been reading it
20 in the hallway.

21 THE WITNESS: Yes. I did have it.

22 BY MR. SLIFE:

23 Q Could you look through it and show me where you talk
24 about a chase around a car?

25 A I don't see it.

1 MR. SLIFE: May I have the Court's indulgence, Your
2 Honor?

3 THE COURT: Okay.

4 MS. DIGIACOMO: What page is that, for the record,
5 he was looking at?

6 THE COURT: Have you looked at all the pages, sir?

7 THE WITNESS: No.

8 THE COURT: No. Okay. And are those pages
9 numbered?

10 THE WITNESS: Yes.

11 THE COURT: So when you look through, make sure you
12 see all the pages.

13 (Pause in proceeding.)

14 BY MR. SLIFE:

15 Q All right. The DA pointed out on page 10, that you
16 say something about Bobby going around a truck.

17 A Yes.

18 Q Okay. Sir, let me ask you in general, you've met
19 with -- you spoke with detectives January 2, right?

20 A Yes.

21 Q You've spoken to the prosecutors in this case?

22 A Yes.

23 Q You've specifically spoken to Mr. Bateman?

24 A Yes.

25 Q And let me just ask you in general, how many times

1 do you think you've spoken to the prosecutors in this case?

2 A I think it was three times, two or three times.

3 Q How many hours do you think?

4 A An hour, maybe two, if that.

5 Q You've never spoken to me or Mrs. Lemcke about this
6 case?

7 A No.

8 Q And Ms. Lemcke and I actually called you last week
9 to try to speak to you?

10 A Yes.

11 Q And you refused to speak to us?

12 A Yes.

13 Q And in fact, Mr. Bateman didn't even have a good
14 address to give us until about a week ago; does that sound
15 right?

16 A Yes. I just moved.

17 Q So you refused to speak to us, but you had no
18 problem speaking to the prosecutors?

19 A I just felt I didn't want to talk to you until
20 today.

21 Q Okay. These prior convictions you have, this is the
22 office that prosecuted you, right, the Clark County District
23 Attorney's Office?

24 A Yes.

25 Q So I guess you wouldn't want to miss a meeting with

1 Mr. Bateman, because he's --

2 MS. DiGIACOMO: Objection. Argumentative. And
3 improper.

4 THE COURT: Sustained.

5 MS. DiGIACOMO: I'd ask that be stricken.

6 THE COURT: The -- well, the question is not
7 evidence, ladies and gentlemen, as you've been instructed.
8 That's not a proper question and you'll disregard it.

9 BY MR. SLIFE:

10 Q You never met with us?

11 A No.

12 MR. SLIFE: May I have Court's indulgence?

13 THE COURT: Yes.

14 (Attorneys confer.)

15 MR. SLIFE: Thank you, Your Honor. Just a few more.

16 Let me go back to that page 10, sir.

17 May I approach, Your Honor?

18 THE COURT: You may.

19 BY MR. SLIFE:

20 Q All right. What you testified here today is that
21 there was a chase around the truck, correct?

22 A Yes. Yes.

23 Q That Lorenzo chased Bobby around the truck?

24 A Yes.

25 Q With the gun out?

1 A Yes.

2 Q Let's just go back to that page 10. What you told
3 detectives was, "Bobby went around the truck like, man, what
4 are you gonna do, shoot me, dude. Okay. Boom. So he shoots
5 him and then Bobby fall." Right?

6 A Yes.

7 Q That does not say that Lorenzo chased Bobby around
8 the truck, right?

9 A No, it doesn't say, but he -- that's what he did.

10 Q Okay. But it doesn't say that because that's not
11 what you told detectives in this statement?

12 A I might not have been thinking about it at the time.
13 That's what happened though.

14 Q Okay. You just thought about it a couple months
15 later at a preliminary hearing, right?

16 MS. DiGIACOMO: Objection. Argumentative.

17 THE COURT: Sustained.

18 BY MR. SLIFE:

19 Q You didn't say in this statement that Lorenzo chased
20 Bobby around the truck?

21 A No.

22 Q And just one more thing to clarify. You were
23 standing by -- and this is referring to State's Exhibit A
24 [sic]. You say you were standing by this tree?

25 A Yes.

1 Q And specifically, this is around the time of the
2 argument they get into?

3 A Yes. I was a little closer than where the tree is.

4 Q Can you put on there again where Lorenzo was?

5 A At the bottom of the stairs on the sidewalk.

6 Q Okay.

7 A In front of the car and the truck.

8 Q And could you put --

9 A In between --

10 Q Could you put on the screen again where Bobby was.

11 A Bobby was coming down the stairs. He was at the
12 bottom of the stairs down on the sidewalk coming out -- where
13 it comes out.

14 Q Let me focus on -- can we clear that, please. Thank
15 you. Let me focus on the time of the first shot.

16 A Okay.

17 Q Let me focus on the time when Lorenzo pulled the gun
18 out.

19 A Okay.

20 Q Where were you?

21 A Right here. At the -- well, see where the little
22 wall is right here. I was at the bottom of it.

23 Q Where was Lorenzo?

24 A At the bottom of the stairs on the sidewalk out
25 towards, you know, the parking lot.

1 Q Was Lorenzo's back facing you?

2 A Yeah. He was like side by -- you know, I was
3 standing here and he was standing there facing the building.

4 Q And then Bobby was in front of him?

5 A Yes.

6 MR. SLIFE: All right. May I have the Court's
7 indulgence?

8 THE COURT: Yes.

9 (Pause in proceeding.)

10 MR. SLIFE: Your Honor, can we approach?

11 THE COURT: Yes.

12 (Bench conference - not transcribed.)

13 THE COURT: Ladies and gentlemen, we're going to
14 take a break and do our lunch now until 1:00. And as you
15 know, we're only going until 3:15. So when we come back, I'm
16 anticipating unless -- pretty much going straight through. We
17 might take like a 10 minute bathroom break if we need that.

18 But we're going to recess for lunch and you'll
19 remain under oath. You'll return for the conclusion of your
20 testimony.

21 And so, ladies and gentlemen, during this about an
22 hour and eight minute recess, it is your duty not to converse
23 among yourselves or with anyone else on any subject connected
24 with the trial, or read, watch or listen to any report of or
25 commentary on the trial by any person connected with the trial

1 or by any medium of information, including without limitation
2 newspaper, television, radio or Internet, and you are not to
3 form or express an opinion on any subject connected with this
4 case until it's finally submitted to you.

5 We'll be in lunch until 1:00 -- or in recess until
6 1:00 for lunch.

7 (Jurors recessed at 11:53 a.m.)

8 THE COURT: Sir, just you won't discuss your
9 testimony with anyone else.

10 MR. BATEMAN: That's what I was telling him.

11 THE COURT: All right. Thank you very much, sir.

12 And the record will reflect that the jury has
13 departed the courtroom and the witness has as well. Are there
14 any records we need to make outside the presence?

15 MS. LEMCKE: Conor, just make -- where is Conor?
16 Oh, sorry. I couldn't see you. Just make your record on the
17 methamphetamine thing. You wanted to cross him on the meth
18 use.

19 MR. SLIFE: Sure. Well, Judge, I think we had
20 approached, and I was trying to question the witness with
21 regard to methamphetamine use kind of like the witness
22 yesterday. It's our position that any and all methamphetamine
23 use through their lifetime specifically around this event, the
24 week leading up to the statement, the year and a half it's
25 been through trial, that that's all relevant with his regard

1 to recall and perceive events. And so the Court disagrees
2 with us and didn't allow me to get into that. But I think
3 that was our discussion at the bench.

4 THE COURT: Okay. Well, not quite. Our discussion
5 was I said I believed that it was relevant as to certainly the
6 time of the incident, and so I said you were permitted to ask
7 him about the 24 hours had he used drugs is what actually I
8 said. You asked him specifically about meth, but that was
9 your choice.

10 But within the 24 hour period prior to the incident,
11 and also I indicated that you could ask him about the 24 hour
12 period before he spoke to police. If his answer was yes, that
13 he had used in that 24 hours, I told you you could keep
14 backing up 24 hours at a time to establish if he was on, you
15 know, continual drug usage, then obviously that was relevant.
16 As far as whether usage in his lifetime is -- I don't believe
17 that's relevant for the same reasons we discussed prior.

18 Would the State like to add anything that I missed
19 about our bench conference?

20 MR. BATEMAN: No, Your Honor.

21 THE COURT: All right. Thank you very much.

22 MR. SLIFE: Thank you.

23 THE COURT: We'll see you all at 1:00 o'clock.

24 (Court recessed at 11:57 a.m. until 12:59 p.m.)

25 (Jury reconvenes at 12:59 p.m.)

1 THE COURT: And the record will reflect the presence
2 of the defendant with his counsel, the deputies district
3 attorney prosecuting the case, all officers of the court, all
4 12 members of the jury -- oh, one, two, three, four, six, and
5 the three alternates. Sorry. Taking a head count. All
6 right. We need our witness back on the stand.

7 MR. BATEMAN: Sorry, Your Honor.

8 (Timothy Hildebrand resumes the stand.)

9 THE COURT: And you're still under oath.
10 You may proceed.

11 MR. SLIFE: Thank you, Your Honor.

12 CROSS-EXAMINATION (continued)

13 BY MR. SLIFE:

14 Q And sir, some of the questions I asked you were a
15 bit disjointed. The chronology was kind of all over the
16 place. This is such a serious case, I just want to make sure
17 I have your story correctly. Just bear with me and we'll get
18 through this, okay?

19 A Okay.

20 Q Let's talk about the Arizona Charlie's outside the
21 parking lot, okay?

22 A Yes.

23 Q You've pulled into the Arizona Charlie's parking
24 lot.

25 A Yes.

1 Q In a car that was not your own.
2 A Yes.
3 Q This is a car that another girl had owned?
4 A Yes.
5 Q Another girl other than your fiance Shannon Salazar?
6 A Yes.
7 Q And this was at the early morning hours?
8 A Yes.
9 Q 3:00 a.m., around?
10 A I don't know what time it was.
11 Q Okay. So but you're driving another girl's car at
12 3:00 a.m.?
13 A Yes.
14 Q You see Bobby in the parking lot?
15 A Yes.
16 Q He's mad?
17 A Yeah.
18 Q You used the term "pissed"?
19 A Yeah, he was a little pissed.
20 Q He's pacing back and forth?
21 A Yes.
22 Q He asks you to go into the casino?
23 A Yes.
24 Q And that's because he couldn't go in the casino?
25 A I don't know if he could go in there or not. I

1 think they told him that he had to leave.

2 Q Okay. So --

3 A I don't know what happened to where -- why he
4 couldn't go in there.

5 Q But he didn't go in the casino with you?

6 A No.

7 Q He told you to go in the casino?

8 A He asked me to go in.

9 Q And you think that's because he wasn't able to go
10 in?

11 A I guess.

12 Q But you don't know --

13 A No, I don't know.

14 Q -- right?

15 In fact, it's because he'd been kicked out of the
16 casino?

17 MS. DiGIACOMO: Objection, Your Honor. Asked and
18 answered already. And speculation.

19 THE COURT: Sustained.

20 BY MR. SLIFE:

21 Q You don't know?

22 A I don't know.

23 THE COURT: Sustained.

24 MR. SLIFE: Oh, thank you, Your Honor.

25

1 BY MR. SLIFE:

2 Q And you didn't know that he had slapped Amanda --

3 A No.

4 Q -- prior to you coming there?

5 A No.

6 Q All right. But you thought it was a good idea to go
7 get Amanda to come outside?

8 A I didn't know what was going on. He asked me to go
9 ask her to come out and talk to him.

10 Q And you were willing to go get Amanda and try to
11 bring her to him?

12 A No. I went in and asked her to come out and talk to
13 him. I wasn't bringing her to him.

14 Q Okay. So he's outside, she's inside, you go inside
15 to get her?

16 A I went and asked her to come out and talk to him.

17 Q And when you go in, you see Lorenzo?

18 A Yes.

19 Q And Amanda?

20 A Yes.

21 Q And Lorenzo is saying, Fuck Bobby?

22 A Yes.

23 Q He's angry at Bobby?

24 A I guess.

25 Q And that's because Bobby had hit Amanda?

1 MS. DiGIACOMO: Objection. Speculation. Assuming
2 facts not in evidence.

3 THE COURT: Sustained.

4 BY MR. SLIFE:

5 Q Okay. But he's mad at Bobby?

6 A Yeah, I guess.

7 Q He's saying, Fuck Bobby?

8 A And he said, Fuck Bobby.

9 Q And he actually tells you, We're just gonna leave,
10 right?

11 A Yeah. He said, "We're gonna leave." Then he asked
12 me for a ride.

13 Q He doesn't say, I'm gonna kick Bobby's ass?

14 A He said, Fuck Bobby, and when they got outside they
15 started arguing.

16 Q Okay. But let's stay inside. Inside, when he says
17 can I have a ride, he doesn't say, I'm gonna kick Bobby's ass?

18 A No.

19 Q He doesn't say will you give me a ride so I can go
20 kick Bobby's ass?

21 A No.

22 Q He doesn't say I can't wait to beat the shit out of
23 Bobby?

24 A No.

25 Q All right. You guys go outside and you go to

1 Lorenzo's room?

2 A Yes.

3 Q And on your way, it's your testimony that Bobby and
4 Amanda start arguing?

5 A No. Bobby and Lorenzo started arguing.

6 Q Bobby and Lorenzo start arguing?

7 A Yes.

8 Q Do you remember that Amanda was begging Bobby to
9 leave her alone at that time?

10 A No.

11 Q You don't remember that?

12 A No, I don't.

13 Q Do you remember that Bobby and Lorenzo, this
14 interaction draws attention from security?

15 A Yes.

16 Q And security comes over?

17 A Yes.

18 Q Do you remember that Amanda at some point had
19 actually hidden behind a pillar?

20 A No.

21 Q You don't remember that?

22 A No, I don't.

23 Q Was Amanda afraid to you?

24 A No.

25 Q No?

1 A No.

2 Q Not at all?

3 A Not at all.

4 Q Once you get to the room, do you remember that Bobby
5 tried to attack Amanda?

6 A No.

7 Q You do not remember Bobby charging at Amanda?

8 A He never charged at her.

9 Q He never charged at her?

10 A Not that I know of.

11 Q Okay. You don't remember security actually dropping
12 their bikes and running over to protect Amanda?

13 A No. They dropped their bikes to run after Bobby.

14 He was going -- I think he was going after Lorenzo.

15 Q He was going after Lorenzo?

16 A Yeah.

17 Q Okay. Let me ask you, in all these conversations
18 you had with Mr. Bateman, have you ever seen video from
19 Arizona Charlie's?

20 A Yes.

21 Q What videos have you seen?

22 A The one in there, the one where it shows the room.

23 Q Did you ever see any videos on the outside?

24 A That's what I'm talking about.

25 Q Okay.

1 A The outside parking lot.

2 Q What happens in that video?

3 A I see me and Lorenzo going into the room. See

4 security, Bobby coming over to the -- towards the building,

5 towards the room, and security stopped him.

6 Q You never saw any videos of the inside of the

7 casino?

8 A No. I don't think so.

9 Q And when security breaks up, push their bikes down

10 and kind of get Bobby away, Bobby gets angry?

11 A Yeah. He's -- well, they escorted him off property.

12 Q Is he kind of gesturing with his arms and saying

13 things?

14 A Well, he's saying that if you -- saying whatever,

15 you know, going back at Lorenzo. Lorenzo was yelling, Fuck

16 you, mother, I want to kick your fucking ass.

17 Q Do you remember Bobby telling Lorenzo I'll kill you?

18 A No.

19 Q He never said, I'll kill you?

20 A No. Not --

21 Q He never --

22 A I never heard him say I'll kill you.

23 Q -- threatened Lorenzo?

24 A No.

25 Q Okay. And you remember Lorenzo saying, You know

1 where I live?

2 A He said, "Meet me at my house, 30 minutes."

3 Q And today you said you thought it was three times,
4 but then Ms. DiGiacomo pointed out that you thought it was
5 nine times at the prelim.

6 A It was a bunch of times.

7 Q Which one?

8 A I don't remember.

9 Q Okay. You don't remember?

10 A I don't remember how many times it was.

11 Q You do know that security did not kick Luis out?

12 A What do you mean?

13 Q Security did not tell Luis to leave the property?

14 A No.

15 THE COURT: We're talking about Lorenzo, right?

16 Because you're kind of --

17 MR. SLIFE: Thank you, Your Honor.

18 THE WITNESS: Lorenzo.

19 THE COURT: -- using it interchangeably. I just --

20 MR. SLIFE: Lorenzo, yeah. Excuse me.

21 THE WITNESS: Right. He decided to check out
22 because of the altercation.

23 BY MR. SLIFE:

24 Q But security did not tell Lorenzo to leave. They
25 didn't force him off the property.

UNCERTIFIED ROUGH DRAFT

1 A Not that I know of.

2 Q He left on his own?

3 A Yeah. To my knowledge.

4 Q But Bobby -- but to your knowledge, Bobby was not
5 welcome at the casino?

6 A No.

7 Q No?

8 A They told him to leave.

9 Q They told him to leave?

10 A Yeah. The property.

11 Q And then you went to the room and helped Lorenzo
12 pack up his belongings?

13 A I didn't help him pack them. He packed them.

14 Q You watched him pack?

15 A Yeah, I guess. I didn't watch him.

16 Q You were there when he packed his belongings?

17 A Yeah. He didn't pack them. He had his stuff in the
18 back -- two backpacks. He had a backpack and a little bag or
19 something.

20 Q All right. And we've been over the fact that you
21 didn't see a gun?

22 A No, I didn't see a gun.

23 Q All right. And then I just want to make sure I have
24 your story right. And on the drive over, Luis was not mad?

25 A Yeah, he was a little pissed.

1 Q He was pissed?

2 A Yeah. He was mad, you know. They were -- he just
3 got in an -- you know, an altercation with somebody, you know,
4 would you still be mad?

5 Q He wasn't ever talking about fighting Bobby though,
6 was he?

7 A Not in the car he wasn't.

8 Q He never said, I can't wait to get home, I hope
9 Bobby's there so we can fight?

10 A No.

11 Q He never said anything about a weapon?

12 A No.

13 Q He didn't say anything about Bobby, did he?

14 A No. Him and Amanda was in the back whispering.

15 Q Whispering?

16 A Yeah. So I don't know what he was saying.

17 Q When he -- when you pulled up, he thanked you for
18 the ride?

19 A Yeah.

20 Q And he got out of the car?

21 A Yes.

22 Q And you got out?

23 A Yes.

24 Q And it's your testimony that you didn't hear any
25 screams or banging from Bobby on the third floor?

1 A No.

2 Q But at some point you did notice Bobby was at
3 Lorenzo's door?

4 A Yeah. When Lorenzo started yelling.

5 Q And Lorenzo walks to the sidewalk?

6 A Yes.

7 Q And Bobby comes down?

8 A Yes.

9 Q And you testified that there wasn't an argument that
10 started right away?

11 A No, not right away.

12 Q Do you remember Lorenzo saying something to the
13 effect of can't we talk about this later?

14 A No. I don't know.

15 Q You do not remember that?

16 A He might -- no, I don't remember that.

17 Q It may have happened?

18 A It may have happened.

19 Q Okay. But at this point Bobby's getting angry,
20 isn't he?

21 A Yeah. He just told him, he said, You're not gonna
22 fuck her.

23 Q Okay. But according to you, Bobby wasn't looking
24 for a fight, he was just there to look for Amanda, right?

25 A I guess.

1 Q That's yes?

2 A I guess, yeah.

3 Q But at some point he starts yelling at Lorenzo?

4 A Yeah, back and forth. They both were going back and
5 forth.

6 Q Bobby threatens Lorenzo?

7 A No. He said, "I don't wanna fight ya."

8 Q Okay.

9 A "But you ain't gonna fuck her."

10 Q And then Bobby punches Lorenzo?

11 A No. He said, You're not -- I don't wanna fight ya,
12 you're not gonna fuck her, right. And he goes, "The fuck I

13 ain't. I'm gonna show her what a real man is nigga."

14 Q And then he punches him, Bobby punches Lorenzo?

15 A Then Bobby punched him, yeah.

16 Q And if I understand your story right, I just want to
17 make sure I understand, we're almost done, Lorenzo has a gun
18 in his hand as he runs around the truck following Bobby using
19 his other hand to chamber a round?

20 A Yes.

21 Q And Bobby is actually running around --

22 A He wasn't running.

23 Q -- this truck?

24 A He was backing up.

25 Q Well, is Lorenzo -- is Lorenzo following him and

1 Bobby's running from him with his back to him?

2 A He's not running. He was walking backwards like
3 this [indicating].

4 Q So they both -- they both just walk all the way
5 around the car like this slowly [indicating]?

6 A Yeah.

7 Q Is he jogging backwards?

8 A No, he's not jogging. He's walking fast, you know,
9 fast enough to try to get away from him, I guess.

10 Q So they do a 360 degree circle around the car the
11 whole time he's backing up like this?

12 A Yes.

13 Q All right. So Bobby at no point has his back to
14 Lorenzo?

15 A No.

16 Q And at no point during that time, he's not saying
17 don't shoot me, somebody help, don't shoot me, he's got a gun,
18 don't shoot me, nothing like that?

19 A No.

20 Q He just slowly walks backwards around the car?

21 A Well, I guess he didn't figure he was going to shoot
22 him. They were friends.

23 Q Okay. And your testimony is definitely at the time
24 of the first shot Bobby is backing up?

25 A Yes. Yeah, he was backing up.

1 MS. DiGIACOMO: Objection, Your Honor. When he says
2 first shot, if he could clarify, since we have the misfire and
3 then the shot.

4 BY MR. SLIFE:

5 Q The time of the first shot that actually goes out of
6 the gun.

7 A Yes. Bobby was walking backwards.

8 Q The same way [indicating]?

9 A Yeah. It was when he was on the sidewalk.

10 Q And he's moving backwards?

11 A Yes.

12 Q All right. And Lorenzo doesn't say anything between
13 the first and the second shot?

14 A No. Just a little like a smirk and a giggle.

15 Q And again, you've been a friend of Bobby's for five
16 or six years.

17 A Yes.

18 Q You've seen him shot.

19 A Yes.

20 Q Your reaction is not to wait and speak to police.

21 A Yeah. It kind of freaked me out. It fucked me up,
22 you know. It was -- have you ever seen your friend get shot?

23 Q Right. It was tough, right?

24 A Yeah.

25 Q Let me ask you this though. You haven't necessarily

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1 spent a lot of time at Bobby's house, right?

2 A No, not really.

3 Q And you haven't really been inside his room?

4 A Yeah, I've been in his -- I've been in his room.

5 Q How many times?

6 A I don't know. Eight, ten.

7 Q And he had a closet in his room?

8 A Yeah.

9 Q You haven't necessarily rifled through everything in
10 his room though, right?

11 A No. I don't go through people's stuff.

12 Q All right. You said this was pretty traumatic for
13 you.

14 A Yeah.

15 Q Screwed you up for a few days.

16 A Yeah. It's still screwing me up. I'm still screwed
17 up about it.

18 Q I imagine you would have spoken to your girlfriend
19 Shannon Salazar about it?

20 A Yeah. We've talked about it.

21 Q You guys spoke about what happened at Arizona
22 Charlie's?

23 A Well, yeah. When I got in the car I told her, I
24 said, you know, he wanted to talk to Amanda, plus she heard
25 what Bobby said anyway. She was in the car.

1 Q You guys spoke about specifically what happened at
2 Arizona Charlie's?

3 A We didn't speak about it specifically.

4 Q You spoke about what happened at Siegel Suites?

5 A Yeah.

6 Q You spoke about what you had seen?

7 A Yeah.

8 Q This screwed you up so you couldn't work?

9 A No, I never said that I couldn't work.

10 Q How did this screw you up?

11 A I'm not working right now anyway.

12 What do you mean how did it screw me up?

13 Q I mean you said that this was traumatic for you for
14 a couple of days.

15 A Yeah. I seen my friend get shot.

16 Q What happened in those couple of days that changed?

17 A What do you mean what happened?

18 Q Did you do anything differently in those couple of
19 days?

20 A No. Not really. I didn't go anywhere. That's --

21 Q Did you do any drugs or alcohol based on --

22 A No.

23 MS. DIGIACOMO: Objection, Your Honor.

24 THE WITNESS: No, I didn't.

25 MR. SLIFE: Okay.

1 THE COURT: Overruled.

2 BY MR. SLIFE:

3 Q Did you do any drugs or alcohol based on --

4 A No.

5 Q -- you feeling screwed up?

6 A No.

7 Q All right. Thank you, sir.

8 MR. SLIFE: Your Honor, one last indulgence.

9 (Attorneys confer.)

10 MR. SLIFE: Nothing further. Thank you, Your Honor.

11 Thank you, sir.

12 THE COURT: Any redirect?

13 MS. DiGIACOMO: Yes, Your Honor.

14 THE COURT: Thank you.

15 MS. DiGIACOMO: May I approach the clerk, Your

16 Honor?

17 THE COURT: Yes.

18 (Ms. DiGiacomo confers with the clerk.)

19 MS. DiGIACOMO: May I approach, Your Honor?

20 THE COURT: Yes.

21 REDIRECT EXAMINATION

22 BY MS. DiGIACOMO:

23 Q Sir, I'm going to show you what's been marked for

24 identification as State's Proposed Exhibit No. 59. Do you

25 recognize what's depicted in that photograph?

1 A Yeah. Lorenzo.

2 Q All right. Does that fairly and accurately depict
3 how Lorenzo looked that night at the time of the shooting,
4 what he was wearing?

5 A Yeah, I think so.

6 Q You say you think so. This does appear to be what
7 he was wearing that night?

8 A Yes. Yes.

9 MS. DiGIACOMO: Your Honor, I'd move for admission
10 of State's Proposed Exhibit No. 59.

11 MR. SLIFE: No objection.

12 THE COURT: It will be admitted.

13 MS. DiGIACOMO: Thank you.

14 (State's Exhibit 59 admitted.)

15 MS. DiGIACOMO: I move to publish.

16 THE COURT: Granted.

17 BY MS. DiGIACOMO:

18 Q All right. Sir, showing you State's Exhibit No. 59,
19 does this appear to be the way Lorenzo was dressed that night?

20 A Yes.

21 Q So he had the long shirt and it covered his
22 waistband?

23 A Yes.

24 Q Now, you were asked questions about what you told
25 the police when you gave your statement to them on January 2,

1 2014. Do you remember those questions?

2 A Yes.

3 Q And specifically whether or not you had said that --
4 that Bobby had gone around the car?

5 A Yes.

6 Q All right. Now, do you recall approximately how
7 long you talked to the police that day?

8 A Probably 10 minutes.

9 Q So it wasn't in depth details like you've been
10 giving here today?

11 A No.

12 Q But do you recall testifying at a preliminary
13 hearing on February 26, 2014?

14 A Yes.

15 Q And on that time were you also asked questions as
16 well about whether or not Bobby had gone around a car?

17 A Yes.

18 Q Do you recall what you said on those days, or would
19 you need to refresh your recollection by looking at the
20 transcript?

21 A Might need to refresh.

22 MS. DiGIACOMO: Your Honor, may I approach?

23 THE COURT: Yes, you may.

24 MS. DiGIACOMO: For the record, the first page is

25 page 80.

1 BY MS. DiGIACOMO:

2 Q Sir, I'm going to ask you to read on page 80,
3 lines 20 through 24 to yourself, and then let me know when
4 you're finished. Can you hear me okay?

5 A Yes.

6 Q Okay. Does that refresh your recollection as to
7 what you stated regarding after the misfire --

8 A Yes.

9 Q -- how Bobby went?

10 And what did you say specifically?

11 A I said that he was going -- he went around the car
12 to get away from Lorenzo.

13 Q All right. And specifically went around backwards?

14 A Yes.

15 Q And then you said, But Lorenzo went after him?

16 A Then he went after him.

17 Q Now showing you page 125, and I'm going to ask you
18 to look at lines 6 through 13, if you'd read those to yourself
19 and let me know when you're done.

20 A [Complies.]

21 MS. LEMCKE: I'm sorry. What was the page number?

22 MS. DiGIACOMO: 125.

23 BY MS. DiGIACOMO:

24 Q Does that refresh your recollection as to what you
25 testified to?

1 A Yes.

2 Q All right. And what did you say at that point in
3 the testimony about how Bobby reacted after the misfire?

4 A He asked him, he said, What -- hey, what are you
5 gonna do, shoot me, dude. And that's when he shot him.

6 Q And did you also testify again that he went around
7 the cars and that Lorenzo followed him?

8 A Yes.

9 Q Now, defense counsel asked you that, you know, he --
10 that if Bobby hadn't have shown up to the Siegel Suites then
11 there never would have been a fight. Do you recall that?

12 A Yes.

13 Q Is it equally true that if the defendant hadn't been
14 with Amanda that night that there wouldn't have been a fight?

15 A Yes.

16 MR. SLIFE: Objection to speculation, Your Honor.

17 MS. LEMCKE: And argumentative.

18 THE COURT: Sustained.

19 BY MS. DIGIACOMO:

20 Q That night, was Bobby's focus on Lorenzo or on
21 Amanda that night?

22 A Amanda.

23 Q He just wanted to talk to Amanda?

24 A Yes.

25 Q Nothing more?

1 A No.

2 Q Now, defense counsel asked you about whether or not
3 you knew Amanda was a prostitute.

4 A Yes.

5 Q Did you know whether she was?

6 A No.

7 Q Do you recall in your statement to the police
8 referring to Amanda as a ho?

9 A Yes.

10 Q And you -- is that one of the things you had said to
11 Bobby, you know, when he wanted to go talk to her and you
12 said --

13 A Yes.

14 Q What did you say specifically?

15 A I told him, I said, "Fuck her. She ain't nothin'
16 but a ho."

17 Q All right.

18 A I didn't know she was a prostitute though.

19 Q So when you're saying a ho, what do you mean by
20 that?

21 A I don't know. I heard she got around.

22 Q Now, you know, defense counsel asked you a lot about
23 how the fact was you didn't stay to talk to the police and you
24 never tried to contact the police after this happened, they
25 contacted you. Do you remember that?

1 A Yes.

2 Q Why didn't you try and contact the police?

3 A I don't know.

4 Q But when the police did contact you, were you
5 truthful about what had happened that night?

6 A Yes.

7 Q And you were asked about the Arizona Charlie's video
8 that was shown to you.

9 A Yes.

10 Q And you said that you were seen going into the room.

11 A Yes.

12 Q Do you recall what you were wearing?

13 A Yeah. The blue -- blue hoodie.

14 Q Was it a dark hoodie?

15 A And jeans. Yeah. Dark blue and the inside of the
16 hood was light blue.

17 Q And did you also have a hairstyle currently like you
18 do today?

19 A Yes.

20 Q Were you also shown part of the video that shows a
21 silver car coming into the parking lot?

22 A Yes.

23 Q And did you identify that as being you in that car?

24 A Yes.

25 Q When you came into the parking lot in the silver

1 car, you said you saw Bobby and he was pissed?

2 A Yes.

3 Q Now, was he pissed at Lorenzo or was he pissed at
4 Amanda, or about Amanda?

5 A About Amanda.

6 Q Did he ever mention go in there and tell Lorenzo to
7 come out, I'm gonna kick his ass?

8 A No.

9 Q Did he even mention go in there and talk to Lorenzo?

10 A No.

11 Q He just wanted you to go ask Amanda to come out and
12 talk to him?

13 A Yes.

14 Q Now, you said that Amanda didn't seem afraid at all.
15 You mean afraid of Bobby that night?

16 A Yes.

17 Q What made you think that?

18 A She was acting, I don't know, she didn't seem like
19 she was scared.

20 Q Wasn't upset herself?

21 A No.

22 Q Just acting kind of normal?

23 A Yes.

24 Q Even after the shooting, the same way?

25 A Yes.

1 Q And you never at Arizona Charlie's heard the victim
2 tell Lorenzo I'm going to kill you?

3 A No.

4 Q Did you ever hear the victim Bobby say that at the
5 Siegel Suites?

6 A No.

7 Q Did you ever hear the defendant say to Bobby I'm
8 going to kill you?

9 A No.

10 Q Everything that you heard Bobby say was about
11 kicking his ass?

12 A Yes.

13 Q And everything Lorenzo said was about kicking at --
14 his ass?

15 A Yes.

16 Q When you pulled into the Siegel Suites and you said
17 that the defendant or Lorenzo got out of the car --

18 A Yes.

19 Q -- you testified, when defense counsel was asking
20 you questions, that you only noticed Bobby up on the third
21 floor when Lorenzo started yelling at him?

22 A Yes.

23 Q What did Lorenzo start yelling at the victim -- or
24 excuse me, at Bobby?

25 A Just asked him what the fuck he was doing here.

1 Q And so that's the first yelling, I guess, you heard
2 when you got back to the Siegel Suites?

3 A Yes.

4 Q And so but for Lorenzo yelling up there, you didn't
5 even know Bobby was on the third floor?

6 A No.

7 Q When Lorenzo said, you know, what the fuck are you
8 doing here, what was Bobby's response?

9 A Said he came to talk to Amanda.

10 Q What was Lorenzo's response to that?

11 A Said you're not talking to her.

12 Q And at that point Amanda is still there?

13 A Yeah. She was in the car.

14 Q Did Amanda do anything to try and get out of the car
15 to talk to Bobby?

16 A No.

17 MS. DiGIACOMO: I have nothing further.

18 MR. SLIFE: Two follow-up, Your Honor.

19 THE COURT: All right.

20 RECROSS-EXAMINATION

21 BY MR. SLIFE:

22 Q Sir, you just testified that Bobby's entire focus
23 was on Amanda, right?

24 A Yes.

25 Q He just wanted to talk to Amanda?

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1 A Yes.

2 Q But yet you also testified that when you were going
3 to the room, Bobby charged at Lorenzo, not at Amanda, right?

4 A I didn't say he charged at Lorenzo. He was coming
5 towards the room and security stopped him.

6 Q Who was he -- didn't you say he was coming towards
7 Lorenzo?

8 A He was coming towards the room, the door.

9 Q He was just -- so he was just coming towards the
10 room in a nice orderly fashion?

11 A No. He was like kind of jogging towards the room.

12 Q Kind of jogging towards the room?

13 A Yeah. Like running towards the room.

14 Q But that -- you didn't take that to be a threat to
15 either Amanda or Lorenzo? He was just kind of jogging happy
16 go lucky to talk to Amanda?

17 A Well, I didn't take it as a threat to Amanda because
18 then they walked on the side of the building and started
19 talking.

20 Q Okay. So your testimony is not that he went after
21 Lorenzo?

22 A Yeah, he didn't -- I didn't see him going after
23 Lorenzo.

24 Q One last thing. The hearing that you testified --

25 THE COURT RECORDER: Mr. Slife, you got to --

1 MR. SLIFE: I'm sorry.

2 BY MR. SLIFE:

3 Q The hearing that you testified, where you gave this
4 story about going around, that was two months after the
5 shooting?

6 A I guess.

7 Q Approximately?

8 A Yeah.

9 Q And that was after you spoke to Mr. Bateman, right?

10 A No. No. I didn't talk to him first.

11 Q Oh, you didn't talk to Mr. Bateman before the
12 hearing?

13 A Oh, yeah. Before the hearing?

14 Q Before the hearing.

15 A Yeah.

16 Q Before the hearing you spoke to Mr. Bateman, that's
17 when you testified about this thing going around the car?

18 A No.

19 Q No?

20 A I don't know.

21 Q You don't know?

22 A Did I talk --

23 Q Who knows.

24 MR. SLIFE: All right. Nothing further.

25 THE WITNESS: What do you mean who knows?

1 MR. SLIFE: Thank you.

2 MS. DiGIACOMO: Your Honor, I have one follow-up.

3 THE COURT: Yes.

4 FURTHER REDIRECT EXAMINATION

5 BY MS. DiGIACOMO:

6 Q Did Mr. Bateman tell you what to testify --

7 A No.

8 Q -- here today?

9 A No, he didn't.

10 Q Are you just telling what happened?

11 A The everything that happened.

12 Q Okay. So Mr. Bateman's not putting words in your

13 mouth?

14 A No.

15 Q And he didn't tell you what to say before the
16 prelim?

17 A No.

18 Q And he didn't tell you what to say before you came
19 in today?

20 A No.

21 MS. DiGIACOMO: Nothing further.

22 MR. SLIFE: Nothing further, Your Honor.

23 THE COURT: May this witness be excused?

24 MS. DiGIACOMO: No, Your Honor. He's excused for
25 the day.

1 THE COURT: Oh. You're excused for the day, but you
2 still remain under subpoena.

3 MS. DiGIACOMO: Thank you.

4 THE COURT: Thank you.

5 MS. DiGIACOMO: Your Honor, next the State will call
6 Shannon Salazar.

7 MS. LEMCKE: Your Honor, and just before he leaves,
8 I would ask that Your Honor admonish that since he's still
9 under subpoena that he not be discussing his testimony with
10 any other witnesses or --

11 THE COURT: Yes, sir. As I admonished you before
12 the lunch break, that still applies. Don't discuss your
13 testimony with any other witnesses.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Thank you.

16 SHANNON SALAZAR, STATE'S WITNESS, SWORN

17 THE CLERK: State and spell your full name.

18 THE WITNESS: Shannon Salazar, S-h-a-n-n-o-n,
19 S-a-l-a-z-a-r.

20 THE COURT: You may proceed.

21 MS. DiGIACOMO: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. DiGIACOMO:

24 Q Do you know the person that just left the courtroom?

25 A I didn't see -- oh, Tim? Yes.

1 Q Okay. Tim Hildebrand?
2 A Mm-hmm.
3 Q Is that -- you have to say yes or no, because --
4 A Yes.
5 Q -- everything's being recorded.
6 And how do you know him?
7 A He's my boyfriend.
8 Q How long have you been together?
9 A Almost nine years.
10 Q Now directing your attention to December 22, 2013,
11 in the early morning hours, do you recall where you were?
12 A Yes.
13 Q Where?
14 A At first Arizona Charlie's.
15 Q Let's talk about that. Who did you go to Arizona
16 Charlie's with?
17 A Tim and I were going to gamble.
18 Q Did you know that anybody else that you knew could
19 possibly be there?
20 A Possibly, but not at the time we didn't until we got
21 in the parking lot.
22 Q So it's not uncommon for you to see people you know
23 at Arizona Charlie's?
24 A All the time.
25 Q And one other thing. You have to let me finish

1 before you speak, because otherwise we'll get yelled at.

2 So you went to Arizona Charlie's. How did you get
3 there?

4 A We drove.

5 Q Who drove?

6 A Tim.

7 Q In whose car?

8 A Our friend Erica's.

9 Q When you pulled into the parking lot, did you see
10 anyone you knew?

11 A We saw Bobby.

12 Q And who is Bobby?

13 A He's a good friend of ours.

14 Q Is that Robert Holland?

15 A Yes.

16 Q When you saw Bobby, what was his demeanor like?

17 A He was upset.

18 Q Did he say why he was upset?

19 A He was upset because he wanted to talk to Amanda.

20 Q And he couldn't go into the casino to do that?

21 A I guess not.

22 Q Do you recall him asking Tim anything?

23 A He asked if he would go into the casino and get her
24 for him so he could talk to her.

25 Q What was Tim's response to that?

1 A He said okay.

2 Q And so did Tim actually go into the casino?

3 A Yes.

4 Q Now, how did you originally meet Bobby? You said
5 you've known him for a long time?

6 A Quite a while. Through my sister. They dated off
7 and on.

8 Q All right. So you've known him for approximately
9 how long?

10 A It would be about nine years as well.

11 Q So about the whole time you and Tim have been
12 together?

13 A Mm-hmm. Yes.

14 Q So you said he -- he -- Bobby wanted to talk to
15 Amanda, so Tim went inside the hotel?

16 A Yes.

17 Q Did you stay in the car or did you go in the hotel?

18 A I stay in the car.

19 Q Where did you stay in the car? I mean, were you in
20 a parked parking stall or --

21 A Yes. In the -- I guess in the front of the casino.
22 Like we drove from -- we were actually by the hotels at first,
23 the rooms, and then we drove -- because that's where we saw
24 Bobby. And then we drove to the front where the casino is.

25 Q And parked there?

1 A Yes.

2 Q And that's when Tim went in?

3 A Yes.

4 Q So you didn't stay with Bobby while Tim went inside?

5 A No.

6 Q Now, did Tim come back to the car?

7 A Yes.

8 Q Did he come back alone?

9 A Yes. And well, he was walking by himself and Amanda

10 and Lorenzo were walking slowly behind him.

11 Q Now, you said Lorenzo. Who is Lorenzo?

12 A The man sitting over there.

13 Q Do you see him in the courtroom here today?

14 A Mm-hmm.

15 Q Yes?

16 A Yes.

17 Q And would you point to the person you're referring

18 to and describe the clothing that he's wearing right now?

19 A In the gray jacket.

20 MS. DiGIACOMO: Your Honor, would the record reflect

21 identification of the defendant?

22 THE COURT: It will.

23 BY MS. DiGIACOMO:

24 Q So how did you -- or I guess, how long had you known

25 Lorenzo back when this occurred on December 22, 2013?

1 A Probably less than a year.

2 Q So you saw Amanda and Lorenzo coming behind him?

3 A Yes.

4 Q Now, did you know who Amanda was?

5 A We -- a little. I knew of her. That was maybe my
6 second time meeting her.

7 Q Okay. But you knew of her?

8 A Yes.

9 Q Through Bobby?

10 A Yes.

11 Q And so what did you know of Bobby and Amanda's
12 relationship at this time?

13 A They seemed like they were off and on in a
14 relationship as well.

15 Q Like a boyfriend girlfriend relationship?

16 A Yes.

17 Q So when they all come out of the hotel, what
18 happens?

19 A A confrontation starts between Bobby and Lorenzo and
20 Amanda, just a lot of yelling. I was still in the car, so I
21 could only hear like muffling of words and...

22 Q So you hear them yelling at each other.

23 A Mm-hmm.

24 Q Can you make out what they're saying?

25 A For the most part it sounded like an invitation to

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1 fight.

2 Q What do you mean an invitation to fight?

3 A Lorenzo was telling Bobby to meet me at my house in
4 30 minutes, I'll be home in 30 minutes, you know.

5 Q Did you hear anything else about the fight?

6 A Just that he just wanted -- Bobby just wanted to
7 talk to Amanda. He didn't want to deal with that other
8 nonsense. He just wanted to talk to Amanda. That's all he
9 wanted to do was talk to Amanda by herself.

10 Q Did you ever see whether or not Amanda and Bobby did
11 talk to each other by themselves?

12 A I did not, no.

13 Q So at this point you said Tim had come back to the
14 car. Did Tim go over to where the confrontation was?

15 A Yes. He first came back to the car and then it
16 started to get a little loud, and so he went back over to
17 where they were.

18 Q And then when Tim went over there, what was he
19 doing?

20 A I couldn't see.

21 Q Did you ever see security get involved?

22 A Yes.

23 Q What did -- could you hear what was going on at this
24 point, or are you still --

25 A Basically they were trying to like break up the

1 altercation and they were asking Bobby to leave the property,
2 I guess.

3 Q Well, you say I guess. Did you hear that?

4 A That's what I was told when they came back.

5 Q Well, what did you see? Don't tell me what you were
6 told.

7 A I didn't see much. I was sitting in the parking lot
8 facing the street basically, so I couldn't see much. But
9 maybe a few times I looked back, you know, towards the back
10 part --

11 Q Okay.

12 A -- of the car.

13 Q Now, at some point did you find out whether or not
14 you were giving Lorenzo and Amanda a ride home?

15 A Yes.

16 Q When was that?

17 A Right after they broke up -- not broke up a fight,
18 but basically I told Bobby to leave, and I guess everything
19 was calming down at that point.

20 Q So did they get in the car with you?

21 A Yes.

22 Q When you guys get ready to leave, did you see where
23 Bobby went when security told him to leave?

24 A I did not.

25 Q Do you remember telling the police that he was on

1 the sidewalk?

2 A Well, he was on the sidewalk. I don't know which
3 direction he went after that, but he -- when he was asked to
4 leave the parking lot, I guess he had went towards the
5 sidewalk.

6 Q And so he was kind of on the sidewalk and then he
7 left?

8 A Mm-hmm. Yes.

9 Q All right. So did Amanda and Lorenzo get in the car
10 where you were parked, or did you drive around to the valet?

11 A We -- no, they got in the car with us, then we had
12 to drop them off at the valet so that, I guess, they could
13 check out.

14 Q And then from there, did you go straight to the
15 Siegel Suites?

16 A Yes, we did.

17 Q Who was in the car?

18 A Tim and I and Lorenzo and Amanda.

19 Q And where were you seated in the car?

20 A Tim was driving, I was in the passenger, Lorenzo was
21 behind me, and Amanda was behind Tim.

22 Q Was there any conversation going on while you were
23 driving from Arizona Charlie's to the Siegel Suites?

24 A From what I could hear it was only just basically
25 whispering.

UNCERTIFIED ROUGH DRAFT

1 Q Who was whispering?
2 A Lorenzo and Amanda.
3 Q While they were in the back passenger seat?
4 A Yes.
5 Q But you weren't having a conversation with them?
6 A No.
7 Q And Tim wasn't having a conversation with them?
8 A No.
9 Q All right. So when you get to the Siegel Suites and
10 you pull in, where did Tim go? Where did he drive?
11 A He pulled in, in front of Lorenzo's building.
12 Q Did you know where Lorenzo lived?
13 A Yes.
14 Q You'd been there before?
15 A We used to live on the property as well.
16 Q So you knew he lived at Siegel Suites?
17 A Yes.
18 Q And what floor did he live on?
19 A On the third floor.
20 Q When you -- when you -- does Tim pull into a parking
21 stall --
22 A Yes.
23 Q -- right in front of the apartment building?
24 A Correct. Yes.
25 Q And then what happens?

1 A We heard some like loud noise. I guess it was Bobby
2 yelling from the top -- the third floor.

3 Q So you heard Bobby yelling from the third floor?

4 A Mm-hmm.

5 Q Did you hear what he was yelling?

6 A He just wanted to talk to Amanda.

7 Q So he was just yelling for Amanda?

8 A Mm-hmm.

9 Q Is that a yes?

10 A Yes. Yes. Sorry.

11 Q So he's not screaming I'm going to kill you?

12 A No. No.

13 Q He's not screaming come here, I'm gonna kick your
14 ass?

15 A No. He was directing his attention towards Amanda.

16 Q So he was just like, Amanda, come talk to me?

17 A Yes.

18 Q So does Lorenzo get out of the car?

19 A Yes.

20 Q Does -- do you hear Lorenzo say anything back to
21 Bobby?

22 A I couldn't really make it out.

23 Q But did he say something?

24 A I'm sure -- yeah. Yes.

25 Q Did you hear whether or not an argument started to

1 ensue between Lorenzo and Bobby?

2 A Yes. After that, yes.

3 Q Did you make -- were you able to make out any of
4 what was said?

5 A He was just saying -- excuse my language. He said,
6 "You're not gonna fuck her. I just want to talk to Amanda.
7 You're not gonna -- you're not gonna fuck her." And --

8 Q And who said that?

9 A Bobby.

10 Q And did Lorenzo say anything?

11 A He said, "I wasn't, but I'm gonna fuck her now."

12 Q And is this while Bobby's still up top?

13 A Yes.

14 Q Did you ever hear -- well, let me ask you this. Did
15 you hear the defendant say anything else to Bobby?

16 A No.

17 Q Do you recall giving a statement to police?

18 A Yes, I do.

19 Q Do you recall the -- Lorenzo saying, Come on, come
20 on?

21 A He was sounding like he was provoking the fight.

22 Q So he was trying to get Bobby --

23 A He was antagonizing him.

24 Q Did you ever hear Bobby say whether or not he wanted
25 to fight Lorenzo?

1 A He said he didn't want to fight him. He said he
2 wasn't there to fight. He was there to talk to Amanda, and he
3 wanted her to leave with him.

4 Q And all this happened while you're still in the car?

5 A Yes.

6 Q And where's Amanda?

7 A She was in the car as well.

8 Q And then did Tim tell you anything at this point?

9 A Yes. He said that we should go either across the
10 street or just go away, because he didn't know what was going
11 to happen and he didn't want things to get out of control and
12 he didn't want like me around it basically. So I didn't have
13 a license. He asked Amanda if she did and if she could drive.

14 Q And so then did Amanda agree to drive?

15 A Yes.

16 Q And then did you leave?

17 A Yes.

18 Q What was Amanda's reaction to all this?

19 A She was very nonchalant, but just continuously
20 talking bad about Bobby basically.

21 Q But you said she was kind of nonchalant about what's
22 happening?

23 A Yeah. She like -- she wasn't -- she didn't seem
24 afraid or anything. I know when I -- if I'm around a fight or
25 something, I get really nervous and, you know, I don't like

1 that kind of confrontation. But she was just kind of just,
2 just calm.

3 Q Like it was not a big deal?

4 A No.

5 Q So did she get in the driver's seat and leave?

6 A Yes.

7 Q And then where did you guys go when you left there?

8 A Well, we were going to go across the street.

9 Q Is that to the 4 Mile Bar?

10 A Yes. But I was kind of -- I don't know. I was kind
11 of leary to go anywhere with her. I didn't really know of her
12 too well, but what I heard I didn't really care for her. So
13 we went around the next building and we parked in front of
14 that back building.

15 Q And this is while the argument between Lorenzo and
16 Bobby was still going on?

17 A Yes.

18 Q Did Amanda want to leave? You said she was kind of
19 nonchalant about it.

20 A No.

21 MS. LEMCKE: I object. Speculation as to what
22 Amanda wants.

23 THE COURT: Sustained.

24 BY MS. DIGIACOMO:

25 Q All right. Let me re-ask that. Did Amanda jump in

1 the driver's seat and take off right away?

2 A No, she didn't.

3 Q Did she hesitate before she left?

4 A No.

5 Q So how -- how was her, I guess, movement to leaving?
6 Did she move quickly like she wanted to get out of there, or
7 did she take her time?

8 A Well, I had heard Lorenzo tell her to go, just to
9 get in the car and go.

10 Q And at that point she left?

11 A Yes.

12 Q So then you drive around to the other building. And
13 did you park in a stall there?

14 A Yes.

15 Q And then what happened?

16 A We just sat there and she was talking about Bobby,
17 saying how he --

18 Q Well, let me -- don't tell me what she said. But
19 she wasn't -- you said before she just wasn't talking nice
20 about Bobby?

21 A Right.

22 Q Did she seem worried at all about what could happen
23 in this confrontation?

24 A Not really, no.

25 Q About how long did you sit there?

1 A It seemed like a few minutes, maybe -- maybe five
2 minutes.

3 Q And then what happened?

4 A I heard what I thought might have been two gunshots.

5 Q Now, were they consecutive, or was there a pause in
6 between them?

7 A A short pause.

8 Q And did it sound like more than two gunshots, or
9 just the two?

10 A It kind of like with an echo maybe. I wasn't really
11 familiar with how it really would have sounded.

12 Q Are you very familiar with guns?

13 A No.

14 Q But you thought it was gunshots?

15 A Yes.

16 Q And what was your reaction to that?

17 A It startled me.

18 Q Did you say anything to Amanda?

19 A I asked her, I said, "Did you hear that? Did that
20 sound like gunshots?" And she acted like she didn't hear me
21 at first. And it's not something you couldn't have not heard.

22 Q It's pretty -- was it quiet at that time of the
23 morning?

24 A Yes, very.

25 Q And so that's the only thing you heard were the

1 gunshots?

2 A Yes.

3 Q So did you repeat that to her, did you hear that?

4 A I did. And she -- she said, "No, I didn't." She
5 acted like she didn't. I could tell she was lying. And --

6 MS. LEMCKE: I'll object to that. Move to strike.

7 THE COURT: Grounds?

8 MS. LEMCKE: Speculation.

9 THE COURT: Sustained. The jury will disregard the
10 answer.

11 BY MS. DIGIACOMO:

12 Q So don't tell me what you thought about it, but
13 she -- she acted like she didn't hear -- or --

14 A Yes.

15 Q -- she just said she didn't hear them?

16 A She said she didn't hear.

17 Q And so what did you say?

18 A I said, "Well, I think it was," and she said, "Well,
19 go check." And I said, "I will, because there's people I love
20 out there, you know, I want to make sure everybody's okay."

21 Q So what did you do?

22 A So I got out of the car and I went -- I took a few
23 steps where I could see around the corner, where I saw Tim
24 screaming and --

25 Q What was Tim screaming?

1 A That Lorenzo had shot Bobby.
2 Q And do you recall specifically what he was screaming
3 about that?
4 A He was just -- he sounded like he was yelling at
5 Lorenzo, but I couldn't see Lorenzo.
6 Q Right. But what was he saying?
7 A He was, "Why did you do that? How could you do
8 that?"
9 Q And that's what you heard -- and you're familiar
10 with Tim's voice?
11 A Yes.
12 Q Could you see Tim at this point?
13 A Yes.
14 Q And so was he standing up?
15 A Right. Yes.
16 Q And he's screaming this, was he screaming it in a
17 particular direction?
18 A Towards the street, like towards Boulder Highway.
19 Q So away from where you were?
20 A Yes.
21 Q Could you see Bobby at all?
22 A No.
23 Q So when you heard Tim screaming that, what did you
24 do at this point?
25 A I got -- I went back to the car and I told Amanda

1 that Lorenzo shot Bobby, and she was just like, What is he --
2 where's Lorenzo? Where's Lorenzo? She no disregard to Bobby.
3 Just where's Lorenzo.

4 MS. LEMCKE: I'm going to object to all the
5 conversation that was Amanda as hearsay. And speculation as
6 to her regard or disregard for anyone.

7 THE COURT: Do you wish to be heard in response at
8 all?

9 MS. DiGIACOMO: I'll submit it, Your Honor.

10 THE COURT: All right. Well, she's not testified
11 about speculation, and she's not speculating as to anything.
12 She's just saying what Amanda said. And --

13 MS. LEMCKE: Well, it's hearsay as to what Amanda
14 would have said, and then it's speculation to the extent that
15 she's going to draw from that, that she had a disregard for
16 any particular person.

17 THE COURT: Well, I think she did say that. So
18 that's sustained as to speculation. The jury will disregard
19 that comment. And as to the what Amanda said, where is
20 Lorenzo, where is Lorenzo, that's not offered for the truth of
21 the matter asserted, so that's overruled. It's not hearsay.

22 MS. DiGIACOMO: Thank you, Your Honor.

23 BY MS. DiGIACOMO:

24 Q So when you get back in the car and you tell her
25 Bobby's been shot, what's your demeanor like?

1 A I was very anxious. I was freaking out.

2 Q And in fact, let's go back to when you saw Tim and
3 he was yelling, you know, why did you do this, Lorenzo, do you
4 recall what his emotions were like? What was his demeanor at
5 that time?

6 A Tim's? He was hysterical. He was crying and very
7 upset.

8 Q So -- so now you're back in the car, you're upset,
9 you tell Amanda Bobby's been shot.

10 A Yes.

11 Q And what was her demeanor, what was her like for the
12 reaction of that news?

13 A She wasn't upset or anything. She was basically
14 just kind of calm, I guess.

15 Q And only cared about where Lorenzo was?

16 A Yes.

17 Q Not crying? No?

18 A I said -- no. I said, "Tim said that Lorenzo shot
19 Bobby," and she said, "Fuck Bobby."

20 Q Now, at this point do you stay where you're at, at
21 the Siegel Suites?

22 A No. We left. We drove -- we drove towards Tim.

23 Q So did you go back by where the shooting occurred?

24 A [No audible response.]

25 Q And did you see Tim?

1 A Yes.

2 Q Or did you go -- keep going to the 4 Mile Bar?

3 A We stopped for a second and we -- we talked to Tim
4 first and asked him what should we do, and he said, Just go
5 across the street for a minute, he's going to stay and help.
6 Just, you know, get out of the -- get out of there, I don't --

7 Q And Amanda just left?

8 A Yes.

9 Q And you guys go across to the bar. Did Tim ever
10 come there?

11 A Afterwards we met -- well, actually, she went back
12 to get him. I had to use the bathroom. I went inside the 4
13 Mile and I used the bathroom and washed my face, because I was
14 crying. And she went back and got him.

15 Q Well, do you -- you didn't see her go back and get
16 him?

17 A No.

18 Q So you don't know how Tim got back to the car?

19 A No.

20 Q And did you eventually find your way back to the car
21 with Tim in it?

22 A Yes.

23 Q When you pulled up the car when Tim was still there
24 where the shooting was, you said that Tim told you guys that
25 Bobby just got shot?

1 A Yes.

2 Q And what was Amanda's reaction? What did she say?

3 MS. LEMCKE: Objection. Asked and answered.

4 THE WITNESS: She --

5 MS. DiGIACOMO: Well, actually, her -- there's a
6 little bit different in what she said and their statement, so
7 I'm just trying to see if she remembers before I show her, her
8 statement.

9 THE COURT: All right. I'll allow it. Overruled.

10 BY MS. DiGIACOMO:

11 Q What was Amanda -- what did she say to Tim?

12 A She just said, Fuck Bobby.

13 Q Do you recall giving a statement to police?

14 A Yes.

15 Q And was that approximately a week and a half after
16 the incident?

17 A Approximately, yes.

18 Q If I was to show you --

19 And it's going to be page 12 to 13, Counsel.

20 But if I was to show you your statement, could that
21 refresh your recollection as the exact words that Amanda
22 stated?

23 A Yes.

24 MS. DiGIACOMO: May I approach, Your Honor?

25 THE COURT: Yes.

1 BY MS. DiGIACOMO:

2 Q I'm going to show you this voluntary statement. Do
3 you recognize it?

4 A Yes.

5 Q Have you seen it before?

6 A Yes.

7 Q It's a transcription of the statement you gave to
8 detectives?

9 A Yes.

10 Q And it appeared accurate when you read it before?

11 A Yes.

12 Q I'm going to ask you to start on page 12, the bottom
13 of the page that starts with the A. And well, I guess you
14 might want to start with -- yeah, the A, and then read into
15 page 13 all the way down to the next question to yourself, and
16 let me know when you're done.

17 A [Complies.]

18 Q Are you done?

19 A Mm-hmm.

20 Q Does that refresh your recollection as the exact
21 words Amanda used?

22 A Yes.

23 Q And what did she say?

24 MS. LEMCKE: Objection. Hearsay.

25 THE COURT: I don't know. Let me see the statement.

1 Let me see it.

2 MS. DiGIACOMO: May we approach?

3 THE COURT: Did you want to come up?

4 MS. LEMCKE: Oh.

5 THE COURT: Or are you fine?

6 (Bench conference - not transcribed.)

7 BY MS. DiGIACOMO:

8 Q So after reading your statement on page 12 and 13,
9 and you said before that Amanda said, Fuck Bobby, but after
10 reading this, those weren't her exact words, correct? Just
11 yes or no.

12 A Yes.

13 Q But that was the sentiment that you took from it?

14 A Yes.

15 Q Now, when you get back in the car with Tim, is
16 Amanda still in the car?

17 A Yes.

18 Q At this point are you going to stay, you and Tim
19 going to stay and hang out with Amanda or --

20 A No. We asked where she needed to go, and she said
21 she needed to find her baby.

22 Q Her baby?

23 A Her baby. And we --

24 MS. LEMCKE: Well, I'm going to object again as to
25 hearsay and relevance.

1 THE COURT: Sustained.

2 MS. DiGIACOMO: That's fine. I'll move on.

3 We'll --

4 BY MS. DiGIACOMO:

5 Q All right. So did you drop her off somewhere?

6 A Yes, we did.

7 Q Did she want to go back to the Siegel Suites?

8 MS. LEMCKE: Objection. Hearsay to the extent that
9 this interpretation of what Amanda's thinking is based on the
10 statement. And also speculation to the extent that it's
11 interpretive.

12 MS. DiGIACOMO: I'll rephrase, Your Honor.

13 THE COURT: Just rephrase then.

14 BY MS. DiGIACOMO:

15 Q Did you take Amanda back to the Siegel Suites?

16 A No.

17 Q Where did you drop off Amanda?

18 A At Boulder Station.

19 Q And then what did you do after you dropped her off?

20 A We left.

21 Q Now, are you still upset and crying at this point?

22 A Yes.

23 Q And what about Tim, what's his demeanor?

24 A Very hysterical.

25 Q When you're with Amanda in the car and, you know,

1 when she's driving, when she's in the back seat, when you saw
2 her that night, did you see any injuries on her?

3 A No.

4 MS. DiGIACOMO: Pass the witness.

5 THE COURT: Cross.

6 CROSS-EXAMINATION

7 BY MS. LEMCKE:

8 Q You and Amanda were close friends?

9 A No, not at all.

10 Q Not at all?

11 A Hm-mm.

12 Q Because you didn't really know each other?

13 A Right.

14 Q In fact, you just met like that night?

15 A That was the second time I've seen her.

16 Q The second time ever that you'd seen her?

17 A Mm-hmm.

18 THE COURT: Is that a yes?

19 THE WITNESS: Yes.

20 BY MS. LEMCKE:

21 Q The second time that you'd ever had any contact with
22 her?

23 A Yes.

24 Q And the first time that you had contact with her was
25 when?

1 A I had seen her in the casino, actually the same
2 casino maybe a year before that or so.

3 Q And you'd just seen her in the casino?

4 A Yes.

5 Q You didn't talk to her?

6 A No. She was with Bobby playing, gambling, and I was
7 with my sister.

8 Q And you didn't have any interaction with her then?

9 A Not her, no.

10 Q So you don't know what Amanda's like, what a normal
11 Amanda is like; is that right?

12 A No.

13 Q You don't know what an upset Amanda looks like, do
14 you?

15 A No.

16 Q You don't know what a hysterical Amanda looks like?

17 A No.

18 Q You don't know what an Amanda who's showing
19 disregard for something looks like?

20 A No.

21 Q Because you don't really know Amanda at all?

22 A I don't.

23 Q Now, Ms. Salazar, this is the first time that you
24 and I have talked, is it not?

25 A Yes.

1 Q And in fact, I tried to contact you?

2 A Yes.

3 Q And asked you to speak with me about this case and
4 tell me what you knew about this case?

5 A Yes.

6 Q So that I could have a better understanding of --
7 MS. DiGIACOMO: Objection, Your Honor. She's
8 testifying now.

9 THE COURT: Sustained.

10 BY MS. LEMCKE:

11 Q And you refused to speak to me?

12 A Correct.

13 Q So this is the first time that we've had a chance to
14 talk?

15 A Yes.

16 Q The first time I've had a chance to ask you
17 questions?

18 MS. DiGIACOMO: Objection. Asked and answered.

19 THE COURT: Sustained.

20 BY MS. LEMCKE:

21 Q But you've spoken to the prosecutors multiple times?

22 A Yes.

23 Q Both Ms. DiGiacomo?

24 A I'm sorry?

25 Q Have you spoken to Ms. DiGiacomo before more than

1 once?

2 A Yes.

3 Q More than twice?

4 A Probably twice.

5 Q You met with her in her office?

6 A In -- no, not in her office.

7 Q In someone's office at the district attorney's

8 office?

9 A Yes.

10 Q They showed you a video?

11 A Yes.

12 Q You watched that video?

13 A Yes.

14 Q That was at Arizona Charlie's?

15 A Yes.

16 Q Surveillance footage?

17 A Yes.

18 Q And you can see in that video your -- your -- the

19 car that you were in that evening?

20 A Yes.

21 Q With Tim?

22 A Mm-hmm. Yes.

23 Q You can see Bobby in that video?

24 A Yes.

25 Q In the parking lot?

1 A Yes.

2 Q Pacing?

3 A Yes.

4 Q You can see Bobby after he was kicked out of the
5 casino?

6 A Yes.

7 Q You can see where you parked?

8 A Where he parked?

9 Q Where you parked your car?

10 A Yes.

11 Q Because you can see where you drove in, right?

12 A Yes.

13 Q And you can see where you guys parked?

14 A Yes.

15 Q And you can see the interaction that you have with
16 Bobby?

17 A Yes.

18 Q And then later on in that video you can see people
19 walking out to Lorenzo's hotel room?

20 A Yes.

21 Q And you can see security bike patrol officers kind
22 of hovering around, right?

23 A Yes.

24 Q Because Bobby hasn't left the property, has he?

25 A I wasn't sure of that.

1 Q Do you remember that you could see Bobby on that
2 video?

3 A Yes.

4 Q Still on the property?

5 A Yes.

6 Q And when security comes over to the area where
7 Lorenzo's room is, they kind of stay in that area, don't they?

8 A Yes.

9 Q They don't leave, do they?

10 A No.

11 Q And you can see Bobby pretty close to where security
12 is, can't you?

13 A Yes.

14 Q And at some point in that video you can actually see
15 Bobby lower his upper body and charge toward Lorenzo's hotel
16 room?

17 MS. DiGIACOMO: Objection, Your Honor.

18 THE WITNESS: [Inaudible.]

19 MS. DiGIACOMO: There's no evidence that this
20 witness saw any of it, has any, I guess you'd say independent
21 knowledge, and I'd say best evidence, as well as it's
22 speculation.

23 THE COURT: Sustained.

24 BY MS. LEMCKE:

25 Q You watched all of this with the prosecutors; is

1 that right?

2 A Yes.

3 Q Okay. And I think you said that you've met with
4 them on two occasions?

5 A Yes.

6 Q And you went over your -- they showed you a copy of
7 your statement that you gave to police?

8 A Yes.

9 Q That was a statement that you gave sometime after
10 this incident occurred?

11 A Yes.

12 Q And it was recorded?

13 A Yes.

14 Q And it was transcribed?

15 A Yes.

16 Q And they let you review that?

17 A Yes.

18 Q And they spoke with you about it?

19 A Yes.

20 Q And they talked to you about everything else that
21 you saw and heard that day?

22 A Yes.

23 Q You indicated that you are Tim Hildebrand's
24 girlfriend.

25 A Yes.

1 Q That you guys have been together for nine years, I
2 believe?

3 A Yes.

4 Q You live together?

5 A Yes.

6 Q You've lived together for most of that nine years?

7 A Yes.

8 Q Do you have children together?

9 A No.

10 Q You've lived here in Las Vegas together?

11 A Yes.

12 Q And so you socialize together?

13 A Yes.

14 Q You spend your free time together?

15 A Yes.

16 Q You know some of the same people?

17 A Yes.

18 Q You know Bobby. You would hang out with Bobby?

19 A Yes.

20 Q You indicated that you knew Bobby for several years

21 before this incident occurred?

22 A Yes.

23 Q Maybe like five years?

24 A More closer to maybe nine. I mean, around the same

25 time that I met Tim.

1 Q So well, and if you've been Tim's girlfriend for
2 nine years --

3 A Nine years.

4 Q -- then you've known Bobby for about nine years?

5 A About that, yes.

6 Q Did you meet Bobby through Tim?

7 A No.

8 Q You met him separate from Tim?

9 A Yes.

10 Q But you guys, when I say you guys, you and Tim would
11 socialize with Bobby?

12 A Yes.

13 Q On a regular basis?

14 A Yes.

15 Q So you knew Bobby pretty well?

16 A Yes.

17 Q You guys had common interests?

18 A Yes.

19 Q There were things that you all liked to do together?

20 A Yes.

21 Q And in fact, if I understand you correctly, Bobby
22 dated your sister?

23 A Off and on, yes. They were more -- more so for the
24 time best friends. And they dated a couple of times, I guess,
25 like you say.

1 Q So Bobby would have girls that he was close friends
2 with?

3 A Yes.

4 Q So like for example with your sister, he wasn't
5 always dating her?

6 A No.

7 Q He was actually close friends with her at points?

8 A Yes.

9 Q And then at some times there would be a dating
10 relationship?

11 A Yes.

12 Q It was kind of on again, off again?

13 A Yeah.

14 Q But he was in love with her at some time?

15 A Yes.

16 Q And I think, if I understood you correctly, you also
17 understood Bobby to be in love with Amanda also?

18 A Yes.

19 Q But you indicated on your direct testimony that
20 Bobby also had kind of an on again off again relationship with
21 Amanda as well?

22 A From what I heard, yes.

23 Q And you had seen and in all the time that you had
24 known Bobby all those years, you had seen him with Amanda, I
25 believe, once before?

1 A Right.

2 Q Okay. And in nine years, one time?

3 A Yes.

4 Q And in fact, Bobby at some point had kind of become
5 obsessed with Amanda?

6 A I don't know if obsessed -- he never mentioned that
7 to me, obsessed like.

8 Q Amanda described it that way to you?

9 MS. DIGIACOMO: Objection. Hearsay.

10 THE COURT: Sustained.

11 BY MS. LEMCKE:

12 Q Do you remember giving a statement to -- well, you
13 do remember giving your statement --

14 A Yes.

15 Q -- to police about ten days after this occurred?

16 A Yes.

17 MS. LEMCKE: The Court's indulgence.

18 (Pause in proceeding.)

19 BY MS. LEMCKE:

20 Q And in that statement you were asked about the
21 relationship between Bobby and Amanda, and you certainly knew
22 Bobby's side of the relationship, of how he felt that he was
23 obsessed with her --

24 A He was in love with her.

25 Q -- that he loved her, that it was on again, off

1 again?

2 A Yes.

3 Q But Amanda didn't necessarily feel that same way?

4 MS. DiGIACOMO: Objection. Hearsay. And
5 speculation.

6 THE COURT: Sustained.

7 BY MS. LEMCKE:

8 Q On the morning of December 22, it was actually
9 around 3:00 a.m. when you guys pulled into the parking lot.

10 A Yes.

11 Q And you were in a silver Hyundai?

12 A [Inaudible.]

13 Q And the Hyundai did not belong to you?

14 A No.

15 Q It did not belong to Tim?

16 A No.

17 Q It was some girl's Hyundai?

18 A A friend.

19 Q A friend of yours Hyundai --

20 A Mm-hmm.

21 Q -- that you were driving at 3:00 a.m.?

22 A Mm-hmm.

23 Q And --

24 THE COURT: Is that a yes?

25 MS. DiGIACOMO: Is that a yes?

1 THE WITNESS: Yes. I'm sorry.

2 BY MS. LEMCKE:

3 Q And when you pull into the parking lot you
4 immediately see Bobby; is that right?

5 A Yes.

6 Q And you can tell that Bobby is not happy?

7 A Yes.

8 Q He's upset?

9 A Yes.

10 Q He's angry?

11 A Yes.

12 Q He was kind of pacing around?

13 A Yes.

14 Q And he wasn't going back into the casino?

15 A No.

16 Q He was staying on that outer perimeter of the
17 casino, of the property even?

18 A Yes.

19 Q And when you pulled up, you guys asked him, you
20 could tell what was wrong, right?

21 A He looked upset.

22 Q Yeah. I'm sorry. That's right. You could tell he
23 was upset?

24 A Mm-hmm.

25 Q And so you asked him --

1 THE COURT: Is that a yes?

2 THE WITNESS: Yes. Sorry.

3 BY MS. LEMCKE:

4 Q So you asked him, hey, Bobby, what's going on,
5 right?

6 A Yes.

7 Q And he told you, I just want to talk to Amanda?

8 A Yes.

9 Q He was very focused on Amanda?

10 A Yes.

11 Q And he asked Tim at that point to go in and get
12 Amanda for him?

13 A Correct.

14 Q And have her come out to him?

15 A Yes.

16 Q Even though he'd been trespassed from the property?

17 A I had no -- I did not know that.

18 Q Well, he was outside that he was on the edges of the
19 property when you pulled in, correct?

20 A When we pulled in he was in the parking lot.

21 Q Right. So that he was outside the property.

22 A No. He was inside the property.

23 Q Okay. But he was at the back edge of the parking
24 lot?

25 A Okay. Yes.

1 Q Where you guys first pulled in the driveway?
2 A Right.
3 Q And that's where you first stopped him?
4 A Yes.
5 Q So on the outer edges of the property?
6 A On the outer edges meaning like --
7 Q Of the physical property surrounding Arizona
8 Charlie's.
9 A He was in the parking lot.
10 Q The parking lot.
11 A Yes.
12 Q Okay. And he wasn't going in?
13 A No.
14 Q And in fact, he had to ask Tim to go in for him?
15 A Yes.
16 Q And despite the fact that he was very obviously
17 angry, Tim agreed to go in and get Amanda for him?
18 A Yes.
19 Q And that's what he did. Tim parked the car.
20 A Yes.
21 Q He gets out. Is that a yes?
22 A Yes.
23 Q You stay in, and then Tim goes in to get Amanda?
24 A Yes.
25 Q And leaves Bobby in the parking lot angry?

1 A Yes.

2 Q Now, at some point, if I understand you correctly,
3 you see Tim leave, come back out to the parking lot; is that
4 right?

5 A Yes.

6 Q And Lorenzo and Amanda were kind of lagging behind
7 him?

8 A Yes.

9 Q And they were going right over to Lorenzo's room?

10 A Yes.

11 Q And in fact, just so that the jury's kind of clear
12 on this, you have to exit the casino part of Arizona Charlie's
13 to get to the hotel rooms; is that right?

14 A Yes.

15 Q So if you want to go to your hotel room and you're
16 inside the casino, you don't have any choice but to go
17 outside; is that right?

18 A Right. Yeah.

19 Q Is that yes?

20 A Yes.

21 Q So you see Lorenzo and Amanda come out behind him?

22 A Yes.

23 Q They're together?

24 A Yes.

25 Q And they walk over to the hotel room --

1 A Yes.

2 Q -- together?

3 A Yes.

4 Q They didn't go out into the parking lot?

5 A No.

6 Q They go right to the hotel room?

7 A Yes.

8 Q And Bobby kind of sees them and moves over in the

9 direction of their room as they walk?

10 A Yes.

11 Q So he's kind of following them over there now,

12 isn't he?

13 A Yes.

14 Q And the bike patrol guys, the security officers at

15 the hotel, they kind of stay in that area also, the area where

16 the hotel room is, where Lorenzo's hotel room is?

17 A Yes.

18 Q And Bobby also kind of still makes his way toward

19 that hotel room?

20 A Yes.

21 Q Now, is this when you could hear some arguing back

22 and forth?

23 A Yes.

24 Q You could actually hear it yourself?

25 A A little bit muffled.

1 Q Could you hear the exact words that were being said?

2 A Just like a couple words here and there. Just
3 for -- from Lorenzo basically.

4 Q You couldn't hear anything that Bobby was saying?

5 A Well, Bobby was mainly just talking towards Amanda.

6 Q Could you hear what Bobby was saying?

7 A Just I want to talk to you.

8 Q Okay. So now, so if I understand correctly, Lorenzo
9 and Amanda are heading toward their hotel room --

10 A Yes.

11 Q -- is that right?

12 A [No audible response.]

13 Q And Bobby is approaching them, correct?

14 A [No audible response.]

15 Q And then Bobby starts saying something that you
16 believe to be directed to Amanda?

17 A Yes.

18 Q You never heard Bobby make any threats?

19 A No.

20 Q You never heard Bobby say, hey, I'm gonna kill you?

21 A No.

22 Q You -- you -- were you watching at this point?

23 A Off and on. Not really. I -- I looked back a
24 couple times.

25 Q Could you see anything that was happening?

1 A Not really.

2 Q You couldn't see Bobby charging at them?

3 A No. I did not see that. Bobby -- no. Bobby wasn't
4 that kind of upset. Bobby was upset like sad upset, not angry
5 upset.

6 Q So but you don't recall seeing Bobby charge at
7 anyone?

8 A No, I didn't.

9 Q You don't recall seeing that in the video footage
10 that the prosecutor showed you?

11 A No.

12 Q But you -- and your testimony, if I understand it,
13 is that you could hear Lorenzo yelling, but you couldn't hear
14 Bobby yelling?

15 A Yes. I only heard, like I said, a few words here
16 and there, but that was all I recall.

17 Q And that's because you were inside your car?

18 A Yes. I had the radio on.

19 Q I'm sorry?

20 A I had the radio on.

21 Q You had the radio on. So and the radio was on, I
22 take it, so you could hear it? Were you listening to music?

23 A Yes.

24 Q And you had the windows rolled up?

25 A Yes.

1 Q And your car --

2 A I don't remember. I'm sorry. I don't remember if
3 the windows were up or down.

4 Q Well, it was December 22, right?

5 A Right.

6 Q 3:00 a.m.

7 A Right.

8 Q Middle of winter, cold?

9 A More than likely they were up.

10 Q More than likely the windows were up?

11 A Mm-hmm.

12 Q And so you couldn't hear every word that was being
13 said by the parties?

14 A Correct.

15 Q Just a few words here and there, if I understand you
16 correctly.

17 (Pause in proceeding.)

18 BY MS. LEMCKE:

19 Q And you weren't watching the entire time what was
20 going on there?

21 A No.

22 Q You were turning your attention away and then
23 sometimes turning back?

24 A Yes.

25 Q Now, at some point after -- well, let me ask you

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1 this. Do you see at some point there's two bike patrol
2 officers that are there at the time, right?

3 A Yes.

4 Q And they're on bicycles obviously, yes?

5 A [No audible response.]

6 Q And they have the bright yellow shirts on?

7 A Yes.

8 Q And at some point during this kind of altercation
9 outside the hotel room, the bike officers kind of start
10 pushing Bobby back, don't they?

11 A I didn't see that.

12 Q You didn't see them moving him away?

13 A No.

14 Q You didn't see Bobby gesturing at that point like
15 kind of like this [indicating], like this kind of thing?

16 A No.

17 Q But then sometime after this altercation, Lorenzo
18 and Amanda and Tim come back out to the car -- well, that's
19 not right. Tim comes back out to the car.

20 A Yes.

21 Q And he gets in the car with you.

22 A Yes.

23 Q And he tells you that Lorenzo has asked for a ride
24 to leave?

25 A Yes.

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1 Q And that Lorenzo wants to go home?

2 A Yes.

3 Q And that he's going to give Lorenzo a ride home?

4 A Yes.

5 Q And so you guys then drive up to the valet area of
6 the casino, right?

7 A Yes.

8 Q And that's where you pick up Amanda and Lorenzo?

9 A Actually, I believe they got in the car and we took
10 them to the -- what would that be, well, the registration part
11 so that he could check out, and then got back in the car.

12 Q Okay. So you actually drove them up to the
13 registration?

14 A Right.

15 Q And you waited while he went in and checked out?

16 A Yes.

17 Q And then at some point after spending some time in
18 there, they come back out to the car?

19 A Yes.

20 Q They get in the car. Okay. If I understand
21 correctly, Tim's driving?

22 A Yes.

23 Q You're in the passenger seat, and Lorenzo's behind
24 you, and then Amanda is behind Tim?

25 A [No audible response.]

1 Q And at -- is that yes?

2 A Yes.

3 THE COURT RECORDER: She needs to speak up a little
4 bit.

5 THE WITNESS: Sorry.

6 BY MS. LEMCKE:

7 Q And at this point you don't see any weapon on
8 Lorenzo?

9 A No.

10 Q Don't see any gun?

11 A No.

12 Q Don't see the outline of any gun?

13 A No.

14 Q He gets into the -- he gets -- opens the car door
15 and sits down?

16 A Yes.

17 Q Doesn't have to adjust himself because there's some
18 issue with a gun on his belt?

19 A I have no idea. I wasn't looking back there.

20 Q He doesn't mention anything about having a gun?

21 A No.

22 Q He doesn't say anything like, you know, I can't wait
23 to get back to my apartment to kick Bobby's ass?

24 A No.

25 Q He doesn't say anything threatening where Bobby is

1 concerned?

2 A Not that I could hear.

3 Q In fact, he says nothing that you could hear about
4 Bobby?

5 A All I could hear was whispering. I couldn't make
6 out what they were saying.

7 Q You couldn't hear the contents of what was being
8 said?

9 A Right.

10 Q But nobody -- Lorenzo never said anything out loud
11 to you or anyone else in that car about Bobby?

12 A No.

13 Q He didn't appear to be angry and wanting to get back
14 to his apartment for some fight?

15 A He seemed anxious and angry, yes, he did.

16 Q But he didn't say anything about Bobby in
17 particular?

18 A No.

19 Q And he didn't direct that anger at any particular
20 thing?

21 A No.

22 Q And again, you didn't know Lorenzo all that well,
23 did you?

24 A No.

25 Q You had only met him on a few occasions?

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1 A Right.

2 Q So you didn't really know, much like with Amanda,
3 what -- what he was like with different emotions?

4 A Correct.

5 Q Now, when you pull up -- when you get back to the
6 Siegel Suites, you pull into the parking spot, right?

7 A [No audible response.]

8 Q And then Lorenzo says to Tim, Thanks for the ride?

9 A Yes.

10 Q And he gets out of the car?

11 A Yes.

12 Q And it was when the car door opens that you could
13 hear Bobby up at Lorenzo's apartment?

14 A Correct.

15 Q You could hear him banging on the door?

16 A Banging on the door?

17 Q On the apartment door?

18 A No.

19 Q You could hear him screaming?

20 A Yes. To let --

21 Q He was yelling?

22 A I guess, yeah, to let us know he was there.

23 Q He was yelling to let you know -- he was saying,
24 hey, guys, I'm here, come on up?

25 A No. I don't really recall exactly what he was

1 saying, but I could hear him. And that's when I said, "Oh,
2 Bobby's here," like --

3 Q So you could hear him yelling?

4 A Right.

5 Q But you just couldn't tell what he was saying?

6 A Right.

7 Q But if I recall correctly, on direct examination you
8 said something to the effect of he was yelling and he was
9 directing comments toward Amanda.

10 A That he wanted to talk to her basically.

11 Q So you could hear what he was saying?

12 A Maybe at one point maybe, I guess.

13 Q Maybe at one point you could have?

14 A I mean, I didn't hear like what he was all the way
15 yelling, I mean. But he did direct, yes, a comment saying
16 that he wanted to talk to Amanda.

17 Q So there was one comment that was directed toward
18 Amanda, but you don't know --

19 A That I recall, yes.

20 Q But you don't know what the rest of the comments
21 were about?

22 A Not -- not -- no.

23 Q But he was definitely yelling loud enough to where
24 you could hear it from the ground, from the park --

25 A To where I noticed he was up there.

1 Q It was obvious?

2 A Yes.

3 Q And so Lorenzo gets out of his car, or gets out of

4 Tim's car.

5 A Mm-hmm.

6 Q And he kind of heads toward his apartment.

7 A Yes.

8 Q And he puts his hands up like, hey, dude, what's up,

9 calm down?

10 A I don't recall seeing that.

11 Q You don't recall hearing him say anything like, hey,

12 can't we talk about this later?

13 A No.

14 Q Nothing to that effect?

15 A No.

16 Q And it's Bobby who actually comes down the stairs,

17 right?

18 A Yes.

19 Q So Bobby makes his way down the stairs to confront

20 Lorenzo?

21 A Or to get Amanda or whatever. He came downstairs.

22 Q He comes down the stairs?

23 A Right.

24 Q And you and Amanda stayed in the car?

25 A I stayed in the car. Amanda got out of the car.

1 Q And again, the windows were rolled up?
2 A Yes.
3 Q The music was on?
4 A At that point, no. The car was turned off.
5 Q The car was off, but the windows were still up?
6 A Yes.
7 Q You stayed in the car?
8 A Yes.
9 Q And Amanda got outside?
10 A It was right in front of the car though.
11 Q And at some point after what -- you don't hear then
12 what was initially said between Lorenzo and Bobby when Bobby
13 got to the bottom of the stairs?
14 A No.
15 Q Because you can't hear at that point?
16 A No.
17 Q And at some point Tim says to you, hey, why don't
18 you guys get out of here?
19 A Yes.
20 Q Because he's concerned something might happen?
21 A Yes. He wanted to make sure that we weren't around
22 if they got into a fight or anything.
23 Q Okay. But Tim doesn't rush over to get in between
24 these two guys?
25 A No.

1 Q He hangs out where he's standing?

2 A Right.

3 Q And he was standing where at that point?

4 A In front of the car.

5 Q In front of which car?

6 A The car we were in.

7 (Ms. Lemcke confers with the clerk.)

8 MS. LEMCKE: May I approach the witness?

9 THE COURT: Yes.

10 BY MS. LEMCKE:

11 Q Ms. Salazar, I'm going to show you what's been
12 marked and admitted. Tell me -- I'm going to show you, it
13 looks like Defendant's A, Defendant's B, and then Defendant's
14 C. Can you tell me if any of these photographs show where you
15 guys were parked relative to where Lorenzo's apartment was?
16 Or were you guys parked farther away?

17 A No. It would probably be right around here.

18 Q I'm going to use this one then. I'm going to
19 show -- because I want the jury to see that, so I'm going to
20 put this on the overhead. For the record, it's Defense
21 Exhibit A.

22 So can you touch on that screen there and it will
23 identify, tell me where, where you guys were parked.

24 A Right here in front of the tree probably.

25 Q Okay. Where the yellow tape is up there?

1 A Yes.

2 Q And then so where was Tim standing?

3 A In -- probably right in front of the tree.

4 Q And that's where you were inside the car?

5 A Yes.

6 Q And Tim then says to you -- so Tim's -- well, okay.

7 So Tim then tells you, you guys ought to get out of here?

8 A Yes.

9 Q And but he stays where he's standing?

10 A Yes.

11 Q And he's standing kind of close at that point to the

12 bottom of the stairs?

13 A Yes.

14 Q But you don't see him do anything to separate Bobby

15 and Lorenzo?

16 A At the time, no, I didn't.

17 Q And I believe you testified on direct examination

18 that Lorenzo even told Amanda to go, get out of here?

19 A Yes.

20 Q That's what you recall?

21 A Yes.

22 Q Do you recall mentioning that to police when you

23 talked to them, when you gave your statement to them after

24 this occurred?

25 A I believe so.

1 Q You do.

2 MS. LEMCKE: Your Honor, may I approach with her
3 voluntary statement? I'm going to show her the statement and
4 ask her to look to see if she sees it in there.

5 THE COURT: Yes.

6 MS. LEMCKE: May I approach?

7 THE COURT: Yes.

8 BY MS. LEMCKE:

9 Q You can take your time. Does that look like -- I'm
10 showing you, just for the record, the voluntary statement that
11 you gave on January 2, 2014, and take a look at that. You can
12 look through it if you want.

13 A [Inaudible.] Yes.

14 Q And go ahead and flip through it, and as you go
15 through you can kind of see where you discuss the part about
16 you guys being in the car and you leaving.

17 A Yes.

18 MS. LEMCKE: May I approach?

19 THE COURT: Yes.

20 BY MS. LEMCKE:

21 Q Can you show me what you just referred to.

22 A Right here.

23 MS. DiGIACOMO: What page, Counsel?

24 MS. LEMCKE: Page 8.

25

1 BY MS. LEMCKE:

2 Q Okay. So -- okay. I guess my question, so in this
3 particular statement you didn't say anything about Lorenzo
4 telling Amanda to leave?

5 A No. It doesn't look like I did.

6 Q You only mentioned in this statement about Tim
7 telling you guys to leave?

8 A Yes.

9 Q And again, this was the statement that you gave to
10 police about ten days after the incident occurred?

11 A Yes.

12 Q And at that time when you talked to them, you wanted
13 to give them as much information as you could?

14 A Mm-hmm. Yes.

15 Q Because you wanted to be as helpful as you could and
16 give them as many details as they would need to investigate
17 the case?

18 A Yes.

19 Q Now --

20 MS. LEMCKE: The Court's indulgence.

21 (Pause in proceeding.)

22 BY MS. LEMCKE:

23 Q There was a lot of conversation with Ms. DiGiacomo
24 about -- well, after you guys drive away, you hear some shots?

25 A Yes.

1 Q And there is discussion between you and Amanda about
2 the shots.

3 A Yes.

4 Q And if I understood you correctly, it was Amanda who
5 prompted you to go check as to what had happened?

6 A Not prompted me. She -- she said, well, basically I
7 could go look if I was concerned. I mean, she didn't --

8 Q She said to you, Go check?

9 A Yeah.

10 Q Yes?

11 A She said, "Yeah, you can go check if you want."

12 Q But she was -- well, all right. But she said to
13 you, all right, why don't you go check, if you want to go
14 check, go check?

15 A Yes.

16 Q And you don't know -- you weren't privy to what had
17 transpired between Amanda and Bobby that evening earlier?

18 A No.

19 Q You don't know what had gone on between the two of
20 them --

21 A No.

22 Q -- at Arizona Charlie's?

23 A [No audible answer.]

24 Q Is that a no?

25 A Oh, sorry.

1 Q Okay. So you don't know if they had had any let's
2 say difficult interactions?

3 MS. DiGIACOMO: Objection.

4 THE WITNESS: No.

5 MS. DiGIACOMO: Asked and answered.

6 THE COURT: Sustained.

7 BY MS. LEMCKE:

8 Q And I think, if I understood you correctly, after
9 the shooting Tim came back to the car?

10 A No. We drove up to where Tim was.

11 Q Okay. So I'm sorry. Let me rephrase. So he
12 come --- you drive up to where he is and you guys meet up?

13 A Yes.

14 Q And at that point he's hysterical?

15 A Yes.

16 Q He's very upset?

17 A Yes.

18 Q Because your friend has just been shot?

19 A Yes.

20 Q This is someone that you've known for a long time?

21 A Yes.

22 Q That you've associated with?

23 A [No audible response.]

24 Q That you --- yes. That dated your sister?

25 A Yes.

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1 Q That was in love with your sister at one point?
2 A Yes.
3 Q And that you had a close relationship with?
4 A Yes.
5 Q That you spent a lot of time with?
6 A Yes.
7 Q And so your first reaction would be to stay at the
8 scene and talk to police?
9 A I wasn't sure -- I couldn't think at that moment. I
10 didn't know what to do. It was just overwhelming.
11 Q So you guys decided to leave?
12 A Tim told us just go, he would take care of it.
13 Q That he --
14 A Because we didn't really see anything, you know.
15 Q Okay. So you then decided to leave?
16 A I guess, yeah.
17 Q Even though you knew -- you had information about
18 what happened at Arizona Charlie's?
19 A Right.
20 Q And you had information about what happened on the
21 drive over?
22 A Right.
23 Q And what happened when Lorenzo initially got out of
24 the apartment?
25 A Right. I wasn't thinking of all that at that time.

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1 Q And you heard the gunshots?
2 A Yes.
3 Q And you saw Tim's reaction after?
4 A Yes.
5 Q And again, you didn't stay and talk to police?
6 A Not at that time, no.
7 Q And you drove off?
8 A Yes.
9 Q And in fact, you didn't try to contact police
10 afterwards?
11 A No, not right away. No.
12 Q When law enforcement contacted you about ten days
13 later, they came to you, correct?
14 A We met up with them.
15 Q At their request?
16 A Yes.
17 Q At a Walmart?
18 A Yes.
19 Q They had managed to find you and call you and say,
20 hey, we want to talk to you about this?
21 A Yes.
22 Q And it was then that you agreed to come talk to
23 them?
24 A Yes. We had been talking about going to speak with
25 officers though, those detectives.

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1 Q So you and Tim had been talking?
2 A Yes.
3 Q And you had discussed between the two of you what
4 you had seen?
5 A No. We were discussing that we needed to go talk to
6 the police and help with any information that we could.
7 Q Because you had information?
8 A Or just what led up to it, yes. For me, yes.
9 Q So you had information about the shooting?
10 A About that night, yes.
11 Q Tim did as well?
12 A Yes.
13 Q And you guys talked between each other about what
14 had happened, right?
15 A Right.
16 Q You discussed what happened at Arizona Charlie's?
17 A [Inaudible.]
18 Q Discussed what happened at the Siegel Suites?
19 A Right.
20 Q Tim told you what he saw?
21 A Yes.
22 Q So you knew he was witness to a shooting?
23 A Correct.
24 Q And you had heard the shots?
25 A Yes.

1 Q And so you guys had --- and you guys had -- you had
2 discussed the idea of going to police, but you had not gone to
3 police?

4 A Right. It was probably a bad decision on our part
5 of course, but like I said, it was very overwhelming.

6 Q Ultimately when police contacted you, they were the
7 ones to contact you?

8 A [No audible response.]

9 THE COURT: Is that a yes?

10 THE WITNESS: Yes.

11 THE COURT: There's a tissue there.

12 MS. LEMCKE: The Court's indulgence.

13 (Attorneys confer.)

14 MS. LEMCKE: I have nothing further, Your Honor.

15 THE COURT: Redirect.

16 MS. DiGIACOMO: Thank you.

17 REDIRECT EXAMINATION

18 BY MS. DiGIACOMO:

19 Q Defense counsel asked you about how well you knew
20 Amanda. Do you remember those questions?

21 A Yes.

22 Q And so, you know, her point was you don't know what
23 Amanda's normal reaction is?

24 A Correct.

25 Q Your reaction when you found out your friend was

1 shot was you said that you were crying?

2 A Yes.

3 Q You even had to go wash your face. Was your makeup
4 running?

5 A Yes.

6 Q You said Tim was hysterical?

7 A Yes.

8 Q Even though you don't know Amanda very well, what
9 was her reaction to the shooting?

10 A She didn't seem like how --

11 MS. LEMCKE: Objection. Speculation.

12 MS. DiGIACOMO: Did she -- I'm asking her reaction,
13 not --

14 THE COURT: Just describe how she appeared to you,
15 what you saw with your eyes and heard with your ears as far as
16 what she was doing.

17 THE WITNESS: She seemed quite calm. She --

18 BY MS. DiGIACOMO:

19 Q I'm sorry. She seemed quite?

20 A Calm.

21 Q Calm. Okay. And did you see any tears come down
22 her cheek?

23 A No, no tears. She didn't -- she didn't appear
24 upset.

25 Q So calm, no tears. Not hysterical?

1 A No.

2 MS. LEMCKE: Well, is counsel going to testify or
3 ask a question.

4 THE COURT: Is that an objection?

5 MS. LEMCKE: It is.

6 THE COURT: What is it?

7 MS. LEMCKE: She's asking a narrative.

8 THE COURT: State some legal grounds.

9 MS. LEMCKE: And it's leading.

10 THE COURT: Overruled.

11 BY MS. DiGIACOMO:

12 Q Now, when you were at the Arizona Charlie's and you
13 were outside in the car, do you smoke?

14 A Yes.

15 Q Do you smoke in your friend Erica's car --

16 A Yes.

17 Q All right. Do you recall, were you smoking while
18 Tim was inside the Arizona Charlie's?

19 A I don't recall.

20 Q If you had been smoking, would the windows of the
21 car been down or up?

22 A Probably down.

23 Q So it is possible, even though it's cold outside,
24 those windows could have been down if you were smoking in the
25 car?

1 A Yes.

2 Q How often do you normally smoke, back then, in
3 December?

4 A And probably during that night I probably would have
5 smoked a lot. It's kind of -- when it's colder, I smoke more
6 frequently, I guess.

7 Q So it's very possible while you were in the car that
8 the window was down and you were smoking?

9 A Yes.

10 Q Now, just lastly, you know, you got a lot of
11 questions about you didn't stay and talk to the police. Do
12 you remember those?

13 A [No audible response.]

14 Q A lot of questions about you didn't contact the
15 police.

16 A Yes.

17 Q All right. Did Amanda stay and talk to the police
18 that night?

19 A No.

20 MS. DiGIACOMO: Nothing further.

21 THE COURT: Recross.

22 RECROSS-EXAMINATION

23 BY MS. LEMCKE:

24 Q You don't specifically recall that you were smoking
25 that night?

1 A I'm sure I was. I smoke a lot.

2 Q But you don't have an independent recollection
3 specifically?

4 A No.

5 Q So you can't say for certain whether or not you were
6 smoking?

7 A Not for certain.

8 Q And if I understood you correctly, at some points
9 during that altercation at the hotel when you said things were
10 muffled?

11 A Yes.

12 Q Couldn't hear everything that was being said?

13 A Correct.

14 MS. LEMCKE: The Court's indulgence.

15 (Attorneys confer.)

16 BY MS. LEMCKE:

17 Q Did you have a phone on you that night?

18 A Me, no, I didn't.

19 MS. LEMCKE: Nothing -- nothing further.

20 MS. DiGIACOMO: Nothing, Your Honor.

21 THE COURT: May this witness be excused?

22 MS. DiGIACOMO: Just for today, but not from the
23 subpoena.

24 THE COURT: Okay. So you're excused for today, but
25 you're still under subpoena. So if the Court needs you to

1 come back, you need to return. Thank you.

2 THE WITNESS: Okay. Thank you.

3 THE COURT: And please don't discuss your testimony
4 with anyone, including your boyfriend, all right?

5 THE WITNESS: Okay.

6 THE COURT: Thank you.

7 MS. DiGIACOMO: Thank you, Your Honor. The State
8 calls Sean Nelson.

9 THE COURT: Sean Nelson.

10 MR. BATEMAN: May I approach the clerk, Your Honor?

11 THE COURT: Yes.

12 (Mr. Bateman confers with the clerk.)

13 SEAN NELSON, STATE'S WITNESS, SWORN

14 THE CLERK: State your name, spelling your first and
15 last name for the record, please.

16 THE WITNESS: My name is Sean, S-e-a-n. Last name
17 Nelson, N-e-l-s-o-n.

18 THE COURT: You may proceed.

19 MS. DiGIACOMO: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. DiGIACOMO:

22 Q Sir, I want to direct your attention to December 22,
23 2013, at approximately 4:20-ish in the morning.

24 A Okay.

25 Q Do you recall that time?

1 A Yes.

2 Q Where were you living on that date at that time?

3 A 3625 Boulder Highway, Unit 1024. It's a place
4 called the Siegel Suites, Boulder II location.

5 Q You said Boulder II location?

6 A Yeah. That's --

7 Q So it's on Boulder Highway?

8 A It's on Boulder Highway and --

9 Q And you're -- you said you're in Apartment 1024?

10 A Yes.

11 Q What building was that?

12 A It would be the B building.

13 MS. DiGIACOMO: May I approach, Your Honor?

14 THE COURT: Yes.

15 (Ms. DiGiacomo confers with the clerk.)

16 MS. DiGIACOMO: The Court's indulgence.

17 (Pause in proceeding.)

18 BY MS. DiGIACOMO:

19 Q Sir, let me show you what's been marked and admitted
20 as State's Exhibit No. 6. Do you recognize the building in
21 the background?

22 A Yes.

23 Q What is this building?

24 A That is the B building, and where the tape is around
25 the truck, the first truck you see with the tape attached to

1 it, those would be Units 1040 and 1038 right there where the
2 tape is in front.

3 Q Right -- right where --

4 A Yeah, right where your pen at.

5 Q So the first two doors to the --

6 A Yeah. Where your pen at is right there, is 10 --
7 the corner unit is 1040, then it goes 1038, 1036. It's --
8 this is what they call the even numbered side of the building,
9 so all of these are even number.

10 Q So 1024 that you lived in, that'd be on the first
11 floor?

12 A Yeah. And it's on the complete opposite end. It's
13 being blocked by the red truck right here, but it's on the --

14 Q So it would be the far right side of the picture?

15 A Right. Right where your pen is, first floor.

16 Q All right. First floor. So you were at the
17 opposite end of the building from where the tape is?

18 A Exactly.

19 Q So at that time in the morning on December 22, 2013,
20 were you asleep and something woke you up?

21 A Yes.

22 Q What happened?

23 A Well, I heard [unintelligible], oh, you want to fuck
24 with me, you want to fuck with me, [unintelligible], then fuck
25 you, [unintelligible] and that woke me up.

1 Q Okay. Let's back up a little bit. When you kind of
2 were doing like a mumbling voice, did you hear an argument?

3 A That was the argument. I just couldn't make out
4 what it -- the mumbling was an argument at a tone getting
5 ready to escalate.

6 Q Okay.

7 A And it almost sounded like a tussling type tone.

8 Q All right. Did you hear more than one voice?

9 A No.

10 Q So when you were just telling us what you heard
11 about the you want to mess with me or fuck with me, and then
12 you heard a boom and then you hear -- you said something
13 else --

14 A Yeah. Then fuck you and another shot.

15 Q And another shot. Okay. Was that the same voice?
16 Did that appear to be the same voice?

17 A Yes.

18 Q All right. Did you ever hear another male voice
19 during that time?

20 A No.

21 Q All right. But the way it was -- it first woke you
22 up, you thought there was two people involved?

23 A Yeah. There was definitely you could hear the
24 mumbling of -- there must have been -- the mumbling part, you
25 can't make out what they're saying, so I can't say whose voice

1 that was. The clearest one was the angriest one. So the
2 mumbling obviously was probably two people tussling it sounded
3 like [unintelligible] that. So it could be one or two people.

4 Q Now, you're -- you're kind of far away from where we
5 saw the tape in the picture.

6 A Yeah. But that -- the infrastructure in that
7 building is very, very weak.

8 Q What do you mean it's weak?

9 A You can hear everything, every --

10 Q Kind of what we call paper thin walls?

11 A Paper thin walls. You could hear -- I could tell
12 when who's using the bathroom, what they're doing, the shower,
13 everything, everything.

14 Q And at that time of the early morning hours, is it
15 generally loud in the apartment complex?

16 A Hm-mm. Of course, at night it gets really, really
17 quiet, you know, because at night the -- especially
18 wintertime. The air conditions usually will make more sound.
19 So at night it's a lot quieter because the air conditioning
20 units' motors aren't going, so it makes it super, super quiet.

21 Plus there's a creek that's called the Flamingo
22 Arroyo walkway, and it creates like an acoustic effect. So
23 the building's like this [indicating], and then there's a
24 creek right here and it's concrete, so you get like a really
25 good acoustic. You can hear --

1 Q Everything?

2 A -- everything. Everything.

3 Q So you could hear that there was an argument going
4 on, and then you said that you heard somebody say, and you're
5 kind of doing it in a -- almost like a loud whisper, but was
6 it a yelling?

7 A Oh, it was -- it was anger, pure anger of a like
8 enough you couldn't -- you can't help it. It was -- it was
9 probably at the decibels I'm saying it now three times louder.

10 Q Okay.

11 A Three times louder than that.

12 Q And you heard, You want to fuck with me, and then a
13 gunshot right away?

14 A Mm-hmm. Oh, yeah.

15 Q All right. And then after the gunshot, you then
16 heard, Then fuck you, and another gunshot?

17 A Exactly.

18 Q So when you hear this and with the two different
19 gunshots, could you tell it was a gunshot?

20 A Definitely. It's -- you know, I can honestly say it
21 was similar to an M-80 firework. It's like that kind of
22 decibel. It's a very distinct -- very distinct. You can't
23 help -- you can't help but know what it is. And especially
24 based upon the tone, it's not like someone lights a firework
25 and throws it at you and says and fuck you. It's obvious what

1 it is based upon the dialogue.

2 Q And so did it sound like a big gun?

3 A It sounded like a hand cannon.

4 Q All right. So when you hear this, what do you do?

5 A Get up, and on my wall by my door I have a thumb
6 tack with a video camera just hanging there. And so I grab my
7 camera, and I'm in my boxers, and I come out, and I creep out
8 and I see --

9 Q You creep out to --

10 A Yeah. I peep out the door and then I --

11 Q So you open the door?

12 A Oh, yeah. I opened the door and I walk out, and I'm
13 barefoot in my boxers and I have my camera like this
14 [indicating]. And I see a person walking going towards
15 Boulder Highway this way [indicating], and I look this way
16 [indicating] and there's a body on his belly laid out. And so
17 I tell him, hey. And there's a guy attending to him on the
18 phone, and I go, "Don't touch him. Don't touch him." And so
19 I run back inside, put on some clothes, and then I come back
20 out and I just start filming.

21 Q All right. I'm going to slow you down, because you
22 did some motions that I need to make a record of. Okay. You
23 said you grabbed your camera and you had it like this, so it
24 was kind of down in your right hand by your right hip?

25 A Right. Pretty much like say like this is a front

1 door right here, and so my camera's like this and I open the
2 door this way [indicating].

3 Q So you open the door with your left hand and your
4 right hand's got the camera?

5 A Right. And so --

6 Q By your right hip?

7 A -- right here [indicating]. So I'm just holding it
8 like this because I'm going to film it.

9 THE COURT: You need to -- can you show the jury,
10 because --

11 THE WITNESS: Oh, okay.

12 THE COURT: Okay.

13 THE WITNESS: So pretty much let's just say this is
14 my front door. It opens this way. This out here would be
15 Boulder Highway [indicating].

16 THE COURT: Okay. We can't --

17 MS. DiGIACOMO: I'm sorry. Hold on a second.

18 THE COURT: We can't hear you.

19 THE WITNESS: Okay.

20 MS. DiGIACOMO: Sorry. If you can maybe back up and
21 show them so that the mike catches you.

22 THE WITNESS: Okay. Well, so if I'm facing this
23 way, this way is north, this way is west, this way is east
24 [indicating].

25

1 BY MS. DiGIACOMO:

2 Q So as you stand looking at the jury box, north is in
3 front of you where the jury is, west would be to your left,
4 east would be to your right?

5 A Exactly. Boulder Highway is on the west. The 95
6 freeway is to the east, just to get a perspective. And that
7 creek I'm talking about is all right where you're at. So --

8 Q Where the jury's at?

9 A Where the jury's at would be the Flamingo Arroyo
10 Trail, is what they call it. So I'm like this and open the
11 door and look out. And so I come down and I see the --

12 Q Okay. Now you got to back up into --

13 A I see the -- I see a guy walking this way and has a
14 look of pleasure on his face. And so I look down this way and
15 there's a guy on his belly laid out, and there's another guy
16 over him with a cellphone. So I say, Don't touch him.

17 Q Can you grab that mike?

18 A Okay. So I say, Don't touch him, don't touch him.
19 So I run back inside, put on my clothes, and then I come back
20 out and --

21 Q You start filming and go towards the body?

22 A -- start filming. And yeah, start filming. And by
23 the time I get to the body, he already rolled him over and was
24 giving him CPR, and then the first police car pulls up. So
25 everyone is going this way and one guy's going this way.

1 Q So for the record, you said everyone's going this
2 way, meaning to the east towards the body?

3 A Right. Everyone's direction is looking this way.

4 Q Down east towards the body?

5 A Exactly.

6 Q And you saw only one person --

7 A The one guy with the look of pleasure walking
8 opposite direction.

9 Q All right. Now, if you'd go ahead and sit down.

10 A All right.

11 Q You said one guy with a look of pleasure. Can you
12 describe what this person looked like?

13 A I'd say about five-seven, short dark hair, and a
14 jacket that went down to about right here [indicating].

15 Q And for the record, you're pointing right --

16 A Right above the kneecap.

17 Q Well, actually that's higher up in your thigh?

18 A Yeah. About right here [indicating].

19 Q Okay. So mid-thigh?

20 A Yeah.

21 Q All right. And do you recall anything else about
22 him?

23 A Just a --

24 Q Was he big guy, skinny guy?

25 A Oh, skinny. Skinny, small, I'd say. Like I say,

1 maybe five-seven, 150 at most. That's kind of small, in my
2 opinion. And --

3 Q How tall are you?

4 A I'm six-three, 240.

5 Q So this person appeared shorter than you?

6 A Oh, yeah, definitely.

7 Q Do you recall what color the jacket was, if it was
8 light-colored, dark?

9 A It looked -- it looked yellowish. But the lighting,
10 we have a yellow parking -- it's a yellow lighting in the
11 parking lot, so just the same yellowing effect you see in the
12 picture, that same yellowing effect. So it's almost like a --
13 similar to like a San Francisco 49ers color type jacket
14 without the logos. Just like I remember just like a yellowish
15 type of color.

16 Q All right. Now, do you recall white, Hispanic,
17 black individual, anything like that?

18 A Hispanic. White Hispanic, if that makes any sense.
19 Like I'd say --

20 Q Like a lighter skin?

21 A -- like a darker skin white with Hispanic features,
22 if that makes any sense.

23 Q Did you recall an approximate age?

24 A Under 30.

25 Q Now, you said he had a look of pleasure?

1 A Mm-hmm. Like a [indicating].

2 Q Okay.

3 A Like that. Like that's pretty much what it was.

4 Q Okay. So I have to make a record of what you just
5 did. So you kind of have like kind of a -- your lips are
6 closed, but kind of like a smirk?

7 A Yeah. It's a gleam, like a -- like they're stupid,
8 I'm smart type.

9 Q Okay. And so --

10 A Like that.

11 Q And kind of head going up and down?

12 A Yeah, like. And he was making eye -- that's the
13 only reason I didn't put the camera out, because he was
14 like -- I had a feeling, but I don't know who he is, so I'm
15 not going to like show a camera in your face like that
16 because --

17 Q Because you don't --

18 A Yeah, I don't know what's going on, so I'm like
19 let's not be stupid about this.

20 Q Right. And aside from the kind of smirky smile he
21 had on his face, was he running, was he casually walking?

22 A Hm-mm. Walking away casually.

23 Q And when you opened your door, he just happened to
24 be right in front of your door?

25 A Right, walking right, right there, the first person

1 I saw.

2 Q Had you ever seen that person before?

3 A Never.

4 Q And so if he's walking west, then he'd be going
5 towards Boulder Highway?

6 A Right.

7 Q Did you see where he went?

8 A No. No. And the Boulder Highway is the only way in
9 and off the property legitimately, like its only entrance or
10 exit. There is a back field, but you have to crawl through a
11 hole in the fence, so that's not really a real exit.

12 Q So all right. So now you go get dressed and take
13 your camera and go outside, correct?

14 A Yeah.

15 Q Yes?

16 And you said at this point now the person that was
17 with the belly on the ground has now been rolled over and
18 somebody's doing CPR?

19 A Right.

20 Q And you said you heard or saw somebody on the phone
21 with 911?

22 A The one who was giving CPR.

23 Q Was there anybody else outside other than those two
24 people?

25 A Yeah.

1 Q At the time -- let me back up. At the time you
2 first open your door and you see him with face down, as you
3 said, belly on the ground and a person on 911, was anyone else
4 around there?

5 A No. Nope. It was just us three.

6 Q Okay.

7 A And the guy walking.

8 Q But when you went out of your apartment after you
9 got dressed, did you go down towards where this gentleman was
10 giving CPR?

11 A Yes. And then as I was coming out, more and more
12 people were like coming out too.

13 Q Of their apartment?

14 A Right.

15 Q So did you take video that night?

16 A Yes.

17 Q Did you actually turn that over to the police?

18 A Yes.

19 MS. DIGIACOMO: Your Honor, at this time I would
20 move for admission of the audio portion of State's Exhibit 14.
21 As you recall, the video was already admitted. I don't
22 believe there's any objection by the defense.

23 MS. LEMCKE: There's not.

24 THE COURT: All right. It will be admitted.

25 (State's Exhibit 14 admitted.)

1 MS. DiGIACOMO: And I'd ask to publish.

2 THE COURT: You may.

3 MS. DiGIACOMO: Oh, is the audio on?

4 (Video plays for the jury.)

5 BY MS. DiGIACOMO:

6 Q And this is the video, you've seen these?

7 A Right. And I'm walking east right now.

8 (Video continues to play for the jury.)

9 BY MS. DiGIACOMO:

10 Q And you actually made three different videos?

11 A Yeah. The other two was just from just a
12 perspective of just filming the lights and stuff around it.
13 It's not really anything that I didn't -- I think is
14 pertinent.

15 Q Now, the video camera that you used, I mean, there
16 wasn't a flash or anything on it?

17 A No. It's very inexpensive. It's a Vivitar camera.
18 It's pretty much a \$40 camera that you can buy at Walmart that
19 hangs on a peg. You can -- they're almost like a suggestive
20 item. It's a plastic wrapped camera that hangs on a peg.
21 It's not even behind a glass case. It's a very inexpensive
22 Vivitar. I don't know the model number, but it's plastic
23 essentially.

24 Q Now, is there a reason why you grabbed your video
25 and went out to film this?

1 A Yeah. Because I've had issues before with other --
2 other issues in past history of people, pretty much to prevent
3 the he said, she said, like I didn't do what he said. So I
4 always have a tendency to have a camera with me at all times.
5 Plus there's a lot of activity, a lot of --

6 Q A lot of activity at the Siegel Suites?

7 A Yeah. EMT every week. You're going to see cops,
8 firefighters and ambulances every week.

9 Q Okay. Now, you didn't turn on the video though
10 until you got close to where the person was on the ground?

11 A Yeah. As at the very beginning you see that's me
12 walking, so it's real dark because it's low quality, but me
13 walking up to it is I turn it on right as I'm about Unit 10 --
14 that'd be 1028 -- I'm sorry, 1026. So 1026 is right next to
15 me, that's about right where it starts.

16 Q And did -- does the first officer arrive right as
17 you get there?

18 A Yeah. That flashlight you see coming up is the
19 first officer.

20 MS. DiGIACOMO: All right. I have nothing further.

21 THE COURT: Cross.

22 MR. SLIFE: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. SLIFE:

25 Q Good afternoon, sir.

1 A Good afternoon.

2 Q So you obviously didn't see the actual shooting
3 itself, correct?

4 A No.

5 Q And you don't -- you obviously don't know what led
6 up to the gunshots that you heard?

7 A No.

8 Q And you didn't see any argument prior to the
9 shooting?

10 A No.

11 Q You didn't see any punches get landed, anything like
12 that?

13 A No.

14 Q And you didn't personally know the deceased?

15 A No.

16 Q And you didn't personally know this gentleman that
17 you saw walk past?

18 A No.

19 Q You had never heard either one of their voices?

20 A Never.

21 Q And so when you say that you heard someone speak,
22 you don't -- you don't know who that was?

23 A No.

24 Q You just know you heard a voice?

25 A Right.

1 MR. SLIFE: I have nothing further, Your Honor.
2 Thank you, sir.
3 THE COURT: Redirect.
4 MS. DiGIACOMO: No, Your Honor.
5 THE COURT: May this witness be excused?
6 MS. DiGIACOMO: Yes.
7 THE COURT: Thank you very much for your testimony,
8 sir.

9 THE WITNESS: No problem.
10 MS. DiGIACOMO: Your Honor, the State calls James
11 Tabele. Your Honor, may I approach the clerk?

12 THE COURT: Yes.
13 (Ms. DiGiacomo confers with the clerk.)

14 JAMES TABELE, STATE'S WITNESS, SWORN

15 THE CLERK: State and spell your first name and last
16 name for the record.

17 THE WITNESS: James Tabele, J-a-m-e-s, T-a-b-e-l-e.

18 THE COURT: You may proceed.

19 MS. DiGIACOMO: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. DiGIACOMO:

22 Q Sir, I want to direct your attention to December 22,
23 2013, the early morning hours between 4:00 and 4:30. Do you
24 recall where you were at that time?

25 A Well, we were just come home about 4:00 o'clock, and

UNCERTIFIED ROUGH DRAFT

253

1 we went to bed.

2 Q All right. Where is home?

3 A 1040 Boulder Highway.

4 Q Is that the Siegel Suites?

5 A Siegel Suites. That's the Siegel Suites, correct.

6 Q And was your apartment number 1040?

7 A 1040, that's correct.

8 Q And who did you live there with?

9 A My wife.

10 Q So the two of you at that time had gone to bed about
11 4:00 a.m.?

12 A Yes.

13 Q Did anyone else live in your apartment with you?

14 A No.

15 Q And at some point later did you get woken up?

16 A Yeah. It was some form of an argument going on.

17 Q An argument. What did -- could you hear what was
18 going on?

19 A No. We just heard the volume of the argument,
20 meaning it was near the doorway.

21 Q And approximately when was that after you went to
22 bed?

23 A Probably about 20 minutes after we went to bed.

24 Q And so when you heard this argument, what did you
25 do?

1 A I got up, looked out the window and observed there
2 was a gentleman leaning against my truck.

3 Q Now, let me ask you, you said you looked out the
4 window. Which window did you look out of?

5 A We only have one window near the front door.

6 Q Is it like the family room or the bedroom area?

7 A It's the living room, dining room, kitchen. It's a
8 very small facility.

9 Q I'm going to show you what's been marked and
10 admitted as State's Exhibit No. 8. Do you recognize what's
11 depicted in this photograph?

12 A Yes. The window's not in view in this picture.

13 Q Well, first of all, what's depicted here? Is this
14 the building you lived in?

15 A Yes.

16 Q Can you see the -- and let me zoom in. Can you see
17 your apartment door?

18 A Yes. It's the most left door.

19 Q The most left. All right. Now, can you circle that
20 for the jury so we know which one you're talking about, or put
21 an X.

22 A [Complies.]

23 Q That one. So the door closest to the left side of
24 this picture?

25 A Correct.

1 Q Now, you said that you can't see the window that
2 you're referring to?

3 A Yeah. The window is hidden behind this wall section
4 right here, from this photograph, correct.

5 Q Is it fair to say then that the window would, if you
6 were looking out the window, it would look down the hallway
7 instead of out into the parking lot?

8 A It would -- no. It actually looks out on the
9 parking lot so that we can see my truck, the Jeep, which would
10 be further on, and that's what our view is after the staircase
11 looking at the...

12 Q Oh, okay. All right. So let me show you State's
13 Exhibit No. 12, and then zoom out. Do you recognize what's
14 depicted here?

15 A Yeah. I'm having a little trouble with the angle,
16 but...

17 Q Would it be easier if I showed you the picture?

18 A Probably.

19 MS. DiGIACOMO: May I approach, Your Honor?

20 THE COURT: Yes.

21 BY MS. DiGIACOMO:

22 Q I'm going to show you State's Exhibit No. 12. Look
23 at that to orientate yourself.

24 A Okay. Yes. The staircase is in the way of the
25 doors, and our window would be right about what's this area,

1 and it basically focuses through this area here. If you pull
2 it up, I can probably draw that.

3 Q Let me show you a close-up of what you saw in 12.
4 I'm going to show you State's Exhibit No. 11. Can you see
5 your window, I guess just a sliver of it?

6 A Correct. The window's right here and this entry
7 area here just permits me only to see what's in this area
8 here.

9 Q So is it fair to say that window has a wall blocking
10 it so that you can't even see the window in this photo very
11 well?

12 A Correct. From the angle you've taken this picture
13 from, which is aside my truck my guess this would be, yeah, we
14 wouldn't be able to see it. If the picture was taken from
15 where my truck is, you would see the window.

16 MS. DiGIACOMO: The Court's indulgence.

17 BY MS. DiGIACOMO:

18 Q All right. So you got up and looked out that
19 window?

20 A Mm-hmm.

21 Q Yes, for the record? I'm sorry. We're taking
22 everything down.

23 A Yes. I apologize.

24 Q That's all right. All right. So showing you
25 State's Exhibit 47, was this a picture --

1 A That's a picture from the inside window of the
2 house.

3 Q All right. So the crime scene analyst went inside
4 your apartment and took a picture showing the view you had
5 from your window?

6 A Correct.

7 Q And does this fairly and accurately depict --

8 A That's -- yes. That's my visual view plus or minus
9 movement with inside the window.

10 Q Right. Because you could move to the left or to the
11 right?

12 A Yeah. I probably wouldn't see much more of the
13 front of the Jeep, and I'd see probably the doorway of the
14 truck.

15 Q Now, do you see the Jeep in here, in this picture?

16 A This is the Jeep right here.

17 Q Okay. So the Jeep would be the third car over from
18 the right?

19 A Correct.

20 Q And that's your Jeep?

21 A Correct.

22 Q Did you own another car?

23 A The truck.

24 Q And is that the one that is on the right side of
25 this picture?

1 A Correct.

2 Q So those are your two cars?

3 A Right.

4 Q All right. And it appears that there appears to be
5 apparent blood right in front of your truck?

6 A Yes.

7 Q So you get woken up. You look out this window. Was
8 it daylight or dark at the time?

9 A 4:20 in the morning, dark.

10 Q So this picture was taken at daylight though?

11 A Yeah. There's blue light that's -- dark, but
12 there's blue lights from the lighting systems that are inside
13 the property, so.

14 Q So you do have some lighting --

15 A Yes.

16 Q -- as you look out your window?

17 All right. So you look out the window. You don't
18 turn any lights on inside your apartment?

19 A No.

20 Q You look out the window. What do you see?

21 A Right about here there's a gentleman standing.

22 Q So he's almost --

23 A Leaning more onto my truck.

24 Q He's leaning closer to the front light that would be
25 on the driver's side?

1 A Correct.

2 Q And do you recall what he looked like?

3 A I did a description on here. He was a taller thin
4 gentleman, dark hair.

5 Q And you said description on here. Do you have a
6 copy of your statement in front of you?

7 A [No audible response.]

8 Q Is that a yes for the record?

9 A Yes. That is. I apologize.

10 Q No problem. And so, yeah, you thought he was a tall
11 thinner guy around in his 30s?

12 A Yes.

13 Q And you said a white guy, dark colored hair?

14 A Yes.

15 Q Did this person that was kind of leaning on your car
16 appear agitated at all?

17 A No. He seemed to be trying to calm down the
18 situation. I took it as he was like -- he was not really that
19 involved into the fighting and argument. The motions of his
20 hands were wrong. The face, the way he was talking, it
21 sounded a little bit more trying to calm or calm or try to
22 calm down.

23 Q Did it appear though, that that person that you saw
24 in front of your truck was one of the people involved in the
25 argument?

1 A No, actually not. From my -- actually, if I go by
2 my statement and from what I think I can recollect from the
3 statement too, is I didn't think he was. In the last part of
4 the statement, when the person that asked me whether I thought
5 he was the shooter, I didn't think so because from what I got
6 the gist of, he seemed to be one trying to calm the situation.

7 Q So it didn't appear -- and so as you look out and
8 see him, could you see any other persons?

9 A No. Unfortunately with the staircase here, it
10 prohibits me.

11 Q And on the other side of that staircase there's
12 another wall that would prevent you from seeing what's on the
13 other side of that staircase?

14 A My view is really limited to what this photograph
15 is.

16 Q But you could hear argument?

17 A Yes.

18 Q Did it appear it was two males arguing?

19 A Yes.

20 Q But you couldn't see the other persons?

21 A No. My only concern at the point was they were
22 leaned against my vehicle. If they got into a fight, I was
23 worried about damage to the vehicles.

24 Q So you're just kind of concerned something was going
25 to happen to one of your cars?

1 A Potentially, yeah.

2 Q So the person that was standing in front of your car
3 kind of seemed calm, but you could hear somebody else on the
4 other side of the stairs louder?

5 A Yeah. They were really agitated and irritated.

6 Q And you told the police that it sounded like there
7 was possibly more than two people involved?

8 A From the voices I heard it sounded like -- it
9 sounded that way, but that's all I can --

10 Q So it could have been three people?

11 A There could have been three people sitting there. I
12 just don't know.

13 Q So what did you hear of the voices that were in the
14 argument? What did you hear some of the things that they
15 said?

16 A I really wasn't paying -- I could hear the argument
17 and I wasn't listening really to the words. It was only --
18 the only time I actually heard some of the words was when I
19 took a look away to tell my wife they were arguing who knows
20 what about, and then when I look back the gentleman was gone,
21 and I think that's when I made the statement about, Do you
22 want to get into it -- I'm trying to find the section of the
23 statement. I apologize.

24 Q Page 3, if that would help you refresh your
25 recollection.

1 A I apologize. I'm just trying to find out where in
2 the section it says, so I can say it correctly.

3 Q Page 3.

4 A Was that on page 3?

5 Q Yes.

6 A Yeah. So basically I said something to the effect
7 of, So you want to get into it, and, Yes, we're going to get
8 into it.

9 Q So you -- but you said one person said, You want to
10 get into it, and then another person said, Yes, we're going to
11 get into it?

12 A Right. At this point in time out the window, I
13 can't see anymore because they're both beyond the staircase.

14 Q And the person who was leaning on your car is also
15 not there?

16 A He's gone. He's not in view anymore.

17 Q So again, you can hear loud voices, but you can't
18 hear anything else that they're saying other than what you
19 said --

20 A No.

21 Q -- about getting into it, correct?

22 A Correct.

23 Q All right. At some point though, did you see anyone
24 around the vehicles?

25 A Yeah. I saw two people running around the Jeep, one

1 chasing the other one around the Jeep between the car and the
2 silver Jeep right here. And they were -- had their hands on
3 the windows, which now irritated me because the likelihood for
4 me was going to get a broken windshield, window or something.

5 Q So how many people did you see go around --

6 A Two.

7 Q -- your Jeep?

8 Two people go around your Jeep and one of them
9 touched the window?

10 A Yes. And this is from a sit down picture. If you
11 stand up a little, you can see more of the Jeep side.

12 Q Okay. You could see higher, yes?

13 A Yes.

14 Q So when you see the two people go around your Jeep,
15 what happens next? What do you hear or see next?

16 A They went around the Jeep to the back side of the
17 Jeep, and then they came around to the other side. At this
18 point in time, as you can see from the picture, I can't see
19 that they even -- where they are. I hear it's a scuffling and
20 that's when I hear the --

21 Q What do you mean you hear scuffling? What do you
22 hear?

23 A It sounded like fighting or something.

24 Q But you couldn't see anything?

25 A No.

1 Q So you hear scuffling and then what do you hear?

2 A The gunshot.

3 Q When you hear the gunshot, could you see anybody or
4 see the gunshot?

5 A It took me a moment to figure out that was a
6 gunshot, and then that's when I went and looked out the window
7 again.

8 Q All right. So did you -- were you looking out the
9 window when the gunshot happened?

10 A I was probably talking to my wife. I had turned
11 away for a moment to talk to her, tell her what's going on.

12 Q So you see two people go around your Jeep, you hear
13 a scuffle, then you hear a gunshot.

14 A Right.

15 Q And as you hear the gunshot, you're not looking out
16 the window?

17 A Right.

18 Q When you hear the gunshot, do you then look out the
19 window?

20 A Right.

21 Q And what do you see?

22 A I saw a gentleman walking haphazardly through and
23 he's leaning holding on to the truck trying to keep himself
24 steady holding his side.

25 Q And then do you see what happens to him?

1 A He starts -- he turns, basically turns around facing
2 the other direction and he's trying to keep his balance at
3 that point in time.

4 Q Do you see whether or not he keeps his balance, or
5 do you see if he goes to the ground?

6 A I at that point in time, I figured he had gotten hit
7 by the bullet, so my wife and I were trying to find a phone to
8 call 911.

9 Q Okay. So the person that you see in front of your
10 truck after the gunshot, you think he's the one that's been
11 shot?

12 A Well, yeah, because there was blood, so.

13 Q Right. And this is not the same person you saw kind
14 of calm leaning against your car --

15 A No.

16 Q -- before?

17 All right.

18 A Correct.

19 Q So you tell your wife to call 911?

20 A We were trying to find the phone to call 911, and
21 then the second shot went off.

22 Q Okay. So how long would you say it was between the
23 first and second shot?

24 A Three, four, five seconds. It was very quick time.

25 Q After the second shot goes off, do you hear anyone

1 say anything?

2 A Not this point in time. I grabbed my wife and I was
3 trying to get her into the bathroom area, because they're
4 shooting generally right in towards our apartment area, and I
5 needed to get her to safety.

6 Q All right. So you didn't hear anyone say anything
7 after the shooting?

8 A At that point in time we're moving away from the
9 door and window, so I couldn't hear anything more from that.

10 Q Now, do you recall -- you've got in front of you --
11 giving a statement to the police?

12 A Mm-hmm.

13 Q If I ask you to look at page 4, see if that
14 refreshes your recollection.

15 A Yeah. There's a statement about why did you do
16 that, and that was done between the first and the second shot.

17 Q That was between the first and second shot?

18 A Yes. That is correct.

19 Q You heard somebody say, Why did you do that, or
20 something to the effect what'd you do that for?

21 A "What did you do that for," correct.

22 Q And that voice, was it pretty loud the way they said
23 that?

24 A I could hear the words, that's about it.

25 Q Then there was the second shot?

1 A Then -- then there was the second shot, correct.

2 Q When the second shot went off, the person that you
3 kind of saw stumbling that had blood on him, were they
4 standing up still or were they on the ground?

5 A Before the second shot went off, that's when my wife
6 and I were trying to find the phone. And when the second shot
7 went off, that's when I got her, we knew there would be
8 possibility of more -- possibility of other shots, so we were
9 just getting ourselves away from the window. So I couldn't
10 see nothing from that point on.

11 Q Do you recall telling the police in your statement,
12 and it's on page 4, that the guy that you saw stumbling, you
13 actually saw him fall to the ground before you looked away
14 from the window?

15 A That's -- and as I told -- I said on this, I'm not
16 sure. I did not say it here. To me this part here was done
17 before the second shot occurred. He was stumbling, he was
18 having a hard time.

19 Q And he fell to the ground?

20 A He may have fell down on the ground, probably tried
21 to get himself back up.

22 Q Well, I don't want you to tell me probably. I want
23 you to tell me what you saw.

24 A I --

25 Q Did you see him fall to the ground?

1 A I can only go by whatever the statement is. I don't
2 recall that well.

3 Q All right. But in the statement you did say that
4 you saw the guy that got shot stumbling around and fall to the
5 ground --

6 A Yeah.

7 Q -- right?

8 A Then I'll have to stay with that, yes.

9 Q And then at that point you grabbed your wife and
10 went to the bathroom to kind of stay out of sight, and then
11 you --

12 A Right. And that's when we dialed 911.

13 Q And then you saw the -- or excuse me. And then you
14 heard the second shot?

15 A Correct.

16 Q And then you went back to the window and saw
17 somebody -- or this might have been a little later. The next
18 thing you tell the police, you go back to the window and you
19 see somebody kind of over the guy that's on the ground?

20 A Right.

21 MS. LEMCKE: Your Honor, I'd object. I understand
22 that it's difficult because we've got prior statements and
23 whatever. But I would ask that counsel just ask a question
24 instead of just giving a narrative and asking the witness to
25 affirm or deny.

1 MS. DiGIACOMO: I was just trying to kind of
2 clarify, since...

3 THE COURT: Well, the objection's well taken. If he
4 really cannot recollect, then it's past recollection recorded
5 if you lay a proper foundation.

6 MS. DiGIACOMO: Okay. Thank you, Your Honor.

7 BY MS. DiGIACOMO:

8 Q So you don't recall -- let me ask you, you don't
9 recall the sequence of events -- well, let me ask you this
10 first. Do you recall seeing the man that was shot and
11 stumbling fall to the ground?

12 A I don't remember the falling to the ground, but I
13 assume if I said it on here I did. But I just remember he was
14 having a hard time standing.

15 Q And at the time that you gave that statement to the
16 police, it was within hours of this happening?

17 A Yes.

18 Q And you were trying to be truthful at that time?

19 A Yeah.

20 MS. DiGIACOMO: And Your Honor, then I would ask to
21 read in page 4, as a past recollection recorded.

22 THE COURT: Okay.

23 MS. DiGIACOMO: May I approach, Your Honor?

24 THE COURT: Yes.

25

1 BY MS. DIGIACOMO:

2 Q Sir, since you already have it in front of you, may
3 I see your statement?

4 A Certainly.

5 Q Okay. So if you look at your third answer --

6 A Would you like to put it on the screen so everybody
7 see it, or...

8 Q No, no. We have to read it in.

9 A Okay. All right.

10 Q So do you recall seeing the person stumble to the
11 ground and fall?

12 A And I wrote in the second shot was --

13 Q Well, no. I'm asking --

14 A -- shot again over -- okay.

15 Q I'm sorry. In this third answer --

16 A Right.

17 Q I'm sorry. I can't see that far.

18 A No problem.

19 Q Okay. Actually, if you could read from -- okay.
20 Right there, that.

21 A Okay. "That's when I saw the gentleman that was
22 shot was wandering, stumbling around, and that's when he had
23 fell onto the ground."

24 Q Okay. So you don't recall seeing that now, but you
25 did tell the police that he fell to the ground?

1 A [No audible response.]

2 Q Yes?

3 A Yes. Sorry.

4 Q And then the next thing that you say is that's
5 when -- well, let me ask you. Do you remember saying then
6 that's when you grabbed your wife and went into the bathroom?

7 A Yes. That part I do know, is I went and grabbed my
8 wife, went to the bathroom, and that's when we got on trying
9 to get the 911 call through.

10 Q And during that time period, is that when you hear
11 the second shot?

12 A That's -- yeah. Because we -- I hadn't dialed the
13 911 yet when the second shot had gone off.

14 Q And do you recall as you sit here today the -- after
15 the first shot before the second shot, hearing somebody say,
16 Why did you do that or what did you do that for?

17 A Yes.

18 Q Now, do you recall after you take your wife to the
19 bathroom and you call 911, did you ever go look out that
20 window again?

21 A Yes.

22 Q And what did you see when you looked out the window?

23 A The ambulances were coming. You could hear the
24 rescue vehicles coming, and that's when I was willing to look
25 out the window again. And when I opened the window up, I saw

1 a person over the victim.

2 Q All right. And did it --

3 A It looked like he was trying to help him as best as
4 he could.

5 MS. DiGIACOMO: The Court's indulgence.

6 (Attorneys confer.)

7 MS. DiGIACOMO: Your Honor, I'll pass the witness.

8 MS. LEMCKE: Can we approach?

9 THE COURT: Yes.

10 (Bench conference - not transcribed.)

11 THE COURT: Sir, I apologize, but we will need you
12 to come back tomorrow to finish cross-examination, because we
13 have to conclude court today at 3:15.

14 THE WITNESS: That's fine.

15 THE COURT: Thank you very much. You will remain
16 under oath. Please do not discuss your testimony with anyone.

17 THE WITNESS: Certainly.

18 THE COURT: Anyone, okay?

19 THE WITNESS: All right. Thank you.

20 THE COURT: Thank you.

21 All right. Ladies and gentlemen, we are going to
22 take an overnight recess. It's my intent to start tomorrow,
23 if I can, at 11:00 o'clock. Please be here at 10:45. Not
24 that I don't trust you.

25 Okay. During this overnight recess, it is your duty

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1 not to converse among yourselves or with anyone else on any
2 subject connected with the trial, or to read, watch or listen
3 to any report of or commentary on the trial by any person
4 connected with the trial or by any medium of information,
5 including without limitation newspaper, television, radio or
6 Internet, and you are not to form or express an opinion on any
7 subject connected with this case until it's finally submitted
8 to you.

9 We'll be in recess and I'll see you tomorrow at
10 10:45.

11 (Jurors recessed at 3:17 p.m.)

12 THE COURT: And the record will reflect that the
13 jury has departed the courtroom.

14 MR. BATEMAN: Can the witness go?

15 THE COURT: Yes. Thank you very much. Are there
16 any matters outside the presence?

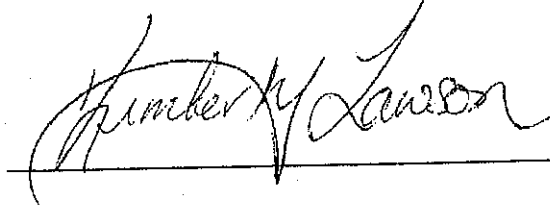
17 (Attorneys respond negatively.)

18 THE COURT: All right. We're in recess.

19 (Court recessed for the evening at 3:18 p.m.)
20
21
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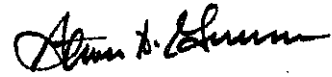
ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

A handwritten signature in cursive script, reading "Kimberly Lawson", is written over a horizontal line.

KIMBERLY LAWSON
TRANSCRIBER

UNCERTIFIED ROUGH DRAFT



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

LUIS PIMENTEL, AKA,
LUIS GODOFREDO PIMENTEL, III

Defendant.

CASE NO. C296234-1
DEPT NO. V

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 5

FRIDAY, MAY 15, 2015

APPEARANCES:

For the State:

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Chief Deputy District Attorneys

For the Defendant:

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Deputy Public Defenders

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1 LAS VEGAS, NEVADA, FRIDAY, MAY 15, 2015, 11:20 A.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 THE COURT: This is Case Number C296234, State of
5 Nevada versus Luis Pimentel. The record will reflect the
6 presence of the defendant with his counsel, the Deputies
7 District Attorney prosecuting the case, all officers of the
8 Court. We're outside the presence of the jury.

9 I just wanted to take this opportunity this morning
10 to remind counsel -- well, particularly, to remind defense
11 counsel that while you are certainly on cross-examination you
12 can reask questions that were already asked and answered on
13 direct, if it's foundational for your impeachment, it is not
14 proper to completely go through all of the questioning that
15 was done on direct if it's not foundational for some kind of
16 impeachment. In other words, you just don't get to get up on
17 cross and go step by step and have them repeat everything that
18 they said on direct. It's got to be some kind of foundational
19 question.

20 You know, foundation. If you want to say so if I
21 understand your testimony as to X, Y, Z, was that your
22 testimony? Yes. Well, isn't it true that in fact it was A,
23 B, C. I'm fine with that. But what I saw yesterday was so
24 you testified, blah, blah, blah. And then you testified blah,
25 blah, blah. And then you testified blah, blah, blah. And it

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1 was yes, yes, yes, yes, with no purpose. And then you asked
2 them the questions two, three more times.

3 I'm not going to just sit her passively. I'm going
4 to, in order to move this along and pursuant to my authority
5 to do that, under NRS 50.115, to prevent and avoid the
6 needless consumption of time, I'm going to be saying things
7 like that has been asked and answered, move on. I just want
8 to remind you of that. It may not even happen today. Just
9 saying.

10 Anything else while we're outside the presence?

11 MR. BATEMAN: No, Your Honor.

12 THE COURT: Okay. Let's go.

13 (Jury reconvened at 11:22 a.m.)

14 THE COURT: Thank you. Please be seated. Good
15 morning. It's still morning. This is the continuation of
16 State of Nevada versus Luis Pimentel. We've now been joined
17 by all 12 members of the jury, as well as the three
18 alternates. Will counsel so stipulate?

19 MR. BATEMAN: Yes, Your Honor.

20 MS. LEMCKE: Yes, Your Honor.

21 THE COURT: And we had a witness on the stand. We
22 need to bring him back on.

23 I just remind you you're still under oath from
24 yesterday. Thank you. Please be seated. Cross.

25 JAMES TABELLE, STATE'S WITNESS, PREVIOUSLY SWORN

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1 MS. LEMCKE: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. LEMCKE:

4 Q Good morning, Mr. Tabele. You and I have spoken a
5 couple times before?

6 A Yes.

7 Q On the telephone?

8 A Right.

9 Q I talked to you about what you saw.

10 A Yes.

11 Q And heard.

12 A Correct.

13 Q When -- if I understand you correctly, when you
14 first looked out your window that morning you saw an
15 individual standing outside your window that had dark hair; is
16 that right?

17 A Correct.

18 Q And he was a thinner guy?

19 A Yes. He appeared [indiscernible] the truck, yes.

20 Q And you could hear somebody else arguing; is that
21 right?

22 A Correct.

23 Q Yelling.

24 A Yes.

25 Q Very hostile?

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1 A Yeah, I would say so.

2 Q Pretty loud?

3 A Yeah.

4 Q It stood out to you.

5 A Yes.

6 Q And the individual with dark hair was -- let me ask
7 you this. The individual that you saw, the thinner guy with
8 the dark hair, was not the guy that was ultimately shot, was
9 it?

10 A No.

11 Q And that gentleman that you saw with the dark hair,
12 he was kind of trying to calm things down.

13 A Yes.

14 Q In fact, at some point you heard him say something
15 to the effect of can we just talk about this later.

16 A Yes.

17 THE COURT: Counsel, this was all asked and answered
18 yesterday, so are we going to get to something new.

19 MS. LEMCKE: I'm getting there.

20 BY MS. LEMCKE:

21 Q Even after he was saying things like can we just
22 talk about this later, the other individual that you could
23 hear yelling continued to yell.

24 A Correct.

25 Q And continued to be very hostile.

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1 A Correct.

2 Q Very aggressive.

3 A Yes.

4 Q And then at some point then you hear kind of an
5 argument go on?

6 A Yes. I had left the window at that point, so I
7 never saw what happened to the individual in front of the
8 truck.

9 Q Okay. And when you come back to the window you see
10 two gentlemen running around your car.

11 A Yes.

12 Q And you noticed this because -- let me ask you a
13 couple questions. You have your cars parked out in front of
14 your apartment.

15 A Yes, so we can see them for theft reasons.

16 Q Because there's some issues with theft and maybe
17 vandalism that go on in [indiscernible].

18 A Yes.

19 Q And so you want to keep your cars close.

20 A Yes.

21 Q To your apartment.

22 A Correct.

23 Q So that you can have good visual contact with them.

24 A That's why they're set up within those parking spots
25 because those three parking spots visually can be seen from

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1 our room.

2 Q And so when you hear all this going on and you look
3 out your window, you're immediately concerned about your cars.

4 A Yes.

5 Q And you're keeping an eye on them.

6 A Correct.

7 Q Watching to make sure nothing happens to them.

8 A Yes.

9 Q And when you do that then you notice the two
10 individuals that you described go running around the car.

11 A Yes. They were going around the car.

12 Q And just for the record, this is one of your
13 vehicles, right?

14 A Yes. If you have that picture yesterday, I think
15 it's the one from the window facing out seeing the three cars.

16 THE CLERK: 46, counsel.

17 MS. LEMCKE: Your Honor, may I approach the witness?

18 THE COURT: Yes.

19 BY MS. LEMCKE:

20 Q Mr. Tabele, I'm going to approach you and show you
21 what's been marked and admitted as Defense Exhibit A. I think
22 it's going to show you about the same thing. Does that fairly
23 and accurately depict the parking lot as you knew it that
24 evening?

25 A Yes.

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1 MS. LEMCKE: May I publish to the jury, Your Honor?

2 THE COURT: Yes.

3 BY MS. LEMCKE:

4 Q If I understand you correctly, so that Chevrolet
5 truck here where the yellow tape is kind of laying over the
6 back, that's your vehicle, right?

7 A My wife and I own that vehicle and the silver Jeep
8 two cars down.

9 Q Okay. And so it was next to the silver Jeep that
10 you see the chase begin?

11 A Yes.

12 Q The running around the cars?

13 A Right.

14 Q And again, this concerns you because that's your
15 Jeep, right?

16 A Yes, and they had -- one of them had put their hand
17 against the window of the Jeep.

18 Q So you were actually able to see their hands as they
19 ran around the Jeep?

20 A Yes.

21 Q And when they run around the Jeep it was like they
22 were putting their hands to kind of stabilize themselves.

23 A They were, yes, trying to use the vehicle to go
24 around it as if he were trying to run quickly around.

25 THE COURT: All right. And the record will reflect

1 since counsel was demonstrating something, that you were
2 running facing forward.

3 MS. LEMCKE: That is correct.

4 BY MS. LEMCKE:

5 Q And as I was running facing forward I kind of put my
6 hand out to the podium that was in the center to stabilize
7 myself; is that right?

8 A It would be your right hand that was put on the --
9 it would have been the right hand.

10 Q Okay, on the podium. But in an effort --

11 A You were showing your left, so I just --

12 Q Okay. But in an effort to stabilize myself.

13 A Yes, and to make that corner probably.

14 Q And that's what these gentlemen were doing.

15 A That's -- yeah. They were running up the driver's
16 side to the back of the vehicle and then go around to the back
17 of the vehicle. After that, all I could see was the bobbing
18 of the heads after the vehicle.

19 Q But as you saw them begin to go around your vehicle,
20 you were aware of them touching your car.

21 A Yes.

22 Q Because this was a concern to you because it was
23 your vehicle.

24 A Yes. Windows are not cheap.

25 Q So you were kind of looking at their hands as they

1 went around.

2 A Right.

3 Q And you didn't see either person with a gun in their
4 hand.

5 A No.

6 Q And it was after that then that you heard a scuffle.

7 A Yes. Once they approached back to the front of the
8 Jeep, which I could no longer see them on the staircase,
9 that's when I heard the scuffle and did note in my statement
10 that the gentleman who was shot was starting to come around
11 the staircase when the shot went off.

12 Q Okay. But you -- but after they came around the
13 vehicle you heard a scuffle.

14 A Correct.

15 Q And it was after that scuffle, sound like
16 fisticuffs?

17 A Unfortunately, it just was noise to me. It could
18 have been shuffling of the feet. It could have been
19 fisticuffs. I don't know.

20 Q Okay.

21 A Without visually seeing it, I just couldn't
22 associate the sound to an action.

23 Q Okay. You could just hear what sounded to you like
24 a scuffle.

25 A Yeah.

UNCERTIFIED ROUGH DRAFT

1 Q And it was after that that then you heard a shot
2 fired.

3 A Yes.

4 Q After you heard a shot fired somebody said something
5 to the effect of why did you do that.

6 A Yes. What did you do that for?

7 Q Okay. But you, at this point, you were not looking
8 out your window.

9 A No. I was doing, trying also, work with my wife,
10 trying to figure out what we needed to do for our safety, for
11 calling 9-1-1.

12 Q So you just heard that comment.

13 A Yes.

14 Q But you hadn't met any of these individuals that you
15 saw outside your apartment before.

16 A Not that I would remember, no.

17 Q Hadn't ever had any conversations with them before.

18 A No.

19 Q Not familiar with their individual voices then.

20 A No.

21 MS. LEMCKE: Court's indulgence. I have nothing
22 further, Your Honor.

23 THE COURT: Redirect.

24 MS. DIGIACOMO: Thank you, Your Honor.

25 REDIRECT EXAMINATION

UNCERTIFIED ROUGH DRAFT

1 BY MS. DIGIACOMO:

2 Q Ms. Lemcke asked you about the fact that the
3 gentleman that was standing by your car, by the truck, that
4 you said was trying to calm down the situation.

5 A Uh-huh.

6 Q Okay. You said -- excuse me. You just said that
7 that gentleman said can we just talk about this later.

8 A Yes. Yes.

9 Q Okay. Now you'd agree with me that's not in your
10 statement.

11 A Yeah. I actually went through the statement,
12 through it, but from my memories of it he did state that
13 because that's one of the parts which made it feel like he
14 wasn't -- when I was asked before how I knew he was like in
15 that argument or trying to calm the situation down. But yes,
16 no, it was not part of the statement.

17 Q Okay. But you did tell the police that the person
18 who was standing in front of your car was not the person who
19 got shot.

20 A Correct.

21 Q And it was not the person who you thought did the
22 shooting either.

23 MS. LEMCKE: I would object to her leading.

24 MS. DIGIACOMO: I can rephrase.

25 THE COURT: Sustained.

UNCERTIFIED ROUGH DRAFT

1 BY MS. DIGIACOMO:

2 Q Sir, do you recall what you said about that person
3 to the police in your statement?

4 A Yeah. It's actually the beginning part --

5 Q Actually, I'm referring to page six of your
6 statement.

7 A Okay. Because the beginning part I did state about
8 him leaning against the truck. And then page six.

9 THE COURT: Wait. The question is do you recall?
10 First, do you recall it without looking at your statement?

11 MS. DIGIACOMO: Do you need to look at your
12 statement to refresh --

13 THE WITNESS: No. I would need to use --

14 MS. DIGIACOMO: -- your recollection?

15 THE WITNESS: -- my statement. I apologize.

16 THE COURT: Okay. I guess I'm unclear as to how
17 much you remember and how much you're relying on your
18 statement. Could you tell us that?

19 THE WITNESS: I remember the images and a lot of the
20 scenes but after the gunshots went off, it becomes a little
21 bit more blurry. I depend on the statement more than the --
22 more than my memories.

23 THE COURT: Okay. Proceed.

24 BY MS. DIGIACOMO:

25 Q Okay. So would it refresh your recollection to look

1 at page six, the top of your statement, regarding what you
2 told the police about the person who was initially standing by
3 your Chevy truck?

4 A It says, "I think that" --

5 Q No, no. I'm going to ask you to read it to yourself
6 and then let me know when you're done.

7 A Okay.

8 Q Does that refresh your recollection as to what you
9 told the police about the person that was standing in front of
10 the truck initially?

11 A Initially, from what I saw --

12 THE COURT: No, no. The question is does it refresh
13 your recollection?

14 THE WITNESS: Does it refresh my recollection.

15 BY MS. DIGIACOMO:

16 Q As to what you told the police.

17 A No, I can't --

18 Q Would you agree with me, though, that when you gave
19 the statement to the police on December 22nd, 2013 in the
20 early morning hours, that it was more fresh in your mind than
21 it is today?

22 A Yes. I would have to say yes.

23 Q And at the time that you told the police this you
24 were trying to be truthful and tell them everything you
25 remembered?

1 A As everything I could possibly remember within it,
2 right.

3 MS. DIGIACOMO: Your Honor, I'd ask to read it in as
4 a past recollection recorded.

5 THE COURT: All right.

6 MS. LEMCKE: Your Honor, just for the record I
7 object.

8 THE COURT: We need to know which part.

9 MS. DIGIACOMO: Thank you.

10 BY MS. DIGIACOMO:

11 Q Sir, if you'd look at the bottom of page five.

12 A The question, "But he was not"?

13 THE COURT: Where do you want him to start?

14 MS. DIGIACOMO: Thank you.

15 BY MS. DIGIACOMO:

16 Q I'm sorry. What did you just --

17 A It's the question, "But he was not".

18 Q Okay. I'll read the question, you read the answer.
19 Okay?

20 A Okay.

21 Q "Question: But he's not the individual that was
22 either shot and you don't know if he were -- he --" and then
23 answer.

24 A "I think that he might have just been -- he may have
25 been the person that was involved in the incident, but I don't

UNCERTIFIED ROUGH DRAFT

1 think he was the one that shot him probably."

2 Q "Question: Okay. You don't think he's the guy that
3 was the shooter and you don't think he's the victim."

4 A "Yes."

5 Q And that was your answer, "Yeah".

6 A Yes.

7 Q Now with regard to -- you said you saw --

8 MS. DIGIACOMO: May I approach, Your Honor?

9 THE COURT: Yes.

10 MS. DIGIACOMO: Court's indulgence.

11 BY MS. DIGIACOMO:

12 Q I'm going to show you what's been marked as State's
13 47. Do you recall this picture from yesterday?

14 A Yes.

15 Q And this is a view from your window looking out.

16 A From a sitting position inside the window, correct.

17 Q But you were standing.

18 A You're standing, you can see a little bit more of
19 the Jeep window.

20 Q Right. But does it kind of fairly accurately --
21 fairly depict how the staircase, the bottom of the staircase
22 kind of cuts in front of the line that you have of your Jeep?

23 A Coming from the front driver's side door forward,
24 yes. It wouldn't allow me to see that part.

25 Q In fact, there's a car just to the right of your

1 Jeep as well, correct?

2 A Correct.

3 Q So that blocks part of your view of the Jeep.

4 A Correct.

5 Q Defense counsel just asked you about how you saw
6 people running around the car and you saw somebody touching
7 it?

8 A Yes. Could you put the picture back up, please?

9 Q Yes. For the record, this is State's Exhibit 47.

10 A When you're sitting down the view seems like this,
11 but when you're higher up the window is a lot -- you can see
12 more of the window. And it's that section of the window that
13 was being touched by the hand when they were going around.

14 Q Okay. So it would have been the back passenger
15 window behind the driver?

16 A The back --

17 Q Or the back part of the --

18 A The back window, the hatchback window.

19 THE COURT: The rear window?

20 THE WITNESS: The rear window, yeah.

21 BY MS. DIGIACOMO:

22 Q On the driver's side.

23 A The driver's side window, right.

24 Q How many people did you see touch that?

25 A I saw one physically touch that. The other one was

UNCERTIFIED ROUGH DRAFT

1 in front of him moving.

2 Q The other one was in front of him? What do you mean
3 in front of him?

4 A The first guy was going through, I did not see him
5 touch the window. It's the second guy that I saw touch the
6 window with his hand.

7 Q So you saw the second guy come through and touch the
8 window with his hand.

9 A Uh-huh.

10 Q Is that a yes for the record?

11 A Yes. Sorry.

12 Q Now you'd agree with me as well that it's not in
13 your statement about anyone touching that window, correct?

14 A No.

15 Q It's not in your statement.

16 A No.

17 Q You didn't tell the police that morning.

18 A No, probably didn't think about it, telling them at
19 that point in time.

20 Q The person that you saw touch the window that was
21 kind of going forward, the one that you saw, can you describe
22 what that person looked like?

23 A No, I cannot describe either of the two individuals.

24 Q And the other individual that you saw go through
25 first, do you recall if he was moving backwards or forward or

UNCERTIFIED ROUGH DRAFT

1 did you pay attention to him?

2 A I was just paying attention to the fact they were
3 around the vehicle.

4 Q Okay. So you don't know which way, if the person
5 that was going forward --

6 A If he was facing forward or backwards, no, I do not.

7 MS. DIGIACOMO: I'll pass the witness, Your Honor.

8 THE COURT: Any recross?

9 MS. LEMCKE: Yes.

10 RECROSS-EXAMINATION

11 BY MS. LEMCKE:

12 Q You didn't actually see the shooting, correct?

13 A No.

14 Q Okay. So you don't really know who the shooter was.

15 A No.

16 Q You only know who the individual was that got shot
17 because you saw him after the shooting.

18 A When the police and rescue were coming, correct.

19 Q So when the police asked you about the dark-haired
20 gentleman and they asked you about the dark-hair gentleman and
21 they said, "But he's not the individual that either shot and
22 you don't know if he were the" and then you answered, "I think
23 he might have just been -- he may have been the person that
24 was involved but I don't think he was the one that shot him
25 probably." When you said that, you said that you thought that

UNCERTIFIED ROUGH DRAFT

1 the dark-haired guy might have been involved in the shooting
2 but you weren't really sure.

3 A Correct.

4 Q Because you didn't see it.

5 A I didn't see, witness any of that portion of it,
6 correct.

7 Q And part of the reason that you didn't think it
8 might -- that the dark-haired gentleman would have been the
9 shooter is because he was trying to calm and keep the peace
10 when this initially started.

11 A Right. And there's a pause in that in which
12 basically I think that he might just have been -- what I was
13 trying to say --

14 MS. DIGIACOMO: Objection, speculation.

15 MS. LEMCKE: He's trying to explain the answer that
16 they redirected him on. I think he's entitled --

17 THE WITNESS: Because I originally thought there
18 were three people.

19 THE COURT: Wait. There's an objection pending and
20 I need to rule.

21 THE WITNESS: Oh, sorry.

22 THE COURT: So it's overruled. Now you can answer.

23 A I originally thought there were three people that
24 were involved and I just thought he was a bystander.

25 BY MS. LEMCKE:

1 Q And now while -- so that's part of what engendered
2 the confusion on your part.

3 A Right.

4 Q And again, just so that we're clear, part of the
5 reason that you didn't think that this dark-haired individual
6 was the shooter because, again, he was kind of trying to calm
7 things down and try to get the other guy to stop yelling at
8 him.

9 A Correct.

10 Q The prosecutor made an issue about the fact that in
11 your statement you didn't say anything about seeing the hands
12 of the second individual going around your car, touching your
13 car. At any point during the statement, did the officers ask
14 you if you could see the hands?

15 A No. He was more -- he said basically what he says
16 inside the statement.

17 Q He just kind of asked you what happened and you said
18 I saw him go around the car.

19 A He didn't ask for more detail than that on that
20 part.

21 Q If he had asked you for that additional detail,
22 would you have told him that?

23 A I would have probably told him that, yes.

24 Q Because again, this was something that you had
25 observed because you were concerned about the well-being of

1 your car.

2 A And that's why it's in memory is because, like I
3 said, the first half of the event before the gunshot I can
4 remember pretty well a lot of that. It's a lot of the after
5 stuff that's confusing.

6 Q Okay.

7 MS. LEMCKE: Court's indulgence.

8 BY MS. LEMCKE:

9 Q Again, just so that the jury's clear. Your
10 apartment was right next to where this all happened; is that
11 right?

12 A Yes. You're talking that the bloodstains from him
13 dying were about 10 feet from my door.

14 Q As far as like all the apartments are concerned,
15 yours was one of, if not the closest to where this happened.

16 A And the angle of the gun would have -- from the way
17 the stairwell goes, my concern was for our safety.

18 Q Right, of course. Because you were so very close to
19 where this was all happening.

20 A Right.

21 MS. LEMCKE: I have nothing further, Your Honor.

22 MS. DIGIACOMO: Nothing, Your Honor.

23 THE COURT: I have a question because now I'm a bit
24 confused.

25 THE WITNESS: I apologize.

1 THE COURT: A couple things. The dark-haired person
2 or man, it was a man, right?

3 THE WITNESS: Correct.

4 THE COURT: That you saw leaning against your truck,
5 how long was the hair, do you remember that?

6 THE WITNESS: It's not like a crewcut, nor was it
7 long hair. I'm not good at describing hair. I apologize.

8 THE COURT: That's all right. So this person was,
9 you described it as trying to calm someone down?

10 THE WITNESS: He was trying to calm -- he was --
11 I've been in enough barrooms to see arguments going on and you
12 can see the ones that are trying to calm the situation down
13 and that's the way it appeared to me.

14 THE COURT: Okay. So while you're observing this,
15 do you hear more than one voice out of your sight?

16 THE WITNESS: They all sound the same so I wouldn't,
17 I wouldn't know if there was one or more voices.

18 THE COURT: Any questions as a result of my
19 questions?

20 MS. LEMCKE: Yes.

21 BY MS. LEMCKE:

22 Q You just heard the dark-haired individual trying to
23 keep everything calm; is that right?

24 A Right.

25 Q And then you could hear someone else yelling.

1 A Right.

2 Q Loudly.

3 A Correct.

4 Q Aggressively.

5 A Yes. Which we said earlier, right.

6 MS. LEMCKE: Nothing further.

7 MS. DIGIACOMO: I have a follow up, Your Honor, to
8 hers.

9 BY MS. DIGIACOMO:

10 Q The loud voice that you heard aggressively yelling,
11 you can't say if it was one voice or two voices.

12 A That's correct.

13 THE COURT: All right. May this witness be excused?

14 MS. DIGIACOMO: Yes, Your Honor.

15 THE COURT: Thank you very much for your testimony.

16 Call your next witness.

17 MS. DIGIACOMO: Thank you. The State calls Steven
18 Verwey.

19 STEVEN VERWEY, STATE'S WITNESS, SWORN

20 THE CLERK: Thank you. Please state your first and
21 last name, spelling.

22 THE WITNESS: Steven Troy Verwey.

23 THE CLERK: Could you spell your first and last
24 name.

25 THE WITNESS: S-t-e-v-e-n, V-e-r-w-e-y.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: You may proceed.

2 MS. DIGIACOMO: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MS. DIGIACOMO:

5 Q Sir, I want to direct your attention back to
6 December of 2013. Do you recall where you were living then?

7 A Uh-huh.

8 Q You have to -- she's taking everything down with a
9 recording device. You have to answer yes or no.

10 A Yes.

11 Q Where was that?

12 A The Siegel Suites.

13 Q Is that the one on Boulder Highway?

14 A Yeah, 3625 Boulder Highway.

15 Q How long had you lived there at that point?

16 A Several years.

17 Q Now in the early morning hours of December 22nd,
18 2013, do you recall where you were?

19 A Yeah. I was on the sidewalk directly in front of
20 the complex.

21 Q Where had you come from that you were on the
22 sidewalk?

23 A Directly across the street at the Four Mile Bar.

24 Q So who were you at the Four Mile Bar with?

25 A My buddy Chris.

UNCERTIFIED ROUGH DRAFT

1 Q What is Chris's last name?
2 A [indiscernible] I think.
3 Q [indiscernible]?
4 A Yeah.
5 Q How long had you been at the Four Mile Bar with your
6 friend Chris?
7 A An hour maybe. Not that long.
8 Q Did you drink anything while you were there?
9 A No, I don't drink.
10 Q You don't drink alcohol?
11 A No.
12 Q All right. So do you have to cross over Boulder
13 Highway to get back to the Siegel Suites?
14 A Well, yeah.
15 Q Is that how you got back to the sidewalk in front of
16 Siegel Suites?
17 A Well, yeah. I cut across the street, yeah.
18 Q Did you come across to the Siegel Suites alone or
19 was your friend Chris with you?
20 A He was with me.
21 Q Now, you said that you're on the sidewalk in front
22 of the Siegel Suites. Is that right on Boulder Highway?
23 A Yes, it is.
24 Q And what are you doing there?
25 A Just saying goodbye to him, getting ready to go

UNCERTIFIED ROUGH DRAFT

1 home. He was going to walk up the street to the bus stop.

2 Q So Chris did not live at the Siegel Suites.

3 A No.

4 Q So he had to go catch a bus to leave.

5 A Yes.

6 Q So when you are talking there to -- with Chris,
7 anything unusual happen?

8 A Yeah. Yes.

9 Q What was that?

10 A Two loud gunshots.

11 Q You heard gunshots?

12 A Yes.

13 Q Two?

14 A Two.

15 Q Were they consecutive shots or was there a break?

16 A No, they weren't. They were separate, they weren't
17 simultaneous. There was one, a pause, and then another.

18 Q So like a boom, pause, boom.

19 A Right.

20 Q All right. As you hear that when you're talking to
21 Chris, what do you -- can you tell which direction the shots
22 might be coming from?

23 A Oh, yeah. I could tell it was directly, pretty real
24 close in the complex, fairly close, yeah.

25 Q So did you turn to look to see what was going on in

1 the complex?

2 A No. My buddy already started walking up to the bus
3 stop and I called him and he said, you know, he just heard it.
4 I said I'm going to wait here for a minute and not go right in
5 and he went on to the bus stop.

6 Q All right. So you're standing there now alone.

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes. I'm sorry.

10 Q Is there anyone else out there on the sidewalk from
11 the Siegel Suites?

12 A No.

13 Q All right. So what happens at that point?

14 A After a few minutes or so a gentleman came up,
15 walking by me.

16 Q Do you recall what this gentleman looked like?

17 A Yes.

18 Q What did he look like?

19 A Dark hair, about 170, dark skin, thin.

20 Q Do you recall what he was wearing?

21 A Orangish clothes, orangish shirt, pants, I believe.

22 Q Do you recall telling the police you remembered an
23 orange shirt?

24 A Yeah. Yes.

25 Q But you can't remember what color his pants were or

1 anything like that?

2 A I thought they kind of matched, but, you know.

3 Q Not sure.

4 A Yeah, I'm not into fashion that much.

5 Q All right. So when this person, you see them, where
6 are they coming from?

7 A Coming directly up the driveway of the Siegel
8 Suites.

9 MR. BATEMAN: May I approach?

10 THE COURT: Yes.

11 BY MS. DIGIACOMO:

12 Q Sir, I'm going to show you what has been marked and
13 admitted as State's Exhibit Number 4. Do you recognize what's
14 depicted in this aerial?

15 A Yes.

16 Q Do you see the Four Mile Bar?

17 A Yeah. Yes, I do.

18 Q Is there where I'm pointing here at the bottom
19 left-hand of the screen?

20 A Yes.

21 Q And then this is Boulder Highway?

22 A Right.

23 Q Do you recognize what is -- this area right here,
24 kind of in the center of this photograph?

25 A Yes, I do. I understand.

UNCERTIFIED ROUGH DRAFT

1 Q What is this?

2 A That's the Siegel Suites.

3 Q Is there only one way in and out of the Siegel
4 Suites?

5 A Correct. Yes.

6 Q Let me zoom in a little bit. Were you by that entry
7 exit?

8 A I was in the driveway, right in the middle of the
9 driveway.

10 Q You can, sir, touch the screen and make a mark or an
11 X or a circle, something so that the jury can see where you
12 were. So you make a mark where you were standing.

13 A Right there.

14 Q So when you say you were in the driveway, were you
15 on the sidewalk?

16 A Right on the corner going into the driveway right
17 there.

18 Q Okay.

19 A Deciding when I was going to go in.

20 Q All right. Now you said you saw another gentleman
21 with the orange-colored shirt. Where was that person coming
22 from?

23 A When I noticed up the driving, just coming up the
24 driveway there.

25 Q So just right here by this building?

UNCERTIFIED ROUGH DRAFT

1 A Yeah. He was just coming up right here.

2 Q All right. So you can't tell which direction he
3 came from, can you?

4 A No. No, I didn't.

5 Q When he is walking out, do you recall is he at like
6 a slow pace, walking fast?

7 A He was walking fairly, at a fairly fast pace and
8 kind of nervously because he said something to me that was, it
9 was kind of nervous. Like hello, sir. You know, like hey,
10 what's up or whatever. It was like hello, sir, and kind of
11 just wanted to get by me.

12 Q All right. So let's back up. You said he appeared
13 nervous?

14 A Yeah.

15 Q What made you think he appeared nervous?

16 A Just because of the way he, you know, said hi to me
17 or walked by and announced, you know, his hello. It wasn't
18 hello, it was like a hello -- something like -- just something
19 that wasn't really uniform I don't think for him or me. It
20 wasn't --

21 Q So he walks by and says like a very formal greeting,
22 like hello, sir?

23 A But quickly, said it rather quickly and just wanted
24 to get by me.

25 Q All right. You kind of -- I guess you're trying --

1 did that hello, sir, the way he said it seem out of place?

2 A It just seemed -- yeah, it seemed out of place.

3 Q All right. Well, let me ask you. You said you
4 lived at the Siegel Suites for a few years.

5 A Uh-huh.

6 Q Is that a yes?

7 A Yes.

8 Q You normally get that kind of greeting in that
9 apartment complex?

10 A Not really. Just like what's up is normally
11 something more casual.

12 Q Okay. So it's fair to say no one around there would
13 be like hello, sir.

14 A Not really.

15 Q Do you recall anything about his demeanor, how he
16 was using his hands or --

17 A Tell you the truth, I looked him over real good
18 because I wanted to see if he had a gun after I heard the
19 gunshot.

20 Q Okay.

21 A He just kind of had his hands in his pocket and was
22 just moving right by me.

23 Q All right. Do you also recall telling the police
24 anything else about the way he was walking?

25 A Just at a fast pace and when the bus came up he was

1 running to the bus.

2 Q So you actually saw him run to the bus.

3 A Yeah, because I called my buddy who was at the bus
4 stop to just like keep an eye on him just in case this all
5 would unfold because he just heard the gunshots as well.

6 Q All right. Now you said you looked him over pretty
7 well. You didn't see a gun on him.

8 A No.

9 Q Had you ever seen this person before?

10 A No.

11 Q All right. So you called your friend, told him to
12 watch out for him on the bus.

13 A Yeah.

14 Q Did you see -- you said you saw this person running
15 towards the bus, but did you see him get on the bus?

16 A No.

17 Q At that point, what did you do?

18 A I'm heading into the complex.

19 Q All right. As we're looking at the complex, where
20 do you live, which building?

21 A I would live about here, right there.

22 Q So you live on the back side of this building?

23 A Yeah, the inside.

24 Q All right. So did you go around to the front of
25 that building to see what was going on?

1 A Yeah. I walked down the side just after this office
2 here, I just walked down the sidewalk here and immediately
3 saw.

4 Q What did you see?

5 A A man laying down on the sidewalk and another man
6 giving him mouth to mouth.

7 Q Had the police arrived when you saw this?

8 A No, no, no.

9 Q Did the police arrive shortly thereafter?

10 A Yes.

11 Q Did you know either the man on the ground or the man
12 giving him CPR?

13 A No, not at all.

14 Q All right. Did you ever see any evidence of the
15 shooting around the scene?

16 A Well, what I did, I was standing there, I got rather
17 close to the man and was just observing and I did see a gun
18 underneath a truck that was kind of a four-by-four that was
19 jacked up a little.

20 Q And it was right there next to where the person was?

21 A Under it, it was right under it.

22 Q Now when the police arrived, did you tell them
23 anything?

24 A I explained everything, the whole situation and
25 pointed out the gun after a minute because they were kind of

1 running around.

2 Q So you told them the gun's under the truck.

3 A Yeah. Yes.

4 Q Did you tell them whether or not you may have seen
5 the person get on the bus?

6 A Yes. I explained what just happened, you know, the
7 only person that walked by me. The only person out, actually.

8 Q Okay. Do you recall whether or not another neighbor
9 was out there video recording?

10 A Yes. A friend of mine. I guess a friend.

11 Q When you say a friend, is it somebody you know from
12 living there?

13 A Yeah. I've known him for a long time, yeah.

14 Q Do you know him by name?

15 A Sean, yeah.

16 Q All right. Did you actually see the video that he
17 took?

18 A No, but I watched him take -- do his whole video.

19 Q Would you -- do you know whether or not you were on
20 the video that he was filming?

21 A I don't believe so. I mean, maybe.

22 MS. DIGIACOMO: Your Honor, may I approach to get
23 the video?

24 THE COURT: Yes.

25 MS. DIGIACOMO: Your Honor, just for the record,

1 we're going to forward till about I think three-quarters of
2 the way through.

3 THE COURT: Okay.

4 BY MS. DIGIACOMO:

5 Q Sir, do you see the gentleman in that picture
6 talking to the officer?

7 A Yeah, I do.

8 Q Who is that?

9 A That's me.

10 Q So that is you on the video.

11 MS. DIGIACOMO: I have nothing further, Your Honor.

12 THE COURT: Cross.

13 MR. SLIFE: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. SLIFE:

16 Q So, sir, this gentleman that you saw walking away,
17 he had dark hair? Yes?

18 A Yes. I'm sorry.

19 Q Thin build?

20 A Yes.

21 Q And he said something to you to the effect of excuse
22 me, sir, hello, sir, something like that.

23 A Right.

24 Q And he just -- he seemed a little out of it.

25 A It just seemed different. Good evening, sir, yes,

UNCERTIFIED ROUGH DRAFT

1 it just -- yes.

2 Q So it was polite but it was just something kind of
3 weird about it.

4 A Yes.

5 MR. SLIFE: Nothing further, Your Honor. Thank you,
6 sir.

7 THE COURT: Any redirect?

8 MS. DIGIACOMO: No, Your Honor.

9 THE COURT: May this witness be excused?

10 MS. DIGIACOMO: Yes.

11 THE COURT: Thank you very much for your testimony,
12 sir.

13 THE WITNESS: Thank you.

14 THE COURT: Call your next witness.

15 MR. BATEMAN: State will call Sean Miller.

16 SEAN MILLER, STATE'S WITNESS, SWORN

17 THE CLERK: Thank you. Please state and spell your
18 first and last name for the record.

19 THE WITNESS: Sean Miller, S-e-a-n, Miller,
20 M-i-l-l-e-r.

21 MR. BATEMAN: Court's indulgence for a moment.

22 THE COURT: Okay.

23 MR. BATEMAN: May I proceed, Your Honor?

24 THE COURT: You may.

25 MR. BATEMAN: Sorry about that.

1 DIRECT EXAMINATION

2 BY MR. BATEMAN:

3 Q Sir, are you employed with the Las Vegas
4 Metropolitan Police Department?

5 A Yes, sir.

6 Q In what capacity?

7 A I'm a police officer, patrol officer.

8 Q Patrol, first responder?

9 A Patrol officer with the Southeast Area Command, also
10 a [indiscernible] officer.

11 Q How long have you been employed with Metro?

12 A About seven and a half years.

13 Q I'm going to direct your attention back to the early
14 morning hours of December 22nd, 2013. Were you working that
15 morning?

16 A Yes, I was.

17 Q Working graves?

18 A Yes, sir.

19 Q When you're out working graves, are you in your own
20 vehicle?

21 A Yes, sir, I drive a marked patrol unit.

22 Q All right. Are you by yourself?

23 A Usually I am, but I believe that day I was with
24 another officer.

25 Q And in your vehicle do you have radio equipment?

UNCERTIFIED ROUGH DRAFT

1 A Yes, I do.

2 Q And dispatch equipment?

3 A Yes, sir.

4 Q So if a call goes out in you're in an area in which
5 you can respond, how do you receive the information?

6 A By the radio.

7 Q Do you have like a computer terminal in your car?

8 A Yes, sir, I do. Usually what happens, dispatch will
9 call us on the radio and we get an alert tone from the radio
10 and it will pop up on our computer screen.

11 Q All right. This particular morning at about 4:30 in
12 the morning, did you receive information that caused you to go
13 to a particular location?

14 A Yes, sir.

15 Q And what was that?

16 A There was a report of a shooting at the Siegel
17 Suites located I believe 3625 Boulder Highway.

18 Q Are you familiar with the Siegel Suites?

19 A Yes, I am.

20 Q All right. And what did you do when you received
21 the information?

22 A I went in route code three, which is lights and
23 sirens, to the Siegel Suites.

24 Q Did you actually make it to the Siegel Suites?

25 A Yes, I did.

UNCERTIFIED ROUGH DRAFT

1 Q Did you go in there?

2 A Yes, I did.

3 Q Did you get out of your car?

4 A Yes, I did.

5 Q And then, did there come a point in time in which
6 you were redirected to another location?

7 A Yes.

8 Q Tell me about that.

9 A Got out of my car, spoke with Officer Pacifico, who
10 told me there was a witness saying that the suspect in the
11 shooting just boarded a City CAT bust seen going eastbound --
12 excuse me, northbound on Boulder Highway.

13 Q So what did you do as a result of receiving that
14 information?

15 A Got back in our patrol car and we went after the CAT
16 bus.

17 Q And this was a northbound CAT bus?

18 A Yes, sir.

19 Q CAT bus meaning like a public transportation bus?

20 A Yes, sir.

21 Q So did that all happen relatively quickly?

22 A Very quickly, yes, sir.

23 Q Tell me what happened. Did you track down that bus?

24 A Yes, sir. We drove down Boulder Highway northbound
25 where it became Fremont Street. We came to the A CAT bus at

1 Fremont and Bruce.

2 Q And was the bus already stopped or did you have to
3 basically pull the bus over?

4 A It was already stopped but myself and additional
5 units activated our lights and we held the bus there.

6 Q So were you by yourself or there was additional
7 units?

8 A Yes, there was.

9 Q So the bus wasn't allowed to leave.

10 A Correct.

11 Q What made you key in on this particular bus?

12 A It was the only bus that we came to. And based on
13 the time frame, we knew the bus had to be relatively close by
14 and the direction of travel indicated that the bus that we
15 stopped would be the bus that we're looking for.

16 Q And you had a description at some point regarding
17 the suspect that came to you via the same information as the
18 call out through your dispatch; is that right?

19 A Yes, sir.

20 Q So when you get there you don't necessarily know
21 that that description is correct or incorrect, you just have
22 that description and that's the person you're looking for.

23 A That's correct, yes, sir.

24 Q In this particular case the description was what?

25 A It was an Asian male first, then it became a

1 Hispanic male wearing a yellow shirt.

2 Q So it initially came out as Asian and then through
3 more information it was changed to Hispanic male?

4 A Yes, sir.

5 Q And orange shirt?

6 A Yellow shirt I believe.

7 Q Okay. So what did you do once you got out of your
8 squad car with regard to the bus?

9 A Once the bus was stopped, myself and the other
10 officer, we emptied the bus looking for a person matching the
11 description. As the bus emptied we keyed in on one person who
12 was light skinned, male, HMA, wearing a not quite yellow shirt
13 but very similar to that color and we separated him from the
14 rest of the group.

15 Q Did you talk to any other witnesses out there?

16 A Yes, I did.

17 Q And who was that, do you remember?

18 A I don't remember his name, but a gentleman on the
19 bus who was calling one of the people at the scene and he told
20 me that the person that we separated --

21 MR. SLIFE: Objection, hearsay.

22 THE COURT: Sustained.

23 BY MR. BATEMAN:

24 Q When you talked to this person, were you also
25 directed then to the person that you had identified earlier?

1 A Yes, I was.

2 Q And have you had an opportunity -- well, do you see
3 that person in the courtroom today?

4 A Yes, I do.

5 Q Can you point to them and describe what they're
6 wearing?

7 A He's wearing a blue shirt with a blue and white
8 striped tie.

9 MR. BATEMAN: May the record reflect the
10 identification of the defendant, Your Honor?

11 THE COURT: It will.

12 BY MR. BATEMAN:

13 Q That's the person who came off the bus and was
14 detained at that particular location?

15 A Yes, sir.

16 Q Now, have you had an opportunity to watch the
17 surveillance video or the video from that particular CAT bus
18 as it relates to what you did?

19 A Yes, sir.

20 MR. BATEMAN: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes.

23 BY MR. BATEMAN:

24 Q Showing you what's been marked State's Proposed 15.
25 Do you recognize this CD?

1 A Yes, sir, it has my initials on it.

2 Q So have you watched this CD?

3 A Yes, sir.

4 Q And you see the video on here of you approaching the
5 bus and everything that transpired with regard to the
6 defendant who you just identified?

7 A Yes, sir.

8 MR. BATEMAN: I move admission of 15 and request to
9 publish, Your Honor.

10 MR. SLIFE: No objection.

11 THE COURT: It will be admitted and you may publish.

12 (State's Exhibit 15 admitted.)

13 MR. BATEMAN: For the record, there's a number of
14 views on this. I'm only moving to admit it at this point for
15 one particular view that relates to what this particular
16 officer saw. I spoke to defense counsel about that as well.

17 THE COURT: Okay.

18 MR. SLIFE: That's correct, Your Honor.

19 THE COURT: Thank you.

20 (Video played)

21 BY MR. BATEMAN:

22 Q Can you see that on your monitor?

23 A Yes, sir, I do.

24 Q Over to the right, does that appear to be a casino?

25 A Yes, sir.

UNCERTIFIED ROUGH DRAFT

1 Q Okay. So this is not the bus stop in which you
2 ultimately stopped this bus; is that right?

3 A Correct, sir, it's not.

4 Q I'm going to fast forward it just a hair. I fast
5 forwarded it to about two minutes. Is this the bus stop as
6 well?

7 A No, sir.

8 Q Are you familiar with this bus stop?

9 A Yes, sir, I am.

10 Q Where's this bus stop?

11 A That is just to the south of the Siegel Suites.

12 Q Is this the Fremont bus stop or we're not quite
13 there yet?

14 A Not quite there yet.

15 Q Are you familiar with this bus stop?

16 A Not quite sure, sir.

17 Q Does this look familiar?

18 A Yes, sir.

19 Q Let me -- got a little ahead of myself there. Is
20 this the bus stop at issue?

21 A Yes, it is.

22 Q What are we seeing there?

23 A That is myself and four other patrol units.

24 Q And that's about 12 minutes into this particular
25 video; is that correct?

UNCERTIFIED ROUGH DRAFT

1 A Yes, sir.

2 Q Now what is the procedure from this point on?

3 A At this point we direct people off the bus and we're
4 looking at the people as they come off the bus to see if
5 anybody matches the description of the suspect.

6 Q Behind you, are there patrol cars behind this bus at
7 this point?

8 A Yes, there are.

9 Q So the flashing lights are behind the bus.

10 A Correct. Yes, sir.

11 Q Do you see the person here in this video that
12 ultimately was detained?

13 A Yes, sir.

14 Q Can you circle that person on your screen?

15 A Yes, sir, right here.

16 Q Does that match that yellow or orange shirt you were
17 talking about?

18 A Yes, sir.

19 Q Do you see one of your fellow colleagues taking him
20 at that point?

21 A Yes, sir.

22 Q And where are you?

23 A I'm right here.

24 Q Circle that for me.

25 A I'm wearing my glasses in that picture, video.

1 Q Oh, I got ya. Okay. Ultimately, do you go on the
2 bus?

3 A Yes, I do. I go on the bus to talk to the bus
4 driver and look around the bus.

5 Q Are you looking for any items of evidence?

6 A Yeah. I'm looking to make sure there's nobody else
7 on the bus hiding anywhere. I'm also looking for a firearm, a
8 gun.

9 Q And that's based upon the initial call out being a
10 shooting?

11 A Correct. Yes, sir.

12 Q The suspect at this point's been detained and taken
13 some other place. Do you know where that is?

14 A He was taken to -- behind the bus there was patrol
15 cars behind the bus, taken to one of the patrol cars.

16 Q Did you find anyone else matching the description
17 out of this particular group of occupants?

18 A No, sir.

19 Q At this point are you talking to any of the
20 occupants of the bus or are you out there listening to any of
21 the occupants that have come off the bus?

22 A Right before I left right here in this part of the
23 picture, spoke to a person on the bus who said that the person
24 I had detained --

25 MR. SLIFE: Objection. Hearsay, Your Honor.

1 THE COURT: Sustained.

2 BY MR. BATEMAN:

3 Q I'm asking about the people that have been taken off
4 the bus, is anybody just kind of generally asking questions,
5 like what's going on?

6 A Yes, sir.

7 Q Okay. Some kind of confusion?

8 A Yes, sir, absolutely.

9 Q Is that you we see?

10 A Yes, sir.

11 Q In the middle?

12 A Yes, sir.

13 Q Can you circle, please?

14 A That's me right here, sir.

15 Q And you're talking to someone?

16 A Yes, sir.

17 Q What's going on there?

18 A He took me back on the bus to show me where the
19 person who we had detained was sitting at.

20 Q Do you remember approximately without playing
21 additional video where the seating was? Was it towards the
22 back of the bus on the passenger side?

23 A Yeah. It was right behind basically the back door
24 on the passenger side.

25 Q You didn't find any firearms?

UNCERTIFIED ROUGH DRAFT

1 A No, sir.

2 Q And is this you off to the right talking t this
3 gentleman who was kind of directing your attention?

4 A Yes, sir.

5 Q Has anything happened in this view for the rest of
6 the video?

7 A I don't believe so, sir.

8 (End of video)

9 Q The suspect's never brought back into view of this
10 camera?

11 A No, sir.

12 Q What do you do after this particular portion of what
13 we saw on the video?

14 A I separate the person I spoke to, bring him to
15 another patrol car, have him write a voluntary statement. I
16 then go to the person we had detained.

17 Q And that was just to continue his detention?

18 A Yeah. It was to monitor him, make sure he doesn't
19 go anywhere. I believe we placed him in handcuffs and asked
20 him some general questions about where he was coming from.

21 Q Just some initial questions?

22 A Yes, sir.

23 Q Did he respond in any sort of way, asking you
24 questions about why he was being detained?

25 A He asked me no questions whatsoever.

1 Q Did that seem strange to you?

2 A Very strange.

3 MS. LEMCKE: Object.

4 THE COURT: Overruled. If there's no grounds
5 stated, it's overruled.

6 BY MR. BATEMAN:

7 Q What was his general demeanor?

8 A Very nonchalant, nonquestioning.

9 Q At some point do you continue to keep him there
10 pending other officers coming to that location?

11 A Yes, sir.

12 Q And who were you waiting for?

13 A Homicide unit.

14 Q Were any crime scene analysts coming in that
15 direction as well?

16 A Yes, sir.

17 Q And did you stay there until those individuals came?

18 A I believe I did, yes, sir.

19 MR. BATEMAN: May I approach the clerk briefly, Your
20 Honor?

21 THE COURT: Yes.

22 BY MR. BATEMAN:

23 Q The person you identified in court as the defendant,
24 does he look very similar to how he looked that night?

25 A He looks a little bit different, sir.

1 Q I'm going to show you what's in evidence as 59.

2 Does that appear how he looked that particular night?

3 A Yes, sir.

4 Q And then once homicide arrived and crime scene
5 arrived, did you turn his possession over to their attention?

6 A Yes, I did.

7 MR. BATEMAN: Court's indulgence.

8 BY MR. BATEMAN:

9 Q Were you able to identify the defendant at the time
10 by name?

11 A Yes, I did, I believe, sir.

12 Q How did you do that?

13 A I believe he had an ID on him.

14 Q Was that found on the bus?

15 A No, we found it on him.

16 MR. BATEMAN: I don't believe I have any additional
17 questions. Thank you.

18 THE COURT: Cross.

19 MR. SLIFE: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. SLIFE:

22 Q Sir, by all accounts it sounds like Mr. Pimentel
23 was compliant with you and the other officers at the scene of
24 the bus.

25 A Absolutely, yes, sir.

UNCERTIFIED ROUGH DRAFT

1 Q Okay. Polite even?

2 A Very.

3 Q And he didn't try to fight.

4 A No, sir.

5 Q I mean, he didn't try to run down the street.

6 A No, sir.

7 Q He was complaint with handcuffs being put on.

8 A Yes, sir.

9 Q I mean, you just said, he didn't say, he didn't kind
10 of say what's this all about.

11 A No. He asked no questions whatsoever.

12 Q He didn't say you have the wrong guy.

13 A Actually, he asked no questions whatsoever.

14 Q Did it seem to you like he kind of knew why he was
15 being put in handcuffs?

16 A I really don't know. I didn't question him about
17 that. He asked me no questions.

18 Q And when you put handcuffs on, I assume that he was
19 searched incident to arrest.

20 A He was probably [indiscernible] I believe, yes, sir.

21 Q Okay. I mean, you found his ID in his pocket.

22 A Yeah. But I believe he gave that up voluntarily,
23 though. I'm not quite sure on that, if that was found based
24 on a search or if he gave that up voluntarily.

25 Q Do you know, and if you don't it's okay, there was

1 obviously no gun found on his person.
2 A That's correct.
3 Q There were no nine millimeter ammunition found on
4 his person.
5 A Yes, sir.
6 Q No gun holster.
7 A Correct, sir.
8 Q No extra magazines for any type of weapon.
9 A Yes, sir.
10 Q Nothing gun related on him.
11 A No, sir.
12 Q And that would be the exact same for the bus.
13 A Yes, sir.
14 Q You personally did the search of the bus.
15 A Yes, sir.
16 Q And you were thorough in your search.
17 A Yes, sir.
18 Q And you looked at that bus from top to bottom.
19 A Yes, sir.
20 Q And no guns.
21 A No, sir.
22 Q No ammunition.
23 A No, sir.
24 Q No holster.
25 A No, sir.

UNCERTIFIED ROUGH DRAFT

1 Q No magazines.

2 A No, sir.

3 Q Nothing gun related.

4 A I did not find any.

5 MR. SLIFE: Thank you very much, sir. Nothing
6 further, Your Honor.

7 THE COURT: Any redirect?

8 MR. BATEMAN: No, Your Honor.

9 THE COURT: May this witness be excused?

10 MR. BATEMAN: Yes, Your Honor.

11 THE COURT: Thank you very much, sir, for your
12 testimony.

13 Approach on scheduling, please.

14 (Off-record bench conference.)

15 THE COURT: Ladies and gentlemen, we have one more
16 witness who's been waiting, so we're going to put that person
17 on and then we'll be taking our lunch recess. Call your next
18 witness.

19 MS. DIGIACOMO: Thank you, Your Honor. The State
20 calls Jeffrey Smink.

21 JEFFREY SMINK, STATE'S WITNESS, SWORN

22 THE CLERK: Please state and spell your first and
23 last name for the record.

24 THE WITNESS: Jeffrey Smink, J-e-f-f-r-e-y,
25 S-m-i-n-k.

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vi.

Respondent.

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