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Tracie K. Lindeman
Clerk of Supreme Court

BIDDLE - DIRECT

1 please.

2 MR. DASKAS: Marie Biddle.

3 THE CLERK: Please seat and state your full name and
4 spell your last name for the record.

5 THE WITNESS: Marie Biddle, B- as in boy -I-D-D-L-E.

6 DIRECT EXAMINATION

7 BY MR. DASKAS:

8 Q Mrs. Biddle, let me hand you what was introduced at
9 the last hearing --

10 A Mm-hmm.

11 Q -- as State's Exhibit 242 and tell me who is in that
12 photograph?

13 A That's Jeff and I on my birthday a couple of years
14 ago.

15 JUDGE SOBEL: Ma'am?

16 BY MR. DASKAS:

17 Q Jeff Biddle was your son?

18 A Yes.

19 JUDGE SOBEL: Ma'am, could you speak up just a
20 little?

21 THE WITNESS: Okay.

22 JUDGE SOBEL: Could you keep your voice up a little?
23 I know it's hard.

24 BY MR. DASKAS:

25 Q And you say Jeff Biddle was your son?

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BIDDLE - DIRECT

1 Q You described a little bit your relationship that
2 you had with your son, Jeff?

3 A Yes.

4 Q Tell me about the relationship that your husband had
5 with your son?

6 A Oh, he loved him. He just loved him so much. He
7 used to call him "my little blue jay" because Jeff had blue
8 eyes and he just loved him, and --

9 Q Your husband is not here for this proceeding, is he?

10 A No, he isn't here today.

11 Q Tell me about the affect that Jeff's death has had
12 on your husband?

13 A Well, when we first heard about it, we didn't even
14 know Jeff was dead. And we don't get our mail at the house
15 and Jeff was -- at the time Jeff was employed by Green Valley
16 as a security officer, and so the police had gone to the place
17 where we get our mail, and, of course, it was closed because
18 it was the weekend. They went to the security office and it
19 was closed because it was the weekend.

20 And my husband was getting ready to go on a trip to
21 Africa Saturday morning, and about 10:30, these two friends of
22 Jeff's came to the door and I looked through the peephole and
23 I thought, well, what are those girls doing here at this time
24 of the day? And so, I opened the door and hi, how are you and
25 they looked at each other and they said, you don't know, do

I-225

MOWEN - DIRECT

1 Q -- August 14th?

2 A No.

3 MR. DASKAS: Nothing else, Judge.

4 MR. FIGLER: Nothing, Your Honor.

5 JUDGE SOBEL: Thank you. Call your next witness,
6 please?

7 MR. DASKAS: David Mowen.

8 DAVID MOWEN, PLAINTIFF'S WITNESS, IS SWORN

9 THE CLERK: Please have a seat. State your name and
10 then spell your last name for the record?

11 THE WITNESS: David Mowen, M-O-W-E-N.

12 DIRECT EXAMINATION

13 BY MR. DASKAS:

14 Q Sir, you are Matthew Mowen's father?

15 A Yes, I am.

16 Q There's been some testimony up until this point that
17 your son, sometime before his death, was on tour with a rock
18 band, is that right?

19 A That's correct.

20 Q In fact, I think it was the band, Phish, is that
21 true?

22 A Yes.

23 Q Tell me, Mr. Mowen, what was it that caused Matt to
24 return to Las Vegas when he was here on August 14th, 1998, at
25 the time he died?

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1 thorough the search of this home was as you see each one of
2 the pictures that were admitted into evidence. And I will
3 tell you that there was in excess of a hundred photographs
4 admitted into evidence in this case.

5 You will learn that the verdicts are supported by
6 the defendant's own admissions. He admitted to at least four
7 lay witnesses that he, Donte Johnson, was the killer in this
8 case, that he, Donte Johnson, shot and killed this man because
9 he mouthed off and because he didn't like Mexicans, to use his
10 quote. You will learn that it is Donte Johnson's own
11 admissions, who says that after he killed this one, since he
12 killed one, he had to kill them all and so he killed the other
13 three so as not to leave any witnesses.

14 And you will learn that no masks were worn by the
15 defendant or his partners. You will learn that gloves,
16 however, were worn as they searched this house and you will
17 learn about the lack of fingerprints, but there will be one
18 fingerprint that will become key that identifies Donte Johnson
19 as well. You will learn that it is his admission that he's
20 the shooter.

21 You will learn that Donte Johnson is arrested some
22 four days later after this offense and he is arrested at a
23 residence not far from these boys' residence. And in Donte
24 Johnson's presence, in the residence in which he is arrested,
25 are the proceeds of this robbery, the proceeds, of course, the

I-11

1 also the saliva of a second donor was found on that cigarette
2 butt. The second donor is not identified because the primary
3 DNA was the DNA of Donte Johnson. So it is his fingerprints
4 and his DNA that put him at the crime scene, coupled with his
5 confessions to at least four lay witnesses who testified in
6 this case.

7 You will also learn that a very key piece of
8 evidence in this case was some blood that was found on the
9 back of a pair of black jeans. Each of the four lay witnesses
10 who testified -- and I overstated the evidence, I'm sorry,
11 three of the four lay witnesses who testified testified that
12 Donte Johnson wore black jeans the night that he went to this
13 residence and found at the residence that Donte Johnson was
14 staying at, the Everman residence, was a pair of black jeans.
15 The black jeans had eight human blood drops on the back left
16 lower leg of the jeans and that blood was tested and it was
17 learned that it was human blood. And not only was it learned
18 that it was human blood, but when it was tested through DNA it
19 was the blood of Tracey Gorringer. With absolute certainty,
20 the blood on the back of those pants was Tracey Gorringer's.

21 With the same certainty, absolute certainty, those
22 pants were identified as being Donte Johnson's, because it is
23 through DNA testing that Donte Johnson's identified with those
24 pants because there was some sperm or semen on the front of
25 those pants in the zipper area and you will see a photograph.

I-14

1 is that the murder was committed during a robbery or a
2 kidnapping or a burglary and clearly the evidence will show
3 you, as you look at, again, the photographs of each one of
4 these boys and you'll see, as you look at other photographs,
5 that each one of these boys has their wallet removed from
6 their person and their wallets are empty. Clearly, that
7 aggravator will be established and you too will learn that
8 these boys were robbed. You can see that they were kidnapped
9 as they were restrained with duct tape and you'll learn that
10 that was the motive in this case.

11 You will also learn that one of the aggravators is
12 that the defendant committed this robbery -- or, excuse me,
13 this killing to avoid lawful arrest or to facilitate escape
14 and it will be the defendant's own admissions that establish
15 that aggravator, because it is the defendant who says,
16 "Because I killed one, I had to kill them all." And you will
17 learn that at least Matthew Mowen knew the defendant, Donte
18 Johnson, and clearly had Matthew Mowen not been killed he
19 would have been able to identify the defendant, because it was
20 Matthew Mowen who had, days earlier, purchased rock cocaine
21 from Donte Johnson. There was a relationship that Donte
22 Johnson had with Matthew Mowen and Matthew Mowen, had he been
23 left to live, could have identified Donte Johnson. That is a
24 second aggravator, to avoid lawful arrest.

25 You will learn, and it will be no secret, that there

I-17

1 once again, in possession of a handgun on a school campus.
2 You will learn, ultimately, that he violated his probation
3 when he took that gun onto a school campus and he again is
4 punished and he's approximately 15 years old when he's
5 punished. And, again, that incident will be reflected in a
6 pre-sentence investigation report that we'll ask each of you
7 to read.

8 You will learn that at age 16, after being punished
9 twice by the California juvenile program, punishment program,
10 you will learn that he ultimately is involved in an armed bank
11 robbery of the Cen-Fed Bank, C-E-N - F-E-D Bank. It is a
12 federal bank in Marina del Rey, California. He is now 16
13 years old. And it is Donte Johnson and three other 16 year
14 olds who ultimately go into that Cen-Fed Bank at approximately
15 1:30 in the afternoon, in broad daylight, covering their faces
16 with bandannas and two of the four are armed with weapons.
17 One has a rifle or a shotgun and the other has a handgun.

18 And by our own admissions or our own -- well, it's
19 an admission, it is not Donte Johnson who's in possession of a
20 handgun. It is his partners. It is not the State's
21 contention that Donte Johnson had a handgun on this occasion,
22 but you will learn that Donte Johnson is one of two people who
23 ultimately jump over the teller bannister, if you will, and
24 order the teller to open her drawer, her desk drawer, and
25 Donte Johnson, as he jumps over the bannister, a gunman jumps

I-20

I-22

1 testified in the penalty phase of this case and you'll receive
 2 their testimony in transcription form. You will also receive
 3 a transcript of Robert Kaufman, who is the custodian of
 4 records, the individual that ultimately held Donte Johnson's
 5 California file and who came in this courtroom and provided to
 6 the judge or to the jury in this case, during the penalty
 7 phase, the two prior pre-sentence investigation reports that I
 8 spoke about.
 9 You'll learn that there was a pre-sentence
 10 investigation report associated with this armed robbery and
 11 that ultimately the defendant, at age 16, is incarcerated with
 12 the California Youth Authority for approximately 26 months.
 13 He is released and he is released to supervision, parole
 14 supervision, where he is to attend a school that is actually
 15 at the parole office. And it is Officer Clark or Agent Clark
 16 who is the supervisor of Donte Johnson.
 17 You will receive Officer Clark's transcribed
 18 testimony wherein he says, "For the first couple of months
 19 Donte Johnson did quite well on parole. He was under my
 20 supervision. Each and every day he reported to me. Each and
 21 every day I saw him at the school campus." And you will learn
 22 that Agent Clark actually was housed right there at the school
 23 campus so got to see Donte Johnson and got to attempt to
 24 reprogram, if you will, Donte Johnson's conduct.
 25 And you will learn that it is Donte Johnson who

I-24

1 to reach for a gun and brings the gun up from his waistband
2 and Derrick Simpson, who was an able individual at that point
3 in time, approximately 200 pounds, smacks Donte Johnson right
4 in the face and Donte Johnson drops the gun and Derrick
5 Simpson pushes the gun away from Donte Johnson.
6 Ultimately, this fight or this skirmish, this
7 exchange, altercation, is broke up by a security guard who
8 tells Derrick Simpson, "Just leave. I don't want any further
9 problems. You leave and get out of here." And so Derrick
10 Simpson, in fact, leaves and gets about two blocks away from
11 this skirmish or this altercation and it is Donte Johnson who
12 ultimately grabs that gun, grabs his car and drives down
13 Fremont Street in search of Derrick Simpson and finds Derrick
14 Simpson and approaches him and from close range shoots him
15 straight in the face, the bullet entering in not far from his
16 mouth. And you'll see his deformities as he attempts to speak
17 and you'll see that he speaks in a very odd or peculiar
18 fashion now, from the side of his face.
19 Ultimately, Derrick Simpson is shot once and he
20 falls straight to the ground and Donte Johnson stands over him
21 and shoots him again in the back and Donte Johnson believes
22 that he kills Derrick Simpson, but Derrick Simpson has lived
23 to tell his story. And, again, he'll be wheeled in here and
24 he'll tell you just who shot him and the ramifications, if you
25 will, of that particular incident. That is at age 20.

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1 suffocated him and that he forced him to eat rock cocaine,
2 that after Donte Johnson killed Darnell Johnson -- and Darnell
3 Johnson, I should tell you, was also referred to as Snoop,
4 S-N-O-O-P, it is Donte Johnson, by his own admissions, who
5 wraps up Darnell Johnson's body in a white sheet and places
6 Darnell Johnson in the trunk of a car. And you will hear
7 testimony that it is Donte Johnson who gets Terrell Young to
8 drive out with Donte Johnson to discard the body of Darnell
9 Johnson up here by the speedway off of I-15 north of town
10 here.
11 You will learn how that body is discovered wrapped
12 in a sheet and that the trunk of Snoop's car -- the lock is
13 punched out. That's the very trunk that Darnell Johnson was
14 placed into. He was placed in his own car in that sheet, now
15 dead, and drove out to the speedway where his body was found.
16 You will hear from a detective, Detective Chandler,
17 who will testify that Darnell Johnson had a very high level of
18 cocaine in his system, consistent with Donte Johnson's
19 confession of making Snoop or making Darnell Johnson eat the
20 rock cocaine before he killed him.
21 MR. FIGLER: Your Honor, I'm gonna object to that.
22 I understand this is argument at this point, but that doesn't
23 reflect, in any regard, the evidence.
24 JUDGE SOBEL: Well, we'll hear it.
25 MR. FIGLER: Thank you.

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1 you will learn that one of the kids that ran out of the back
2 door of the Longhorn Casino actually had a bullet go through
3 his shirt, in and out, without striking his body. You will
4 learn that that young man did not want us to prosecute Donte
5 Johnson. He refused the prosecution.
6 And you will also learn that in the killing of
7 Darnell Johnson a case has been submitted to the District
8 Attorney's Office, but the case has not been approved.
9 You will learn that Donte Johnson knew that he was
10 wanted, at least the police wanted to talk to him about the
11 killing of Snoop, and they also wanted to talk to him about
12 the shooting of "Prophet" or Derrick Simpson. Donte Johnson
13 knew he was wanted and his answer, in trying to avoid the
14 police, was to get some money and get out of town. And it is
15 his own girlfriend who said, who will tell you, that Donte
16 Johnson wanted to get some money and his answer to getting
17 money was to go over to Terra Linda to rob these boys so that
18 he could get money and avoid prosecution or arrest in these
19 two earlier events.
20 In total, this panel will hear that Donte Johnson's
21 actions were not an aberration, but rather a culmination of
22 his criminal career, that he has shown total disregard to the
23 human lives of Derrick Simpson and Darnell Johnson and the
24 four boys in this case, that he is the sole shooter, the
25 person responsible for lodging a bullet in each one of these

I-30

1 robbery, that the fact that it was a drug robbery is of no
2 moment under Nevada state law, which is an accurate
3 assessment.
4 The state had the option of charging John White
5 solely with being the shooter in this case, with premeditated,
6 deliberate malice, to establish that first degree verdict, but
7 instead chose not to. Thus, we can never be certain that the
8 state proved to that jury the jury verdict that you're guided
9 by in this proceeding, that John White was indeed the shooter
10 in this particular case. That was not established beyond a
11 reasonable doubt. There were no special verdicts.
12 MR. GUYMON: Judge, I'm gonna object if he's gonna
13 talk about residual doubt. I think it's appropriate to talk
14 about what the evidence was in the guilt phase, but to suggest
15 in any way that the jury believed would be improper.
16 MR. SCISCENTO: Your Honor, I think --
17 JUDGE SOBEL: Well, I don't think that he's arguing
18 residual doubt. I don't think what he's saying is improper,
19 but you don't have a jury here. You got a bunch of lawyers
20 who are now judges.
21 Let him go ahead with his argument. It's overruled.
22 MR. FIGLER: Your Honor, I think that there might be
23 a problem right now with the Court Recorder with regard to the
24 air that came on and perhaps we could rectify that.
25 JUDGE SOBEL: Can you hear?

I-32

1 in the lowest economic strata in our country, having
2 experienced day-to-day horrors throughout his formative years
3 that we cannot imagine, but horrors which were commonplace to
4 him, and this hearing today where the state, the government,
5 asks for your signatures to kill, this hearing is conducted in
6 the name of justice, in front of judges, not a jury.
7 over the course of the next few days there will be
8 uncontroverted evidence that four individuals were bound and
9 killed and, while vilification is not my goal, I must say that
10 the nature of this crime distinguishes it and you will learn
11 that it is distinguished from cases where the death penalty
12 has been otherwise considered. This is not a case where
13 victims were random citizens shopping in a supermarket,
14 walking down the street only to be intentionally run down by a
15 car. This is not a case of a taxi cab driver or a single mom
16 bartender being killed at work.
17 MR. DASKAS: Judge, I apologize. This is his
18 opportunity to talk about what the evidence will show in this
19 hearing.
20 MR. FIGLER: And the evidence will show that.
21 JUDGE SOBEL: The evidence will show the Zane Floyd
22 case and other murders, David?
23 MR. FIGLER: Your Honor, we intend to introduce
24 everything under mitigation that we're allowed to present
25 under the law of mitigation.

I-34

1 and I think that's well taken.
2 MR. FIGLER: Thank you, Your Honor. If I may
3 continue.
4 This is not a case of a confession to the specific
5 acts alleged. What is continually bandied about by the State
6 as a confession or admissions were not so phrased in front of
7 the jury. These are statements that were allegedly made to
8 individuals, not the police, not recorded, but people knee
9 deep -- neck deep over their heads with their involvement in
10 this particular case, people who had a motive to fabricate,
11 people who gave inconsistent statements with regard to these
12 alleged confessions. So to call them confessions is probably
13 the same hyperbole that John White often engages in when he's
14 dealing with individuals.
15 And I stated that I have no intention whatsoever to
16 vilify the individuals who were killed in this case, but the
17 victims in this case, to call them victims, is somewhat of an
18 overstatement with regard to those other types of situations,
19 because in this case these individuals were, in fact, as the
20 State conceded, drug users. What the State didn't indicate to
21 you is that they were also drug sellers, that they were also
22 involved in drug manufacturing and that they also toted guns
23 with them and the evidence will show all of that.
24 None of this made them deserve to die, and I want to
25 make that point very clear, but none of this makes John White

I-36

1 come forth, if not through specific direct evidence, which we
2 hope it will, through inference and through the common sense
3 which each of you, as judges, have in your own experiences,
4 that we be allowed to tap into that not only during the
5 opening statement, not only during the presentation of evidence
6 and also at the closing argument --
7 JUDGE SOBELL: And, David, to the extent you have a
8 little more latitude, this isn't a trial and there are no
9 procedures that are set forth either in the statute or by the
10 Nevada Supreme Court, fine, but I don't think this should be
11 straight argument.
12 MR. FIGLER: Let me ask you this, Your Honor. Mercy
13 is something that this three-judge panel can consider,
14 correct?
15 JUDGE SOBELL: That's what anybody can consider in a
16 death case.
17 MR. FIGLER: And the same thing with forgiveness and
18 compassion, ideals that might --
19 JUDGE SOBELL: But you're talking now about how the
20 victims in the audience feel about you, David. That has
21 nothing to do with it whatsoever.
22 MR. FIGLER: Well, I think it does, Your Honor,
23 because --
24 JUDGE SOBELL: Move on to another area. I don't
25 agree with you.

I-38

1 present the other two to four individuals.
2 And these are names, Your Honors, that you will hear
3 repeatedly during this penalty phase, Tod Armstrong and Ace
4 Hart, Bryan Johnson, who you will probably see, it was
5 promised to you that you would be presented, but you're not
6 gonna see Ace Hart and you're not gonna see Tod Armstrong. I
7 note just per chance that these individuals don't fit in with
8 the nice three pictures that were shown to you by the State.
9 They happen to be of a different race.
10 And these five to seven people were involved in this
11 crime, but I assure you that only one of these individuals is
12 now eligible for this consideration, that no one else can, at
13 this point, be considered again for the death penalty. Some
14 haven't even been charged. The others cannot receive the
15 death penalty at this point.
16 You'll hear evidence, Your Honors, during the course
17 of this penalty hearing, that the person who is standing to my
18 left here, John White, was never allowed to become a man, a
19 man as we understand it and as we know it, that he was raised
20 in South Central Los Angeles, experiencing those day-to-day
21 horrors, and that somehow, despite the adversities, the
22 adversities of being abandoned by his father, the adversity of
23 a mother who was involved in heavy drug usage and who also had
24 problems dealing with her ability to raise children, who was
25 abandoned and left in a shed with six or seven of his other

I-40

1 incarcerated and when confronted with authority, police
2 officers, police personnel, jail personnel, that John White is
3 not a combative person, that John White is not a violent
4 person, that John White is not a person that causes fear or
5 consternation in any of these individuals.
6 You will probably hear that Terrell Young, another
7 individual shown to you, is just the opposite; that Terrell
8 Young pulled a gun on a police officer when John White was
9 cooperating with that police officer, that when John White was
10 asked to do anything by police officers during the course of
11 this investigation that he was not combative, that he was
12 cooperative, that while he has received write-ups while in the
13 county facility for the last two years for having too much
14 Kool-Aid, for having more laundry than he's supposed to,
15 sharing a suit with another inmate, that he hasn't had one act
16 of violence, that he has never struck or touched any
17 individual while in there.
18 Sikta Smith, a completely different story. During
19 the course of John White's trial he is handcuffed with --
20 John, come here for a second, please.
21 MR. SCISCENTO: Judge, he wants to have him walk in
22 the well of the court.
23 JUDGE SOBEL: I don't care.
24 MR. FIGLER: And I do note that Bailiff Sewell has
25 not been present during a lot of the proceedings with John

I-42

1 without a male role model, without a mother or anyone that
2 could guide him, only the street culture, and as a product of
3 that street culture John White made decisions that we hope
4 that no one should ever make and for those decisions John
5 White will be punished.
6 And there are options. The State will present
7 evidence of its aggravators and we will present evidence of
8 substantial mitigating evidence in this particular case. And
9 then the State will present to you bad character evidence,
10 character evidence that does not rely upon any specific
11 proofs. As the State has conceded, it is uncharged, pending.
12 It's been pending for over two years. If there was a charge
13 to be made, it would have been made. If there was a case to
14 be made against John White, it would have been made, but that
15 hasn't happened, that John White's involvement, as portrayed
16 by the State, comes from his alleged admissions and
17 confessions, but you have to consider the source of it and you
18 have to consider the translator of it, because then, and only
19 then, can you fairly assess this type of character evidence.
20 And as I stated before, with regard to this
21 particular offense, there was no determination made beyond a
22 reasonable doubt by the jury, when the jury spoke, with regard
23 to the shooter. In fact, I'm sure there was just the
24 contrary, but under the laws of Nevada --
25 MR. GUYMON: Your Honor, I'm gonna object.

I-44

1 about you so that I could present that type of evidence, know
2 about your backgrounds, your experiences, your core beliefs
3 and values, to present that information to you, but I can't.
4 This process doesn't allow that.
5 So when we do present our evidence and when we do
6 question the state's evidence, I hope that the entire time you
7 will be thinking about the type of process that this is, how
8 it ultimately affects individuals and how the ultimate
9 punishment of death is really something that we, as humanity,
10 should not be tinkering with anyway, but since it is charged
11 in the state of Nevada we have to. Ultimately, there is
12 Nevada law that says that you never have to return the verdict
13 of death in any case and we'd ask you to apply that maxim more
14 so than any other in this particular case and ultimately
15 return the most appropriate verdict for this particular case
16 and, if you think that there's more than one appropriate
17 verdict, to certainly go with the verdict that doesn't put a
18 man to death, that doesn't extinguish the life of a young man
19 and that would be a life sentence.
20 Thank you.
21 JUDGE SOBEL: Thank you.
22 We'll never get through the morning without one
23 break. Why don't we take a break now while you get the
24 detective and we'll come back about a quarter of 11:00.
25 MR. GUYMON: Thank you, Judge.

1 Law enforcement work?

2 A Probably about 18 years.

3 Q Can you tell me briefly if you're familiar with the

4 quadruple homicide that happened in Terra Linda -- at the

5 Terra Linda residence and why it is you're familiar?

6 A On August 14th of 1998 I was contacted by my

7 sergeant, Ken Heiner, and told to respond to 4825 Terra Linda.

8 I did and upon my arrival I met with Sergeant Heiner and my

9 partner, Detective Tom Thowen. It was determined that

10 Detective Tom Thowen would handle the crime scene

11 investigation and that I would handle the witnesses,

12 interviews of the witnesses and, if any suspects were

13 developed, I would interview them also.

14 Q Is that what happened in this particular case then?

15 A Yes, it was.

16 Q So Detective Thowen was your partner and the two of

17 you worked together on this particular investigation?

18 A That's correct.

19 Q And your sergeant would be Sergeant Heiner?

20 A Yes.

21 Q Now are you familiar with this particular

22 investigation?

23 A Yes, I am, very much so.

24 Q All right. Are you also familiar with the evidence

25 that was admitted during the case against Donce Johnson in

BUCZEK - DIRECT

1 was upended, things of that nature. There were papers all
2 over. There was some coins laying on the floor of the dining
3 room. However, throughout our entire search of the residence,
4 we were unable to locate any paper currency.
5 The wallets were near the boys. I believe two of
6 the boys had their wallets actually chained to them, but the
7 wallets were emptied and the contents were strewn about on the
8 floor.
9 There was -- It was quite a bloody scene. There
10 were a couple -- There were two puppies in the residence and
11 they trampled through the blood and there were bloody paw
12 prints throughout the entire scene.
13 A few days later we were able to -- we spoke to some
14 witnesses, that would be Tod Armstrong, Bryan Johnson and Ace
15 Hart, and through those witnesses we were able to develop two
16 suspects, one being the defendant, Donte Johnson, and another
17 being an individual by the name of Red. Later we were able to
18 identify who Red was and, by luck, Red was walking by the
19 front of our office and Sergeant Heiner spotted him and we
20 took him into custody.
21 We also, through speaking to Red, we were able to
22 identify a third suspect and his name was Stikis Smith. He was
23 later arrested.
24 Q Was the deadly weapon or the murder weapon in this
25 case ever found through your investigation?

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1 BY MR. GUYMON:

2 Q I want to show you, Detective Buczek, Exhibits 8

3 through 97. They have all previously been admitted. Are

4 those the photographs or some of the photographs that you

5 viewed last Thursday in relationship to this particular case

6 in preparation of your testimony?

7 A Just quickly scanning them, yes, they are.

8 Q All right. And, in short, are these all photographs

9 of the Terra Linda residence, that is, the actual murder

10 scene?

11 A Yes.

12 Q All right.

13 MR. GUYMON: Judge, may I provide them to the Court

14 for the judges?

15 JUDGE SOBEL: Sure.

16 MR. GUYMON: Thank you.

17 BY MR. GUYMON:

18 Q Now, then, you previously mentioned, just for

19 foundation, the three individuals that were arrested in this

20 case, is that correct?

21 A That's correct.

22 Q I'm showing you what has previously been marked as

23 181. Are you familiar with this particular exhibit and does

24 it depict the three individuals that you indicated were

25 arrested as suspects in this case?

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1 mushrooms that were located. One was in the dining area,

2 dining room area, and I believe there was a few that were

3 located in one of the bedrooms.

4 Q Okay. And are all of those items of evidence

5 depicted in the actual photographs that I've shown you, that

6 being 8 through 97?

7 A Yes.

8 Q All right. Now let me ask you, you mentioned the

9 actual removal -- or missing VCR and Playstation.

10 A Yes.

11 Q That's reflected in photographs, is that correct, 54

12 through 59?

13 A I believe those would be the numbers.

14 Q All right. Did you observe the outside of the

15 residence at Terra Linda?

16 A Yes, I did.

17 Q Okay. And that would be depicted in the early

18 photographs, 8 through 20?

19 A Yes.

20 Q Let me ask you, did you note if there was any forced

21 entry to the residence there at Terra Linda?

22 A There was no forced entry.

23 Q And was that significant to you as a detective

24 investigating this case?

25 A Somewhat, yes.

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1 Q Okay. And what were the white pills, if you know?
2 A I believe they were Percocets.
3 Q Okay. So there were three forms of controlled
4 substances there at the Terra Linda residence?

5 A Yes, sir.
6 Q Okay. Now can you tell the judges, just based on
7 being there, and we'll ultimately get to the testimony, from
8 being at the scene were you aware of the fact that there were
9 crime scene analysts that arrived that night to begin to
10 process the scene?

11 A Yes.
12 Q And was there or was there not fingerprint

13 processing that was involved in this particular case?
14 A Yes, there was.

15 Q If you know, were there any fingerprints that were
16 found at the Terra Linda scene that became significant in this
17 investigation?

18 A Yes. There was a cigar box, empty cigar box, that
19 was laying next to one of the victims and it had -- it was

20 Black & Mild cigars. It was -- There was a fingerprint
21 developed on there by Crime Scene Analyst Bradley Grover and
22 it was then identified by Ed Guenther as being a fingerprint
23 of Ponte Johnson.

24 Q And is the cigar -- cigarette box, that being a
25 Black & Mild, reflected in 96 and 97?

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1 that statement?

2 A 4815 Everman.

3 Q And did you ever go over to 4815 Everman?

4 A Yes, I did.

5 Q And observe that particular scene?

6 A Yes, I did.

7 Q All right. I'm showing you what has been marked as

8 Exhibits 98 through 112. Did you also view those photographs

9 on Thursday in anticipation of your testimony?

10 A Yes.

11 Q All right. And do those photographs, they've all

12 been admitted, do they thoroughly and accurately reflect your

13 observations of the Everman residence?

14 A Some of my observations, yes.

15 Q Okay. Can you tell the judges in short, before we

16 get to the actual testimony, what was significant about the

17 Everman residence?

18 A Tod Armstrong said that he lived at the Everman

19 address. It was owned by his mother. His mother, at that

20 point, was living in Hawaii. Tod used to -- Tod had a

21 roommate there by the name of Ace Hart, who lived with him

22 until August of 1998, and also Bryan Johnson lived with him at

23 that residence until June of 1998. Ace Hart had met Donce

24 Johnson, Red, who is Terrell Young, and Charla Severs and

25 requested that Tod Armstrong allow them to stay at his house.

1 investigation, that Tod Armstrong was the, for lack of a
2 better word, the supervisor of the house in light of the fact
3 that it was his mother that owned it but did not live there?
4 A That's correct.
5 Q All right. And were there particular items of
6 evidence impounded from the Everman residence that were
7 significant in this particular investigation?
8 A Yes, there was. There was an RCA VCR, there was a
9 bag containing a .22 rifle, some brown hand gloves, they're
10 referred to as "brownies," some duct tape that was with the
11 bag. There was also two keys buried in the backyard that went
12 to the Thunderbird Motel and there was also a blue pager that
13 was also buried in the backyard. There was a pair of black
14 pants that had what appeared to be some blood on one of the
15 black -- on the back of the leg.
16 Q And you mentioned, for starters, in the significant
17 evidence, that there was a VCR. Exhibits 54 through 57 that
18 you previously saw on Thursday show the murder scene with a
19 console there missing a VCR and Playstation, is that correct?
20 A Yes, sir.
21 MR. GUYMON: If I could present those to the judges.
22 BY MR. GUYMON:
23 Q And that is the Terra Linda residence or the murder
24 scene, correct?
25 A That is correct.

1 reflected in 104? 2 A Yes, it is. 3 MR. GUYMON: I'd like to provide those to the 4 judges. 5 JUDGE SOBEL: Sure. 6 BY MR. GUYMON: 7 Q And you also mentioned a pair of black jeans that 8 were found in the master bedroom of Donte -- where Donte 9 Johnson was located, is that correct? 10 A Yes, sir. 11 Q And I'm showing you what is marked as 105 through 12 107. Are the jeans reflected in those photographs and can 13 you, in fact, see blood on those jeans? 14 A Yes, you can. 15 MR. GUYMON: And provide those to the judges. 16 BY MR. GUYMON: 17 Q Now you mentioned a pager and some keys to the 18 Thunderbird Hotel found buried in the backyard of Everman, is 19 that correct? 20 A Yes, sir. 21 Q I'm showing you what is 108 through 112. Does that 22 reflect the discovery, if you will, of the pager and the keys 23 there at Everman where Donte Johnson was located? 24 A Yes, sir, it does. 25 Q Now, tell me, was the pager significant and why?

1 A I spoke to David Mowen on October 23rd of 1998.
2 David Mowen provided me with a remote control for the VCR that
3 he had given to his son. It was an RCA remote control. We
4 went with the prosecutors on April 20th of 1999 to view the
5 evidence that was at the evidence vault, the evidence to this
6 -- of this crime and we took the VCR and I put some new
7 batteries in the remote control and tried it and the remote
8 control operated the VCR with no problems.
9 Q And on Thursday, and I don't mean to turn my back to
10 the judges, on Thursday did you, in fact, also view the VCR
11 and the remote control that was involved in this particular
12 case?
13 A Yes, I did.
14 Q Admitted into evidence as State's Exhibit 169, as
15 well as 153, is it, in fact, the VCR and remote control that
16 was admitted in this case?
17 A Yes, it is.
18 Q And they're both VCR -- excuse me, RCA in nature?
19 A Yes, they are.
20 Q And this remote control, 169, operated the VCR, 153?
21 A Yes, it did.
22 Q Now was there any additional evidence that was
23 associated with the VCR, that being specifically a palm print
24 or fingerprint?
25 A Yes. There was a palm print that was located

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1 projectiles that were removed from their skulls?
2 A Yes, they do.
3 MR. GUYMON: If I could present that to the Court as
4 well, Your Honor?
5 JUDGE SOBEL: Sure. Don't bother to ask, Gary.
6 Just go ahead.
7 MR. GUYMON: Thank you.
8 BY MR. GUYMON:
9 Q You indicated that upon arriving at the Terra Linda
10 residence you saw wallets removed from the decedents' bodies
11 and each one of those wallets were empty?
12 A That's correct.
13 Q Some of the wallets, however, remained with the
14 decedents when they were taken to the Coroner's Office?
15 A Yes.
16 Q Okay. And do you know why that is?
17 A My understanding is they were attached by chains to
18 the -- to their clothing.
19 Q Okay. And before I get to each individual's
20 testimony, let me also ask you about other evidence found at
21 the Terra Linda residence. Are you familiar with the crime
22 scene analysts preserving or locating and impounding cigarette
23 butts from the residence?
24 A Yes, I am.
25 Q And, in total, how many cigarette butts were

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1 A Yes, they are.

2 Q And you indicated they were all fired by the same

3 weapon?

4 A That's correct.

5 Q And in your investigation, and in reading the trial

6 transcript, did you learn ultimately what happens to this .380

7 semi-automatic that would have left those cartridge cases?

8 A Yes. Sikia Smith's girlfriend, Lashawnya Wright,

9 testified that approximately -- that she, immediately after

10 the murders, the gun appeared in her apartment where she was

11 staying over on Fremont Street with Mr. Smith and that

12 approximately one to two days later Sikia Smith sold the

13 handgun.

14 Q And let me ask you, if you can, in your

15 investigation did you learn what relationship, if any, that

16 these three individuals, that being Donté Johnson, Terrell

17 Young and Sikia Smith, had with each other?

18 A My understanding is that Donté Johnson and Sikia

19 Smith grew up in the same area of L.A. and that they later met

20 up with Terrell Young here in Las Vegas.

21 Q And can you tell the judges, before we get to the

22 actual testimony of each of those 18 witnesses, what

23 relationship, if any, the four decedents had to one another?

24 A Jeffrey Biddle, Tracey Goringe and Matthew Mowen

25 all lived together at 4825 Terra Linda and Mr. Talamantez,

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1 JUDGE SOBEL: Okay, if you'd summarize it as quickly
2 as possible, we'll overrule the objection. Judge Griffin's
3 already indicated he's going to be reading the transcript.
4 The whole transcript's in my office. If you'd just move
5 through it as quickly as possible and give the flavor of the
6 guilt phase, they'll have the opportunity to supplement that.
7 MR. FIELER: All right, thank you.
8 BY MR. GUYMON:
9 Q Are you familiar with the testimony of Justin
10 Perkins?
11 A Yes, I am.
12 Q If you could summarize for the judges who Justin
13 Perkins is and what his involvement in the case was.
14 A Justin Perkins is a friend of the individuals that
15 lived over at the Terra Linda address. He was over at the
16 Terra Linda address the night before at approximately 8:00
17 o'clock. As he was leaving, the boys that lived there said
18 that they were gonna be cleaning the place up and there was
19 just a couple of beer cans laying around.
20 On August 14th, at 6:00 o'clock, Justin Perkins
21 again went over to the house to pay a beer debt of twenty
22 dollars (\$20), I believe to Matt Mowen, and upon his arrival
23 he saw that the front gate was a bit open and that the front
24 door was slightly ajar and he thought it was quite odd seeing
25 that. He knew that the boys had the two puppies and thought

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1 Q You indicated that Nick Delucia was the person who

2 lived next door and called the police.

3 A That's right.

4 Q Did Nick Delucia testify to making any observations
5 the night before, that is, perhaps the night of the murder?

6 A Yes, he did. He said he was first awoken -- he

7 works graveyard shift between the hours of 2:00 and 10:30 in
8 the morning, and he was awoken by some -- by the dogs barking
9 at approximately 12:30. He said at 1:30, as he was leaving,

10 as he was driving away, he looked over and he saw that -- and
11 this is 1:30 in the morning, he saw one of the boys over there
12 with a hose watering the lawn and that there was another one
13 of the boys that was standing over on the driveway area in

14 front of the house.

15 Q Was Nick Delucia's observations of a boy out

16 watering the lawn significant based upon your investigation
17 and in talking to all the witnesses?

18 A Yes, it was.

19 Q And why?

20 A Some of the witnesses --

21 MR. FIGLER: Your Honor, and this is kind of what we
22 didn't want to get into, is this witness' opinion of trial

23 testimony being significant or not significant. I think

24 that's beyond the purview.

25 JUDGE SOBEL: I think that's inappropriate,

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1 bedrooms were also ransacked.
2 Q The next was Tod Armstrong. Are you familiar with
3 Tod Armstrong?
4 A Yes, I am.
5 Q Before we get into Tod Armstrong's testimony, is Tod
6 Armstrong or has he been a suspect in this case?
7 A Tod Armstrong is a suspect in this case.
8 Q Okay. Let's talk about who Tod Armstrong is and
9 then ultimately why he's a suspect. You've indicated that Tod
10 Armstrong lived at the Everman residence.
11 A That's correct.
12 Q Can you summarize Tod Armstrong's testimony as it
13 was given in this courtroom?
14 A Tod Armstrong said that he met Donte Johnson through
15 Ace Hart, along with Charla Severs and Terrell Young, and that
16 eventually they moved into the house. Donte feared them and
17 at times tried to get -- or correction, excuse me, Tod feared
18 them and at times tried to get them out of the house. They
19 would just kind of come and go at times. They would -- They
20 didn't have a key to the residence. They would either knock
21 on the door, I believe it was a side door, and they would --
22 he would allow them in or they would climb in through a broken
23 bathroom window that is attached to the master bedroom, I
24 believe.
25 And he said that on August -- or, I'm sorry,

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1	A	He is white.
2	Q	And Tod Armstrong what race?
3	A	White.
4	Q	Are you also familiar with Bryan Johnson?
5	A	Yes, I am.
6	Q	And what race is Bryan?
7	A	White.
8	Q	Now did Tod Armstrong testify to Ace Hart and Bryan
9		Johnson being roommates of Tod Armstrong at some point in time
10		prior to Donte Johnson and Charla Severs and Terrell Young
11		moving in --
12	A	Yes.
13	Q	-- and staying at the residence?
14	A	Yes.
15	Q	And so the judges understand, what is the
16		relationship between Charla Severs and Donte Johnson?
17	A	They are boyfriend/girlfriend.
18	Q	All right. And can you describe for the judges,
19		based on your investigation and the testimony of Tod
20		Armstrong, what is the relationship between Tod Armstrong, Ace
21		Hart and Bryan Johnson?
22	A	I believe -- I'm sorry, I'm not quite understanding
23		your question.
24	Q	Well, did Tod Armstrong, Ace Hart and Bryan Johnson
25		have any particular relationship with each other?

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1 particular brand of cigarette or cigars that Donte Johnson
2 smoked, is that correct?

3 A Yes. He said they smoked Black & Mild cigars.

4 Q And can you tell me what, if anything, Donte -- or

5 Tod Armstrong said about the VCR and the Playstation that was
6 depicted in the photographs of the Everman residence?

7 A Yes. He said after Donte and Red returned back to -
8 - back to the Everman address that they had two bags, one
9 which was containing the guns and the other one Red took out a

10 Playstation and a VCR out of.

11 Q Can you summarize what admissions, if any, that

12 Donte Johnson made to Tod Armstrong about Donte Johnson's

13 involvement in this particular homicide?

14 MR. FIGLER: Your Honor, at this time, based on the
15 testimony of this witness and the establishment of Tod

16 Armstrong as a suspect in this case currently, that any other
17 alleged confessions or admissions or statements that John

18 White made to Tod Armstrong be viewed by this tribunal as

19 accomplice testimony, that Tod Armstrong's testimony be viewed
20 as accomplice testimony.

21 JUDGE SOBEL: Well, accomplice testimony would go to
22 the corroboration needed for a conviction.

23 MR. FIGLER: As well as the weight.

24 JUDGE SOBEL: I understand your point that it goes

25 to how it should be viewed, but go ahead and we'll just hear

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1 that is speaking to Tod Armstrong at that time?
2 A Donte Johnson was.
3 Q And are there some particular quotes that come from
4 the trial transcripts of each of the lay witnesses that you
5 have previously reviewed before coming to court today?
6 A Yes, there are.
7 Q You reviewed this quote board prior to testifying
8 today and are the quotes accurately contained in the
9 transcript?
10 A Yes, they are.
11 MR. FIGLER: Can we see it first?
12 (Pause in the proceedings)
13 BY MR. GUYMON:
14 Q I'm showing you what has been marked now as 260.
15 Does this board accurately reflect the quotes that each of the
16 lay witnesses received from Donte Johnson?
17 A Yes, it does.
18 Q All right. And they're contained in the trial
19 transcript?
20 A That's correct.
21 Q Quoting Tod Armstrong, can you read for us the four
22 quotes that Tod Armstrong --
23 JUDGE SOBEL: We can read these ourselves.
24 What is your objection, Dayvid?
25 MR. FIGLER: Well, first of all, I was gonna ask if

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1 A Donte Johnson.
2 Q Did he identify Donte Johnson as the shooter of more
3 than one of the boys?
4 A Yes.
5 Q And how many of the boys did he identify Donte
6 Johnson had killed?
7 A All four.
8 Q All right. Was Tod Armstrong able to give you any
9 insight into the VCR and the Playstation that was found at the
10 house?
11 A Yes. He said they were not at the house prior to
12 August 14th.
13 Q And the black jeans that were found in the Everman
14 master bedroom where Donte Johnson was staying, who did Tod
15 Armstrong identify those pants as belonging to?
16 A He identified those as belonging to Donte Johnson.
17 Q Did he identify any of the weapons as belonging to
18 anyone in this case?
19 A As to Donte Johnson and Red.
20 Q Okay. And the keys, the Thunderbird keys, or the
21 pager, did he testify to anything associated with those items?
22 A I believe he saw the pager on the counter in the
23 master bedroom, the blue pager.
24 Q Okay. Did he indicate whether or not that pager
25 belonged to him?

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1 testimony in this case?

2 A Lashawna Wright said that Donté Johnson and Terrell
3 Young went over to their apartment at the Fremont Plaza and --
4 on the day of August 13th, that they had a bag that was
5 containing some guns, some gloves and she said that they then
6 -- that Terrell Young and Donté Johnson left, however, later
7 returned and were talking to Sikia Smith about doing a robbery
8 and at approximately 11:00 o'clock Donté Johnson, Terrell
9 Young and Sikia Smith left the residence or left the
10 apartment.

11 Q Did she indicate or testify what color clothing
12 Donté Johnson was wearing the night that he left with Sikia
13 Smith and Terrell Young?

14 A She said he was dressed in black.
15 Q Okay. How about Tod Armstrong, did he testify to
16 what color pants Donté Johnson was wearing on the night in
17 question?

18 A Black.
19 Q All right. Now when did Charla -- or, excuse me,
20 Lashawna Wright testify that she next saw her boyfriend,
21 Sikia Smith?

22 A She said that she next saw him approximately 1:00
23 o'clock in the afternoon on August 14th. He had returned back
24 to the apartment with Donté Johnson and Terrell Young. He was
25 carrying a VCR and a playstation.

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1 seeing the paper on August 15th, the day after these

2 homicides, is that correct?

3 A That is correct.

4 Q Were you familiar with this story coming out in the

5 Review-Journal on August 15th?

6 A Yes, I was.

7 Q And that is State's Exhibit 184. Does it accurately

8 reflect the front page of the newspaper as it was seen, having

9 taken out the actual story words?

10 A Yes.

11 Q All right. Now what did Lashawnya Wright say about

12 Donte Johnson and the newspaper that day on the 15th?

13 A He said to -- He showed it to Sikia Smith and said,

14 "We made the front page," and she described them as being

15 thrilled and excited.

16 Q And can you tell me if anyone was -- Well, were

17 there any named suspects as of August 15th, 1998?

18 A No.

19 Q Were there any suspects named in that particular

20 article?

21 A No, there were not.

22 Q All right. Let me turn next to Charla Severs.

23 You've indicated that Charla -- Well, if I could, before I

24 leave Lashawnya Wright, did Lashawnya Wright testify to

25 receiving any promises in this particular case?

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1 rifle, a .22 rifle and a revolver and also the gloves and the
 2 duct tape.
 3 Q Okay. So did she testify as to whether or not she
 4 was familiar with Matthew Mowen and, if so, how she was aware
 5 of Matthew Mowen?
 6 A Yes. She said that Matthew Mowen had come over and
 7 she said it was, I believe, around the 10th or 11th, somewhere
 8 in that time period.
 9 Q Of what month?
 10 A Of August.
 11 Q Okay.
 12 A And that they were having a conversation about -- He
 13 was actually over there to buy some drugs, Matt Mowen was, and
 14 they were talking about his tour with the Phish.
 15 Q Now when Donte Johnson returned, what did she say
 16 about what Donte Johnson had admitted or told her?
 17 A He told her that he had killed someone. He said
 18 that he needed to go to sleep, you go to sleep after you kill
 19 somebody.
 20 Q Did he tell her why he had killed the first person?
 21 A Yes. He said he was -- he was a Mexican and he was
 22 talking mess.
 23 Q And there are some particular quotes on Exhibit 245
 24 associated with Charla Severs. Do those quotes come from the
 25 actual transcript itself?

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1 that she knew nothing about this?
2 A Yes.
3 Q Okay. Are you aware of the fact that Charla Severs,
4 in fact, wrote letters to Channel 8 News and to the District
5 Attorney's Office saying that Belo Duce did it or that she, in
6 fact, was the killer?
7 A Yes, I'm aware of that.
8 Q Are you aware of the fact that she ultimately left
9 to New York and she was brought back here as a material
10 witness?
11 A Yes.
12 Q Okay. And you're aware of what she testified to?
13 A That is correct.
14 Q Okay. And Bryan Johnson, you indicated, was a
15 friend of Tod Armstrong and Bryan Johnson testified in this
16 case?
17 A That's correct.
18 Q Can you summarize for us Bryan Johnson's familiarity
19 with the facts in this case or what he testified to?
20 A Bryan Johnson said that on August 15th he went over
21 to Tod Armstrong's house and that he had -- was going over
22 there to meet with Ace Hart and Tod Armstrong and that they
23 were gonna go out for a job interview at a golf course, the
24 three of them, and when he arrived over there he was talking
25 to Donte Johnson and Donte had told him how he had killed the

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1 Johnson in not being convicted?

2 A Yes.

3 Q Okay. And did Bryan Johnson testify to any guns

4 being in the possession of Donte Johnson while he was at the

5 Everman residence?

6 A Yes, he did.

7 Q And what guns, if you recall?

8 A I believe he said there was the .22 rifle, he

9 described a sawed-off gun and a handgun.

10 Q Okay. Did Bryan Johnson also testify to what the

11 net gain was from this particular robbery?

12 A I believe Bryan Johnson said two hundred and fifty

13 dollars (\$250), a playstation and also the VCR.

14 Q And who did he learn that from?

15 A From Donte Johnson.

16 Q Okay. Now did any of the lay witnesses, that is Tod

17 Armstrong, Lashawnya Wright, Charla Severs or Bryan Johnson,

18 identify anybody else in this case as being the shooter of the

19 four boys at Terra Linda?

20 A No, they did not.

21 Q Who did they consistently identify as being the

22 shooter?

23 A Donte Johnson.

24 Q And is Donte Johnson in this room today?

25 A Yes, he is.

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1 photographs 8 through 99 -- 98?

2 A If those are the numbers, yes.

3 Q Okay. And you indicated that one of the cigarettes
4 in particular was on the floor rather than in an ashtray.

5 A That's correct.

6 Q And that was the cigarette or the -- excuse me, the
7 cigarette that had Donte Johnson's DNA?

8 A That is correct.

9 Q The photograph that ultimately shows the Black &

10 Mild cigar box is at State's Exhibit 96 and 97 and you

11 indicated that it was lifted by Bradley Grover, a witness in
12 this particular case.

13 A That's correct.

14 Q Okay. And you're familiar with Dr. Bucklin's
15 autopsy, cause you attended it, is that correct?

16 A Yes, I did.

17 Q Can you summarize for us Dr. Bucklin's testimony in
18 this case?

19 A Dr. Bucklin stated that all four boys died of one
20 gunshot wound each to the head, that it was of similar

21 caliber. He believed it to be approximately a .38 or 9

22 millimeter. Each individual had -- there was a projectile

23 recovered from their heads. Peter Talamantez also had a

24 laceration on the back of his head and a bruise on the bridge
25 of his nose.

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1 A Yes, they are.

2 Q Okay. And was that weapon still holstered in the

3 holster?

4 A Yes, it was, and covered by his shirt.

5 Q And did Dr. Bucklin testify to how far or how near

6 this weapon would have been to each of those four boys when

7 they were killed, what distance?

8 A Oh, the firearm that was used was approximately one

9 to two inches away. It was a close -- close range shot.

10 Q Okay. The next witness that was called was a

11 Sergeant Honea. Are you familiar with his testimony?

12 A Yes, I am.

13 Q Who is Sergeant Honea and what did he testify to?

14 A He's a sergeant with the Nevada Highway Patrol and

15 Sergeant Honea said that he was driving down Route 95 and --

16 down 95 and that a vehicle went by him at a high rate of

17 speed. He said that he pulled in behind the vehicle and paced

18 them doing approximately 85 miles an hour. And this was on

19 August 17th around 10:30, 10:40 p.m.

20 He pulled the vehicle over and made contact with the

21 driver, who identified himself as Donte Fletcher. He said that

22 he obtained a date of birth from the -- from the driver and

23 ran his name and date of birth and was unable to identify a

24 Donte Fletcher in our local system.

25 He then asked the driver to step out to the front of

I-94

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1 his photograph was in the paper and he identified him by

2 seeing the photo in the paper.

3 Q So Donte Rietch and Donte Johnson were one in the

4 same person then?

5 A That's correct.

6 Q And Sergeant Hefner was the next to testify. Can

7 you briefly summarize Sergeant Hefner's testimony as it

8 relates to the Everman residence?

9 A Yes. Sergeant Hefner testified that we had received

10 a consent to search from Tod Armstrong and that we went over

11 there and took Mr. Johnson into custody and also spoke to

12 Charla Severs and also an individual, Scale, and he said that

13 they searched -- they searched the house, that they were able

14 to find the pants that had the blood stain on the back of the

15 leg, that they were able to locate, in the backyard, the pager

16 and keys to the Thunderbird Hotel which were buried, actually

17 buried in the backyard, and he said that they also located the

18 guns, the bag and the duct tape.

19 Q And that would be the same pieces of evidence that

20 we've seen in this court or in the photographs?

21 A That is correct.

22 Q And it was Crime Scene Analyst Mark Washington that

23 actually impounded the evidence and testified to the

24 impounding of the evidence?

25 A Yes.

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I-98

(Pause in the proceedings)

Judges.

MR. GUYMON: And I'd like to give those to the

All right.

He cut 'em out.

How did he tell the jury that those holes got there?

In the photographs there are actual holes in the

That's my understanding, yes.

199 through 202, to talk about that?

And are these photographs that he used, that being

Yes, he did.

the eight blood droplets, did he not?

in testifying to the crusty stain on the inside zipper and to

Tom Wahl used Exhibits 199 through 202 to assist him

Yes, they did.

And did they concur with Tom Wahl's findings?

Yes, it was.

stipulation of the defense, that being Cellmark?

cigarette butt also analyzed by an independent lab based on a

And was that extraction or that DNA from the

Johnson's.

Linda home and he identified that DNA as being Donte

cigarette that was found on the dining room floor in the Terra

extract the DNA from the Marlboro -- or, correction, from the

from Donte Johnson. And he also testified that he was able to

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1 MR. GUYMON: I'm gonna show that to the judges.
2 BY MR. GUYMON:
3 Q And is that particular gun consistent with the
4 description that Charla Severs, Tod Armstrong and Bryan
5 Johnson gave of the gun?
6 A Yes, it is.
7 Q And how is it that it's consistent? How did they
8 describe it?
9 A They described it as a .22 rifle and it had a
10 folding stock on it.
11 Q Does that have a folding stock?
12 A Yes, it does.
13 Q Okay. And when this gun was actually impounded, was
14 there actually a cartridge case with it?
15 A Yes.
16 Q Or, excuse me, a clip with it.
17 A Yes, there was.
18 Q And what style was the clip?
19 A I believe it was banana style, a banana clip.
20 Q And how did the witnesses describe the banana clip?
21 A As a banana clip.
22 Q And, if you know, was the banana clip loaded?
23 A I don't know.
24 Q All right. And based on the totality of your
25 investigation and the testimony in this case, how many

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1 phase of this trial, am I correct?
2 A That's correct.
3 Q Okay. So you're familiar with all the different
4 testimonies given by all the witnesses?
5 A Yes.
6 Q Now, Nick Deluca, Delucia said he saw a large white
7 guy in the driveway with somebody who he thought had a
8 ponytail, is that correct?
9 A I don't recall that. I recall someone being in the
10 driveway. You know, I read it once and there's a lot of
11 reading to do.
12 Q Did Nick --
13 A However, I do recall that there was someone in the
14 driveway.
15 Q And Nick said it was a white guy?
16 A I just remember someone being in the driveway, I'm
17 sorry.
18 Q In your investigation on this, you investigated Tod
19 Armstrong?
20 A That's correct.
21 Q And Tod Armstrong is, as you say right now is a
22 suspect?
23 A Yes.
24 Q In your -- during your investigation you heard
25 testimony or you heard evidence from other witnesses that Tod

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1 Q I understand.
2 A -- and I just reviewed the testimony.
3 Q I understand. If I may.
4 (Off-record colloquy of counsel)
5 BY MR. SCISCENTO:
6 Q Charla Severs, you spoke to Ms. Severs, right?
7 A That's correct.
8 Q And during the trial she indicated that Tod Johnson
9 was expecting cocaine? Or Tod Armstrong, I'm sorry.
10 A That's correct.
11 Q And she also said that Tod Armstrong was in
12 possession of some guns?
13 A A gun.
14 Q A gun. And that Ace Hart was in possession of a
15 gun?
16 A I don't remember Ace Hart, I just remember the
17 description of a shotgun.
18 Q She saw him in possession and she stated she saw him
19 in possession of a gun, that being Ace Hart?
20 A I don't recall that.
21 Q Okay. There -- no, I'm sorry. Now, you had --
22 during the investigation you read the trial transcript where
23 it talked about the Black and Mild which are a form of a
24 cigar, is that right?
25 A That's right.

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1 A I recall there being a cigarette, the exact brand I
2 didn't recall. I thought there was actually a Marlboro and
3 two unnamed brands.

4 Q But they were not Black and Milds --

5 A That's correct.

6 Q -- we agree on that? So the cigarette that had the
7 DNA of Donte Johnson, in fact, was not a Black and Mild cigar?

8 A That's correct.

9 Q In the trial you had talked to a few people
10 regarding Ace Hart, correct?

11 A Correct.

12 Q And everybody who testified stated that they knew
13 Ace Hart, most of the people that testified?

14 A Right.

15 Q Being Tod, Charla Severs, LaShawnya Wright. Do you
16 recall LaShawnya Wright saying that?

17 A No, I don't.

18 MR. SCISCENTO: Court's indulgence for one moment,
19 Your Honor. I had this marked and now it seems to be missing.

20 MR. GUYMON: Judge, the parties can stipulate that
21 LaShawnya Wright, at some point in time from the witness
22 stand, testified that she, in fact, knew Ace Hart.

23 JUDGE SOBEL: Great.

24 BY MR. SCISCENTO:

25 Q LaShawnya Wright said that she was better friends

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1 Q When LaShawnya Wright was testifying though, she
2 said that Mr. Guymon made a phone call to the probation
3 officer because she had asked him to, isn't that correct?

4 A Right.

5 Q That is correct?

6 A Correct.

7 Q LaShawnya Wright who was the girlfriend of Sikia
8 Smith, who's a codefendant in this matter, right?

9 A That's correct.

10 Q And LaShawnya Wright said that Sikia Smith had the
11 VCR in his possession and that he sold it to Donte Johnson?

12 A That's right.

13 Q For twenty dollars (\$20)?

14 A Right.

15 Q His palm print, that being Sikia Smith, was found on
16 the VCR?

17 A That's right.

18 Q Okay. Upon reviewing the transcripts of this trial
19 and reviewing specifically what Charla Severs had said, did
20 she -- do you recall her stating that she had seen duct tape
21 in the house, that being the Everman house, prior to August
22 14th in the coffee table -- on the coffee table?

23 A I believe so, yes.

24 Q Tod Armstrong, in your investigation and your
25 statements regarding this case, knew where the pager was at

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1 police until four days after this -- these murders happened,
2 isn't that correct?

3 A I believe it was three.

4 Q Three days?

5 A Yes.

6 Q Do you recall exactly which date it was?

7 A August 17th, 1998.

8 Q And this happened on the 13th?

9 A 14th.

10 Q Okay. Now Tod Armstrong had testified that him,
11 B.J., and Ace were very good friends?

12 A That's right.

13 Q Okay. And they testified that the day after the
14 murders they had found out about this, the murders?

15 A I believe actually --

16 Q The night of?

17 A -- Bryan Johnson and Ace Hart found out the day
18 after. I believe Tod Armstrong found out the night of.

19 Q But they didn't make a statement to the police until
20 three or four days later, is that correct, on the 17th?

21 A That's right.

22 Q Okay. And there was no indication why they waited
23 that long, was there?

24 A My understanding was they were afraid.

25 Q Okay. Tod Armstrong had left the house and moved

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1 Q But there was a call out to his house for a domestic
2 violence?

3 A That's correct.

4 Q Normal Metropolitan Police procedure manual of calls
5 for anybody on a domestic violence to be arrested for twelve
6 hours?

7 A Incorrect. If there's anything that suggests that
8 there was domestic violence or battery of domestic violence,
9 yes. However, just because someone has a loud aggressive
10 argument doesn't necessarily mean that there's an arrest made.

11 Q So, if in fact there was a domestic battery though
12 that you would get -- the Metropolitan Police officer had
13 noticed, he most likely would have arrested somebody for a
14 minimum of twelve hours?

15 A If there was, I don't know if there's any evidence
16 that there was.

17 Q Okay.

18 A I'm sorry.

19 Q Tod Armstrong had told you that they, him, Ace Hart,
20 Terrell Young, and Donte Johnson had driven by the house on
21 Terra Linda?

22 A I'm sorry, who told me that?

23 Q Tod Armstrong --

24 A That's correct.

25 Q -- stated that?

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1 material witness warrant, isn't that correct?

2 A Yes.

3 Q And that's when she gave her first statement saying
4 -- stating that Donte did it and he was wearing the black
5 pants?

6 A Yes.

7 Q And she admitted that she wanted to be released that
8 day, that's why she was giving that testimony?

9 A I believe so, yes.

10 Q She basically said that the D.A. wants me to testify
11 and if I do I will be released?

12 A Yes.

13 Q I specifically asked her about the black pants and I
14 asked her who said that, who told you about the black pants.
15 She said, the district attorney or the detective. Do you
16 recall that?

17 A Yes.

18 Q Detective -- oh, I'm sorry. Sergeant Honea --
19 Trooper Honea or Sergeant Honea?

20 A Sergeant.

21 Q Sergeant Honea --

22 A Yes.

23 Q -- was driving down the road, noticed a car
24 speeding, pulled it over, and saw that Donte had gotten out of
25 the car?

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(Pause in the proceedings)

BY MR. SCISCENTO:

Q There was some guns found and I think that Mr. Guymon showed you the guns that were found in that car, am I correct?

A The one gun, yes.

Q One gun. But it wasn't with the duffel bag, isn't that correct?

A No, that's correct.

Q Okay. Even though most people stated that the duffel bags contained those guns, wasn't that testimony given at the trial?

A Yes, it was.

Q Nobody saw exactly what was inside those -- that duffel bag that night when they said Terrell Young and Donte were leaving, isn't that correct?

A I believe you're right.

Q Charla said that Tod Armstrong was smoking crack heavily during those times that they were there, that being late July or early August?

A I believe she said they were all smoking crack there.

Q That being Tod and B.J.?

A She just said we all were smoking heavily.

Q B.J. testified, he admitted that he was also smoking

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1 flap.

2 Q Which is, if I can show you. It would be found on
3 this flap, where I'm pointing here on the inside. I hope I'm
4 not on the camera. So, when I'm pointing this way it is
5 showing the inside of the flap on the outside of pants there.

6 A Yes.

7 Q You agree with that?

8 A Yes.

9 JUDGE SOBEL: I never did see that view when I was
10 up St. George, just to add something to it.

11 MR. SCISCENTO: Most people aren't lucky.

12 JUDGE SOBEL: Only the jury was favored with that
13 before.

14 BY MR. SCISCENTO:

15 Q The guns that you located, the ones that they had
16 found, those had never matched up to any of the ballistics
17 found at the scene of the crime?

18 A Yes, that's correct.

19 Q That's correct that they were not?

20 A You're right.

21 Q Okay.

22 MR. SCISCENTO: Where are your exhibits? May I
23 please have Exhibit 86? Thank you. If I may approach, Your
24 Honor.

25 //

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1 Q Okay. There was statements given that Matt Mowen
2 was following around a band called the Phish and that was
3 selling -- he was selling acid there?

4 A That is correct.

5 Q Sometimes almost a hundred sheets a day?

6 A That's correct.

7 Q Okay. And that these were an illegal substance,
8 being acid?

9 A That's right.

10 MR. SCISCENTO: Court's indulgence for one moment.

11 (Off-record colloquy of counsel)

12 BY MR. SCISCENTO:

13 Q During the trial there was some testimony asked of
14 it was either Sergeant Hefner or your partner, Detective
15 Thowsen regarding Ace Hart, that he denied ever driving by the
16 Terra Linda residence? You don't recall?

17 A I don't recall that being asked of those two at all,
18 no.

19 Q Okay.

20 A Are you saying in the trial or the sentencing
21 phrase?

22 Q The trial.

23 A I don't -- I don't recall that at all.

24 Q Okay.

25 MR. SCISCENTO: Nothing further, Your Honor.

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