

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 69139

GENARO PERRY

Appellant,

vs.

STATE OF NEVADA

Respondent.

Appeal from a Judgment of Conviction

Eight Judicial District Court, Clark County

The Honorable Elissa F. Cadish, District Court

**APPENDIX
VOLUME II**

TRAVIS E. SHETLER, ESQ.

Travis E. Shelter, P.C.

Nevada Bar No. 004747

844 E. Sahara Avenue,

Las Vegas, Nevada 89104

Telephone: (702) 866-0091

Fax: (702) 866-0093

Counsel for Appellant

GENARO PERRY

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DEPARTMENT 6
CASE SUMMARY
CASE NO. C-14-298879-1

State of Nevada
vs
Genaro Perry

§ Location: Department 6
§ Judicial Officer: Cadish, Elissa F.
§ Filed on: 06/19/2014
§ Cross-Reference Case Number: C298879
§ Defendant's Scope ID #: 1456173
§ ITAG Booking Number: 1400025770
§ ITAG Case ID: 1599129
§ Lower Court Case # Root: 14F07966
§ Lower Court Case Number: 14F07966X

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. ROBBERY WITH USE OF A DEADLY WEAPON	F	05/01/2014	Case Flags:	Ball Set
2. FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON	F	05/01/2014		Appealed to Supreme Court
3. GRAND LARCENY AUTO	F	05/01/2014		Custody Status - In Custody
4. ASSAULT WITH A DEADLY WEAPON	F	05/01/2014		Charge Description Updated
5. COERCION	F	05/01/2014		In Custody - CCDC
6. BATTERY RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE	F	05/01/2014		
7. PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION	F	05/01/2014		

DATE

CASE ASSIGNMENT

Current Case Assignment	
Case Number	C-14-298879-1
Court	Department 6
Date Assigned	06/19/2014
Judicial Officer	Cadish, Elissa F.

PARTY INFORMATION

		Lead Attorneys
Defendant	Perry, Genaro Richard	Shetler, Travis E Retained 702-866-0091(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)
















DATE

EVENTS & ORDERS OF THE COURT

















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06/25/2014	Information <i>Information</i>
06/25/2014	Notice of Witnesses and/or Expert Witnesses <i>Notice of Expert Witnesses</i>
06/26/2014	Initial Arraignment (1:00 PM) (Judicial Officer: De La Garza, Melissa)













DEPARTMENT 6
CASE SUMMARY
CASE NO. C-14-298879-1

06/29/2014	 Reporters Transcript <i>Reporter's Transcript of Waiver of Preliminary Hearing 06-19-14</i>
07/03/2014	 Supplemental Witness List <i>Supplemental Notice of Expert Witnesses</i>
07/03/2014	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses</i>
07/09/2014	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses</i>
07/21/2014	 Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.)
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09/23/2014	 Stipulation and Order <i>Stipulation and Order to Continue Trial</i>
09/29/2014	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated - per Judge</i>
10/16/2014	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
10/16/2014	 Order to Release Medical Records <i>Order Releasing Medical Records</i>
10/17/2014	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
10/17/2014	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
10/17/2014	 Order to Release Medical Records <i>Order Releasing Medical Records</i>
10/17/2014	 Order to Release Medical Records <i>Order Releasing Medical Records</i>
11/24/2014	 Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.)
12/01/2014	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated - per Judge</i>
01/08/2015	 Supplemental Witness List <i>Supplemental Notice of Witnesses</i>

DEPARTMENT 6
CASE SUMMARY
CASE NO. C-14-298879-1

02/09/2015	 Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.)
02/17/2015	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated - per Judge</i>
02/18/2015	 Status Check (8:30 AM) (Judicial Officer: Cadish, Elissa F.) 02/18/2015, 02/23/2015 <i>Status Check Negotiations</i>
04/27/2015	 Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.) 04/27/2015, 04/29/2015
05/04/2015	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated - per Judge</i>
05/06/2015	 Jury Trial (1:30 PM) (Judicial Officer: Cadish, Elissa F.) 05/06/2015-05/07/2015
05/14/2015	 Supplemental Witness List <i>Second Supplemental Notice of Expert Witnesses</i>
06/15/2015	 Motion <i>Motion to Admit Evidence Pursuant to NRS 48.045</i>
07/01/2015	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
07/01/2015	 Order <i>Order Releasing Medical Records</i>
07/01/2015	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
07/01/2015	 Order <i>Order Releasing Medical Records</i>
07/01/2015	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
07/01/2015	 Order <i>Order Releasing Medical Records</i>
07/01/2015	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
07/01/2015	 Order <i>Order Releasing Medical Records</i>
07/01/2015	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
07/01/2015	 Order

DEPARTMENT 6
CASE SUMMARY
CASE No. C-14-298879-1

	<i>Order Releasing Medical Records</i>
07/01/2015	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
07/01/2015	 Order <i>Order Releasing Medical Records</i>
07/20/2015	 Opposition <i>State's Opposition to Defendant's Motion to Admit Evidence Pursuant to NRS 48.045</i>
08/05/2015	 Notice of Motion <i>State's Notice of Motion and Motion to Admit Evidence Pursuant to NRS 48.045</i>
08/11/2015	 Opposition to Motion <i>Opposition to State's Motion to Admit Evidence Pursuant to NRS 48.045</i>
08/31/2015	 Motion to Admit Evidence (8:30 AM) (Judicial Officer: Cadish, Elissa F.) 08/31/2015, 09/17/2015 <i>Motion to Admit Evidence Pursuant to NRS 48.045</i>
09/17/2015	Petrocelli Hearing (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
09/17/2015	All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
09/21/2015	 Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.)
09/28/2015	<i>CANCELED</i> Jury Trial (10:00 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated - per Judge</i>
09/29/2015	 Bench Trial (1:30 PM) (Judicial Officer: Cadish, Elissa F.) 09/29/2015-10/01/2015
10/01/2015	 Verdict
10/01/2015	 Stipulation and Order Filed by: Plaintiff State of Nevada <i>Stipulation and Order</i>
10/01/2015	 Instructions to the Jury
11/04/2015	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
11/16/2015	Sentencing (8:30 AM) (Judicial Officer: Cadish, Elissa F.)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 26, 2014

C-14-298879-1 State of Nevada
vs
Genaro Perry

June 26, 2014 1:00 PM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Dania Batiste
Deborah Miller

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PERRY, Genaro Richard	Defendant
Roberts, Tara M.	Attorney
Smillie, Ross	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. PERRY ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript.

CUSTODY (COC)

7/21/2014 9:30 A.M. Calendar Call (Dept. 6)
7/28/2014 10:00 A.M. Jury Trial (Dept. 6)

FILED IN OPEN
COURT ON

6-2-14
V. H.
Court Clerk

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY #1456173,

Defendant.

CASE NO: 14F07966X

DEPT NO: 10

AMENDED

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - 50138); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.460 - 50185); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.2 - 56011); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - 50201); COERCION (Category B Felony - NRS 207.190 - 53159); BATTERY RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE (Category C Felony - NRS 200.481; 200.485; 33.018 - 57937) and PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305 - 52996), in the manner following, to-wit: That the said Defendant, on or about the 1st day of May, 2014, at and within the County of Clark, State of Nevada,

COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON

did then and there wilfully, unlawfully, and feloniously take personal property, to-wit: car keys and/or cellular telephone, from the person of CORLA CARPENTER, or in her presence, by means of force or violence, or fear of injury to, and without the consent and against the will of the said CORLA CARPENTER, with use of a deadly weapon, to-wit: a knife.

COUNT 2 - FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON

did then and there wilfully and unlawfully confine and detain, without sufficient legal

1 authority, the personal liberty of another, to-wit: CORLA CARPENTER, with use of a deadly
2 weapon, to-wit: a knife, by battering the said CORLA CARPENTER and threatening her by
3 said knife and refusing to allow her to leave.

4 COUNT 3 - GRAND LARCENY AUTO *R-60*

5 did then and there wilfully, unlawfully, feloniously, and intentionally, with intent to
6 deprive the owner permanently thereof, steal, take and carry away, drive away or otherwise
7 remove a motor vehicle owned by another person, having a value of \$3,500.00, or greater, in
8 the possession of CORLA CARPENTER, to-wit: a 1999 Mercedes CLK 430, bearing Nevada
9 License No. 617LTU.

10 COUNT 4 - ASSAULT WITH A DEADLY WEAPON *1-60*

11 did then and there wilfully, unlawfully, feloniously and intentionally place another
12 person in reasonable apprehension of immediate bodily harm and/or did wilfully and
13 unlawfully attempt to use physical force against another person, to-wit: CORLA
14 CARPENTER, with use of a deadly weapon, to-wit: a knife, by threatening to kill the said
15 CORLA CARPENTER while holding said knife and/or by slashing at/towards her with said
16 knife and/or by holding said knife to her throat.

17 COUNT 5 - COERCION *1-60*

18 did then and there wilfully, unlawfully, and feloniously use physical force, or the
19 immediate threat of such force, against CORLA CARPENTER, with intent to compel her to
20 do, or abstain from doing, an act which she had a right to do, or abstain from doing, by
21 throwing the telephone belonging to the said CORLA CARPENTER against the wall and/or
22 into the toilet to prevent her from calling the police and/or by not allowing her to leave the
23 residence.

24 COUNT 6 - BATTERY RESULTING IN SUBSTANTIAL BODILY HARM *1-60*
25 CONSTITUTING DOMESTIC VIOLENCE

26 did then and there wilfully, unlawfully, and feloniously use force or violence upon the
27 person of his spouse, former spouse, or any other person to whom he is related by blood or
28 marriage, a person with whom he is or was actually residing, a person with whom he has had

1 or is having a dating relationship, a person with whom he has a child in common, the minor
2 child of any of those persons or his minor child, to-wit: CORLA CARPENTER, by grabbing
3 the said CORLA CARPENTER and striking her head against/into the floor and/or by kicking
4 her repeatedly in the face, resulting in substantial bodily harm to the said CORLA
5 CARPENTER.

6 COUNT 7 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
7 REPORTING CRIME OR COMMENCING PROSECUTION

8 did then and there wilfully, unlawfully, and feloniously, by intimidation or threats,
9 prevent or dissuade, or hinder or delay CORLA CARPENTER, from reporting a crime to the
10 police by threatening to kill the said CORLA CARPENTER and her husband if she called the
11 police.

12 All of which is contrary to the form, force and effect of Statutes in such cases made and
13 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
14 this declaration subject to the penalty of perjury.

15
16 
17 5/29/2014

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25
26 14F07966X/td/dvu
27 LVMPD EV# 1405011127;
28 1312092558
(TK14)

1 NOTICE OF WITNESSES
2 [NRS 174.234]

3 TO: Defendant or attorney of record;

4 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
5 NEVADA intends to call the following witnesses:

6 <u>NAME</u>	<u>ADDRESS</u>
7 CUSTODIAN OF RECORDS	Communication Bureau
8	Law Enforcement Agency – Clark County,
9	Nevada

10 These witnesses are in addition to those witnesses noted in the discovery or other
11 documents provided.

12 DATED May 29, 2014.
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1 TRAN
2 CASE NO. 02-46572
3
4 IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP
5 COUNTY OF CLARK, STATE OF NEVADA
6
7 STATE OF NEVADA,
8 Plaintiff,
9 vs. CASE NO. 14F07966X
10 GENARO RICHARD PERRY,
11 Defendant.

12
13 REPORTER'S TRANSCRIPT
14 OF
15 WAIVER OF PRELIMINARY HEARING
16 BEFORE THE HONORABLE MELANIE ANDRESS-TOBIASSON
17 JUSTICE OF THE PEACE
18 THURSDAY, JUNE 19, 2014
19 APPEARANCES:
20
21 For the State: JEFFREY ROGAN
22 Deputy District Attorney
23 For the Defendant: BOSS SMILLIE
24 Attorney at Law
25 Reported by: Donna J. McCord, CCR #337

1 LAS VEGAS, NEVADA, JUNE 19, 2014, 10:00 A.M.

2
3
4
5 THE COURT: 14F07966X, Genaro Perry. He
6 is present in custody with Mr. Smillie.

7 MR. SMILLIE: Good morning, your Honor.

8 THE COURT: Good morning. What's the
9 status?

10 MR. SMILLIE: We want to waive prelim and
11 get an arraignment date.

12 THE COURT: So you're waiving the prelim
13 unconditionally without negotiations?

14 MR. SMILLIE: There were negotiations but
15 they have fallen through.

16 THE COURT: Okay. So it's an
17 unconditional waiver without negotiations at this
18 point?

19 MR. ROGAN: That's correct.

20 THE COURT: All right. So, sir, do you
21 understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right. You've discussed
24 that with your attorney?

25 THE DEFENDANT: Absolutely.

1 THE COURT: Do you understand when you
2 unconditionally waive your right to a preliminary
3 hearing you're giving up that right forever?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: At a preliminary hearing you
6 would have the right to confront the State's
7 witnesses. You'd also have the right to testify and
8 present your own evidence. You're giving up those
9 rights as well; do you understand?

10 (At this time, Mr. Smillie consulted
11 with the defendant.)

12 THE COURT: Not forever, just at a
13 preliminary hearing.

14 THE DEFENDANT: Oh, yes, ma'am.

15 THE COURT: All right. When you get up to
16 District Court one of two things will happen, this
17 case will either get negotiated or it will go to
18 trial, it just won't come back here for a
19 preliminary hearing; do you understand?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. It appears to me
22 from the complaint on file that crimes have been
23 committed, to-wit: Count 1, robbery with use of a
24 deadly weapon; Count 2, false imprisonment with use
25 of a deadly weapon; Count 3, grand larceny auto;

1 Count 4, assault with a deadly weapon; Count 5,
2 coercion; Count 6, battery resulting in substantial
3 bodily harm constituting domestic violence; and
4 Count 7, preventing or dissuading a witness or
5 victim from reporting crime or commencing
6 prosecution, and the defendant having
7 unconditionally waived his right to a preliminary
8 hearing, I hereby order said defendant be held to
9 answer to said charges in the Eighth Judicial
10 District Court, County of Clark, State of Nevada at
11 the following date and time.

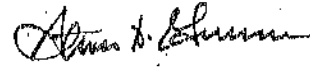
12 THE CLERK: June 26th, 1:00 p.m.

13 THE COURT: You will be remanded on Counts
14 6 and 7 but the bail won't change, it will just stay
15 the amount it is now.

16
17
18 Attest: Full, true, accurate transcript of
19 proceedings.

20
21 Donna J. McCord
22 Donna J. McCord, CCR #337
23
24
25

Electronically Filed
06/25/2014 09:15:00 AM


CLERK OF THE COURT

INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ROBERT STEPHENS
Deputy District Attorney
Nevada Bar #011286
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

I.A. 06/26/14
1:00 PM
T. SHEILER

THE STATE OF NEVADA,

Plaintiff,

CASE NO: C-14-298879-1

-vs-

DEPT NO: VI

GENARO RICHARD PERRY,
#1456173,

Defendant.

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That GENARO RICHARD PERRY, the Defendant(s) above named, having committed the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 - NOC 56014); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); COERCION (Category B Felony - NRS 207.190 - NOC 53159); BATTERY RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 57937) and PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING

1 CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305 -
2 NOC 52996), on or about the 1st day of May, 2014, within the County of Clark, State of
3 Nevada, contrary to the form, force and effect of statutes in such cases made and provided,
4 and against the peace and dignity of the State of Nevada,

5 COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON

6 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:
7 car keys and/or cellular telephone, from the person of CORLA CARPENTER, or in her
8 presence, by means of force or violence, or fear of injury to, and without the consent and
9 against the will of the said CORLA CARPENTER, with use of a deadly weapon, to-wit: a
10 knife.

11 COUNT 2 - FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON

12 did then and there wilfully and unlawfully confine and detain, without sufficient legal
13 authority, the personal liberty of another, to-wit: CORLA CARPENTER, with use of a deadly
14 weapon, to-wit: a knife, by battering the said CORLA CARPENTER and threatening her by
15 said knife and refusing to allow her to leave.

16 COUNT 3 - GRAND LARCENY AUTO

17 did then and there wilfully, unlawfully, feloniously, and intentionally, with intent to
18 deprive the owner permanently thereof, steal, take and carry away, drive away or otherwise
19 remove a motor vehicle owned by another person, having a value of \$3,500.00, or greater, in
20 the possession of CORLA CARPENTER, to-wit: a 1999 Mercedes CLK 430, bearing Nevada
21 License No. 617LTU.

22 COUNT 4 - ASSAULT WITH A DEADLY WEAPON

23 did then and there wilfully, unlawfully, feloniously and intentionally place another
24 person in reasonable apprehension of immediate bodily harm and/or did wilfully and
25 unlawfully attempt to use physical force against another person, to-wit: CORLA
26 CARPENTER, with use of a deadly weapon, to-wit: a knife, by threatening to kill the said
27 CORLA CARPENTER while holding said knife and/or by slashing at/towards her with said
28 knife and/or by holding said knife to her throat.

1 COUNT 5 - COERCION

2 did then and there wilfully, unlawfully, and feloniously use physical force, or the
3 immediate threat of such force, against CORLA CARPENTER, with intent to compel her to
4 do, or abstain from doing, an act which she had a right to do, or abstain from doing, by
5 throwing the telephone belonging to the said CORLA CARPENTER against the wall and/or
6 into the toilet to prevent her from calling the police and/or by not allowing her to leave the
7 residence.

8 COUNT 6 - BATTERY RESULTING IN SUBSTANTIAL BODILY HARM
9 CONSTITUTING DOMESTIC VIOLENCE

10 did then and there wilfully, unlawfully, and feloniously use force or violence upon the
11 person of his spouse, former spouse, or any other person to whom he is related by blood or
12 marriage, a person with whom he is or was actually residing, a person with whom he has had
13 or is having a dating relationship, a person with whom he has a child in common, the minor
14 child of any of those persons or his minor child, to-wit: CORLA CARPENTER, by grabbing
15 the said CORLA CARPENTER and striking her head against/into the floor and/or by kicking
16 her repeatedly in the face, resulting in substantial bodily harm to the said CORLA
17 CARPENTER.

18 COUNT 7 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
19 REPORTING CRIME OR COMMENCING PROSECUTION

20 did then and there wilfully, unlawfully, and feloniously, by intimidation or threats,
21 prevent or dissuade, or hinder or delay CORLA CARPENTER, from reporting a crime to the

22 ///

23 ///

24 ///

25 ///

26 ///

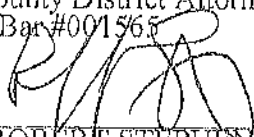
27 ///

28 ///

1 police by threatening to kill the said CORLA CARPENTER and her husband if she called the
2 police.

3 STEVEN B. WOLFSON
4 Clark County District Attorney
5 Nevada Bar #001568

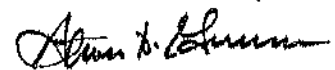
6 BY


7 ROBERT STEPHENS
8 Deputy District Attorney
9 Nevada Bar #011286

10 Names of witnesses known to the District Attorney's Office at the time of filing this
11 Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
12 BRAGG, ALMEDIA M.	LVMPD #4150
13 CARPENTER, CORLA	C/O DISTRICT ATTORNEY'S OFFICE
14 CUSTODIAN OF RECORDS	CCDC
15 CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
16 CUSTODIAN OF RECORDS	LVMPD RECORDS
17 LASTER, GEORGE TIMOTHY	LVMPD #5658
18 MARRIOTT, DEBORAH	District Attorney Investigator
19 PATTERSON, DEBRA	District Attorney Process Server
20	
21	
22	
23	
24	
25	
26	

27 DA#14F07966X/td/dvu
28 LVMPD EV#1405011127; 1312092558
(TK14)



CLERK OF THE COURT

1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,
9
10 Plaintiff,

CASE #: C298879-1

DEPT. VI

11 VS.

12 GENARO PERRY,

13 Defendant.
14

15
16 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE

17 WEDNESDAY, MAY 6, 2015

18 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**
19 **JURY TRIAL - DAY 1**

20 APPEARANCES:

21 For the State:

MICHELLE SUDANO, ESQ.
COLLEEN BAHARAV, ESQ.
Deputy District Attorneys

22
23 For the Defendant:

TRAVIS S. SHETLER, ESQ.

24
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 WEDNESDAY, MAY 6, 2015 AT 1:52 P.M.

2
3 [Outside the presence of the prospective jury panel]

4 THE COURT: All right, folks. Go ahead and state your appearances for the
5 record.

6 MS. BAHARAV: Colleen Baharav, bar number 1177 and Michelle Sudano,
7 bar number 13260 on behalf of the State.

8 MR. SHETLER: Good afternoon, Your Honor. I'm Travis Shetler, 4747, on
9 behalf of Genaro Perry who is present in custody.

10 THE COURT: Okay. So, I appreciate you putting over the start of the trial till
11 today from yesterday because of some unexpected issues I had to deal with
12 yesterday and for the late start now. Apparently we're having some technical
13 difficulties with the recorder's computer.

14 Now I need to make sure this happens. So, in terms of scheduling, I
15 had as I normally do an evidentiary hearing set for tomorrow morning. Usually that's
16 what I do Thursday mornings although we were just told a little while ago that the
17 attorney on that case seems to think that that evidentiary hearing will take like
18 several hours. And so given where we are on this trial and a couple other issues,
19 I'm getting that hearing ready. I'm going to end up pushing that hearing off to
20 another day. It's on a habeas petition, a post-conviction habeas, and so there was
21 just no way to do it all. So, I'm going to have to put that one off which means on the
22 good side for you guys that I'm free all tomorrow morning. So, I was -- and I don't
23 know what your schedules are like; I don't know how far hopefully we can get jury
24 selection done, but maybe we could start at nine tomorrow morning if that works for
25 you. I don't know what your --

1 MR. SHETLER: I was just, with the Court's indulgence, I can check the DV
2 calendar on a contract attorney down there and Ms. Baharav has one case, she
3 thinks.

4 MS. BAHARAV: Yes. Mine should not be that big a deal though. So, I can
5 always give mine to somebody else. But I know that Travis or Mr. Shetler is in
6 charge of his track in domestic violence and tomorrow is his day. So, I'm not sure if
7 there's anything for him there.

8 THE COURT: Okay. Well obviously if you've got those issues we'll work
9 around them. I'm trying to make sure we're able to get the trial done.

10 MR. SHETLER: Right.

11 MS. BAHARAV: And, Your Honor, we've -- in that vein, we have had some
12 communications about making sure we're finished on Friday. Mr. Shetler has a trial
13 that's supposed to start on Monday next week --

14 THE COURT: Right.

15 MS. BAHARAV: -- which is pretty important as well as this.

16 THE COURT: That's what I gather.

17 MS. BAHARAV: Right. And so the State in this trial is making every effort
18 that we can to accommodate that particular trial schedule. So, we've already had
19 some discussions about potentially stipulating to some medical records in lieu of a
20 doctor's testimony on Friday. We're hoping that we won't get there, but if that's what
21 has to happen then we'll resolve it.

22 THE COURT: The doctor's testimony you mean?

23 MS. BAHARAV: Yes. We are anticipating having a doctor testify at 11 a.m.
24 on Friday. It looks like we won't -- if having that person testify will result in us
25 moving the trial into Monday we -- between counsel and the State have discussed

1 potentially stipulating to admission of medical records in lieu of live testimony. I'm
2 including some documentation from the Defense expert as well. So, we'll address
3 that tomorrow depending on where we are per the Court.

4 THE COURT: Okay. Thanks.

5 MR. SHETLER: I do have -- It looks like there are two prelims and some
6 status checks. Those are generally relatively quick.

7 THE COURT: Tomorrow?

8 MR. SHETLER: Tomorrow is going to be challenging. The Court knows that
9 I'm trial for most of the month. So, we'll get it done as quick as we can. The only
10 other concern I have is we have calendar call for overflow, but myself and Mr.
11 Stevens had that Friday morning on the case for next week. That should be
12 relatively quick, but it's early on Friday.

13 THE COURT: Right, right. That's at 8:30.

14 MR. SHETLER: You're correct, Your Honor.

15 MS. BAHARAV: Yes, with Judge Barker.

16 THE COURT: So, what are you looking at tomorrow -- so would those
17 matters that you have tomorrow, what time realistically do you think we can start?

18 MR. SHETLER: Justice Tobiasson, I believe, is still out and so that can
19 sometimes slow down the calendar a little bit.

20 THE COURT: Right. So, you got to pro tem?

21 MR. SHETLER: Right. They do try to keep it somewhat consistently for each
22 week. And so I'll just push and depending on how long my people have been in
23 custody that's where I run into the biggest rub.

24 MS. BAHARAV: Do you think eleven would be too soon?

25 MR. SHETLER: I would certainly think that by eleven we would if not be

1 ready. I would know if I was going to have prelims by eleven -- I'm sorry Judge -- I
2 had two lawyers. I just don't anymore.

3 THE COURT: Okay. So, I mean, I just -- I need to put it on calendar for
4 sometime tomorrow.

5 MR. SHETLER: If we said eleven do you think that's reasonable.

6 THE COURT: Eleven? Well that would give time for them to deal with the
7 technical issues in the morning. I mean, as long -- I mean, you guys know the case.
8 I don't know the case.

9 MR. SHETLER: Colleen's been there a million times two -- excuse me -- Ms.
10 Baharav.

11 MS. BAHARAV: How many -- you said you have two prelims?

12 MR. SHETLER: Two separate clients, one has two cases.

13 MS. BAHARAV: Okay. Your Honor, when we're finished today -- or actually I
14 can text the person who is handling the calendar tomorrow and to see if we have
15 something in returns for his clients for tomorrow. That will obviously speed up the
16 process if we're not able to proceed. So, I'll communicate with my team to make
17 sure right now what the timing is for that, but I think eleven would be a good
18 conservative estimate for tomorrow if that's okay with the Court.

19 MR. SHETLER: And certainly if I've got some earlier indication which we may
20 have; I can get word to chambers. But it doesn't help --

21 THE COURT: Right, right.

22 MR. SHETLER: -- for the jury, yeah.

23 THE COURT: Right. We need to -- I need to put it on calendar for a certain
24 time. Obviously by the end of the day we'll need to let the jurors know what time
25 they're coming back; eleven?

1 MS. BAHARAV: Yes, eleven, Your Honor. And I will communicate with my
2 team to double check and make sure.

3 THE COURT: So, tomorrow at 11.

4 [Colloquy between the Court and the Court Clerk]

5 MR. SHETLER: There are two -- one other calendaring matter, Your Honor.

6 THE COURT: Okay.

7 MR. SHETLER: It's nobody's problem but my own but there is an open house
8 Friday starting at four. I can get there -- I hope to get there by five. My daughter is
9 going to go to a different school next year.

10 THE COURT: Oh, I see for school.

11 MR. SHETLER: Ms. Baharav and I believe that we can have closed and to
12 the jury by the time so it shouldn't be a problem.

13 THE COURT: Right.

14 MS. BAHARAV: That has to happen so it will happen.

15 THE COURT: Okay then.

16 MR. SHETLER: See; that enthusiasm is what makes going to trial with her
17 fun.

18 THE COURT: I like that attitude.

19 MR. SHETLER: I do have two other matters regarding objections or pre-trial
20 issues. I do want to wait until we're done with the jury. I think that's fine, Your
21 Honor.

22 THE COURT: Are there evidentiary issues?

23 MS. BAHARAV: Concerns about -- Defense counsel raised and we wanted
24 the Court to have a ruling on prior to the witnesses coming in.

25 THE COURT: Yeah. Why don't we -- we may end up here a little late after

1 five this evening, but why don't we try to get the jurors in and then we can talk after
2 that. Probably we should try to do that today rather than waiting until eleven
3 tomorrow.

4 MR. SHETLER: Right.

5 MS. BAHARAV: And, Your Honor, I was going to review the jury instructions
6 provided by the Defense. The only thing that I saw that was different was the self-
7 defense instructions. The State has actually provided the total self-defense
8 instruction packet.

9 THE COURT: Right.

10 MS. BAHARAV: So, if there is evidence of self-defense obviously that will --
11 those will come in. It's my understanding the remaining jury instructions were the
12 same as ours. So, jury instructions should also take a short period of time to settle.

13 MR. SHETLER: And it is sometimes possible that in that DV track sometimes
14 there's a little bit of a gap in there between about 9:15 and 10:15 where if we did
15 have an evidentiary issue we might be able to pop in here. I don't know how much
16 the Judge would love that, of course but --

17 THE COURT: I mean, if I'm available I don't mind trying to accommodate.

18 MR. SHETLER: We'll probably get it taken care of this evening. Thank you.

19 THE COURT: And just to add more complication, although it's right here, but
20 I've got a committee -- I'm the chair of the Bar's Law Related Education committee
21 and we're having a meeting tomorrow at noon back here in the jury rooms. I don't
22 have to go far so it's not a huge deal.

23 MR. SHETLER: They did mention that, yes.

24 THE COURT: I'm supposed to be going tomorrow evening to the Federal Bar
25 Association dinner, you know, right after work. We'll do what we can. Obviously we

1 need to make sure that the case gets the attention it needs --

2 MR. SHETLER: Right.

3 THE COURT: -- while we accommodate all of our schedules, but hopefully
4 we can do that.

5 MR. SHETLER: That has always been my experience with Ms. Baharav. I
6 don't think that will be an issue.

7 THE COURT: Great. And now on more mundane matters. With the charges
8 that we have in this case, it's five preempts each. It's not -- there's no life tail;
9 correct?

10 MS. BAHARAV: That's correct.

11 THE COURT: Okay. And so I don't think you've tried a case in here before.
12 So, let's just talk in general terms then. First, throughout the trial including when
13 you're at the bench, everything that happens in this courtroom is on the record.
14 Okay. So, when you come up to the bench we put on the white noise to try to
15 prevent others from hearing and we try to keep our voices down. But having said,
16 you can't just do little whispers because then it won't be picked up by the mic up
17 here and we need it to be picked up by the mic here so it's on the record because
18 I'm not going to later summarize what happened at the bench because it's already
19 on the record when it happens. So, you kind of need to be loud enough to be heard
20 by the mic but not so loud everyone else hears you. And particularly with the two
21 ladies this may more of an issue as to identify yourself when you're speaking up
22 here so someone later who wasn't here transcribes it they knew who is talking at
23 any given time.

24 So, when we do jury selection when we bring in the group of jurors, I
25 first have the general questions for the whole group. In the course of those general

1 questions, I'll be asked the State to introduce yourselves, identify witnesses that
2 may be called and briefly describe the nature of the charges that we're dealing with
3 in this case. And after that I'll be asking Mr. Shetler to similarly introduce himself
4 and his client. I don't think you have any independent witnesses.

5 MR. SHETLER: No, not that I'm aware of at this point, Your Honor.

6 THE COURT: Okay. So, we'll do that and I'll talk to them about the expected
7 length of the trial. I'm going to say that we're going to finish by Friday with trial
8 although I'm going to just mention to them the possibility that they could have to
9 come back Monday to deliberate depending on when we finish on Friday so they're
10 not shocked if that happens and ask about undue burden and all those questions.

11 At the end of the general questions that I ask of the group as a whole,
12 I'll call you up here to the bench to go over that -- go over the matter so you'll bring
13 your notes up and we'll go through and anyone that needs to be excused for cause
14 in my view, we'll then excuse those.

15 We then do individual questioning of the 24 that are shown on the chart
16 that's been prepared for your convenience. We'll start with Juror number 1. I will
17 ask Juror number 1 individual questions, then it goes to the State to pass for cause
18 or ask questions you have for that juror and then to the Defense to ask questions of
19 that juror. If you have a cause challenge during the course of those questioning, just
20 ask to approach and we'll address any such challenges up here at the bench so that
21 the jurors don't hear our discussion about that and then we'll go on. So, your direct
22 questioning of the jurors is on an individual basis.

23 Once we've passed 24 jurors for cause is when we'll do the peremptory
24 challenges using the chart that will be prepared. Just so you're aware, when we do
25 those perempts I'll be excusing the jurors from the courtroom rather than having

1 them sit there uncomfortably while you pass the paper back and forth. So, take
2 whatever notes you need to take to be able to do your peremptorys without looking at
3 them. And we also, unless you object now, we also don't pick who of -- alternate
4 jurors will be. My intention is to select 14 jurors and if we still have more than 12 at
5 the end then we randomly select which one or two would be the alternates and
6 would not go back with the other 12. And because of our practice of doing it that
7 way and having alternates, when you do your peremptorys you'll give five peremptorys to
8 use anywhere in the list. In other words, rather than four for the petty jury and one
9 for the peremptorys you'll give to use anywhere in the list of those who have passed for
10 cause. So, then we'll have -- we will have passed 24 for cause. You'll each get five
11 peremptorys. That takes it down to the 14 for the trial. Okay. Is that understood?

12 MS. BAHARAV: We have no objection to randomly selecting the alternates,
13 Your Honor.

14 MR. SHETLER: No, nor do we. Is there -- if we waive a challenge, is it
15 waived period or --

16 THE COURT: So, when you do the peremptorys if you waive any it doesn't
17 necessarily waive future challenges. And what happens is so the list goes down the
18 page of those that we passed for cause. If any of the challenges are waived, then
19 the first 14 starting at the top that aren't challenged sit as the jurors.

20 MS. BAHARAV: And, Your Honor, does Your Honor have any objection to
21 Ms. Sudano asking some -- like switching off sometimes for the jurors?

22 THE COURT: No; I mean, you know --

23 MS. BAHARAV: We won't both ask questions. Just that we argue one --

24 THE COURT: But you can alternate, yeah, yeah. I've had people do that
25 before.

1 MS. BAHARAV: And just to be clear. If you waive one you're not waiving the
2 rest of them?

3 THE COURT: Right.

4 MR. SHETLER: You're just waiving that individual challenge.

5 MS. BAHARAV: Yes.

6 THE COURT: Right, right. If you waive on number three but then you see
7 who they do on four and now you want to challenge someone, you still can use the
8 others. Okay. We'll try to move through this. Just for my benefit although I'm not
9 going to do a lot of talking about it, so obviously one of the charges is domestic
10 violence. What is the alleged relationship between the Defendant and the victim?

11 MS. BAHARAV: At the time of the incident they had been broken up but they
12 were at one point in time boyfriend and girlfriend.

13 THE COURT: Okay All right. Obviously when I ask you to briefly describe
14 the case just brief neutral description --

15 MS. BAHARAV: Yes, Your Honor.

16 THE COURT: -- not opening statement.

17 MS. BAHARAV: I generally say the State has alleged that on or about this
18 date the Defendant committed the following crimes and we're going to call these
19 witnesses.

20 THE COURT: Great. Okay. Do we have the jurors ready, Anthony? Okay.
21 Let's go ahead and bring 'em in.

22 MR. SHETLER: Your Honor, table, podium, do you have a preference?

23 THE COURT: Either one as long as you're on a mic somewhere because we
24 are recording. And, right, if you're away from a mic you can get the hand mic to be
25 picked up. The jury will have the mic so you need to be on a stable one.

1 [Inside the presence of the prospective jury panel]

2 THE COURT: All right. So, good afternoon, everyone. I appreciate your
3 patience. This is the time set for the trial of case number C298879, the State of
4 Nevada, plaintiff versus Genaro Richard Perry, the Defendant. The record will
5 reflect the presence of the Defendant and his counsel, the Deputy District Attorneys
6 and all officers of the Court. Are the parties ready to proceed?

7 MS. BAHARAV: Yes, Your Honor, the State's ready.

8 MR. SHETLER: Defense is ready, Your Honor.

9 THE COURT: Great. Okay. So, Ladies and gentlemen, you're in
10 Department 6 of the Eighth Judicial District Court of the state of Nevada. My name
11 is Elissa Cadish and I'm the presiding judge in this department. Let me take this
12 opportunity to introduce the Court staff with whom you may be coming into contact
13 during the course of these proceedings.

14 To my far right is Jessica Kirkpatrick. She is our court recorder. She'll
15 be making sure everything that is said during the proceedings is recorded so it can
16 be transcribed later for any appeals or further proceedings. So, it is important when
17 you speak during these matters that you keep your voice up.

18 To my immediately right is Keith Reed. He is our courtroom clerk. He
19 swears witnesses, marks exhibits, keeps track of evidence, and prepares minutes or
20 descriptions of the proceedings for the official record.

21 You've already met Anthony Russo. He is our marshal. He is in charge
22 of courtroom security and the only person that you may talk directly with during the
23 trial except of course when we're actually having conversation with you on the
24 record in open Court.

25 Now at this time does any party wish to present a challenge to the

1 prospective jury panel as a whole?

2 MS. BAHARAV: The State does not.

3 MR. SHETLER: The Defense does not, Your Honor.

4 THE COURT: Thank you. All right. So, Mr. Clerk, please call the roll of the
5 panel of prospective jurors. When your name is called, please answer present or
6 here.

7 [The Court Clerk called the roll of the prospective jury panel]

8 THE COURT: Thank you. Is there anyone whose name was not called? No
9 hands. Okay. Good.

10 So, we're about to begin what's called the voir dire process. That's the
11 legal term for the process where I and the attorneys can ask you questions bearing
12 on your ability to serve as fair and impartial jurors in this particular case. At times it
13 may seem like the questions are kind of personal and it's not that we're trying to
14 invade your privacy, but sometimes we need to ask questions of that nature to make
15 sure that you can be fair and impartial in this particular case given the nature of the
16 nature of the case and the parties who are involved.

17 I'll be asking some general questions of the whole group of you and
18 then we'll be going individually for the folks up front. But even when we're doing that
19 I need the folks in the back pay attention because if anyone up front needs to be
20 excused, we'll be bringing up some of you from the back to replace them. So, it
21 helps if you pay attention and have an idea of what the questions are during the
22 course of the process.

23 Now during the whole process, there are two methods by which any of
24 you may be excused from jury service in this particular case. There's one process
25 which is for cause which means if any of you can't be fair and impartial in this

1 particular case or for some other reason you cannot serve during the course of this
2 case, you may be excused for cause. And that's my decision as the Judge.

3 Once we pass enough jurors for cause, at the end the attorneys will be
4 allowed to exercise what are called peremptory challenges; that is, there are a
5 certain number of challenges that they get by statute where they can excuse a
6 certain number of jurors without giving any particular reason. Please don't be
7 offended if you're excused using either of these challenge procedures. It's just part
8 of the process designed to ensure a fair trial for everybody involved.

9 Now this process of the questioning is done under oath. So would you
10 all please stand and raise your right hand so the clerk can administer the oath.

11 [The jury panel is sworn in by the Clerk]

12 THE COURT: Okay. Before we get too far into the process, let me just ask,
13 do any of you have difficulty understanding the English language? If you have
14 trouble with that, would you raise your hand and we can talk to you about that.
15 Okay. I see one gentleman up front. Sir, can you tell me your name and badge
16 number, please.

17 PROSPECTIVE JUROR #009: My name is Javier Gonzalez, badge number
18 is 009.

19 THE COURT: Correct. Okay. All right, sir. You have difficulty understanding
20 English?

21 PROSPECTIVE JUROR #009: My English is not a hundred percent.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR #009: I got a problem with writing and sometimes
24 reading, actually, yes.

25 THE COURT: So, you have some trouble reading English; yes?

1 PROSPECTIVE JUROR #009: Yes.

2 THE COURT: Okay. Do you understand spoken English? In other words, if
3 witnesses are on the stand testifying about things that happened or things they
4 observed, would you be able to understand that?

5 PROSPECTIVE JUROR #009: Yes.

6 THE COURT: Okay. All right. Thanks very much. I appreciate you letting us
7 know about that. Anyone else? No. Great. Okay.

8 Now we're about -- and just so it's clear. I'm going to be asking a lot of
9 questions and getting a lot of information from people. After I finish asking
10 questions of the whole group of you I'll be talking to the attorneys about all the
11 information I've gathered and determining whether anyone needs to be excused as
12 a result of that information. So, I'm not ignoring anything that we talk about. So,
13 first we're going to have some introductions now. So, please pay attention to these
14 introductions because you're going to be asked in a few minutes if you know anyone
15 involved in the case or anything about it.

16 So, first with the State. Please introduce yourself and your colleague,
17 tell prospective jurors the names of the witnesses you intend to call and a general
18 description of the nature of the case.

19 MS. BAHARAV: Yes, Your Honor.

20 Good afternoon. My name is Colleen Baharav and I along with Michelle
21 Sudano represent the State of Nevada in the case of the State of Nevada versus
22 Genaro Perry. The State has alleged that on or about the first day of May 2014, Mr.
23 Perry committed the crimes of robbery with use of a deadly weapon, false
24 imprisonment with the use of a deadly weapon, grand larceny auto, assault with a
25 deadly weapon, coercion, battery resulting in substantial bodily harm constituting

1 domestic violence and prevent or dissuading witness or victim from reporting crime
2 or commencing prosecution. We have alleged that those crimes all occurred here in
3 Clark County Nevada. To provide events on our case, the State anticipates calling
4 some maybe not all of the following witnesses: Corla Carpenter also known as
5 Corla Muhammed, Ahmedia Bragg, Franklin Elam, George Laster, Danielle Keller,
6 Dr. Steven Leibowitz, Shakeel Abdal-Karim, Justin Terry, and Deborah Ashenfelder
7 formerly known as Deborah Marriott [phonetic]. Thank you.

8 THE COURT: Thank you very much. Counsel, introduce yourself and your
9 client.

10 MR. SHETLER: Thank you, Your Honor.

11 Ladies and gentlemen, my name is Travis Shetler. I'm a solo
12 practitioner here in town. I represent Genaro Perry. The State's accused him of the
13 crimes Ms. Baharav just talked of. In addition to possibly hearing testimony from Mr.
14 Perry, you may hear some testimony or some information from Dr. Steven Gabeeff
15 [phonetic] who is a reconstructive surgeon here in town. Thank you.

16 THE COURT: Okay. So, I have a few basic questions first which I'm required
17 to ask in every case. So, if you do need to respond in the affirmative to any of these
18 questions, raise your hand. We'll get you the mic and then before you explain why
19 you raised your hand, if you could state your name and the last three digits of your
20 badge number.

21 So, first, have any of you been convicted of a felony? Please raise your
22 hand if you have. No hands. Okay. Are any of you not a United States citizen?
23 Raise your hand if you're not a citizen. No hands. Good. Now do any of you have
24 such a sympathy, prejudice or bias relating to age, religion, race, gender or national
25 origin that you feel that would affect your ability to be an open minded, fair and

1 impartial juror? Anyone feel that way. Okay. We've got one hand up front and one
2 the back, a couple in the back. Okay. So, we'll start up front and then we'll get the
3 mic back to you and hear what your views are there.

4 PROSPECTIVE JUROR #002: Andy Yi, 002.

5 THE COURT: Okay, sir. Why did you raise your hand on that question?

6 PROSPECTIVE JUROR #002: I raised by my hand because I personally
7 have been robbed at gunpoint and I never had a fair shot to go to a trial because
8 they never found the gentleman.

9 THE COURT: Okay. So, they never found the person who did that to you?

10 PROSPECTIVE JUROR #002: Yes.

11 THE COURT: Okay. And so how long ago was that?

12 PROSPECTIVE JUROR #002: About 14 years ago.

13 THE COURT: Okay. And was that here in Las Vegas?

14 PROSPECTIVE JUROR #002: No.

15 THE COURT: Where was it?

16 PROSPECTIVE JUROR #002: It was in Chicago, Illinois.

17 THE COURT: In Chicago.

18 PROSPECTIVE JUROR #002: Yes.

19 THE COURT: Okay. Got it. And so would how would that incident that
20 happened to you affect your ability to be fair and impartial or cause you any
21 sympathy, prejudice or bias in this case?

22 PROSPECTIVE JUROR #002: From my personal experience and from other
23 people I know that went through the same thing, I believe they got off easier, like
24 they never found the person and that's the reason why it happens, you know, so
25 often. And I feel as in this case, you know, I would, you know, judge the case

1 biasedly.

2 THE COURT: So, do you think that you would hold it against Mr. Perry here
3 because of someone robbing you at gunpoint those years ago?

4 PROSPECTIVE JUROR #002: Yes, I believe so.

5 THE COURT: Okay. All right. Thank you. And there were a couple people
6 that raised hands in the back.

7 PROSPECTIVE JUROR #050: I'm Doris E. Foley, 050. I'm understanding --
8 anyway, I have a long list of police in my family, prosecutor's office including. I have
9 been -- had a misdemeanor, and I'm not a fan of undercover cops and since he's
10 got a long list already, I already presume he's guilty.

11 THE COURT: He's got a long list of what?

12 PROSPECTIVE JUROR #050: Of things that he's being, you know, on trial
13 for. So, to me, he's already guilty.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR #050: That's it, ma'am.

16 THE COURT: And so the police and prosecutors in your family, have they
17 conveyed that view that someone that's charged with a lot of crimes must be guilty?

18 PROSPECTIVE JUROR #050: Yes; especially from the prosecutor's office.

19 THE COURT: Okay. Thank you, ma'am.

20 PROSPECTIVE JUROR #055: Terry Arcemont, 055. I have several things.
21 First, my belief does not allow me to pass judgment on another human being and,
22 second, I'm very, very opinionated so I have to keep it to myself and I cannot be fair
23 to Court because I'm brutally honest and I'm being right up four front. I will form an
24 opinion on myself.

25 THE COURT: Okay. So, you're both judgmental and can exercise a

1 judgment?

2 PROSPECTIVE JUROR #055: Yes. And I cannot pass a judgment on
3 another human being. That's not up to me.

4 THE COURT: And is that based on certain religious beliefs that you have?

5 PROSPECTIVE JUROR #055: I have many religious beliefs and it's hard to
6 explain because we are all children of God.

7 THE COURT: Right.

8 PROSPECTIVE JUROR #055: But yet I am partially to atheism also. So, I
9 cannot swear on a bible.

10 THE COURT: Okay. Rather than swear you could affirm to meet the
11 requirements.

12 PROSPECTIVE JUROR #055: Yeah.

13 THE COURT: I understand some folks don't want to swear and that's fine.

14 PROSPECTIVE JUROR #055: And I'm very, very opinionated.

15 THE COURT: You're very, very opinionated.

16 PROSPECTIVE JUROR #055: Yes.

17 THE COURT: But you can't pass judgment on somebody?

18 PROSPECTIVE JUROR #055: I can't because I'm in conflict. That's how
19 come I cannot be a fair juror at all. I never served in jury duty.

20 THE COURT: Okay. So, if you were sitting on the jury after hearing all of the
21 evidence and then went back to the jury room with the other jurors, you couldn't vote
22 guilty or not guilty?

23 PROSPECTIVE JUROR #055: No, ma'am, and I will be kicked off the jury
24 before that because a couple of judges already did because I already told them that
25 I already formed an opinion and I cannot sit in the jury box. And that's the honest

1 truth.

2 THE COURT: Okay. All right. Thanks very much.

3 Do any of you know the Defendant, Mr. Perry, or his counsel, Mr.
4 Shetler? No hands. Okay. Do any of you know our Deputy District Attorneys, Ms.
5 Baharav or Ms. Sudano? No hands. Okay. Do any of you know our District
6 Attorney Steve Wolfson or other personnel in the District Attorney's office? Yes,
7 okay.

8 PROSPECTIVE JUROR #039: Yeah, I'm Martin Orsinelli, 039. I've worked
9 with Steve Wolfson when he was a defense attorney. I'm a Deputy City Attorney
10 with the City of Las Vegas. I don't know these two deputies but I do know Steve
11 Wolfson.

12 THE COURT: Right. Okay. And that was what I asked. And so was that like
13 when he was on the city council?

14 PROSPECTIVE JUROR #039: City council, as a Defense attorney. I don't
15 know him personally outside the office. I've seen him at functions.

16 THE COURT: Right.

17 PROSPECTIVE JUROR #039 But, yeah, I do know. If we saw each other in
18 the elevator we would say hi. That's about it.

19 THE COURT: Okay. Fair enough. And that is what I asked. So, let me ask
20 you this. As a result of your relationship as you've described it with Mr. Wolfson,
21 would that affect your ability to be fair and impartial as a juror in this case?

22 PROSPECTIVE JUROR #039: No, it would not.

23 THE COURT: Do you think you'd have a tendency to favor the District
24 Attorney's office because of your relationship with Mr. Wolfson?

25 PROSPECTIVE JUROR #039: No, I do not.

1 THE COURT: Okay. You think you can be fair to both sides?

2 PROSPECTIVE JUROR #039: Yes, I do.

3 THE COURT: Great. Thank you. Okay. Do any of you know any of the
4 witnesses whose names were read by either of the attorneys? One hand in the
5 back.

6 PROSPECTIVE JUROR #055: I believe it's Dr. Steven Leibowitz.

7 THE COURT: I need your name and badge number again.

8 PROSPECTIVE JUROR #055: Oh, Terry Arcemont, 055. Sorry.

9 THE COURT: It's okay.

10 PROSPECTIVE JUROR #055: Yeah. Dr. Leibowitz did an operation on left
11 eye and I still have no feeling in it. So, I got a little issues with him.

12 THE COURT: Okay. Great. I appreciate you letting me know about that.

13 PROSPECTIVE JUROR #055: I'm honest.

14 THE COURT: Yes; thank you.

15 All right. So, it's now -- it's Wednesday; right? It's now Wednesday
16 afternoon. The trial itself is going to be complete by this Friday so that's good news
17 for you. It's possible that we would finish the trial on Friday but the jurors might still
18 be deliberating on Monday. So, I want to give a heads up about that in case any of
19 you have issues on Monday. So, with that being said, I understand it's difficult for
20 everyone to be here as a juror. You all have other things you should be doing,
21 perhaps other things you would rather be doing whether it's at work or at home,
22 whatever you would ordinarily be doing if you weren't here, and I get that. But my
23 question is whether serving these few days as a juror would represent an undue
24 burden for any of you, that is, more of a burden than it is for everyone else who has
25 got to be here to serve as a juror. Okay.

1 So, what we'll do is we'll start going through the folks -- so we'll hand it
2 to the first person and then once they're done if the other folks raise their hands so
3 we can pass it around and get the information from all of you who have raised your
4 hands. Okay. Yes, ma'am, name and badge number.

5 PROSPECTIVE JUROR #003: Phoebe Downing, badge number 003.

6 THE COURT: Yes, ma'am, what's your issue?

7 PROSPECTIVE JUROR #003: Child care. If it goes through -- because me
8 and my husband we schedule ourselves opposite days for one of us to be home
9 with the kids, if it ends on Friday that's fine but if it goes on to Monday that'll be a
10 problem for me.

11 THE COURT: So, your husband works on Monday?

12 PROSPECTIVE JUROR #003: Yeah.

13 THE COURT: And so you would be the one with the children?

14 PROSPECTIVE JUROR #003: Yes.

15 THE COURT: And how old are the children?

16 PROSPECTIVE JUROR #003: Nine and 13.

17 THE COURT: Okay. So, are they in school during the day?

18 PROSPECTIVE JUROR #003: Yes.

19 THE COURT: Okay. So, is it just an issue of drop and pick up?

20 PROSPECTIVE JUROR #003: Yes.

21 THE COURT: Okay. So, what time do they need to be dropped off?

22 PROSPECTIVE JUROR #003: My son gets dropped off by 8 o'clock, my
23 daughter at nine. They both get picked up by 3:20.

24 THE COURT: Okay. If you were able to do the drop off in the morning, is
25 there anyone, a friend or anyone, who might be able to help out with pick-up in the

1 afternoon if you were?

2 PROSPECTIVE JUROR #003: [Witness nodding head in the negative].

3 THE COURT: No? Okay. You're nodding, for the record. Okay. Thanks.
4 Okay. Go ahead.

5 PROSPECTIVE JUROR #012: Adam Taylor, 012. I'm fine for every day but
6 just if it -- I don't know how long these things go for. That was the question I had a
7 for a long time. If it ends at like five or so, that's fine, because the job I'm in is -- I'm
8 the only one that can do it. So, there's no replacement for me on the job and it runs
9 Friday, Saturday, Sunday. That's it.

10 THE COURT: So, you work Friday, Saturday, Sunday.

11 PROSPECTIVE JUROR #012: Mm-hmm.

12 THE COURT: And what time?

13 PROSPECTIVE JUROR #012: I have to be there at six, 6:30ish, but no later
14 than that. I just don't know how late these go. Any day is fine.

15 THE COURT: Okay. So, you could be here on Friday as long as we had you
16 out by about five?

17 PROSPECTIVE JUROR #012: Yeah, that's perfect.

18 THE COURT: And you could get to work?

19 PROSPECTIVE JUROR #012: Mm-hmm. And up until then I'm cool.

20 THE COURT: Okay. Thanks very much.

21 PROSPECTIVE JUROR #012: Than you.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR #013: I'm Donna Jolly, it's 0013. I don't know if you
24 consider this an undue burden; I do. I have a new boss starting on Monday who I
25 will be reporting to. I would really like to be there on Monday. There's some stuff

1 going on at work that makes me very tensed and stressed and I really want to be
2 there for that first day of her work.

3 THE COURT: And so what do you do for work?

4 PROSPECTIVE JUROR #013: I am in marketing.

5 THE COURT: Okay. And the new person who is starting, what position are
6 they going to be in?

7 PROSPECTIVE JUROR #013: She would be my direct report; I mean, she
8 would be my boss.

9 THE COURT: Right.

10 PROSPECTIVE JUROR #013: That's what I'm trying to say.

11 THE COURT: And so like over the marketing department?

12 PROSPECTIVE JUROR #013: Over three different departments, marketing
13 being one.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR #013: And we had an employee quit today. You
16 know, I don't want to get into too many details about this but, you know, it's a
17 stressful situation. Like I said, it's undue for me. I don't know if you would consider it
18 that way.

19 THE COURT: What's your work hours on Monday?

20 PROSPECTIVE JUROR #013: On Mondays, eight to five.

21 THE COURT: Eight to five. Okay. All right. Thank. Pass it down that way.

22 PROSPECTIVE JUROR #014: Ashley Gomez, 014.

23 THE COURT: Yes.

24 PROSPECTIVE JUROR #014: I actually work from home because I have an
25 infant, a ten month old, and he's fine today. He's with dad but dad is going to be

1 traveling over the weekend. And at this moment I don't have anybody else to care
2 for him. His grandmother is in the hospital right now. So, this is a very, very bad
3 timing. And grandpa travels. He's a comedian on Carnival Cruise ships. So, he's
4 never here. And I, quite frankly, don't like leaving my kid with anybody I don't know.

5 THE COURT: Okay. So, when you say -- so dad's there to watch the baby to
6 day.

7 PROSPECTIVE JUROR #014: Today. I actually moved -- my brother passed
8 way a couple months ago. He was shot in a triple homicide off of Sahara and Fort
9 Apache. I don't know if anybody heard about this. So, being in this courtroom right
10 now is not doing me good at all. But I moved it, my jury service, to today so that I
11 could be here. However, my boyfriend got a job, a gig in another state. I don't know
12 how long this thing runs, but he's got to leave Friday morning.

13 THE COURT: Okay. So, when you say he's got to be gone for the weekend
14 he's leaving Friday morning?

15 PROSPECTIVE JUROR #014: Yeah.

16 THE COURT: Okay. So, on Friday you don't have any coverage for your ten
17 month old?

18 PROSPECTIVE JUROR #014: Correct.

19 THE COURT: Okay. Thank you

20 PROSPECTIVE JUROR #015: Badge number 015, Mary Logan.

21 THE COURT: Okay, ma'am, thank you.

22 PROSPECTIVE JUROR #015: Your question was framed in convenience; is
23 that correct?

24 THE COURT: No. My question is it would be an undue burden for you to be
25 here.

1 PROSPECTIVE JUROR #015: Okay, yes. All right. I have a disability. I
2 have arthritis in my spine and sciatic nerve damage and I have great difficulty either
3 sitting for a long period of time or standing for a long period of time, and I'm afraid
4 that the pain level would increase substantially and as a result I would lose my
5 ability to concentrate on the details. I am taking -- I take medication, prescribed
6 medication for my condition and I just believe that that would be a burden for me.

7 THE COURT: So, just so I understand. Is the -- do you only take the
8 medication if you get the pain to where it's difficult for you otherwise or do you take
9 the medication regularly to avoid the pain?

10 PROSPECTIVE JUROR #015: Both. Actually I take the medication on a
11 regular basis and then I take more medication --

12 THE COURT: Okay.

13 PROSPECTIVE JUROR #015: -- if it, you know, requires such.

14 THE COURT: And so the medication that you take, that interferes with your
15 ability to concentrate?

16 PROSPECTIVE JUROR #015: I'm afraid that the pain would make it such
17 that eventually I would not be comfortable seated and I would -- that would draw my
18 concentration away.

19 THE COURT: Okay. So, how long can you sit for?

20 PROSPECTIVE JUROR #015: Probably an hour, 45 minutes or an hour.

21 THE COURT: And then -- so when you get to that point like, okay, I can't sit
22 anymore, you just -- do you need to stand up or do you need to be able to walk
23 around?

24 PROSPECTIVE JUROR #015: I prefer to get up and walk around because
25 it's the sciatic that goes down my left leg.

1 THE COURT: Got it. Okay. Do you work, ma'am?

2 PROSPECTIVE JUROR #015: No; I'm retired.

3 THE COURT: Okay. All right. Thanks very much.

4 PROSPECTIVE JUROR #015: Thank you.

5 THE COURT: Anyone else in that row? Okay.

6 PROSPECTIVE JUROR #018: Badge number 018, Michelle Zira.

7 THE COURT: Yes, ma'am.

8 PROSPECTIVE JUROR #018: Currently I am the sole manager of two real
9 estate communities, new homes communities. At this time I don't have any backup.
10 I am the sole person, the sole agent running these two communities of which I am
11 commissioned based. And having the doors closed for three days with no
12 opportunity to work with the customers that I've been working with in the past to
13 convert into incoming sale along with the people that would be coming in throughout
14 those three days that I would lose the amount of income to have the doors closed
15 for three days would be pretty devastating financially.

16 THE COURT: Okay. So, when you say it would be financially devastating,
17 how would it affect you? I mean, would you be able to, you know, pay your rent or
18 mortgage, have food on the table, things like that?

19 PROSPECTIVE JUROR #018: That's a unforeseen answer. It depends on
20 what would come in throughout those three days. It could significant and it could be
21 insignificant which is the purpose of having to be there for those three days to be
22 able to generate any form of income that would be possible during those three days.

23 THE COURT: So, are you saying it's like model homes and you're sitting
24 there on site or --

25 PROSPECTIVE JUROR #018: I have two communities and individual

1 communities that are in the same neighborhood that I'm operating, yes. So, if I'm
2 not there I have no opportunity to earn any income.

3 THE COURT: Right. Okay. And are you the sole support in your household?

4 PROSPECTIVE JUROR #018: I am.

5 THE COURT: Okay. And so -- okay. All right. Thank you.

6 PROSPECTIVE JUROR #021: I'm Brian Mersis, 0021. I actually very
7 recently moved to California. I drove back from LA this morning just to get here.
8 Unfortunately I work freelance. I work executive protection and body guarding and I
9 have a client that I'm supposed to be back for this evening and work this evening
10 through next Monday. And that's really my sole income, my sole client for this
11 month. So, as far as rent or car payment or anything it would be severely
12 devastating to the monthly situation.

13 THE COURT: When did you move to California?

14 PROSPECTIVE JUROR #021: Within the last two weeks.

15 THE COURT: So, you've actually moved your permanent residence there
16 from here?

17 PROSPECTIVE JUROR #021: Yes; I still have my -- I didn't get a chance to
18 get my California driver's license yet. I'm coming back just to finish wrapping up,
19 you know, my loose ends here. I still have my valid Las Vegas ID.

20 THE COURT: Okay. Thank you.

21 PROSPECTIVE JUROR #019: Mike Brilliant, 019. I'm a program manager for
22 a company based out of the East Coast. We are currently in negotiations for a
23 contract. The period performance ends tomorrow. The negotiations are ongoing
24 today and tomorrow. I've missed a couple meetings today that requires my
25 decisions. It would be extremely difficult to get through those negotiations by the

1 period performance end date and then negotiate an extension for the following six
2 months. The performance of the contract includes overseas locations and
3 continental United States locations I would say ten or 15 different sites where we
4 employ folks to work on unmanned aircraft. So, if I don't get the contract extended
5 and properly pushed and signed it is a hardship for me as a program manager.

6 THE COURT: All right. And, you know, I don't know about your company or
7 whatever but there's no one else who can take it over for you?

8 PROSPECTIVE JUROR #019: No, ma'am. Unfortunately I'm the only
9 program manager that does this kind of work in the company. Business developers,
10 they don't have the decision making authority to do so, so it would be me.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR #019: I have a boss, of course. He could probably
13 make those decisions in my stead but it's mine to win or lose.

14 THE COURT: Okay. Thank you.

15 PROSPECTIVE JUROR #025: Number 025, Shawn Waldman.

16 THE COURT: Yes.

17 PROSPECTIVE JUROR #025: I have a ten month old daughter. My wife and
18 I are full time employees. So, we are the ones doing childcare for our daughter. So,
19 we rotate with our days off so I have nobody to watch my daughter tomorrow. So,
20 that would be an issue for me.

21 THE COURT: So, tomorrow your wife works?

22 PROSPECTIVE JUROR #025: Correct.

23 THE COURT: And you normally would not be working tomorrow?

24 PROSPECTIVE JUROR #025: Correct. I'm off Wednesday, Thursday my
25 wife is off the weekends. The person that watches our child on Monday, Tuesday,

1 Friday can do it tomorrow. I had to pull teeth to get him to watch her today. I have
2 no family, no grandparents in the state of Nevada or Las Vegas. So, tomorrow I
3 have nobody to watch her.

4 THE COURT: Okay. Thank you.

5 PROSPECTIVE JUROR #051: My name is Hung Nguyen. My badge number
6 051. I am a dentist in my office, the only dentist in my office, and I owner. So, my
7 schedule has been booked. It's very difficult to cancel all of my patients and nobody
8 to take care of emergency patients.

9 THE COURT: So, I think you said this. There's no other dentist in your
10 office?

11 PROSPECTIVE JUROR #025: No; only me.

12 THE COURT: And so you've got bookings for the next couple days for
13 people?

14 PROSPECTIVE JUROR #025: Yeah. I book in advance two weeks.

15 THE COURT: I'm sorry I missed that.

16 PROSPECTIVE JUROR #025: The schedule is full.

17 THE COURT: The schedule is full. Okay. Thank you. Anyone else back
18 there?

19 PROSPECTIVE JUROR #052: Steven Stowers, badge number 052.

20 THE COURT: Yes, sir.

21 PROSPECTIVE JUROR #052: I care for a five month year old and my wife,
22 she works during the day and I work evenings so it will be a difficult situation of
23 switching and finding someone to watch her during the day.

24 THE COURT: Who is watching the child today?

25 PROSPECTIVE JUROR #052: I got a friend of a friend to watch it -- sorry --

1 her. Sorry. Just nervous.

2 THE COURT: Okay. I understand. It's okay. So, you have a friend taking
3 care of your baby today?

4 PROSPECTIVE JUROR #052: Yes, my wife's friend.

5 THE COURT: Right. But you don't have -- you wouldn't have any coverage
6 the other days. She works during the day tomorrow and Friday?

7 PROSPECTIVE JUROR #052: She works today, tomorrow, and Friday. I'm
8 off today and tomorrow.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR #052: It's just that if she is able to take off that would
11 be fine, but if she's not able to take off then that would be the situation there.

12 THE COURT: Okay. Thank you.

13 PROSPECTIVE JUROR #055: Terry Arcemont, 055. I hate to sound like I'm
14 whining but I carry on a Asian tradition and I take care of my elderly mother and then
15 I'm a provider for her. I quit my hourly job four years ago so I became a full hundred
16 percent commission employee so I could basically schedule my own schedule and
17 leave work at any time to take care of my elderly mother. She has a degenerative
18 disk. So, she needs assistance to move around. And then now it's kind of hard on
19 me because I got a Jones fracture on my right leg and gained 30 pounds in the last
20 three months. So, anyways, that's it.

21 THE COURT: Thank you. All right. A couple more questions before I talk to
22 counsel about all the information we've got.

23 First, a little bit about the role of a judge and jury in a case like this. As
24 the judge I'm the judge of the questions of law. It's my job to know what the law is
25 and to instruct the jurors on the law that applies to this case. The jurors are the

1 judges of questions of fact. They decide what really happened with respect to the
2 charges that are brought, but the jurors are required to follow my instructions on the
3 law that applies. With that in mind, is there anyone who thinks you may not be able
4 to follow my instructions on the law even if they were different from what you thought
5 the law ought to be? Anyone have difficulty with that? No hands. Great. Thank
6 you.

7 Under our system of justice there are certain principles of law that apply
8 in every criminal trial. They are that the charging document filed in this case is a
9 mere accusation and is not evidence of guilt; that the Defendant, Mr. Perry, is
10 presumed innocent and the State must prove that he is guilty beyond a reasonable
11 doubt. Does anyone not understand or believe in these basic principles of American
12 justice? Okay. I got a hand up front.

13 PROSPECTIVE JUROR #023: Kara Shrader, Juror 0062. I basically --

14 THE COURT: Okay. It's 23. Okay.

15 PROSPECTIVE JUROR #023: 023.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR #023: I basically just don't think it's right to put
18 anybody in jail no matter what they do. I think God will take care of that. That's
19 what I have to say about that.

20 THE COURT: Okay. So, if you were on the jury would you be able to
21 evaluate the evidence in accordance with the law I give you and vote as to whether
22 guilt was proven beyond a reasonable doubt or not?

23 PROSPECTIVE JUROR #023: I just don't think -- irregardless it's not right to
24 send anybody to jail; that they can find their own spiritual path without jail.

25 THE COURT: Okay. So, the jurors won't have anything to do with

1 sentencing in this case; does that make a difference for you?

2 PROSPECTIVE JUROR #023: Yeah; as long as I don't have to -- my
3 decision is a result of, you know, I wouldn't say anything that's going to make
4 somebody have to go to jail.

5 THE COURT: The jurors' decision will be as to each of the charges
6 considering whether Mr. Perry is guilty or not guilty based on the evidence and the
7 law presented; is that something you could do?

8 PROSPECTIVE JUROR #023: I probably would not say guilty if he's going to
9 have to go to jail.

10 THE COURT: Okay. So, you think people who commit any crimes should
11 just be out walking the streets anyway?

12 PROSPECTIVE JUROR #023: I think everything happens for a reason and
13 that, you know, God has a law over everything and things will be taken care of as
14 they're supposed to. I don't think it's right just for people to just always go to jail.

15 THE COURT: Okay. All right. Thank you. Anyone else? No. Okay.

16 Does anyone know anything about this case other than what's been
17 stated in the courtroom so far? No hands. Okay. Good.

18 All right. Counsel, come on up and bring your notes, please.

19 [Bench conference -- begins]

20 THE COURT: We've got some interesting folks in the crowd today.

21 MR. SHETLER: That certainly is true. You have an amazing poker face,
22 Judge.

23 THE COURT: Okay. So, unfortunately we have several that I think we're
24 going to have to excuse but we'll probably be okay. So, I'm just going to go in order
25 through the list. So, 002, Mr. Yi.

1 MS. BAHARAV: He said he'd hold it against the Defendant, and this is
2 Colleen for the record. I can't object to that, Your Honor.

3 THE COURT: Right. So, we're going to have excuse him. Okay. Next, 003,
4 Ms. Downey. I think we can probably work around her schedule on Monday. We
5 could just have them no come here until ten and she can get here at ten if they were
6 deliberating, and we could probably get her out by three if we had to. I want to hold
7 onto to her for right now.

8 MS. BAHARAV: Okay.

9 THE COURT: 012, Mr. Taylor. I think we're okay with him too. We could end
10 by five on Friday.

11 MS. SHETLER: That's what he meant was p.m.? I couldn't catch that.

12 THE COURT: I think so.

13 MS. BAHARAV: Yes, he did. 009, Mr. Gonzalez said he had issues with
14 English, but I think --

15 THE COURT: You know what. I didn't even write it down.

16 MS. BAHARAV: Oh, that's okay. This is Colleen again.

17 THE COURT: He seemed to be fine.

18 MS. BAHARAV: He did. The only thing that he'd be reading --

19 THE COURT: Do we have written documents?

20 MS. SUDANO: Just jury instructions, Your Honor. This is Michelle.

21 THE COURT: Oh, jury instructions.

22 MS. BAHARAV: And potentially medical records if we have to admit those.

23 THE COURT: Do you want to excuse me?

24 MR. SHETLER: I have no problem with him going.

25 MS. BAHARAV: That's fine, Your Honor. I don't know. Maybe if you want to

1 him go back down and get re-assigned to somewhere else, but we do have to admit
2 medical records it could be really hard for him to review those.

3 THE COURT: Yeah; no, that's a good point. I was thinking well it's mostly
4 testimony so I wasn't worried about it.

5 MR. SHETLER: Right; testimony.

6 MS. BAHARAV: It was -- it should be.

7 THE COURT: You're right.

8 MS. BAHARAV: I'd say yes.

9 THE COURT: Okay. Let's excuse him. Okay. So, we talked about Mr.
10 Taylor. I'm going to hang with him for now. 013, Ms. Jolly. She has a new boss
11 starting Monday. I'm not overly concerned about that.

12 MS. BAHARAV: No.

13 THE COURT: I'm more concerned about if she is actually going to be
14 stressed and distracted.

15 MS. SHETLER: Right. More important be fair to listen to all the testimony
16 and not be punishing just in general.

17 MS. BAHARAV: We'll submit it to counsel's discretion. If he wants her gone,
18 we're fine with it.

19 MS. SHETLER: I think she should probably go.

20 THE COURT: You think she should be excused?

21 MR. SHETLER: Yeah.

22 THE COURT: Okay. I'll excuse her. 014, Gomez.

23 MR. SHETLER: She's got --

24 MS. BAHARAV: No; I have to explain something about this. The issue that
25 she's talking about, that triple homicide, that was a domestic related homicide. The

1 victim --

2 THE COURT: Yeah; because I remember Sahara and Fort Apache and I
3 thought, really, and then I remember reading in the paper. That was her brother.

4 MS. BAHARAV: Her brother was dating --

5 MR. SHETLER: The mom.

6 MS. BAHARAV: -- the daughter of the woman that was married to the man
7 that killed him. So, he was just in the wrong place at the wrong time. He got shot
8 because he was the daughter. So, the fact that this is a domestic case --

9 THE COURT: And that's close in time.

10 MS. BAHARAV: Yeah.

11 THE COURT: Okay. So, let's excuse her --

12 MS. BAHARAV: I would ask the Court to excuse her, yeah.

13 THE COURT: -- yes, for several reasons. 015, Logan. Okay. She's the lady
14 with the arthritis.

15 MS. BAHARAV: She's got health issues.

16 MR. SHETLER: Yeah. I'm most comfortable with her being excused.

17 THE COURT: Okay. Sometimes we can work around it but it sounds like
18 she's got it pretty bad. 018, Ms. Zira.

19 MS. BAHARAV: It seems like she was trying to say she couldn't pay her bills,
20 but I don't -- but then she didn't say that. I don't know.

21 THE COURT: Yeah. Right. She said -- right -- she said basically well, you
22 know, I don't know. I guess it depends on what commission she would get.

23 MS. BAHARAV: True.

24 THE COURT: I don't know. She's the only one out there on two
25 communities. I don't know.

1 MS. BAHARAV: Yeah.

2 MR. SHETLER: Right.

3 MS. BAHARAV: And she's the only one in her house, I think she said.

4 MR. SHETLER: She did say that.

5 THE COURT: She did say that, yes.

6 MR. SHETLER: I have no problem with her being excused.

7 THE COURT: Okay. 019, Michael Brilliant. So, he's trying to wrap up
8 negotiations of the contract that ends tomorrow.

9 MR. SHETLER: Right.

10 THE COURT: He's going to send drones out.

11 MS. SHETLER: Right.

12 MS. BAHARAV: Right.

13 MR. SHETLER: So, he can control the future.

14 MS. BAHARAV: The only thing I think with that is that I wonder if could
15 handle those things, kind of, in the morning before he comes in, but if there's
16 ongoing negotiations it looks like he's going to be focused on that.

17 MR. SHETLER: He has to win or lose he said.

18 THE COURT: It's the urgent timing. It were just in general I'm important in
19 my job I'd say no.

20 MR. SHETLER: Right.

21 THE COURT: But this sounds like it's really bad timing. It probably would
22 have been better to re-schedule and do it another time.

23 MR. SHETLER: Right.

24 MS. BAHARAV: A lot of people don't know they can do that actually.

25 MR. SHETLER: Well I wonder how many people we're talking about -- he

1 said 15 locations.

2 MS. BAHARAV: He said -- I think that they wouldn't be allowed to work if they
3 didn't [indiscernible].

4 MR. SHETLER: Yeah.

5 THE COURT: 021, Mersis. Okay.

6 MS. BAHARAV: He moved to California.

7 MR. SHETLER: Yeah.

8 THE COURT: Yeah. Okay.

9 MS. SUDANO: It's always something.

10 THE COURT: Yes; he doesn't need to be here. 023, Shrader.

11 MS. BAHARAV: Your Honor --

12 MR. SHETLER: I'd like to retain Ms. Shrader.

13 MS. BAHARAV: I ran her. She's got a really long record of prostituting
14 related offenses that our office has prosecuted her on. So, given this --

15 THE COURT: I guess that's how she's serving God.

16 MS. BAHARAV: Indeed.

17 THE COURT: I shouldn't make that one [indiscernible].

18 MS. BAHARAV: Well trespasses too. Maybe she just likes to go through --
19 the thing I would say is that she indicated that she'd have a hard time feeling guilty if
20 she thought he'd go to jail and that's going to be hard for the State.

21 THE COURT: Right. I mean, if she's looking at a robbery charge I think she
22 knows that he's looking at jail.

23 MR. SHETLER: I just don't see a way that I can try and keep her on, Judge,
24 but I would certainly love to.

25 THE COURT: Okay. I'm going to excuse her. We're going to have to fill a

1 bunch of spots up front. That's okay. 025, Waldman. Okay. He's also got no child
2 care coverage for the ten month old. I think I would let him go.. Mr. Orsinelli is
3 staying so that's good.

4 MS. BAHARAV: Yeah. She knows my thoughts. Maybe it's a good thing,
5 Travis.

6 THE COURT: 050, Ms. Foley, was pretty determined to get out here.

7 MR. SHETLER: Yes.

8 MS. BAHARAV: She said she would presume the Defendant is guilty.

9 THE COURT: She said he's already guilty because I wrote that down. So, I
10 need to excuse her even though the genuineness of it is in question.

11 MR. SHETLER: Right. I would agree with that a hundred percent.

12 MS. BAHARAV: She made a good record.

13 THE COURT: But I don't think we want that record. 051, the dentist.

14 MR. SHETLER: He says he's got no other coverage. People are relying and
15 changing their schedules based on him.

16 THE COURT: He's going to have to re-schedule everyone for the next few
17 days. I wouldn't want to have that happen.

18 MR. SHETLER: Although the other doctor didn't say anything; did they?

19 MS. BAHARAV: Which doctor?

20 THE COURT: There's another doctor?

21 MS. BAHARAV: Someone didn't like our doctor.

22 THE COURT: He's a doctor.

23 MR. SHETLER: A doctor in back row.

24 THE COURT: No? Okay. So, I'm going to excuse Dr. Nguyen.

25 MR. SHETLER: Yes.

1 THE COURT: 052, He's got the five month old.

2 MS. BAHARAV: It.

3 THE COURT: Yes. I felt bad because other people called him out on that.

4 MR. SHETLER: I think it's nervous. It sounds like it's a problem.

5 THE COURT: Yeah, I need to excuse him. Mr. Arcemont. He's got every
6 problem in the book, 055.

7 MR. SHETLER: You took the words right out of my mouth. You can't judge.

8 THE COURT: He can't judge but he's very judgmental, all in the same
9 sentence.

10 MS. BAHARAV: He knows that doctor and he --

11 MR. SHETLER: Oh, that's right. I did write that.

12 THE COURT: Yes; he got treatment. WE got to get him out of here because
13 he causes any harm to the rest of us.

14 MR. SHETLER: We're keeping Martin now; Arcemont is out.

15 THE COURT: So, I'm going to excuse all of those. We'll replace any open
16 seats up front. I don't have them all shift. We just fill the open seats and then we'll
17 start in seat number one with questions.

18 MR. SHETLER: Well what are we doing with -- oh no, we talked about
19 Gomez. I'm sorry. I'm just checking my notes.

20 MS. BAHARAV: That's okay.

21 MR. SHETLER: Logan is out. Michelle, did we decide on her or not?

22 THE COURT: Which one?

23 MS. BAHARAV: Zira.

24 MR. SHETLER: 018. She's out.

25 MS. BAHARAV: Yeah, she's out.

1 MR. SHETLER: Mr. Brilliant's out; Kara's out. Thank you for your patience,
2 Judge.

3 THE COURT: Okay.

4 MS. BAHARAV: Thank you.

5 [Bench conference -- concluded]

6 THE COURT: Okay, folks. Thanks for your patience. I'm going to excuse the
7 following people at this time. After I'm done reading this list, then the folks who I
8 announce will be excused. You'll need to report down to the third floor and let them
9 know that I've excused you. So, wait till I'm done reading these folks out loud and
10 then we'll be continuing with the jury selection process with the rest of you. 002,
11 Andy Yi, 009, Javier Gonzalez, 013, Donna Jolly, 014, Ashley Gomez, 015, Mary
12 Rogan, 018, Michelle Zira, 019, Michael Brilliant, 021, Brian Mersis, 023, Kara
13 Shrader, 025, Shawn Waldman, 050, Doris Foley, 051, Hung Nguyen, 052, Steven
14 Stowers, 055, Terry Arcemont. If I read your name you're excused. Report down
15 to the third floor.

16 THE COURT CLERK: Next in seat number 1, Badge number 029, Jennifer
17 Ward; next, seat number 8, Badge number 030, Kateley Grayson; seat number 12,
18 Badge number 032, George Ward; seat number 13, Badge number 034, Erik
19 Adamek; seat number 14, Badge number 036, Jennifer Bautista; seat number 16,
20 Badge number 037, Serena Compton; seat number 17, Badge number 038, Karlo
21 Maalouf; seat number 19, Badge number 039, Martin Orsinelli. Next in seat number
22 20, Badge number 040, Stephanie Ruiz.

23 THE COURT: Okay. We'll get her when she comes back in.

24 THE COURT CLERK: And in seat 22, Badge number 041, Melinda Lopez.

25 THE COURT: Okay. So, we have Ms. Ward; correct?

1 PROSPECTIVE JUROR #029: Yes.

2 THE COURT: Okay. Ms. Ward, is there any reason you could not be fair and
3 impartial in this case?

4 PROSPECTIVE JUROR #029: No.

5 THE COURT: Can you wait in forming your opinion on the appropriate result
6 until all of the evidence has been heard?

7 PROSPECTIVE JUROR #029: Yes.

8 THE COURT: Have you or anyone close to you worked in law enforcement?

9 PROSPECTIVE JUROR #029: No.

10 THE COURT: Have you or anyone close to you been charged with a serious
11 crime?

12 PROSPECTIVE JUROR #029: No.

13 THE COURT: Have you or anyone close to you been the victim of a serious
14 crime?

15 PROSPECTIVE JUROR #029: No.

16 THE COURT: Is there anything about the charges in this case that would
17 make it difficult for you to be fair and impartial?

18 PROSPECTIVE JUROR #029: No.

19 THE COURT: Can you base your verdict solely on the evidence brought out
20 at trial and the law that applies as stated in my instructions without fear of criticism
21 or popular opinion?

22 PROSPECTIVE JUROR #029: Yes.

23 THE COURT: Have you ever been a juror before?

24 PROSPECTIVE JUROR #029: No.

25 THE COURT: If you were a party to this case would you be comfortable with

1 jurors of a like frame of mind as yourself sitting in judgment?

2 PROSPECTIVE JUROR #029: Yes.

3 THE COURT: And, ma'am, how long have you lived in Clark County?

4 PROSPECTIVE JUROR #029: Forty-one years.

5 THE COURT: And what's the highest level of education you completed?

6 PROSPECTIVE JUROR #029: Associates degree.

7 THE COURT: In what?

8 PROSPECTIVE JUROR #029: Nursing.

9 THE COURT: And are you employed?

10 PROSPECTIVE JUROR #029: Yes.

11 THE COURT: Doing what?

12 PROSPECTIVE JUROR #029: Registered nurse.

13 THE COURT: Okay. And are you married?

14 PROSPECTIVE JUROR #029: Yes.

15 THE COURT: Is your spouse employed?

16 PROSPECTIVE JUROR #029: Yes.

17 THE COURT: Doing what?

18 PROSPECTIVE JUROR #029: He works at the Mandalay Bay, a

19 maintenance engineer.

20 THE COURT: Okay. Do you have children?

21 PROSPECTIVE JUROR #029: Yep.

22 THE COURT: How many?

23 PROSPECTIVE JUROR #029: Two girls.

24 THE COURT: And how old are they?

25 PROSPECTIVE JUROR #029: Sixteen and 14.

1 THE COURT: Okay. State.

2 MS. BAHARAV: Hi. I'm Colleen. I think I introduced myself to you earlier, but
3 welcome. Ms. Ward, have anyone in your family ever been the victim of domestic
4 violence?

5 PROSPECTIVE JUROR #029: No.

6 MS. BAHARAV: Any of your friends ever been the victim of domestic
7 violence?

8 PROSPECTIVE JUROR #029: No.

9 MS. BAHARAV: Have you been the victim of domestic violence?

10 PROSPECTIVE JUROR #029: No.

11 MS. BAHARAV: Do you watch the show CSI?

12 PROSPECTIVE JUROR #029: Yes.

13 MS. BAHARAV: Do you watch the one from Las Vegas?

14 PROSPECTIVE JUROR #029: Uh-huh.

15 MS. BAHARAV: Do you see all those awesome tools and gadgets that they
16 have in that show?

17 PROSPECTIVE JUROR #029: Yeah.

18 MS. BAHARAV: Okay. You understand that's fiction; right?

19 PROSPECTIVE JUROR #029: Oh, yeah.

20 MS. BAHARAV: Okay. The Las Vegas Metropolitan Police Department
21 works on a budget so they do not have those types of fancy computer screens and
22 things like that; you understand that, right?

23 PROSPECTIVE JUROR #029: Oh, yeah.

24 MS. BAHARAV: Now knowing what you know about CSI Las Vegas, you're
25 not going to hold the State to that particular forensic standard; are you?

1 PROSPECTIVE JUROR #029: No.

2 MS. BAHARAV: Do you understand that not every case has fingerprint or
3 DNA; do you understand that?

4 PROSPECTIVE JUROR #029: I do.

5 MS. BAHARAV: Are you going to hold that against us if we don't present any
6 DNA or fingerprints?

7 PROSPECTIVE JUROR #029: No.

8 MS. BAHARAV: Or a really fancy computer screen with someone's face next
9 to it?

10 PROSPECTIVE JUROR #029: No.

11 MS. BAHARAV: Okay. Have you ever had contact with the Las Vegas
12 Metropolitan Police Department?

13 PROSPECTIVE JUROR #029: No.

14 MS. BAHARAV: Traffic tickets or anything like that?

15 PROSPECTIVE JUROR #029: Yeah, I'm sure I've had a ticket. I don't know
16 if it was Las Vegas. I live in Boulder City.

17 MS. BAHARAV: Oh, okay. Well anything about your law enforcement
18 contact, maybe if you had a ticket stand out to you positive or negative?

19 PROSPECTIVE JUROR #029: No.

20 MS. BAHARAV: No. Nothing about that experience stands out to you at all?

21 PROSPECTIVE JUROR #029: No.

22 MS. BAHARAV: Great. We heard some comments earlier about someone's
23 beliefs not being -- allowing them to be able to sit in judgment of anyone else. Do
24 you have any beliefs that will hinder your ability to make a decision in this particular
25 case?

1 PROSPECTIVE JUROR #029: No.

2 MS. BAHARAV: And if the State proves after you listen to the instructions by
3 the Court, if the State meets the elements beyond a reasonable doubt, would you be
4 able to find a verdict of guilty in that instance?

5 PROSPECTIVE JUROR #029: Yes.

6 MS. BAHARAV: If the State doesn't meet every element beyond a
7 reasonable doubt, would you be able to vote not guilty?

8 PROSPECTIVE JUROR #029: Yes.

9 MS. BAHARAV: Thank you. State will pass for cause.

10 THE COURT: Thank you. Mr. Shetler.

11 MR. SHETLER: Thank you, Your Honor.

12 Ms. Ward, notwithstanding the budget limitations of the Las Vegas
13 Metropolitan Police Department, would you still expect them to thorough investigate
14 a crime scene?

15 PROSPECTIVE JUROR #029: Yes.

16 MR. SHETLER: And if they didn't thorough investigate a crime scene, could
17 you still be a fair and impartial juror?

18 PROSPECTIVE JUROR #029: Yeah.

19 MR. SHETLER: Do you have -- Ms. Baharav asked you -- I forgot to ask one
20 question I was curious about. What type of field of nursing are you involved in?

21 PROSPECTIVE JUROR #029: I postpartum nursing and same day surgery
22 nursing.

23 MR. SHETLER: Have you ever had experience in your -- and you've been a
24 nurse for how long?

25 PROSPECTIVE JUROR #029: Seven years.

1 MR. SHETLER: Have you ever had to deal with victims of domestic violence
2 in your career?

3 PROSPECTIVE JUROR #029: I don't know. We've had suspected in our
4 postpartum unit but nothing that was directly evident or that was reported. We've
5 had people that didn't want certain people coming to their room because of
6 possibilities of threats of that.

7 MR. SHETLER: Understand. It's unfortunate. Would any of your
8 experiences in those situations impact your ability to be a fair and impartial juror
9 here today?

10 PROSPECTIVE JUROR #029: No.

11 MR. SHETLER: How long have you been out in Boulder City?

12 PROSPECTIVE JUROR #029: Forty-one years.

13 MR. SHETLER: You heard earlier in Ms. Foley's comment and as Judge
14 Cadish said, we're not here to pry or get into your personal life, but you understand
15 the Constitution gives my client a right to a trial by jury of his peers and that the
16 State although budget restraints and extremely qualified lawyers notwithstanding,
17 they have a duty to establish my client's guilt beyond a reasonable doubt; do you
18 understand that?

19 PROSPECTIVE JUROR #029: Yes, I do.

20 MR. SHETLER: Ms. Baharav asked you if there was anything if you were
21 sitting at either table if you would want a person such as yourself on the jury and
22 you're comfortable with [indiscernible] for either person?

23 PROSPECTIVE JUROR #029: Yes.

24 MR. SHETLER: I started to mention Ms. Foley. I'm sorry. I got sidetracked.
25 Her comment was a little surprising but that's the kind of honesty unfortunately that

1 we need. This is Mr. Perry's probably the most important couple days of his life right
2 now, and we all come in with certain prejudices and opinions. I'm certainly well
3 aware of that when I drive through the streets of Las Vegas. It's the ability to set
4 aside those personal beliefs as some people have said that they couldn't do, right,
5 as we were going through this and purely judge Mr. Perry based on the evidence
6 that the State produces, that Judge Cadish allows into trial and that you take back
7 and then you're going to -- this is a long question; I'm sorry. You're going to get a
8 set of jury instructions at the end and I think we're going to end up with somewhere
9 around 25 pages of instructions. You have to take the evidence you heard here and
10 apply it to those jury instructions or vice versa. Maintaining that lack of a pre-formed
11 opinion which is difficult and some people are much more vocal about what they can
12 and can't do and what they do and don't want to do, however you want to interpret
13 that. That long winded -- [indiscernible] unidirectional question aside, does any of
14 that strike a bell with you at all or do you hear anything in there that you believe
15 would give you a problem, Ms. Ward?

16 PROSPECTIVE JUROR #029: No.

17 MR. SHETLER: Thank you for your patience. I appreciate that. Your Honor,
18 we would pass Ms. Ward for cause

19 THE COURT: Thank you. Go ahead and pass the mic to the next juror.
20 Thank you. All right. So, Ms. Downing, how are you doing?

21 PROSPECTIVE JUROR #003: Okay.

22 THE COURT: I took note of what you told me earlier about your childcare
23 issue and counsel and I agreed that we will make sure we accommodate your need
24 to do drop off and pick up for your children on Monday if you have to be here
25 Monday. Okay.

1 PROSPECTIVE JUROR #003: Okay.

2 THE COURT: I don't want you to be concerned that I'm going to keep you
3 from that. With that being said, is there any reason you could not be fair and
4 impartial in this case?

5 THE COURT: Can you wait in forming your opinion on the appropriate result
6 until all of the evidence has been heard?

7 PROSPECTIVE JUROR #003: Yes.

8 THE COURT: Have you or anyone close to you worked in law enforcement?

9 PROSPECTIVE JUROR #003: No.

10 THE COURT: Have you or anyone close to you been charged with a serious
11 crime?

12 PROSPECTIVE JUROR #003: No.

13 THE COURT: Have you or anyone close to you been the victim of a serious
14 crime?

15 PROSPECTIVE JUROR #003: No.

16 THE COURT: Is there anything about the charges in this case that would
17 make it difficult for you to be fair and impartial?

18 PROSPECTIVE JUROR #003: Yes; after hearing her part and like having
19 hearing them about domestic violence, that affected me.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR #003: I've had people that I know that has been
22 friends of friends; it bothers me.

23 THE COURT: So, you know people who have been victims of domestic
24 violence?

25 PROSPECTIVE JUROR #003: Yes.

1 THE COURT: Okay. And so the charges relate to an alleged domestic
2 violence incident. Do you think that you could listen to the evidence and evaluate
3 the evidence under the law that I give you to reach a verdict based on the evidence
4 and the law?

5 PROSPECTIVE JUROR #003: I'm not sure truthfully. I don't know how
6 emotional I would get doing it.

7 THE COURT: Right. I can see you're getting emotional now talking about it.
8 You're nodding yes. So, a verdict can't be based on sympathy or prejudice. It's got
9 to be based on the facts and the law. Now we're all human beings. We may all
10 have sympathy when we all come with our own biases and prejudices. But the
11 decision that the jurors make as a jurors in the case can't be based on that; it has to
12 be based on the facts and the law. So, do you think that you would be able to do
13 that or do you think you can't.

14 PROSPECTIVE JUROR #003: I don't think I could.

15 THE COURT: Okay. And who is it -- obviously I'm not looking for names, but
16 who is it who you are aware of who have been victims of domestic violence?

17 PROSPECTIVE JUROR #003: Just close friends that I've known, actually
18 three or four people that I can think of right off the top of my head.

19 THE COURT: Okay. And have they --

20 PROSPECTIVE JUROR #003: Verbal and physical.

21 THE COURT: I apologize. I was talking over you. What did you say?

22 PROSPECTIVE JUROR #003: Both verbal and physical.

23 THE COURT: Right. And do you know whether they have reported those
24 issues to the police?

25 PROSPECTIVE JUROR #003: Yes; they're out of it now but it was just a long

1 process.

2 THE COURT: Were you supporting them at all through the legal process?

3 PROSPECTIVE JUROR #003: Yes; I was listening to them and I think that's
4 what makes me more emotional.

5 THE COURT: Yeah. Okay. Counsel, come on up, please.

6 [Bench conference -- begins]

7 THE COURT: Okay. Are you seeking to excuse her?

8 MR. SHETLER: She just seems to have hard time -- I mean, at this point in
9 time she's pretty emotional and I don't know how we would get through actual
10 testimony.

11 THE COURT: Sure. And I should note for the record it looks like she's
12 tearing up while she's talking about it.

13 MS. BAHARAV: You can hear it in her voice.

14 THE COURT: Once we got to an issue about the charges and she had to
15 address domestic violence she's getting all teary eyed.

16 MR. SHETLER: You want to ask her questions?

17 MS. BAHARAV: I'll submit it.

18 MR. SHETLER: Yeah. Judge, we can let her go.

19 THE COURT: All right. I'll excuse her. It's getting empty back there.

20 MR. SHETLER: Thank you, Your Honor.

21 THE COURT: Okay.

22 [Bench conference -- concluded]

23 THE COURT: Ms. Downing, I'm going to excuse you at this time because of
24 the nature of the case and I can see the emotional effect it has on you. Thanks very
25 much for your time today.

1 PROSPECTIVE JUROR #003: Thank you.

2 THE COURT: So, just leave the mic there and we'll fill it in. So, just go down
3 to the third floor and tell them I excused you.

4 THE COURT CLERK: Next in seat number 2, Badge number 042, Ruth
5 Etnire.

6 THE COURT: All right, ma'am. If you could grab the mic, please. How do you
7 pronounce your last name?

8 PROSPECTIVE JUROR #042: Etnire.

9 THE COURT: Okay. Ms. Etnire, how are you doing today?

10 PROSPECTIVE JUROR #042: I'm here.

11 THE COURT: Yes, I see that. Have you got a broken arm there?

12 PROSPECTIVE JUROR #042: Yes, I do.

13 THE COURT: Okay. Is that causing you any pain that would be distracting
14 for you while you're here?

15 PROSPECTIVE JUROR #042: It's a constant ache, you know. The doctor is
16 allowing me to go work and drive so I didn't figure that it was probably enough to not
17 come here.

18 THE COURT: Got it. I appreciate that. So, is there any reason you could not
19 be fair and impartial in this case?

20 PROSPECTIVE JUROR #042: I don't think so.

21 THE COURT: Can you wait in forming your opinion on the appropriate result
22 until all of the evidence has been heard?

23 PROSPECTIVE JUROR #042: Yes.

24 THE COURT: Have you or anyone close to you worked in law enforcement?

25 PROSPECTIVE JUROR #042: The closest my daughter-in-law is a Metro

1 dispatch, 9-1-1.

2 THE COURT: Okay. Does she work -- she works for Metro?

3 PROSPECTIVE JUROR #042: She works for Metro.

4 THE COURT: And how long has she been doing that?

5 PROSPECTIVE JUROR #042: Six, seven years, I believe.

6 THE COURT: Okay. So, she's a civilian employee; correct?

7 PROSPECTIVE JUROR #042: She's a civilian employee.

8 THE COURT: So, does she sometimes talk about the kinds of calls that she
9 takes in that role?

10 PROSPECTIVE JUROR #042: Some of them are bizarre calls, yes.

11 THE COURT: Sure. Has she talked to you about some domestic violence
12 calls she's gotten?

13 PROSPECTIVE JUROR #042: I don't believe so, no.

14 THE COURT: Would the fact that your daughter is in that role with Metro
15 affect your ability to be fair and impartial in this case?

16 PROSPECTIVE JUROR #042: No.

17 THE COURT: Do you think that it will cause you to give extra weight or lesser
18 weight or credibility to law enforcement officers as compared with law witnesses?

19 PROSPECTIVE JUROR #042: I don't think so, no.

20 THE COURT: Do you think you can weigh all the witnesses, the testimony
21 the same way?

22 PROSPECTIVE JUROR #042: I think so, yes.

23 THE COURT: Have you or anyone close to you been charged with a serious
24 crime?

25 PROSPECTIVE JUROR #042: I have a son who has multiple charges for

1 assault and burglary.

2 THE COURT: Okay. And that is here in Las Vegas?

3 PROSPECTIVE JUROR #042: It is, and in Reno.

4 THE COURT: Pardon?

5 PROSPECTIVE JUROR #042: And in Reno.

6 THE COURT: And in Reno. Okay. Has he actually been convicted?

7 PROSPECTIVE JUROR #042: Yes, he has; he's served time.

8 THE COURT: Okay. Is he out of custody now?

9 PROSPECTIVE JUROR #042: I think so.

10 THE COURT: I gather you're not in touch with him much?

11 PROSPECTIVE JUROR #042: He's kind of burned all his bridges with his
12 family.

13 THE COURT: I understand. Do you feel that he's been treated fairly in his
14 cases?

15 PROSPECTIVE JUROR #042: Yes.

16 THE COURT: Has the Court Clark District Attorney's office prosecuted him?

17 PROSPECTIVE JUROR #042: Yes.

18 THE COURT: Okay. Will the fact that they've prosecuted him cause you to
19 either be prejudiced against their office or favor their office?

20 PROSPECTIVE JUROR #042: No.

21 THE COURT: Do you think you can be fair to both sides here, ma'am?

22 PROSPECTIVE JUROR #042: I think so, yes.

23 THE COURT: And will your son's cases and what he's gone through in his
24 cases affect your ability to be fair and impartial?

25 PROSPECTIVE JUROR #042: No; it just affects my ability to be fair and

1 impartial to him.

2 THE COURT: Fair enough.

3 THE COURT: Have you or anyone close to you been the victim of a serious
4 crime?

5 PROSPECTIVE JUROR #042: No.

6 THE COURT: Is there anything about the charges in this case that would
7 make it difficult for you to be fair and impartial?

8 PROSPECTIVE JUROR #042: I don't believe so, no.

9 THE COURT: Can you base your verdict solely on the evidence brought out
10 at trial and the law that applies as stated in my instructions without fear of criticism
11 or popular opinion?

12 PROSPECTIVE JUROR #042: Yes.

13 THE COURT: Have you ever been a juror before?

14 PROSPECTIVE JUROR #042: No: I've gotten this far; I never stayed.

15 THE COURT: Right. But you've never actually been seated?

16 PROSPECTIVE JUROR #042: No.

17 THE COURT: Okay. If you were a party to this case would you be
18 comfortable with jurors of a like frame of mind as yourself sitting in judgment?

19 PROSPECTIVE JUROR #042: Yes.

20 THE COURT: And, ma'am, how long have you lived in Clark County?

21 PROSPECTIVE JUROR #042: I'm going to say 40 years.

22 THE COURT: Okay. What's the highest level of education you completed?

23 PROSPECTIVE JUROR #042: I have a master's degree plus hours.

24 THE COURT: So, what's your master's in?

25 PROSPECTIVE JUROR #042: Master of education.

1 THE COURT: And what was your undergraduate degree in?
2 PROSPECTIVE JUROR #042: Bachelor of science in mathematics.
3 THE COURT: And are you employed?
4 PROSPECTIVE JUROR #042: I am.
5 THE COURT: What do you do?
6 PROSPECTIVE JUROR #042: I'm a teacher.
7 THE COURT: And what do you teach?
8 PROSPECTIVE JUROR #042: Mathematics.
9 THE COURT: Makes sense. And are you married?
10 PROSPECTIVE JUROR #042: I am.
11 THE COURT: Is your spouse employed?
12 PROSPECTIVE JUROR #042: He is not; he's retired.
13 THE COURT: What did he do before retiring?
14 PROSPECTIVE JUROR #042: He was a teacher.
15 THE COURT: What did he teach?
16 PROSPECTIVE JUROR #042: Math.
17 THE COURT: Okay. So, we know you have a son and you have a daughter
18 who is Metro --
19 PROSPECTIVE JUROR #042: I have four children, two sons and two
20 daughters.
21 THE COURT: Okay. So, we know about two of them now. What are the
22 other two doing?
23 PROSPECTIVE JUROR #042: My youngest daughter works for a company
24 in Portland, a start-up kind of company; my older daughter works in California at
25 Vandenberg Air Force Base, and my oldest son works at the test site and it's his

1 wife who is -- works for Metro.

2 THE COURT: Okay. Got it. Okay. State.

3 MS. SUDANO: Thank you, Your Honor. Hi, Ms. Etnire, I'm Michelle. How
4 are you doing?

5 PROSPECTIVE JUROR #042: I'm fine. Thank you.

6 MS. SUDANO: So, have you or a close family member ever been the victim
7 of a domestic violence?

8 PROSPECTIVE JUROR #042: No.

9 MS. SUDANO: Have you or a close family member ever been accused of
10 domestic violence?

11 PROSPECTIVE JUROR #042: No.

12 MS. SUDANO: And I'm going to ask the same question Ms. Baharav asked.
13 Do you watch the CSI shows?

14 PROSPECTIVE JUROR #042: We watch the NCIS shows, not Las Vegas
15 but, yeah.

16 MS. SUDANO: Same general idea though. You understand that some of the
17 things in those shows aren't necessarily realistic?

18 PROSPECTIVE JUROR #042: Yes.

19 MS. SUDANO: You understand that the Las Vegas Metropolitan Police
20 Department can't do some of the fancy high tech things --

21 PROSPECTIVE JUROR #042: Exactly.

22 MS. SUDANO: Right. And you understand that witness testimony and
23 statements and things like that are also evidence to be considered?

24 PROSPECTIVE JUROR #042: Yes.

25 MS. SUDANO: Would you be able to come back with a verdict in this case

1 even if the State did not present DNA evidence, fingerprints?

2 PROSPECTIVE JUROR #042: Yes.

3 MS. SUDANO: Have you ever had any contact with Metro, Henderson Police,
4 anything like that?

5 PROSPECTIVE JUROR #042: Well I have had contact with Metro when we
6 had difficulties with my son.

7 MS. SUDANO: Okay. Anything about -- how would you characterize that
8 interaction with law enforcement?

9 PROSPECTIVE JUROR #042: They were very supportive.

10 MS. SUDANO: Supportive of you?

11 PROSPECTIVE JUROR #042: Yes.

12 MS. SUDANO: Okay. Do you think that anything about those interactions
13 would affect your ability to be fair and impartial to both sides in this case?

14 PROSPECTIVE JUROR #042: No.

15 MS. SUDANO: Do you think your son was treated fairly by the police in his
16 cases?

17 PROSPECTIVE JUROR #042: Yes.

18 MS. SUDANO: Okay. And I think that Judge Gadish may have asked you
19 questions about whether or not he had been prosecuted by our office, the Clark
20 County DA's office previously?

21 PROSPECTIVE JUROR #042: Yes.

22 MS. SUDANO: And I noticed that you hesitated a little bit when you saying
23 whether or not you thought he had been treated fairly.

24 PROSPECTIVE JUROR #042: I think he's been treated fairly, more than
25 fairly sometimes, I think.

1 MS. SUDANO: So, the fact -- when you say that he's been treated more than
2 fairly, do you want to explain a little bit?

3 PROSPECTIVE JUROR #042: You know, sometimes I felt like there should
4 have been a longer sentence for him actually than he got.

5 MS. SUDANO: So, anything about that experience in thinking that our office
6 maybe the Judge was too lenient on your son; would that affect your abilities to be
7 fair and impartial?

8 PROSPECTIVE JUROR #042: No.

9 MS. SUDANO: Court's indulgence. Do you have any personal beliefs or
10 religious convictions that would affect your ability to sit in judgment of someone
11 else?

12 PROSPECTIVE JUROR #042: No.

13 MS. SUDANO: Your Honor, the State would ass Ms. Etnire for cause.

14 THE COURT: Thank you. Mr. Shetler.

15 MR. SHETLER: Thank you, Your Honor. Ms. Etnire, this is a fine way to
16 celebrate teacher appreciation week.

17 PROSPECTIVE JUROR #042: Thank you.

18 MR. SHETLER: Thank you for being here. I want to ask again just as I
19 inartfully did with Ms. Ward. Your honesty is greatly appreciated, and just as Ms.
20 Downing's was. It's serious stuff and it impact people's lives on a daily basis. In the
21 cases involving your son, I didn't hear if you mentioned if there was any drug usage
22 or drug activity involved in those cases?

23 PROSPECTIVE JUROR #042: Yes.

24 MR. SHETLER: You may well hear testimony of drug usage or drug activity in
25 this case; will that impact your decision to be a fair and impartial juror?

1 PROSPECTIVE JUROR #042: No.

2 MR. SHETLER: People have pretty strong feelings about drugs.

3 PROSPECTIVE JUROR #042: I have strong feelings about drugs, but that
4 can be a basis, I guess, of causing behavior.

5 MR. SHETLER: And I mean this completely respectfully; I'm not trying to pry.
6 Your son's activities do you believe that drugs played a significant role in his --

7 PROSPECTIVE JUROR #042: Yes.

8 MR. SHETLER: Okay. So, people might act differently under the influence of
9 drugs?

10 PROSPECTIVE JUROR #042: I believe so, yes.

11 MR. SHETLER: And I know I'm asking you the same question one more time.
12 Please bear with me. You can separate a person's activities while possibly using
13 drugs or trying to acquire drugs from -- as they sit here in front of you for judgment?

14 PROSPECTIVE JUROR #042: I'm not sure I understand.

15 MR. SHETLER: If there were testimony put on that talked about Mr. Perry
16 and drug usage or possibly drug -- selling drugs, is that going to impact your ability
17 to listen to the evidence and make a determination just on those jury instructions as
18 to what he's charged with here?

19 PROSPECTIVE JUROR #042: No.

20 MR. SHETLER: Does that make sense or am I making it too muddy?

21 PROSPECTIVE JUROR #042: It just seems like you're talking about -- I don't
22 know if you're saying drug use played a role in the crime that he's accused of or
23 you're just saying that's incidental and it might be brought up.

24 MR. SHETLER: If evidence -- and there are certain rules on what I can and I
25 can't say right at this point.

1 PROSPECTIVE JUROR #042: Right. I understand.

2 MR. SHETLER: But if evidence were to come out in either of those fashions,
3 would that impact your ability to sit as a fair and impartial juror, and most
4 importantly, this is what Mr. Perry is worried about. If you were in a situation similar
5 to Mr. Perry and a person with your experiences and what you've had to go through
6 with your son's cases, will sitting on a jury would you be comfortable with that
7 person sitting in judgment on you? That's really the nut of the matter.

8 PROSPECTIVE JUROR #042: I believe so, yes.

9 MR. SHETLER: That's fair enough. That's -- your patience is much
10 appreciated. Thank you. Your Honor, we pass Ms. Etnire; correct? We pass for
11 cause, Your Honor.

12 THE COURT: Thank you. Ms. De Paz, how are you?

13 PROSPECTIVE JUROR #004: Hello. Sorry I'm short.

14 THE COURT: Me too. It's all right. Is there any reason you could not be fair
15 and impartial in this case?

16 PROSPECTIVE JUROR #004: I don't believe so.

17 THE COURT: Can you wait in forming your opinion on the appropriate result
18 until all of the evidence has been heard?

19 PROSPECTIVE JUROR #004: Yes.

20 THE COURT: Have you or anyone close to you worked in law enforcement?

21 PROSPECTIVE JUROR #004: Kind of. I've been rein -- I can't say the word
22 right now -- reacquainted with my mother's side of the family. I have an aunt who is
23 a Los Angeles Sheriff and my mother's birth mother is a civilian service member with
24 -- fortunately -- abuse cases, trials of domestic abuse.

25 THE COURT: Is that someone who you are close with?

1 PROSPECTIVE JUROR #004: No.

2 THE COURT: Okay. But she is a relative so I figured you need to know.

3 THE COURT: No, I do. I appreciate you letting me know. Thanks. So, my
4 question is whether the fact that you've got those relatives who were in law
5 enforcement would affect your ability to be fair and impartial in this case?

6 PROSPECTIVE JUROR #004: I don't believe so.

7 THE COURT: And the person you were just talking about, your mother's birth
8 mom, does she work here in Las Vegas?

9 PROSPECTIVE JUROR #004: No; she lives in San Francisco.

10 THE COURT: Okay. And do you think that you would have a tendency to
11 give extra weight or credibility to the testimony of law enforcement officers because
12 they're law enforcement officers?

13 PROSPECTIVE JUROR #004: No; everybody's human, everybody makes
14 mistakes.

15 THE COURT: Okay. So, you think you could weigh their testimony like you
16 would weigh any witness testimony?

17 PROSPECTIVE JUROR #004: Yes.

18 THE COURT: Have you or anyone close to you been charged with a serious
19 crime?

20 PROSPECTIVE JUROR #004: My father was charged with domestic abuse
21 when I was 13 and before I was born he stole a car. I don't remember what that's
22 called.

23 THE COURT: Okay. That's fine. The domestic abuse issue, were you
24 present during the incident?

25 PROSPECTIVE JUROR #004: It was against -- it was because of me and my

1 sister. At the time I truly -- my stepmother or step-grandmother blew things out of
2 proportion. We got hit by my dad. I -- now as an adult with kids of my own truly
3 believe we deserved to get hit. We should not have been doing what we were doing
4 which was hitting each other, but it blew out of proportion. The Court's threw it in as
5 being beaten and so on and so forth and we were hit, we weren't beaten. So, that
6 was the issue with that case. But we had a -- what is it called -- the social worker,
7 he kept pushing it and pressing it and making it bigger than it was. Once we
8 changed social workers, it completely away.

9 THE COURT: Was he actually convicted of a crime, your dad I mean?

10 PROSPECTIVE JUROR #004: He served time for the grand theft auto but
11 not for -- he went to jail but he didn't go to prison for the domestic violence.

12 THE COURT: Okay. So, as you know, one of the charges here is for a
13 domestic battery.

14 PROSPECTIVE JUROR #004: I do.

15 THE COURT: And the different charges relate to, I think, the same one
16 incident. Okay. So, there are different charges that are brought and obviously we
17 haven't heard any evidence about them yet. But my question is given that the
18 nature of it involves a domestic situation, do you think that you could put aside your
19 personal experience and base your decision in this case on the evidence presented
20 and the law that I give you?

21 PROSPECTIVE JUROR #004: I do.

22 THE COURT: And do you have any difficulty following my instructions on the
23 law even as to what does or doesn't constitute the crime of battery domestic
24 violence?

25 PROSPECTIVE JUROR #004: No, I don't have a problem with that.

1 THE COURT: So, the next question is about whether you or anyone close to
2 you has been the victim of a serious crime. You already talked about that --

3 PROSPECTIVE JUROR #004: Yes.

4 THE COURT: -- that circumstance.

5 PROSPECTIVE JUROR #004: Unfortunately my dad was abusive with my
6 mother until I was about six years old, but they're still together, 32 years strong. I
7 understand that drugs did have a role in it but he was able to change and things
8 happen.

9 THE COURT: Okay. So, he stopped being abusive?

10 PROSPECTIVE JUROR #004: Yes.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR #004: Now it's just a really depressed old man.
13 Sorry.

14 THE COURT: Okay. So, from -- I need to focus on you. Do you feel you can
15 be fair to both sides here?

16 PROSPECTIVE JUROR #004: I do. I've been on both sides, my mother and
17 my father so I can totally understand both sides of the story.

18 THE COURT: So, is there anything about the charges in this case that would
19 make it difficult for you to be fair and impartial?

20 PROSPECTIVE JUROR #004: I don't believe so.

21 THE COURT: Can you base your verdict solely on the evidence brought out
22 at trial and the law that applies as stated in my instructions without fear of criticism
23 or popular opinion?

24 PROSPECTIVE JUROR #004: Of course.

25 THE COURT: Have you ever been a juror before?

1 PROSPECTIVE JUROR #004: No.

2 THE COURT: If you were a party to this case would you be comfortable with
3 jurors of a like frame of mind as yourself sitting in judgment?

4 PROSPECTIVE JUROR #004: Yes.

5 THE COURT: And how long have you lived in Clark County?

6 PROSPECTIVE JUROR #004: Five years.

7 THE COURT: Where did you live before that?

8 PROSPECTIVE JUROR #004: Pasadena and Long Beach, California.

9 THE COURT: And what's the highest level of education you completed?

10 PROSPECTIVE JUROR #004: High school. I did a couple years in college
11 but I never completed it.

12 THE COURT: Did you have a particular major or course of study in college?

13 PROSPECTIVE JUROR #004: I went into English and social work.

14 THE COURT: And are you employed?

15 PROSPECTIVE JUROR #004: I am.

16 THE COURT: What do you do?

17 PROSPECTIVE JUROR #004: I'm a receptionist at the spay and neuter
18 center.

19 THE COURT: Okay. And are you married?

20 PROSPECTIVE JUROR #004: I guess. We're together; we're engaged, not
21 officially married but we've been together for ten years --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR #004: -- which I heard is common law marriage.

24 THE COURT: Not in Nevada but okay.

25 PROSPECTIVE JUROR #004: Well that's good to know.

1 THE COURT: But you're engaged?
2 PROSPECTIVE JUROR #004: Yeah, we're engaged, yeah.
3 THE COURT: Is your fiancé employed?
4 PROSPECTIVE JUROR #004: Yes; he works for Walmart, overnight stock.
5 THE COURT: And do you have children?
6 PROSPECTIVE JUROR #004: I have one and one on the way.
7 THE COURT: Oh, congratulations.
8 PROSPECTIVE JUROR #004: Thank you.
9 THE COURT: And how old is your child?
10 PROSPECTIVE JUROR #004: She's ten months.
11 THE COURT: All right. State.
12 MS. BAHARAV: Hi.
13 PROSPECTIVE JUROR #004: Hello.
14 MS. BAHARAV: So, let's first start with the CSI show. I'm going to have to
15 ask all of you questions and I'm apologizing in advance.
16 PROSPECTIVE JUROR #004: I watched all of 'em and I understand.
17 MS. BAHARAV: All right.
18 PROSPECTIVE JUROR #004: We would be broke, completely, and never
19 ever see any kind of social anything if we were able to do that in our law
20 enforcement.
21 MS. BAHARAV: Also some of that's fiction. So, some of that technology
22 actually doesn't really exist, yes. So, will you hold it against the State if we do not
23 present any DNA or fingerprint evidence in this case?
24 PROSPECTIVE JUROR #004: No.
25 MS. BAHARAV: You're not going to require the State to present that

1 particular type of evidence?

2 PROSPECTIVE JUROR #004: No.

3 MS. BAHARAV: You'll be able to listen to testimony and view photographs
4 and things of that nature?

5 PROSPECTIVE JUROR #004: Yes.

6 MS. BAHARAV: Yes.

7 PROSPECTIVE JUROR #004: And based upon that evidence will you be
8 able to come to a conclusion?

9 PROSPECTIVE JUROR #004: Yes.

10 MS. BAHARAV: If the State meets every element of the crimes beyond a
11 reasonable doubt, will you be able to find the Defendant guilty?

12 PROSPECTIVE JUROR #004: Beyond a reasonable doubt, yes.

13 MS. BAHARAV: And similarly if we do not meet those elements beyond a
14 reasonable doubt, would you be able to vote not guilty?

15 PROSPECTIVE JUROR #004: Yes.

16 MS. BAHARAV: So, I have to ask about this.

17 PROSPECTIVE JUROR #004: Go ahead.

18 MS. BAHARAV: This case involves domestic violence. I apologize for prying.

19 PROSPECTIVE JUROR #004: It's okay.

20 MS. BAHARAV: You indicated that the issue with your father and you two
21 girls got blown a little bit out of proportion?

22 PROSPECTIVE JUROR #004: Yes.

23 MS. BAHARAV: Do you understand that there are situations where people
24 can cross a line?

25 PROSPECTIVE JUROR #004: Yes; no, I completely understand. It is just

1 that situation we totally deserve what we got, and it wasn't as bad as it turned out
2 being said it was.

3 MS. BAHARAV: You understand that some -- it's maybe a mandatory
4 reporter have learned that you had been harmed in any physical way that they do
5 have an obligation to provide that information to law enforcement.

6 PROSPECTIVE JUROR #004: Yes.

7 MS. BAHARAV: Okay. So, given the fact that you believe that issue was
8 blown out of proportion but also that your mother was the victim of domestic
9 violence, would you say that the issue involving your mother and father was different
10 than the issue involving you and your sister?

11 PROSPECTIVE JUROR #004: Yes. I understand. I've spoken with both of
12 them and I do know people who have had those kind of relationships. The thing is,
13 is everybody is different. There's certain things that are going on, you know, people
14 make mistakes and people can change. So, I believe that I can be impartial.

15 MS. BAHARAV: If you're provided some instructions by the Judge indicating
16 that a particular behavior is a crime even if you maybe you think that was blown out
17 of proportion, would you still be able to find somebody guilty of that charge?

18 PROSPECTIVE JUROR #004: I can, yes.

19 MS. BAHARAV: Now you indicated that aside from your father and your
20 mother, did you know anyone else that has been the victim of domestic violence?

21 PROSPECTIVE JUROR #004: Not personally but heard of them. Not
22 closely. I've known people in the neighborhood who have had situations, but we
23 were never really close to our neighbors growing up but I know of it, yes.

24 MS. BAHARAV: What about accused of domestic violence; do you know
25 anyone else like that?

1 PROSPECTIVE JUROR #004: I don't.

2 MS. BAHARAV: Now you were here earlier when certain people indicated
3 that they can't sit in judgment of others. Is that something that you hold a belief or
4 conviction that won't allow you to sit in judgment of somebody else?

5 PROSPECTIVE JUROR #004: Nope. But I want to hear all sides of the story
6 before I pass judge.

7 MS. BAHARAV: And you understand that as Mr. Perry sits there he doesn't
8 have to say one word?

9 PROSPECTIVE JUROR #004: Yes.

10 MS. BAHARAV: You understand that Mr. Shetler, though he won't do this
11 because he's very professional, could sit there and give me dirty faces and giggle at
12 randomly but he doesn't actually have to say anything?

13 PROSPECTIVE JUROR #004: Yes.

14 MS. BAHARAV: And if they don't say anything are you going to ultimately
15 think that Mr. Perry is guilty because he did not provide you with a story?

16 PROSPECTIVE JUROR #004: No.

17 MS. BAHARAV: You understand that he doesn't have to say anything and it's
18 the State's burden of proof in this case?

19 PROSPECTIVE JUROR #004: Yes.

20 MS. BAHARAV: Would you like someone such as yourself on this jury?

21 PROSPECTIVE JUROR #004: I believe so?

22 MS. BAHARAV: Why?

23 PROSPECTIVE JUROR #004: Because I want to hear -- I want to
24 understand what's going on before I say anything or pass judgment.

25 MS. BAHARAV: Do you think you're a fair person?

1 PROSPECTIVE JUROR #004: I do.

2 MS. BAHARAV: And do you think that if somebody was facing or if you were
3 sitting in the shoes of Mr. Perry that you would like yourself -- somebody like
4 yourself on the jury?

5 PROSPECTIVE JUROR #004: Yes.

6 MS. BAHARAV: We'll pass for cause, Your Honor.

7 THE COURT: Thank you. Mr. Shetler.

8 MR. SHETLER: Thank you, Your Honor.

9 Ms. Paz, you've heard my earlier questions?

10 PROSPECTIVE JUROR #004: Yes.

11 MR. SHETLER: Any of those questions bring up any issues for you other
12 than maybe slight boredom?

13 PROSPECTIVE JUROR #004: No, not at all.

14 MR. SHETLER: I think you are uniquely situated in some regards to sit on
15 this jury. You understand that if -- what type of social work do you do?

16 PROSPECTIVE JUROR #004: I'm not in the social work field but I started to
17 study it and I just -- I couldn't get past certain things. When you're a social worker
18 for children you have to defend both the parent who abused the child and the child.
19 I couldn't get past the sexual element of that. That's the only issue that I had.
20 Personally growing up I had different types of social workers. I understand the pros
21 and the cons. I understand that the law says that if you hit a child and you raise a
22 welt or its red that is considered abuse. I understand that that is also considered
23 overboard or not something that, you know, that can be blown out of proportion. I
24 seriously should have got smacked for hitting my sister that day. Like, I understand
25 these things. So, the only issue that I have with the social work deal that I couldn't

1 finish it was the sexual abuse part of it.

2 MR. SHETLER: We understand that. You understand that if someone is in
3 fear of being hurt that they can defend themselves?

4 PROSPECTIVE JUROR #004: Yes.

5 MR. SHETLER: And that's somewhat involved in the situation with you and
6 your sister. Your father, without getting into details, intervened to stop further
7 violence, you could say.

8 PROSPECTIVE JUROR #004: Yes; with violence but it was necessary at the
9 time.

10 MR. SHETLER: Right, right. And you understand that in Nevada if I walk into
11 Ms. Baharav's home and I put my hand in my pocket and I aim at her and I tell her
12 to do whatever, give me the keys to her car, if she thinks I have a gun and she
13 doesn't know I only have my finger in a pocket and she thinks I have a gun, well
14 whatever she thinks I have, but if she thinks I'm going to kill her she can kill me and
15 it's okay with that.

16 PROSPECTIVE JUROR #004: Yeah. I was blown apart by that ruling in
17 California. We don't have that or at least under my understanding.

18 MR. SHETLER: We are slightly different than California.

19 PROSPECTIVE JUROR #004: Yeah. It kind of blew my mind but, yes, I
20 understand.

21 THE COURT: We'll instruct on the law later.

22 PROSPECTIVE JUROR #004: Sorry.

23 MR. SHETLER: Thank you, Your Honor. But it's just what's in her mind at
24 the point in time that she makes that decision that's relevant.

25 PROSPECTIVE JUROR #004: Yes, yes, I understand.

1 MR. SHETLER: If I do giggle at Ms. Baharav, are you going to hold that
2 against me? We'll pass, Your Honor.

3 THE COURT: Thank you. Okay. Mr. Williams, how are you today?

4 PROSPECTIVE JUROR #005: Pretty good.

5 THE COURT: Is there any reason you could not be fair and impartial in this
6 case?

7 PROSPECTIVE JUROR #005: I don't think so.

8 THE COURT: Can you wait in forming your opinion on the appropriate result
9 until all of the evidence has been heard?

10 PROSPECTIVE JUROR #005: Yes.

11 THE COURT: Have you or anyone close to you worked in law enforcement?

12 PROSPECTIVE JUROR #005: I have brother-in-law was a county deputy in
13 Texas for several years, and my sister was a dispatcher in the same county.

14 THE COURT: Is that where you grew up?

15 PROSPECTIVE JUROR #005: Yeah -- yes.

16 THE COURT: Okay. Would the fact that they worked in law enforcement
17 affect your ability to be fair and impartial in this case?

18 PROSPECTIVE JUROR #005: No, I don't think so.

19 THE COURT: Do you think you would have a tendency to favor law
20 enforcement officers because they are law enforcement?

21 PROSPECTIVE JUROR #005: No.

22 THE COURT: Have you or anyone close to you been charged with a serious
23 crime?

24 PROSPECTIVE JUROR #005: No.

25 THE COURT: Have you or anyone close to you been the victim of a serious

1 crime?

2 PROSPECTIVE JUROR #005: Yes.

3 THE COURT: What's that; what happened?

4 PROSPECTIVE JUROR #005: It was my wife's ex son-in-law. He was shot
5 and killed by another relative.

6 THE COURT: And how long ago did that happen?

7 PROSPECTIVE JUROR #005: I think ten years.

8 THE COURT: Did you know them at the time?

9 PROSPECTIVE JUROR #005: Yes.

10 THE COURT: Okay. We had his daughters at our house when it happened.
11 I got the phone call.

12 THE COURT: And did the shooting happen here in Las Vegas?

13 PROSPECTIVE JUROR #005: Yes.

14 THE COURT: And was -- and were charges brought?

15 PROSPECTIVE JUROR #005: Yes, they were.

16 THE COURT: And was that the Clark County District Attorney's office that
17 brought charges?

18 PROSPECTIVE JUROR #005: Yes.

19 THE COURT: Do you think that that case was handled appropriately in the
20 legal system?

21 PROSPECTIVE JUROR #005: I believe so.

22 THE COURT: Is there anything about that set of circumstances that would
23 affect your ability to be fair and impartial in this case?

24 PROSPECTIVE JUROR #005: No.

25 THE COURT: You think you can be fair to both the State and the Defendant,

1 Mr. Perry here?

2 PROSPECTIVE JUROR #005: Yes, I do.

3 THE COURT: And so similarly, was that the victim question or the charge
4 question? You told me about that incident. Is there any other circumstance where
5 your or someone close to you has been the victim of a serious crime?

6 PROSPECTIVE JUROR #005: No.

7 THE COURT: Is there anything about the charges in this case that would
8 make it difficult for you to be fair and impartial?

9 PROSPECTIVE JUROR #005: I don't think so.

10 THE COURT: Can you base your verdict solely on the evidence brought out
11 at trial and the law that applies as stated in my instructions without fear of criticism
12 or popular opinion?

13 PROSPECTIVE JUROR #005: Yes.

14 THE COURT: Have you ever been a juror before?

15 PROSPECTIVE JUROR #005: Yes.

16 THE COURT: How many times?

17 PROSPECTIVE JUROR #005: Just once.

18 THE COURT: How long ago?

19 PROSPECTIVE JUROR #005: Quite a ways back, 20 plus years.

20 THE COURT: Was that here in Las Vegas?

21 PROSPECTIVE JUROR #005: No; it was in California.

22 THE COURT: And was that a civil or a criminal case?

23 PROSPECTIVE JUROR #005: The man was contesting his traffic ticket.

24 THE COURT: Okay. Sounds criminal, I guess. There was a jury on that;
25 huh?

1 PROSPECTIVE JUROR #005: Yeah. He wanted to exercise his rights I
2 guess.

3 THE COURT: Okay. Without telling us what the verdict was, did the jury
4 reach a verdict in that case?

5 PROSPECTIVE JUROR #005: No; he gave up.

6 THE COURT: Oh, they ended up -- there ended up being a deal before you
7 had to deliberate?

8 PROSPECTIVE JUROR #005: Yes.

9 THE COURT: Okay. Anything about that jury experience that would affect
10 your ability to be a fair and impartial juror in this case?

11 PROSPECTIVE JUROR #005: No.

12 THE COURT: If you were a party to this case would you be comfortable with
13 jurors of a like frame of mind as yourself sitting in judgment?

14 PROSPECTIVE JUROR #005: Yes.

15 THE COURT: How long have you lived in Clark County?

16 PROSPECTIVE JUROR #005: Twenty-five years.

17 THE COURT: And what's the highest level of education you completed?

18 PROSPECTIVE JUROR #005: High school with a little college; nothing
19 finished.

20 THE COURT: And are you employed?

21 PROSPECTIVE JUROR #005: Yes.

22 THE COURT: Doing what?

23 PROSPECTIVE JUROR #005: I'm a construction manager for -- I'm a
24 construction manager consultant to the Clark County Public Works.

25 THE COURT: Okay. And are you married?

1 PROSPECTIVE JUROR #005: Yes.
2 THE COURT: Is your spouse employed?
3 PROSPECTIVE JUROR #005: No, she's not
4 THE COURT: Okay. Do you have children?
5 PROSPECTIVE JUROR #005: I married into them.
6 THE COURT: Got it. Are they all adults?
7 PROSPECTIVE JUROR #005: Yeah. Her three daughters are, yeah.
8 THE COURT: State.
9 MS. SUDANO: Hello.
10 PROSPECTIVE JUROR #005: Hello.
11 MS. SUDANO: All right. You said that you have some family, a brother-in-
12 law and a sister that were in law enforcement?
13 PROSPECTIVE JUROR #005: Yes.
14 MS. SUDANO: Would anything about that cause you to give more or less
15 weight to a police officer's testimony just because they are police officers?
16 PROSPECTIVE JUROR #005: No, I don't believe so.
17 MS. SUDANO: You understand that there are good and bad people in every
18 sort of job employment?
19 PROSPECTIVE JUROR #005: Sure.
20 MS. SUDANO: So, the CSI question.
21 PROSPECTIVE JUROR #005: Don't watch it.
22 MS. SUDANO: So, are you going to hold it against us if we don't present
23 DNA or fingerprint evidence?
24 PROSPECTIVE JUROR #005: No; you just have to convince us; right?
25 MS. SUDANO: Right. So, if the State's able to prove to you beyond a

1 reasonable doubt in this case that the Defendant's guilty, could you come back with
2 a verdict of guilty?

3 PROSPECTIVE JUROR #005: I believe so.

4 MS. SUDANO: So, right now if we had you go in the back to deliberate what
5 would your verdict be?

6 PROSPECTIVE JUROR #005: Right now probably guilty.

7 MS. SUDANO: And do you understand that we haven't presented any
8 evidence in this case?

9 PROSPECTIVE JUROR #005: Yes, I do.

10 MS. SUDANO: And you understand the -- are you familiar with the phrase
11 innocent until proven guilty?

12 PROSPECTIVE JUROR #005: Say that again. Sorry.

13 MS. SUDANO: You're familiar with the phrase innocent until proven guilty?

14 PROSPECTIVE JUROR #005: Yes.

15 MS. SUDANO: So, if the State hasn't presented any evidence in this case,
16 what is innocent until proven guilty mean to you?

17 PROSPECTIVE JUROR #005: Well you have to prove that he's guilty to me
18 so maybe I can think whatever I want. But you have to -- you're going to change my
19 mind at this point. Perhaps.

20 MS. SUDANO: So, if you were to go back there right now you understand
21 you don't have any evidence, right?

22 PROSPECTIVE JUROR #005: Right.

23 MS. SUDANO: And so if you went back there right now could you find the
24 Defendant not guilty?

25 PROSPECTIVE JUROR #005: I don't have any evidence.

1 MS. SUDANO: Right. And so what would you have to do?

2 PROSPECTIVE JUROR #005: Isn't he innocent until proven guilty theory. I
3 can't honestly say.

4 MS. SUDANO: So, move on a little bit. Have you ever had any contact with
5 Metro or any other law enforcement agency?

6 PROSPECTIVE JUROR #005: Nothing a crime or a ticket manner.

7 MS. SUDANO: Have you contact with them in any other way?

8 PROSPECTIVE JUROR #005: In some statements and some things that I've
9 witnessed around the neighborhood in the past.

10 MS. SUDANO: Okay. So, nothing too serious?

11 PROSPECTIVE JUROR #005: No.

12 MS. SUDANO: Anything about that, positive, negative, neutral?

13 PROSPECTIVE JUROR #005: Neutral.

14 MS. SUDANO: Okay. So, it hasn't given you any positive or negative
15 feelings about law enforcement one way or the other?

16 PROSPECTIVE JUROR #005: No.

17 MS. SUDANO: Would that affect your ability to be fair and impartial in this
18 case?

19 PROSPECTIVE JUROR #005: Does it affect it? No.

20 MS. SUDANO: Now have you or any close members of your family ever been
21 the victims of domestic violence?

22 PROSPECTIVE JUROR #005: No.

23 MS. SUDANO: Have you or any close family members ever been accused of
24 domestic violence?

25 PROSPECTIVE JUROR #005: No.

1 MS. SUDANO: Okay. So, I want to follow back up with you on the innocent
2 until proven guilty. So, you understand that the State has the burden of showing
3 you evidence, right, in proving this case beyond a reasonable doubt?

4 PROSPECTIVE JUROR #005: Yes.

5 MS. SUDANO: And you understand that the Defendant in this case doesn't
6 have to get up, doesn't have to testify, doesn't have to tell you anything?

7 PROSPECTIVE JUROR #005: Yes.

8 MS. SUDANO: You understand similarly that Mr. Shetler could just not open
9 his mouth the entire trial?

10 PROSPECTIVE JUROR #005: Yes, I do.

11 MS. SUDANO: And that's still our burden?

12 PROSPECTIVE JUROR #005: Yes.

13 MS. SUDANO: Okay. So, if you were sitting in the position of the State,
14 would you want somebody like yourself on this jury?

15 PROSPECTIVE JUROR #005: Yeah, I think so.

16 MS. SUDANO: Okay. What about if you were in Mr. Perry's position right
17 now; would you want somebody like yourself?

18 PROSPECTIVE JUROR #005: Honestly probably not.

19 MS. SUDANO: Okay. And why do you say that?

20 PROSPECTIVE JUROR #005: Because of my previous statement. You
21 asked me if, right off the bat, if I thought it was guilty or not.

22 MS. SUDANO: We've had people kind of -- that have been excused
23 previously but has indicated that just based on the nature of the charges they would
24 have a hard time finding Mr. Perry not guilty; would you say you're in that same
25 situation?

1 PROSPECTIVE JUROR #005: Not -- just since this has been talking I've
2 been thinking back and I think recognize the situation, the case or whatever you
3 want to call it whatever happened. It's just starting to sound familiar. If it is what I
4 was thinking of I thought it was pretty heinous. I'm guess I'm entering this a little
5 prejudiced already.

6 MS. SUDANO: So, you think you might have some previous knowledge
7 about this case?

8 PROSPECTIVE JUROR #005: Nothing more than whatever you've read or
9 heard.

10 MS. SUDANO: Okay. So, something you saw in the newspaper or the news?

11 PROSPECTIVE JUROR #005: Yes.

12 MS. SUDANO: Okay. So, if you do know anything about this case, do you
13 think you could set aside what you know and what you may have heard in the media
14 about this case and just judge it based on the evidence that's presented to you in
15 the courtroom?

16 PROSPECTIVE JUROR #005: I think so.

17 MS. SUDANO: So, you could set all that stuff aside and when you go back
18 into the jury room all that's in your mind is what's come before you?

19 PROSPECTIVE JUROR #005: I think to think so.

20 MS. SUDANO: Your Honor, the State would pass for cause.

21 THE COURT: Mr. Shetler.

22 MR. SHETLER: Your Honor, can you approach?

23 THE COURT: Yeah. Why don't you come on up.

24 [Bench conference -- begins]

25 MR. SHETLER: In the interest of time, do you want me to ask -- I don't think

1 he should be here. It's hard to tell what's playing or not but he's gone a little far. I
2 don't think there was anything in the press.

3 MS. BAHARAV: There wasn't anything. This case never made it to the news.
4 This is Colleen.

5 THE COURT: Right; yeah, that's what I was wondering. I didn't think this
6 would ever, you know, been in the news.

7 MS. BAHARAV: I'm just a little concerned that he indicated he would be fine.
8 He was saying who Mr. Perry is but then when Ms. Sudano followed up with okay
9 well would you be fair and impartial to Mr. Perry he said no. I mean, he didn't say
10 [indiscernible] but he said he already had some preconceived notions about Mr.
11 Perry. So, I'm not sure --

12 MR. SHETLER: He's made a pretty good record both ways really. He's all
13 over.

14 MS. SUDANO: It's pretty ambiguous at this point where he stands.

15 THE COURT: Yeah; I know you tried to clarify --

16 MS. BAHARAV: Yeah. She did a good job of clarifying but he changed his
17 story a couple times.

18 MR. SHETLER: Mm-hmm; more than once.

19 THE COURT: So --

20 MS. BAHARAV: Are you challenging for cause?

21 MR. SHETLER: Well we don't have a lot of people. I'm getting worried about
22 that. But I don't think he should be on the jury. Period. I am.

23 MS. BAHARAV: Okay.

24 MR. SHETLER: I am challenging him.

25 THE COURT: So, you think there's casue?

1 MR. SHETLER: Yeah, there's too much there. It's that comment, that
2 bothersome comment, but I don't want to take a lot of time. He shouldn't be here, I
3 don't think. And I recognize [indiscernible]. I don't mean that, Your Honor.

4 THE COURT: No, no, no. I wasn't taking offense. I just want to be clear that
5 -- I mean, that you think there's cause to excuse him in this situation.

6 MR. SHETLER: Yes.

7 MS. BAHARAV: Based upon my concern about his comment that he'd be fine
8 if he was the Defendant but noting that Mr. Perry's different and he thinks he's guilty,
9 I'm going to submit it.

10 MR. SHETLER: And, Your Honor --

11 MS. BAHARAV: I submit it.

12 MR. SHETLER: Yeah.

13 THE COURT: Okay. Then I guess I'll go ahead and excuse him.

14 MR. SHETLER: Sorry, Judge.

15 THE COURT: You might want to check and see if there's more jurors
16 tomorrow.

17 MR. SHETLER: We're awfully late I know, but my client says he's about to
18 have an accident, bathroom accident.

19 THE COURT: Okay.

20 MR. SHETLER: I can take the heat if you need me to but -

21 THE COURT: No, that's fine. So, I will excuse him and then we can take a
22 short break.

23 [Bench conference -- concludes]

24 THE COURT: All right. Mr. Williams, I'm going to go ahead and excuse you
25 at this time. Thanks very much for your time today. Just go down to the third floor

1 at jury services and let them know I excused you.

2 THE COURT CLERK: Next in seat number 4, Badge number 043, Douglas
3 Nelson.

4 THE COURT: Okay. Folks, so we're going to take a short break in just a
5 minute and let everyone use the facilities because we've been going for a while. But
6 before we take a break I need to explain some things to you about that.

7 First, the attorneys, parties, witnesses, everybody involved in the case
8 they're not allowed to talk to you during the course of these proceedings. That's
9 probably pretty obvious. But not only can they not talk to you about the case but
10 they shouldn't even be talking to you about anything, the weather, clothing, shoes,
11 whatever. So, they know to avoid talking with you guys even during the breaks
12 during the trial and you should also avoid having interactions with them. And so if
13 they kind of walk the other way, avoid taking an elevator with you or kind of try to
14 distant themselves from you, please don't be offended. They're just complying with
15 their duty not to have those interactions with you.

16 Additionally, you are required while you're a jury not to discuss the case
17 with anybody until after you're excused from jury service regarding this case. And
18 when I say you're not allowed to discuss this case that includes discussing the
19 charges themselves, anybody involved with the case or even the questions and
20 answers that are given during the jury selection process. So, when you go out on
21 break you can't be talking about oh can you believe this one asked that question or
22 can you believe this juror gave that answer. Don't have questions or discussions
23 like that. And it would also include not only in person conversations with each other
24 but also any communications with anyone else, your spouse's boyfriend's whoever
25 else you might communicate with. You can't talk about the case in any way shape

1 or form. You can let your boss or childcare givers and things like that know that you
2 are here as part of the jury selection process; that if you're part of the jury that the
3 case will go the rest of this week and possibly Monday. You can let them know that
4 much but don't get into any of the details of the case, what it's about, anything else.

5 Also when I say you're not to communicate it includes not only in
6 person discussions, it includes telephone calls; it includes social media. So, don't
7 go on Facebook and make a post I can't believe Judge Cadish is still talking; no
8 Tweets, no other communications of any kind about the case until after you're
9 completely done as a juror with this case. Okay. That's very important.

10 Also, you're not allowed to do any independent research regarding the
11 case. So, you know, these days everyone as soon as they hear about some new
12 issue or person they want to get on their phones and start Googling everybody. You
13 can do that in your ordinary life outside your jury service, but as a juror you can't do
14 that. So, you're not allowed to do any independent research; you can't start
15 Googling anybody involved with the case or any other related issues or laws or
16 anything like that. All the jurors have to base their decision on the evidence they
17 see here in the courtroom and on the law instructions that I give you. So, you can't
18 do any independent research whatsoever. And of course the folks who sit as jurors
19 shouldn't be forming any opinion about the case until after all the evidence is
20 presented and they go back to the jury room to deliberate at the end. So, don't allow
21 yourselves to be forming any opinions in the case prematurely.

22 So, I'm about to read these admonitions that I'm required to read to you
23 each time we take a break during the course of the trial. It's just basically a
24 summary of the instructions I just gave you and they're so important that I'm
25 required to read them to you each time we take a break. Okay. During this recess,

1 you are admonished not talk or converse among yourselves or with anyone on any
2 subject connected with this trial or to read, watch or listen to any report or
3 commentary on the trial or any person connected with this trial by any medium of
4 information, including without limitation, newspapers, television, the internet or radio
5 or to form or express any opinion on any subject connected with this trial until the
6 case is submitted to you. Try to keep it to about ten minutes so we can get going
7 again.

8 [Recess taken at 4:01 p.m.]

9 [Proceedings resumed at 4:11 p.m.]

10 [Outside the presence of the prospective jury panel]

11 THE COURT: On the good side I've arranged for the jury commissioner to
12 bring in like ten extra jurors tomorrow just in case we need them. Things are going
13 slowly but I really can't really fault you based on some of the answered we've
14 gotten.

15 MR. SHETLER: It's been an interesting pool.

16 THE COURT: So, you guys are being pretty cooperative. It just takes a while
17 sometimes. So, we'll keep moving.

18 MR. SHETLER: Ms. Baharav did find out that we do have warrant returns on
19 at least one of those prelims for tomorrow.

20 MS. BAHARAV: Just one.

21 MR. SHETLER: Oh, just one. So, we'll know more in the morning, Judge.

22 THE COURT: Okay.

23 MS. BAHARAV: That doesn't mean they go forward. That usually means
24 they resolve because our victims are there.

25 THE COURT: Right. I mean, the thing is look if I'm going to tell the jurors not

1 to come until 11 then we can't do any -- I mean, if we have evidentiary issues we
2 can discuss those at nine if you're here and I'm here. But I can't just, you know, if
3 you come upstairs and say nine I'm ready, I can't start.

4 MR. SHETLER: I completely understand, Judge, completely. Just making
5 sure you know when we know.

6 THE COURT: Okay. Thank you. Get the jurors.

7 [inside the presence of the prospective jury panel]

8 THE COURT: All right. You can go ahead and have a seat, folks. So, Mr.
9 Nelson, how are you today?

10 PROSPECTIVE JUROR #043: During fine, thank you.

11 THE COURT: Good. Glad to hear it.

12 THE COURT: Is there any reason you could not be fair and impartial in
13 this case?

14 PROSPECTIVE JUROR #043: No.

15 THE COURT: Can you wait in forming your opinion on the appropriate result
16 until all of the evidence has been heard?

17 PROSPECTIVE JUROR #043: Yes.

18 THE COURT: Have you or anyone close to you worked in law enforcement?

19 PROSPECTIVE JUROR #043: No.

20 THE COURT: Have you or anyone close to you been charged with a serious
21 crime?

22 PROSPECTIVE JUROR #043: No.

23 THE COURT: Have you or anyone close to you been the victim of a serious
24 crime?

25 PROSPECTIVE JUROR #043: No.

1 THE COURT: Is there anything about the charges in this case that would
2 make it difficult for you to be fair and impartial?

3 PROSPECTIVE JUROR #043: No.

4 THE COURT: Can you base your verdict solely on the evidence brought out
5 at trial and the law that applies as stated in my instructions without fear of criticism
6 or popular opinion?

7 PROSPECTIVE JUROR #043: Yes.

8 THE COURT: Have you ever been a juror before?

9 PROSPECTIVE JUROR #043: No.

10 THE COURT: If you were a party to this case would you be comfortable with
11 jurors of a like frame of mind as yourself sitting in judgment?

12 PROSPECTIVE JUROR #043: Yes.

13 THE COURT: How long have you lived in Clark County?

14 PROSPECTIVE JUROR #043: Sixty-six years.

15 THE COURT: Okay. What's the highest level of education you completed?

16 PROSPECTIVE JUROR #043: Twelve.

17 THE COURT: And are you employed?

18 PROSPECTIVE JUROR #043: Yes, I am.

19 THE COURT: What do you do?

20 PROSPECTIVE JUROR #043: I'm an instructor full time faculty at Clark
21 County at College of Southern Nevada. I go back to Clark County Community
22 College.

23 THE COURT: Right. I understand. What do you teach?

24 PROSPECTIVE JUROR #043: Construction courses.

25 THE COURT: Okay. And are you married?

1 PROSPECTIVE JUROR #043: Yes, I am.
2 THE COURT: Is your spouse employed?
3 PROSPECTIVE JUROR #043: No, she's not.
4 THE COURT: Do you have children?
5 PROSPECTIVE JUROR #043: Nine.
6 THE COURT: Nine. Okay. Are they all grown?
7 PROSPECTIVE JUROR #043: The youngest is 25.
8 THE COURT: Okay. Do you have any living at home?
9 PROSPECTIVE JUROR #043: One; they always come back.
10 THE COURT: That's what I hear. Okay. All right, State.
11 MS. BAHARAV: Good afternoon, sir. You heard my question about CSI Las
12 Vegas; have you ever watched that show?
13 PROSPECTIVE JUROR #043: I don't watch it; I don't like it.
14 MS. BAHARAV: Okay.
15 PROSPECTIVE JUROR #043: I watch other cop shows a lot though.
16 MS. BAHARAV: Anything about those other cop shows that you'll want to see
17 here in the courtroom?
18 PROSPECTIVE JUROR #043: No.
19 MS. BAHARAV: You understand that those cop shows are generally fiction?
20 PROSPECTIVE JUROR #043: I know. You busted my bubble today.
21 MS. BAHARAV: I busted everybody's bubble. It's awful. I know. I was really
22 hoping when I went to visit the lab they had all those fancy things.
23 PROSPECTIVE JUROR #043: I know me too.
24 MS. BAHARAV: They really don't.
25 PROSPECTIVE JUROR #043: It's so cool.

1 MS. BAHARAV: They are. Would you require the State -- let me just get right
2 to it. Would you like the State to provide DNA or fingerprint evidence in every single
3 case?

4 PROSPECTIVE JUROR #043: No.

5 MS. BAHARAV: Do you understand in some cases the testimony and the
6 photographic evidence will be the evidence that exists in the case?

7 PROSPECTIVE JUROR #043: Yes.

8 MS. BAHARAV: And if you have just that evidence will you be able to come
9 to a conclusion as to guilt or innocence of the Defendant?

10 PROSPECTIVE JUROR #043: Yes.

11 MS. BAHARAV: Has anyone in your family ever been the victim of domestic
12 violence?

13 PROSPECTIVE JUROR #043: My wife, verbally, not from me though. From
14 her ex-husband.

15 MS. BAHARAV: Okay. And do you know -- you said it was just verbal?

16 PROSPECTIVE JUROR #043: Yes, it was verbal.

17 MS. BAHARAV: Did she stay in that relationship for a long period of time?

18 PROSPECTIVE JUROR #043: Too long.

19 MS. BAHARAV: And she explained to you kind of why she would stay in that
20 relationship for so long?

21 PROSPECTIVE JUROR #043: A lot of it was fear.

22 MS. BAHARAV: Eventually she did get up the courage to leave?

23 PROSPECTIVE JUROR #043: Yes.

24 MS. BAHARAV: And obviously she met you?

25 PROSPECTIVE JUROR #043: Of course.

1 MS. BAHARAV: So, people can move on from those relationships?

2 PROSPECTIVE JUROR #043: Say that again.

3 MS. BAHARAV: People can move on from those relationships?

4 PROSPECTIVE JUROR #043: Yes, they can.

5 MS. BAHARAV: In that prior relationship that your wife had, were there
6 periods of calm where there wasn't any sort of a violence or abuse going on?

7 PROSPECTIVE JUROR #043: I don't know; I'm sure there was.

8 MS. BAHARAV: So, it wasn't always an abusive situation for your wife --

9 PROSPECTIVE JUROR #043: No.

10 MS. BAHARAV: -- is what I'm trying to get at?

11 PROSPECTIVE JUROR #043: Right.

12 MS. BAHARAV: Anyone you know been accused of domestic violence?

13 PROSPECTIVE JUROR #043: No.

14 MS. BAHARAV: And have you ever contact with Metro, parking tickets,
15 speeding tickets, stuff like that?

16 PROSPECTIVE JUROR #043: Just traffic tickets only.

17 MS. BAHARAV: Anything about that contact with Metro kind of stand out to
18 you positive or negative?

19 PROSPECTIVE JUROR #043: No.

20 MS. BAHARAV: No negative feelings towards Metro?

21 PROSPECTIVE JUROR #043: No.

22 MS. BAHARAV: And you don't hold Metro up to the highest regard in the
23 sense of you'll listen to Metro over anybody else? What I mean by that is you'll be
24 able to listen to all the evidence and all the witnesses no matter where they come
25 from and evaluate them just based upon what you're tell you?

1 PROSPECTIVE JUROR #043: Yes, I will.

2 MS. BAHARAV: Anything about your background that won't let you sit in
3 judgment of other people?

4 PROSPECTIVE JUROR #043: No.

5 MS. BAHARAV: We'll pass for cause. Thank you, Judge.

6 THE COURT: Thank you. Mr. Shetler.

7 MR. SHETLER: Thank you, Your Honor. Mr. Nelson, you heard my earlier
8 questions. Anything I've said whether brief or long winded --

9 PROSPECTIVE JUROR #043: Yes.

10 MR. SHETLER: -- strike a chord?

11 PROSPECTIVE JUROR #043: I have.

12 MR. SHETLER: It didn't even strike a chord or bring forth any more
13 comment?

14 PROSPECTIVE JUROR #043: No.

15 MR. SHETLER: Did you always -- have you always taught construction
16 class?

17 PROSPECTIVE JUROR #043: Well I did do it but now I teach it, yes. I taught
18 at the college for 26 years.

19 MR. SHETLER: Other topics as well or just in that area.

20 PROSPECTIVE JUROR #043: Just construction technology.

21 MR. SHETLER: And when you were in construction what type of role did you
22 play; manager?

23 PROSPECTIVE JUROR #043: Yeah, I built custom homes.

24 MR. SHETLER: Were you the general --

25 PROSPECTIVE JUROR #043: Contractor.

1 MR. SHETLER: You were the contractor. And you have nine kids?

2 PROSPECTIVE JUROR #043: Yeah, I do. They're all girls except for the
3 right boys.

4 MR. SHETLER: Have you ever had an opportunity for any of those nine
5 children, two or more of them to come to you with different stories about the same
6 event?

7 PROSPECTIVE JUROR #043: Different stories. You mean, different
8 versions of it, yes.

9 MR. SHETLER: Yes. Did you find some later resolve and get to a resolution
10 that you were comfortable with?

11 PROSPECTIVE JUROR #043: Yes.

12 MR. SHETLER: And how did you do that?

13 PROSPECTIVE JUROR #043: A father always knows.

14 MR. SHETLER: And in all honestly, going down that vein just a little bit, the
15 fact that two people might have different versions of the same event not going to
16 prevent you from sitting here and listening to the evidence?

17 PROSPECTIVE JUROR #043: No.

18 MR. SHETLER: Would you be surprised if two people had the same version
19 of the same event?

20 PROSPECTIVE JUROR #043: No.

21 MR. SHETLER: It happens.

22 PROSPECTIVE JUROR #043: It could, yes.

23 MR. SHETLER: All right. Likely to happen?

24 PROSPECTIVE JUROR #043: I don't know. I have to listen.

25 MR. SHETLER: The questions that I was asking Ms. De Paz about self-

1 defense, you're familiar with that concept?

2 PROSPECTIVE JUROR #043: No; what do you mean by that?

3 MR. SHETLER: That as a general rule -- and this goes a little bit into what

4 she was studying -- we generally don't want people putting their hands on each

5 other in this country; right? We make certain exceptions when we say it's okay, it's

6 okay to put your hands on somebody else, it's okay if you believe that you're

7 protecting yourself --

8 PROSPECTIVE JUROR #043: Right.

9 MR. SHETLER: -- or protecting others or in some cases just protection of

10 property?

11 PROSPECTIVE JUROR #043: Yes.

12 MR. SHETLER: Any issues with that concept?

13 PROSPECTIVE JUROR #043: No.

14 MR. SHETLER: It makes sense?

15 PROSPECTIVE JUROR #043: It does.

16 MR. SHETLER: And have you had to be in that situation?

17 PROSPECTIVE JUROR #043: No, I haven't.

18 MR. SHETLER: Is that small brood of children ever found themselves in that

19 situation?

20 PROSPECTIVE JUROR #043: No.

21 MR. SHETLER: Good. Thank you for patience today. We'll pass for cause,

22 Your Honor.

23 THE COURT: Thank you. Ma'am, how do you pronounce your last name?

24 PROSPECTIVE JUROR #006: Wokasch.

25 THE COURT: Wokasch.

1 PROSPECTIVE JUROR #006: Wokasch.
2 THE COURT: Okay. Ms. Wokasch, how are you today?
3 PROSPECTIVE JUROR #006: I'm good. How are you?
4 THE COURT: Good. Is there any reason you could not be fair and impartial
5 in this case?
6 PROSPECTIVE JUROR #006: No.
7 THE COURT: Can you wait in forming your opinion on the appropriate result
8 until all of the evidence has been heard?
9 PROSPECTIVE JUROR #006: Yes.
10 THE COURT: Have you or anyone close to you worked in law enforcement?
11 PROSPECTIVE JUROR #006: No.
12 THE COURT: Have you or anyone close to you been charged with a serious
13 crime?
14 PROSPECTIVE JUROR #006: Define serious.
15 THE COURT: If you thought it was serious.
16 PROSPECTIVE JUROR #006: Years ago when I was an active alcoholic
17 drug addict, I have been charged but I'm been clean and sober now 16 years so all
18 that's been ratified and cleared.
19 THE COURT: Okay. Very good. Okay. So, you had been charged. So, was
20 the offenses you were charged with back at that time related to possession of the
21 drugs themselves?
22 PROSPECTIVE JUROR #006: Yes.
23 THE COURT: Okay. And were those cases here in Nevada?
24 PROSPECTIVE JUROR #006: No.
25 THE COURT: Where was that?

1 PROSPECTIVE JUROR #006: One was somewhere in the state of
2 Wisconsin because we were on tour when we got picked up. And then a second
3 one was in Utah so that was it.

4 THE COURT: Okay. And do you feel you were treated fairly in those cases?

5 PROSPECTIVE JUROR #006: Yeah.

6 THE COURT: Anything about those circumstances that would affect your
7 ability to be fair and impartial in this case?

8 PROSPECTIVE JUROR #006: No.

9 THE COURT: Have you or anyone close to you been the victim of a serious
10 crime?

11 PROSPECTIVE JUROR #006: As in like domestic or --

12 THE COURT: Domestic would be serious.

13 PROSPECTIVE JUROR #006: Okay. Case in point back in my old life when
14 I was out there, I had been domestically abused so yes.

15 THE COURT: And did you report that abuse to the police at all?

16 PROSPECTIVE JUROR #006: Oh, yeah.

17 THE COURT: Okay. And was that person charged?

18 PROSPECTIVE JUROR #006: He spent a night in jail and then -- I forget. I
19 was still in my alcoholic frenzy. So, I was just kind of fleeing. I think I left state nine
20 days after the scenario and just dropped it.

21 THE COURT: Okay. And so although you've had that prior experience with
22 domestic abuse, do you think you could put aside your personal experiences and
23 base a decision in this case on the evidence presented in the courtroom and the law
24 that I give you?

25 PROSPECTIVE JUROR #006: Yes.

1 THE COURT: Do you think you could be fair to both sides here?

2 PROSPECTIVE JUROR #006: Yes.

3 THE COURT: Is anything about the charges in this case that would make it
4 difficult for you to be fair and impartial?

5 PROSPECTIVE JUROR #006: No.

6 THE COURT: Can you base your verdict solely on the evidence and the law
7 that applies without fear of criticism or popular opinion?

8 PROSPECTIVE JUROR #006: Yes.

9 THE COURT: Have you ever been a juror before?

10 PROSPECTIVE JUROR #006: Yes.

11 THE COURT: Have many times?

12 PROSPECTIVE JUROR #006: I was on a grand jury once in Minneapolis.

13 THE COURT: Okay. For how long were you on the grand jury?

14 PROSPECTIVE JUROR #006: It was an eight week event and it was, I think,
15 it was one day week for eight weeks.

16 THE COURT: Okay. And you understand that there's a different burden that
17 applies generally in a grand jury versus a case like this. Would you follow my
18 instructions on the burden that applies in this case?

19 PROSPECTIVE JUROR #006: Absolutely.

20 THE COURT: Anything about your grand jury experience that affect your
21 ability to be a fair and impartial juror in this case?

22 PROSPECTIVE JUROR #006: No.

23 THE COURT: If you were a party to this case would you be comfortable with
24 jurors of a like frame of mind as yourself sitting in judgment?

25 PROSPECTIVE JUROR #006: Yeah.

1 THE COURT: How long have you lived here in Nevada?
2 PROSPECTIVE JUROR #006: August it will be 17 years.
3 THE COURT: And what's the highest level of education you completed?
4 PROSPECTIVE JUROR #006: Completed -- graduated high school, some
5 college; finished my degree in film and television.
6 THE COURT: In film and television?
7 PROSPECTIVE JUROR #006: Yeah.
8 THE COURT: Okay. And are you employed?
9 PROSPECTIVE JUROR #006: Yes.
10 THE COURT: Doing what?
11 PROSPECTIVE JUROR #006: I work as a stage hand for the International
12 Alliance of Theatrical Station employees.
13 THE COURT: And are you married?
14 PROSPECTIVE JUROR #006: No.
15 THE COURT: Do you have children?
16 PROSPECTIVE JUROR #006: No.
17 State.
18 MS. SUDANO: Thank you, Your Honor.
19 Good afternoon Ms. Wokasch.
20 PROSPECTIVE JUROR #006: Yes.
21 MS. SUDANO: Did I get it right?
22 PROSPECTIVE JUROR #006: Yes, you did.
23 MS. SUDANO: Okay.
24 PROSPECTIVE JUROR #006: I know it's a tough one.
25 MS. SUDANO: I'm sorry I'm going to ask you this. I don't want to pry too

1 much into your relationship, but you said that you've been the victim of domestic
2 violence?

3 PROSPECTIVE JUROR #006: Yes.

4 MS. SUDANO: And at some point you ending up leaving the state?

5 PROSPECTIVE JUROR #006: Yeah.

6 MS. SUDANO: Okay. So, you were able to get out of that relationship; right?

7 PROSPECTIVE JUROR #006: Oh, yeah.

8 MS. SUDANO: Was this just a one time thing or was it something that had
9 had happened more than once?

10 PROSPECTIVE JUROR #006: It was the first and last time he hit me, yeah.

11 MS. SUDANO: Before that was it always just the physical violence or was
12 there any sort of emotional abuse or verbal abuse going on before that?

13 PROSPECTIVE JUROR #006: Honestly I'm going to be straight up honest
14 and that life I was living then it was one big alcoholic blur.

15 MS. SUDANO: Okay. So, to be fair my judgment was completely impaired
16 the whole time because that's what alcohol does, it affects your judgment as any
17 opiate does and such, you know.

18 MS. SUDANO: So, it sounds like you got out of that situation pretty quickly;
19 right

20 PROSPECTIVE JUROR #006: Yeah. But I was still in my disease so I was
21 jumping from one mess to another.

22 MS. SUDANO: Do you understand that somebody else might not be able to
23 get out of that situation as quickly?

24 PROSPECTIVE JUROR #006: Yeah.

25 MS. SUDANO: Would you hold that against somebody else?

1 PROSPECTIVE JUROR #006: No.

2 MS. SUDANO: Okay. So, if you're seated on this jury is there anything that
3 would prevent you from collaborating with the other jurors, working together with
4 those jurors to come to a verdict?

5 PROSPECTIVE JUROR #006: Anything that would affect me from working --

6 MS. SUDANO: Prevent you --

7 PROSPECTIVE JUROR #006: Prevent me, no.

8 MS. SUDANO: No. The CSI questions.

9 PROSPECTIVE JUROR #006: I used to work on CSI.

10 MS. SUDANO: You did? Okay.

11 PROSPECTIVE JUROR #006: I set up the smoke one day and I set up the
12 mirrors other day so --

13 MS. SUDANO: Beautiful. So, you know it's all fake.

14 PROSPECTIVE JUROR #006: I know it's all smoke and mirrors.

15 THE COURT: Smoke and mirrors then; okay, got it.

16 MS. SUDANO: Beautiful. So, you understand that some of that technology is
17 just what you invented?

18 PROSPECTIVE JUROR #006: Yeah, unfortunately. It's all not real. Even
19 the daylight looks like it's real.

20 MS. SUDANO: Oh, it's inside.

21 PROSPECTIVE JUROR #006: No; it's all light.

22 MS. SUDANO: Okay. So, you're not going to require the State to have
23 forensic evidence, DNA, fingerprints, anything like that to come back in this case
24 with you?

25 PROSPECTIVE JUROR #006: That all sounds great but unfortunately, no.

1 MS. SUDANO: Have you ever had contact with the Las Vegas Metropolitan
2 Police Department or Henderson Police, anything like that?

3 PROSPECTIVE JUROR #006: For like traffic tickets or whatnot?

4 MS. SUDANO: Yeah.

5 PROSPECTIVE JUROR #006: Sure.

6 MS. SUDANO: Do you have positive negative interactions with them or are
7 they fairly neutral?

8 PROSPECTIVE JUROR #006: A positive. I'm going to say ninety eight
9 percent positive.

10 MS. SUDANO: Okay. So, anything about that that would affect your ability to
11 be fair and impartial in this case?

12 PROSPECTIVE JUROR #006: No.

13 MS. SUDANO: Are you going to give more or less weight to a police officer's
14 testimony just because he or she is a police officer?

15 PROSPECTIVE JUROR #006: Not at all.

16 MS. SUDANO: Is there anything about your life experiences that would
17 prevent you from sitting in judgment of anybody else?

18 PROSPECTIVE JUROR #006: No; I actually think it would be beneficial. It
19 sounds strange.

20 MS. SUDANO: What do you mean by that?

21 PROSPECTIVE JUROR #006: Well being clean and sober I'm aware of the
22 fact that, you know, our views are altered by old habits. So, someone trying to, you
23 know, change their -- if something dramatic happens in your life -- and I've had girls
24 come to me getting sober where, you know, they've approached me for, you know,
25 sponsor walking through the steps, and it's really about being accountable and

1 having gumption and improving your life. So, sometimes scenarios in life like the
2 case in point myself, when I had gotten arrested for possession and charges and
3 having to deal with that and take care of those situations. Those, I think, are acts of
4 providence and that I've been able to take that and turn it around and help
5 somebody else who is going through the same thing.

6 MS. SUDANO: First of all, congratulations on your sobriety.

7 PROSPECTIVE JUROR #006: Hey, man, it ain't all me.

8 MS. SUDANO: So, if you're in -- if you were in the State's position would you
9 want somebody such as yourself on the jury?

10 PROSPECTIVE JUROR #006: Sure.

11 MS. SUDANO: What about if you were in Mr. Perry's position?

12 PROSPECTIVE JUROR #006: Yeah.

13 MS. SUDANO: Okay. Your Honor, the State would pass for cause.

14 THE COURT: Thank you. Mr Shetler.

15 MR. SHETLER: Ms. Wokasch.

16 PROSPECTIVE JUROR #006: Yes.

17 MR. SHETLER: Again, thank you for your honesty. That's all I can possibly
18 hope for or Mr. Perry can hope for. I appreciate it. And just congratulations on still
19 being on the planet.

20 PROSPECTIVE JUROR #006: Yeah, right. Those are the options death or
21 jail or --

22 MR. SHETLER: In the situation where you were still out using and still
23 running and getting, did you ever have an opportunity to come into contact with
24 people who might falsely accuse somebody to the police to try and achieve some
25 benefit?

1 PROSPECTIVE JUROR #006: Sure, yeah.

2 MR. SHETLER: It didn't surprise you if activity like that came out of that type
3 of lifestyle?

4 PROSPECTIVE JUROR #006: It wouldn't surprise me at all, no. Actually,
5 honestly, nothing surprises me.

6 MR. SHETLER: Right. You talked to -- you mentioned that you worked with
7 different people in the program. When people come into the program early on, are
8 you treating them with a different level of credibility that someone who's got some
9 more time under their belt?

10 PROSPECTIVE JUROR #006: I think if you're new in recovery and you're
11 trying to change your old habits, it's harder in the beginning from my own
12 experience, and I needed that longevity with people with hardcore recovery around
13 me. I needed to stick with 'em to learn how to live differently. You know, changing
14 your life is hard especially when that was your path for so long, you know, and now
15 I've surpassed the years of recovery now than of years of wreckage I've done. So,
16 I'm kind of like in unfamiliar territory which is pretty awesome, you know, it's like a
17 whole another life. So, when I speak of those old things that happened to me it was
18 another lifetime ago. But, yeah, people who are very new they're just starting to
19 learn this. If they really have a willingness and their honest and they're open
20 minded to the concept of changing their life for the better, it really kind of opens like
21 a clean slate for them to really start anew and look at themselves on their side of the
22 street and clean house. You know, it's really about helping others too in the end.
23 Did I answer your question? I don't know.

24 MR. SHETLER: You're doing fantastic.

25 PROSPECTIVE JUROR #006: Okay.

1 MR. SHETLER: The Judge asked you, the prosecution asked you, the self
2 defense idea I was talking about earlier does that make sense? Any questions
3 about that or any concerns it raised for you?

4 PROSPECTIVE JUROR #006: Can you reiterate? I might have been reading
5 a book at that time.

6 MR. SHETLER: Just the idea that while we generally don't want people
7 putting their hands on other people --

8 PROSPECTIVE JUROR #006: Sure.

9 MR. SHETLER: -- and we do make certain exceptions and one of those
10 exceptions if you believe in self defense?

11 PROSPECTIVE JUROR #006: Sure; yeah.

12 MR. SHETLER: And that it's really your subjective point of view at the time
13 you make that decision is what controls that issue whether you believe in self
14 defense or not?

15 PROSPECTIVE JUROR #006: Right; oh, yeah.

16 MR. SHETLER: And you're comfortable with that concept?

17 PROSPECTIVE JUROR #006: Yes.

18 MR. SHETLER: And some other said some things about whether they could
19 or couldn't withhold judgment. Based on your own personal experiences, is that
20 going -- do you feel that you're going to have carry the torch for one side or the
21 other?

22 PROSPECTIVE JUROR #006: I believe everyone has their view --

23 MR. SHETLER: Right; of course.

24 PROSPECTIVE JUROR #006: -- and their perception.

25 MR. SHETLER: Right.

1 PROSPECTIVE JUROR #006: And in my -- even in my career because I act
2 as a steward at times in my union. So, I have to take facts and not emotions when
3 sitting in like grievance and arbitration in situations or if there's, you know -- but
4 everyone has a perception and everyone has, you know, they're way of seeing
5 things and you can find the equilibrium there. I don't feel I need to hold the torch to
6 anybody. I think everyone has their own torch.

7 MR. SHETLER: Clearly an individual who has a high level of sensitivity and
8 passion, and there will be photographs of injuries in this case. Is that going to be
9 problem for you?

10 PROSPECTIVE JUROR #006: No.

11 MR. SHETLER: And I'm sure that there will be testimony that's just plain
12 unpleasant.

13 PROSPECTIVE JUROR #006: Sure.

14 MR. SHETLER: Ms. Wokasch, thank you very much. Pass for cause.

15 THE COURT: Thank you. Ms. Hamilton, how are you today?

16 PROSPECTIVE JUROR #007: I'm good. How are you?

17 THE COURT: Good. Is there any reason you could not be fair and
18 impartial in this case?

19 PROSPECTIVE JUROR #007: No.

20 THE COURT: Can you wait in forming your opinion on the appropriate result
21 until all of the evidence has been heard?

22 PROSPECTIVE JUROR #007: Yes.

23 THE COURT: Have you or anyone close to you worked in law enforcement?

24 PROSPECTIVE JUROR #007: No.

25 THE COURT: Have you or anyone close to you been charged with a serious

1 crime?

2 PROSPECTIVE JUROR #007: My grandson was charged with burglary
3 involving drugs.

4 THE COURT: How long ago was that?

5 PROSPECTIVE JUROR #007: About five years.

6 THE COURT: Was he convicted?

7 PROSPECTIVE JUROR #007: Yes; twice.

8 THE COURT: Did he go to prison or is he on probation?

9 PROSPECTIVE JUROR #007: He's in Colorado. He spent time and then
10 probation.

11 THE COURT: I see. Do you think he was treated fairly in his case?

12 PROSPECTIVE JUROR #007: I really have no idea.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR #007: I know he was addicted to drugs.

15 THE COURT: Right. Is there anything about his case or circumstances that
16 would affect your ability to be fair and impartial in this case?

17 PROSPECTIVE JUROR #007: I don't think so.

18 THE COURT: Have you or anyone close to you been the victim of a serious
19 crime?

20 PROSPECTIVE JUROR #007: Not that I know of -- that I can think of.

21 THE COURT: Sure. Is there anything about the charges in this case that
22 would make it difficult for you to be fair and impartial?

23 PROSPECTIVE JUROR #007: No.

24 THE COURT: Can you base your verdict solely on the evidence brought out
25 at trial and the law that applies as stated in my instructions without fear of criticism

1 or popular opinion?

2 PROSPECTIVE JUROR #007: Yes.

3 THE COURT: Have you ever been a juror before?

4 PROSPECTIVE JUROR #007: No.

5 THE COURT: If you were a party to this case would you be comfortable with
6 jurors of a like frame of mind as yourself sitting in judgment?

7 PROSPECTIVE JUROR #007: Yes.

8 THE COURT: How long have you lived in Clark County?

9 PROSPECTIVE JUROR #007: Forty-two years.

10 THE COURT: And what's the highest level of education you completed?

11 PROSPECTIVE JUROR #007: Twelfth; high school.

12 THE COURT: And are you employed?

13 PROSPECTIVE JUROR #007: No; I'm retired.

14 THE COURT: What did you before?

15 PROSPECTIVE JUROR #007: Food service.

16 THE COURT: Food service?

17 PROSPECTIVE JUROR #007: Yes.

18 THE COURT: Are you married?

19 PROSPECTIVE JUROR #007: Yes.

20 THE COURT: Is your spouse employed?

21 PROSPECTIVE JUROR #007: No; he's retired also.

22 THE COURT: And what did he previously do?

23 PROSPECTIVE JUROR #007: He was a truck driver, construction truck
24 driver.

25 THE COURT: Do you have children?

1 PROSPECTIVE JUROR #007: Yes; I have a son.

2 THE COURT: And what does he do?

3 PROSPECTIVE JUROR #007: He's disabled right now. He was a pre-fab
4 sign maker but he was injured on the job.

5 THE COURT: I see. Okay. State.

6 MS. BAHARAV: Good afternoon. Do you know anyone that's ever been the
7 victim of domestic violence?

8 PROSPECTIVE JUROR #007: My sister was, but it was like 16 years ago
9 and they ended up divorced.

10 MS. BAHARAV: Do you know if the domestic violence actually precipitated
11 that divorce?

12 PROSPECTIVE JUROR #007: Yes, it did.

13 MS. BAHARAV: Was there any violence before that one incident?

14 PROSPECTIVE JUROR #007: Yeah, both physical and mental.

15 MS. BAHARAV: Were you familiar with your sister's relationship?

16 PROSPECTIVE JUROR #007: Yes.

17 MS. BAHARAV: Was it always violent or were there periods of kind of calm in
18 between?

19 PROSPECTIVE JUROR #007: Well her husband was alcoholic. I think that's
20 mostly what caused it.

21 MS. BAHARAV: Did you ever see your sister after she had been injured in a
22 domestic violent incident?

23 PROSPECTIVE JUROR #007: Yes, I did.

24 MS. BAHARAV: Knowing that your sister had been the victim of domestic
25 violence, is there anything about that experience that you'll hold against Mr. Perry in

1 this case?

2 PROSPECTIVE JUROR #007: No, I don't think so.

3 MS. BAHARAV: You're able to look at all the evidence that's presented here
4 and make a decision?

5 PROSPECTIVE JUROR #007: I think I can.

6 MS. BAHARAV: Now we know that your sister has been the victim, but have
7 you -- do you know anyone that's ever been accused of domestic violence?

8 PROSPECTIVE JUROR #007: No.

9 MS. BAHARAV: Have you ever gotten any traffic tickets or anything?

10 PROSPECTIVE JUROR #007: No, I have not.

11 MS. BAHARAV: Good job, good job. It's really rare in Las Vegas for that,
12 really, really rare. Have you ever had the opportunity to watch those crimes scene
13 shows --

14 PROSPECTIVE JUROR #007: I have.

15 MS. BAHARAV: And you've heard it now and now we know smoke and
16 mirrors is sitting in between you. You understand that that's not reality?

17 PROSPECTIVE JUROR #007: Right.

18 MS. BAHARAV: And not on every case the State doesn't always have DNA
19 and fingerprints?

20 PROSPECTIVE JUROR #007: Right.

21 MS. BAHARAV: Are you going to require the State to present DNA or
22 fingerprints?

23 PROSPECTIVE JUROR #007: No, not at all.

24 MS. BAHARAV: Okay. You'll listen to the testimony and any photographs
25 presented and come to a conclusion that way?

1 PROSPECTIVE JUROR #007: Right.

2 MS. BAHARAV: Anything about your history that won't let you sit in judgment
3 of other people?

4 PROSPECTIVE JUROR #007: No.

5 MS. BAHARAV: All right. Thank you. We'll pass for cause, Your Honor.

6 THE COURT: Thank you. Mr. Shetler.

7 MR. SHETLER: Your Honor, we don't have any questions for Ms. Hamilton.
8 We'll pass for cause.

9 THE COURT: Thank you. Go ahead and pass the mic.

10 Mr. Luh, how are you today?

11 PROSPECTIVE JUROR #008: I'm fine. Thank you.

12 THE COURT: Is there any reason you could not be fair and impartial in this
13 case?

14 PROSPECTIVE JUROR #008: No.

15 THE COURT: Can you wait in forming your opinion on the appropriate result
16 until all of the evidence has been heard?

17 PROSPECTIVE JUROR #008: Yes.

18 THE COURT: Have you or anyone close to you worked in law enforcement?

19 PROSPECTIVE JUROR #008: No.

20 THE COURT: Have you or anyone close to you been charged with a serious
21 crime?

22 PROSPECTIVE JUROR #008: No.

23 THE COURT: Have you or anyone close to you been the victim of a serious
24 crime?

25 PROSPECTIVE JUROR #008: No.

1 THE COURT: Is there anything about the charges in this case that would
2 make it difficult for you to be fair and impartial?

3 PROSPECTIVE JUROR #008: No.

4 THE COURT: Can you base your verdict solely on the evidence brought out
5 at trial and the law that applies without fear of criticism or popular opinion?

6 PROSPECTIVE JUROR #008: Yes.

7 THE COURT: If you were a party to this case would you be comfortable with
8 jurors of a like frame of mind as yourself sitting in judgment?

9 PROSPECTIVE JUROR #008: Yes.

10 THE COURT: How long have you lived in Clark County?

11 PROSPECTIVE JUROR #008: Ten years.

12 THE COURT: And what's the highest level of education you completed?

13 PROSPECTIVE JUROR #008: I have a medical degree.

14 THE COURT: Okay. And what was your undergraduate degree in?

15 PROSPECTIVE JUROR #008: Bachelors.

16 THE COURT: So, a bachelors in what?

17 PROSPECTIVE JUROR #008: Bachelors in biological sciences. I went to
18 medical school after that.

19 THE COURT: Right. Are you employed?

20 PROSPECTIVE JUROR #008: Yes.

21 THE COURT: And what do you do?

22 PROSPECTIVE JUROR #008: I'm a physician.

23 THE COURT: Okay. Any particular specialty?

24 PROSPECTIVE JUROR #008: Ob-gyn.

25 THE COURT: Are you married?

1 PROSPECTIVE JUROR #008: Yes.
2 THE COURT: Is your spouse employed?
3 PROSPECTIVE JUROR #008: No.
4 THE COURT: Do you have children?
5 PROSPECTIVE JUROR #008: Yes.
6 THE COURT: How many?
7 PROSPECTIVE JUROR #008: I have one daughter.
8 THE COURT: And how old is she?
9 PROSPECTIVE JUROR #008: She is 12 years old.
10 THE COURT: Okay. State.
11 MS. SUDANO: Thank you, Your Honor. Hi. Dr. Luh.
12 PROSPECTIVE JUROR #008: Hi.
13 MS. SUDANO: So, in your profession have you ever come across victims of
14 domestic violence?
15 PROSPECTIVE JUROR #008: Yes.
16 MS. SUDANO: Anything about that experience that would make it difficult for
17 you to be fair and impartial in this case?
18 PROSPECTIVE JUROR #008: No.
19 MS. SUDANO: Outside of your practice, do you know anybody else that's
20 been the victim of domestic violence?
21 PROSPECTIVE JUROR #008: No.
22 MS. SUDANO: You or any close family members or friends ever been
23 accused of a domestic violence?
24 PROSPECTIVE JUROR #008: No.
25 MS. SUDANO: Okay. You understand that the State may not be able to

1 present forensic evidence, fingerprints, DNA in every case?

2 PROSPECTIVE JUROR #008: Understood.

3 MS. SUDANO: Would you be able to look past that in finding a verdict of
4 guilty for the State?

5 PROSPECTIVE JUROR #008: I can look passed that.

6 MS. SUDANO: Okay. If we prove our case beyond a reasonable doubt,
7 would you have any difficulty coming back with a verdict of guilty?

8 PROSPECTIVE JUROR #008: No.

9 MS. SUDANO: How about if we fail to prove our case beyond a reasonable
10 doubt, would you have any difficulty coming back with a verdict of not guilty?

11 PROSPECTIVE JUROR #008: No.

12 MS. SUDANO: Now if there's an allegation of substantial bodily harm in this
13 case, would you be able to look to the Court's definition and the instruction on the
14 law as to what constitutes bodily harm even if it's different than your medical
15 opinion?

16 PROSPECTIVE JUROR #008: Yes.

17 MS. SUDANO: Anything in your personal beliefs or religious convictions that
18 would prevent you from sitting in judgment of another person?

19 PROSPECTIVE JUROR #008: No.

20 MS. SUDANO: Thank you, Your Honor. The State would pass for cause.

21 THE COURT: Thank you. Mr. Shetler.

22 MR. SHETLER: Thank you, Your Honor.

23 You took an oath to -- I want to butcher -- but to do no harm essentially;
24 is that accurate?

25 PROSPECTIVE JUROR #008: Accurate.

1 MR. SHETLER: Notwithstanding the concept I talked about earlier with some
2 of the jurors about self defense, do you take any issue with that idea, that concept?

3 PROSPECTIVE JUROR #008: I don't have any problems with that concept.

4 MR. SHETLER: Can you envision a situation where self defense -- using
5 physical force to defend yourself to be appropriate?

6 PROSPECTIVE JUROR #008: A life threatening situation, I would think, right
7 off the top of my head.

8 MR. SHETLER: All right. And likewise and I haven't come back to this in a
9 while but just because the Las Vegas Metropolitan Police Department doesn't have
10 a gigantic budget or has a financial obligation to balance a variety of competing
11 interest, do you think that takes away their obligation to accurately investigate a
12 case?

13 PROSPECTIVE JUROR #008: It doesn't take away their ability to investigate
14 it properly.

15 MR. SHETLER: And I may have misspoke, ability or obligation?

16 PROSPECTIVE JUROR #008: I'm sorry. Can you repeat your question?

17 MR. SHETLER: Do you think they still have an obligation to adequately
18 investigate a case?

19 PROSPECTIVE JUROR #008: Yes.

20 MR. SHETLER: Would you -- could you no matter how artfully the case is
21 presented here in Court maintain and hold Metro to that same duty?

22 PROSPECTIVE JUROR #008: Yes.

23 MR. SHETLER: If you were in my shoes, counsel for Mr. Perry, would you
24 have any concerns about yourself being on the jury?

25 PROSPECTIVE JUROR #008: I would not have concerns.

1 MR. SHETLER: Thank you, sir. Thank you, Dr. Luh. Pass for cause.
2 THE COURT: Thank you. Ms. Grayson.
3 PROSPECTIVE JUROR #030: Yes.
4 THE COURT: How are you today?
5 PROSPECTIVE JUROR #030: Doing well; yourself?
6 THE COURT: Is there any reason you could not be fair and impartial in this
7 case?
8 PROSPECTIVE JUROR #030: No.
9 THE COURT: Can you wait in forming your opinion on the appropriate result
10 until all of the evidence has been heard?
11 PROSPECTIVE JUROR #030: Yes.
12 THE COURT: Have you or anyone close to you worked in law enforcement?
13 PROSPECTIVE JUROR #030: My father and two uncles.
14 THE COURT: Okay. And have they worked with Metro?
15 PROSPECTIVE JUROR #030: No; this is back in Wisconsin.
16 THE COURT: Okay. You said your father and two uncles?
17 PROSPECTIVE JUROR #030: Mm-hmm.
18 THE COURT: And so was your father a police officer when you were growing
19 up?
20 PROSPECTIVE JUROR #030: Yes; for 30 years.
21 THE COURT: Okay. So, was he friends with a lot of law enforcement officers
22 as well?
23 PROSPECTIVE JUROR #030: Yes.
24 THE COURT: Did you kind of have law enforcement people around your
25 house a lot?

1 PROSPECTIVE JUROR #030: Yes.

2 THE COURT: Okay. Do you think, you know, growing up with that
3 background and those relatives in law enforcement would affect your ability to be
4 fair and impartial in this case?

5 PROSPECTIVE JUROR #030: I think it used to because I've actually been a
6 jury box and was struck immediately after answering that question when I said I may
7 be -- put more weight towards a police officer's opinion because that was honestly
8 what I thought due to the influence of my dad and my uncles and relatives. But I'm
9 very well aware that they do not represent all police officers or people in the
10 profession. So, I don't think that would affect my ability at all.

11 THE COURT: So, although you may have previously had a tendency to favor
12 law enforcement, are you saying you now you don't have a particular bias in that
13 regard?

14 PROSPECTIVE JUROR #030: I do not have a bias. I just need to see the
15 information from both sides.

16 THE COURT: You think you could weigh the testimony of law enforcement
17 officers just as you would weigh any witness testimony?

18 PROSPECTIVE JUROR #030: Yes.

19 THE COURT: Have you or anyone close to you been charged with a serious
20 crime?

21 PROSPECTIVE JUROR #030: No.

22 THE COURT: Have you or anyone close to you been the victim of a serious
23 crime?

24 PROSPECTIVE JUROR #030: No.

25 THE COURT: Is there anything about the charges in this case that would

1 make it difficult for you to be fair and impartial?

2 PROSPECTIVE JUROR #030: No.

3 THE COURT: Can you base your verdict solely on the evidence that comes
4 out at trial and the law that applies as stated in my instructions without fear of
5 criticism or popular opinion?

6 PROSPECTIVE JUROR #030: Yes.

7 THE COURT: Have you ever been a juror before?

8 PROSPECTIVE JUROR #030: I have not.

9 THE COURT: If you were a party to this case would you be comfortable with
10 jurors of a like frame of mind as yourself sitting in judgment?

11 PROSPECTIVE JUROR #030: Yes.

12

13

14

15 THE COURT: How long have you lived in Clark County?

16 PROSPECTIVE JUROR #030: A year and a half.

17 THE COURT: And where did you live before that?

18 PROSPECTIVE JUROR #030: For about four years in Sacramento and then
19 I was born and raised in Wisconsin.

20 THE COURT: What's the highest level of education you completed?

21 PROSPECTIVE JUROR #030: I have a bachelors in international relations
22 and an associates degree in paralegal studies.

23 THE COURT: Are you employed:

24 PROSPECTIVE JUROR #030: I am.

25 THE COURT: Doing what?

1 PROSPECTIVE JUROR #030: I work in a law firm as an administrative
2 assistant.

3 THE COURT: And what type of law firm, like what type of law do they
4 practice?

5 PROSPECTIVE JUROR #030: Insurance defense, primarily dealing with
6 construction defects and a little bit of bodily injury.

7 THE COURT: Okay. Have you ever worked in an office that did criminal
8 defense work or prosecution?

9 PROSPECTIVE JUROR #030: No.

10 THE COURT: Regardless of what you may have learned in your legal
11 studies, would you follow my instructions on the law that applies to this case?

12 PROSPECTIVE JUROR #030: Absolutely.

13 THE COURT: Are you married?

14 PROSPECTIVE JUROR #030: Yes.

15 THE COURT: Is your spouse employed?

16 PROSPECTIVE JUROR #030: Yes; he's in the Air Force.

17 THE COURT: Okay. Do you have children?

18 PROSPECTIVE JUROR #030: No; but I'm expecting.

19 THE COURT: Oh, congratulations. Okay. State.

20 MS. BAHARAV: Thank you. Where in Wisconsin is your family from?

21 PROSPECTIVE JUROR #030: Southeast Wisconsin just a couple hours
22 north of Chicago

23 MS. BAHARAV: Anywhere near Madison?

24 PROSPECTIVE JUROR #030: An hour from Madison.

25 MS. BAHARAV: So, we're talking about a small town police department?

1 PROSPECTIVE JUROR #030: Yes.

2 MS. BAHARAV: And you understand that Las Vegas specifically has about
3 half the size of the entire population of Wisconsin?

4 PROSPECTIVE JUROR #030: Yes.

5 MS. BAHARAV: Okay. There are two million people here and Wisconsin has
6 about five million. Okay. We talked a little bit about CSI before. Knowing that your
7 family is from a small town in Wisconsin, you understand that not every police
8 department has those types of technology?

9 PROSPECTIVE JUROR #030: Correct.

10 MS. BAHARAV: And we've also learned that most of that was smoke and
11 mirrors and wasn't even daylight?

12 PROSPECTIVE JUROR #030: Yes.

13 MS. BAHARAV: We're not going -- you're not going to hold that against the
14 State of Nevada; are you?

15 PROSPECTIVE JUROR #030: No.

16 MS. BAHARAV: And you've already indicated this but nothing in your history
17 with regards to your family is going to cause you to automatically think that Mr. Perry
18 is guilty?

19 PROSPECTIVE JUROR #030: No; and certainly with my legal studies later in
20 life I can appreciate the process a lot.

21 MS. BAHARAV: You understand that we the State, Ms. Sudano and I, have
22 the burden of proof in this case?

23 PROSPECTIVE JUROR #030: Yes.

24 MS. BAHARAV: And if we got up and said hello and sat back down and
25 presented no evidence, Mr. Perry's not guilty?

1 PROSPECTIVE JUROR #030: Correct.

2 MS. BAHARAV: Similarly, Mr. Shetler doesn't have to say anything, Mr. Perry
3 remains not guilty?

4 PROSPECTIVE JUROR #030: Yes.

5 MS. BAHARAV: Anyone you know ever been the victim of domestic
6 violence?

7 PROSPECTIVE JUROR #030: No.

8 MS. BAHARAV: Anyone you know ever been accused of domestic violence?

9 PROSPECTIVE JUROR #030: No.

10 MS. BAHARAV: And you've had lots of experience in law enforcement in
11 other places. Have you had any experiences with law enforcement here in Nevada?

12 PROSPECTIVE JUROR #030: No, I haven't.

13 MS. BAHARAV: No traffic tickets or anything?

14 PROSPECTIVE JUROR #030: No.

15 MS. BAHARAV: There's two of you now. That's great. Is there anything
16 about your history that would not allow you to sit in judgment of anyone else?

17 PROSPECTIVE JUROR #030: No.

18 MS. BAHARAV: And if you were sitting where Ms. Sudano and I were,
19 Would like someone like yourself on the jury?

20 MS. BAHARAV: What about if you were sitting where Mr. Perry is. Would
21 you like someone like yourself on the jury?

22 PROSPECTIVE JUROR #030: Yes.

23 MS. BAHARAV: Thank you, Your Honor. We'll pass for cause.

24 THE COURT: Thank you. Mr. Shetler.

25 MR. SHETLER: Thank you, Your Honor. Ms. Grayson, thank you for your

1 honesty. You mentioned that you had had a change of -- I don't want to put words in
2 our mouth -- but you feel differently about the question would you hold police officers
3 in a higher esteem possibly or give their testimony more credence; that's really what
4 it's about; right?

5 PROSPECTIVE JUROR #030: Yes.

6 MR. SHETLER: And was there specific event, was it just not being selected
7 for that jury, was it your legal training, what it just going through the walks of life?

8 PROSPECTIVE JUROR #030: It was me just growing up. I've since done a
9 lot more studying. I was like -- I was very young on that panel and I've since done a
10 lot of traveling and just opened up my views a lot more. I don't live in a small town
11 anymore so I have a lot more interaction with, you know, big cities and different
12 types of people.

13 MR. SHETLER: And you mentioned that you hadn't work in either side of the
14 criminal field. Was there not for any specific reason it just hasn't come up or
15 because of any opinions you have about the criminal field itself?

16 PROSPECTIVE JUROR #030: No opinions. This is actually the first law firm
17 I've worked in.

18 MR. SHETLER: The self defense questions I was asking earlier, does that
19 present any issues or concerns for you?

20 PROSPECTIVE JUROR #030: It does not.

21 MR. SHETLER: And there was one other point. Were you involved in the --
22 this is the first law firm so you were not involved in legal activities in Sacramento?

23 PROSPECTIVE JUROR #030: No, I wasn't.

24 MR. SHETLER: What type of work were you doing there? Were you working
25 there?

1 PROSPECTIVE JUROR #030: I was in food service while I was going to
2 school.

3 MR. SHETLER: Okay. And where'd you go to school there?

4 PROSPECTIVE JUROR #030: I went to MTI College for my paralegal
5 studies.

6 MR. SHETLER: All right. Thank you very much for your honesty, Ms.
7 Grayson, I appreciate it. Pass for cause, Your Honor.

8 THE COURT: Thank you. Let's try to do one more.

9 Ms. Erickson, how are you today?

10 PROSPECTIVE JUROR #010: Great. Thank you.

11 THE COURT: Is there any reason you could not be fair and impartial in this
12 case?

13 PROSPECTIVE JUROR #010: No.

14 THE COURT: Can you wait in forming your opinion on the appropriate result
15 until all of the evidence has been heard?

16 PROSPECTIVE JUROR #010: Yes.

17 THE COURT: Have you or anyone close to you worked in law enforcement?

18 PROSPECTIVE JUROR #010: I have an ex-husband that works for Metro.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR #010: He's not a police officer; he's a patrol services
21 representative.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR #010: They call 'em PSRs.

24 THE COURT: Okay. How long have you been split from him?

25 PROSPECTIVE JUROR #010: It's been probably over six years.

1 THE COURT: Okay. I guess -- was he with Metro the whole time you were
2 together?

3 PROSPECTIVE JUROR #010: Well prior to working for Metro he was on
4 some type of volunteer program. He was out in the field and drove in the cars,
5 carried a gun and everything. That particular program was dissolved. He did --
6 when he wasn't doing that he was a truck driver. And then retired from that and
7 then started working for Metro. So, it was probably about three years of our
8 relationship time.

9 THE COURT: Okay. So, during the time you were together and he was with
10 Metro, were you also socializing with other Metro employees?

11 PROSPECTIVE JUROR #010: There was times, yeah.

12 THE COURT: And would those relationships affect your ability to be fair and
13 impartial in this case?

14 PROSPECTIVE JUROR #010: No.

15 THE COURT: Do you think that you would have a tendency to give extra
16 weight or credibility to the testimony of law enforcement officers because they're law
17 enforcement officers?

18 PROSPECTIVE JUROR #010: No.

19 THE COURT: Do you think you could weigh their testimony as you would
20 weigh any witness testimony?

21 PROSPECTIVE JUROR #010: Yeah, yeah.

22 THE COURT: Have you or anyone close to you been charged with a serious
23 crime?

24 PROSPECTIVE JUROR #010: No.

25 THE COURT: Have you or anyone close to you been the victim of a serious

1 crime?

2 PROSPECTIVE JUROR #010: Yes; my daughter.

3 THE COURT: And what happened to her?

4 PROSPECTIVE JUROR #010: She was molested when she was 12.

5 THE COURT: Okay. And was that by someone you knew?

6 PROSPECTIVE JUROR #010: Yes; it was by her best friend's mom's
7 boyfriend.

8 THE COURT: Okay. Did that get reported to law enforcement?

9 PROSPECTIVE JUROR #010: Oh, yes.

10 THE COURT: How long ago was that, by the way?

11 PROSPECTIVE JUROR #010: That was about -- sorry -- she's -- it was about
12 13 years ago.

13 THE COURT: Okay. So, was that here in Las Vegas?

14 PROSPECTIVE JUROR #010: Yes.

15 THE COURT: And it was reported at the time?

16 PROSPECTIVE JUROR #010: Yes.

17 THE COURT: And was that person charged?

18 PROSPECTIVE JUROR #010: Yes.

19 THE COURT: And convicted?

20 PROSPECTIVE JUROR #010: Yes.

21 THE COURT: Did he go to prison?

22 PROSPECTIVE JUROR #010: Yes.

23 THE COURT: Okay. And was that person prosecuted by the District
24 Attorney's office?

25 PROSPECTIVE JUROR #010: Yes.

1 THE COURT: Did you meet with police and prosecutors during the course of
2 that case?

3 PROSPECTIVE JUROR #010: Yes, I did.

4 THE COURT: Okay. You don't know these two ladies who are here now
5 though?

6 PROSPECTIVE JUROR #010: I don't.

7 THE COURT: Okay. Anything about that set of circumstances that would
8 affect your ability to be fair and impartial in this case?

9 PROSPECTIVE JUROR #010: I don't think so. I don't have any of the
10 evidence so I don't know.

11 THE COURT: Sure. Well right. I mean, obviously it's appropriate for you to
12 evaluate the case based on the evidence. What I want to be sure though that you're
13 not going to favor police or prosecutors because of their assistance in pursuing that
14 case involving your daughter.

15 PROSPECTIVE JUROR #010: No.

16 THE COURT: Okay. You think you can be fair to both sides here?

17 PROSPECTIVE JUROR #010: Yes.

18 THE COURT: Is there anything about the charges in this case that would
19 make it difficult for you to be fair and impartial?

20 PROSPECTIVE JUROR #010: No.

21 THE COURT: Can you base your verdict solely on the evidence brought out
22 at trial and the law that applies as stated in my instructions without fear of criticism
23 or popular opinion?

24 PROSPECTIVE JUROR #010: Yes.

25 THE COURT: Have you ever been a juror before?

1 PROSPECTIVE JUROR #010: No.

2 THE COURT: If you were a party to this case would you be comfortable with
3 jurors of a like frame of mind as yourself sitting in judgment?

4 PROSPECTIVE JUROR #010: Yes.

5 THE COURT: How long have you lived in Clark County?

6 PROSPECTIVE JUROR #010: Almost 23 years.

7 THE COURT: What's the highest level of education you completed?

8 PROSPECTIVE JUROR #010: High school and then I have some college.

9 THE COURT: Did you have a particular major or course of study in college?

10 PROSPECTIVE JUROR #010: It was mostly in finance and real estate.

11 THE COURT: And are you employed?

12 PROSPECTIVE JUROR #010: Yes.

13 THE COURT: Doing what?

14 PROSPECTIVE JUROR #010: I work for a home builder, work with the sales
15 and escrow and the broker.

16 THE COURT: Okay. And are you married?

17 PROSPECTIVE JUROR #010: Yes.

18 THE COURT: Is your spouse employed?

19 PROSPECTIVE JUROR #010: No; he's retired.

20 THE COURT: What did he do before retiring?

21 PROSPECTIVE JUROR #010: He was a manager for a rental yard in
22 California.

23 THE COURT: And how many children do you have?

24 PROSPECTIVE JUROR #010: I have two, two daughters.

25 THE COURT: And what do they do?

1 PROSPECTIVE JUROR #010: One is an insurance agent and the other one
2 works for a investment company.

3 THE COURT: Okay. State.

4 MS. SUDANO: Thank you, Your Honor. Last but not least for today.

5 So, you said that you had some involvement with the DA's office and
6 Metro regarding your daughter?

7 PROSPECTIVE JUROR #010: Mm-hmm.

8 MS. SUDANO: Do you think that your daughter was treated fairly?

9 PROSPECTIVE JUROR #010: Yeah.

10 MS. SUDANO: Do you think that the process worked in her case?

11 PROSPECTIVE JUROR #010: Yes.

12 MS. SUDANO: Okay. What about the individual, the mom's boyfriend; do
13 you think that he was treated fairly in that case?

14 PROSPECTIVE JUROR #010: Yes.

15 MS. SUDANO: And you said that your husband -- excuse me -- your ex-
16 husband was a PSR for a while?

17 PROSPECTIVE JUROR #010: Yes. That's not the father of her.

18 MS. SUDANO: Right.

19 PROSPECTIVE JUROR #010: Yeah.

20 MS. SUDANO: When you were together did he ever discuss cases with you,
21 people that he talked to during the day or anything like that?

22 PROSPECTIVE JUROR #010: Nothing like specific or anything. He might
23 bring up like a general situation or something, an example if we saw oh you can't do
24 that, you know.

25 MS. SUDANO: Did he ever talk to you about domestic violence cases that he

1 may have been involved in?

2 PROSPECTIVE JUROR #010: Not that I recall.

3 MS. SUDANO: Have you or any close family members or friends been the
4 victims of domestic violence?

5 PROSPECTIVE JUROR #010: I have.

6 MS. SUDANO: You have? Okay. So -- I don't mean to pry; I'm sorry to ask
7 these questions but was it just one act of violence or was it more than one?

8 PROSPECTIVE JUROR #010: It was the last two years of my first marriage.

9 MS. SUDANO: Okay. Was it always violent or were there some periods of
10 calm in there?

11 PROSPECTIVE JUROR #010: No. The first 16 years were fine. It was just
12 the last two years.

13 MS. SUDANO: Okay. And was it all physical or were there issues with
14 emotional abuse, verbal abuse, things like that?

15 PROSPECTIVE JUROR #010: It was verbal and physical.

16 MS. SUDANO: Did you experience any isolation from friends or family
17 members?

18 PROSPECTIVE JUROR #010: Looking back that's what he was trying to do,
19 yes.

20 MS. SUDANO: But it sounds like he probably wasn't successful?

21 PROSPECTIVE JUROR #010: I'm sorry, what?

22 MS. SUDANO: He wasn't successful. You stayed in contact with those
23 people.

24 PROSPECTIVE JUROR #010: I didn't for a little bit of time and then, you
25 know, I got myself out of the situation.

1 MS. SUDANO: Did those people help you get out of the situation?

2 PROSPECTIVE JUROR #010: Yes.

3 MS. SUDANO: And do you think if you hadn't had those core people there to
4 support you it would have been harder to get out of the situation?

5 PROSPECTIVE JUROR #010: Probably, yeah.

6 MS. SUDANO: So, you were able to get out of that situation and move on
7 with your life?

8 PROSPECTIVE JUROR #010: Right.

9 MS. SUDANO: And you think it's possible for other people do that as well?

10 PROSPECTIVE JUROR #010: Yes.

11 MS. SUDANO: But do you understand that maybe there's some other people
12 who stay in a relationship longer than they should?

13 PROSPECTIVE JUROR #010: Right; mm-hmm.

14 MS. SUDANO: Would you hold that against somebody if they stayed in a
15 relationship?

16 PROSPECTIVE JUROR #010: No.

17 MS. SUDANO: What about somebody that went back to a violent
18 relationship; would you hold that against them?

19 PROSPECTIVE JUROR #010: No.

20 MS. SUDANO: Do you understand there might be reasons for going back into
21 a relationship or staying?

22 PROSPECTIVE JUROR #010: Right.

23 MS. SUDANO: Anything about your personal beliefs that would prevent you
24 from sitting in judgment of another?

25 PROSPECTIVE JUROR #010: No.

1 MS. SUDANO: Thank you, Your Honor. The State passes for cause.

2 THE COURT: Mr. Shetler.

3 MR. SHETLER: Thank you, Your Honor.

4 Ms. Erickson, thank you for being so honest. I've got a couple of
5 questions. I'm sorry. Were you able to attribute why things changed in the
6 relationship with your first husband after the first 16 years?

7 PROSPECTIVE JUROR #010: I'm sorry, say that again.

8 MR. SHETLER: What changed after the first 16 years; would you ever able to
9 figure out?

10 PROSPECTIVE JUROR #010: We moved here from California and he got
11 involved with drugs, I think was mostly the problem.

12 MR. SHETLER: And you said -- you made a comment, I believe, that he tried
13 to -- I don't want to misquote it -- but isolate you from your family and friends a little
14 bit?

15 PROSPECTIVE JUROR #010: He had some cousins that lived here that
16 helped me; is that what you're asking as far as --

17 MR. SHETLER: I may have misunderstood the question whether he, your
18 first husband, tried to isolate you from other family and friends.

19 PROSPECTIVE JUROR #010: Yeah. He kind of just -- he just tried to
20 convince me that there was nowhere for me to go, that I didn't have any money or I
21 couldn't make it on my own.

22 MR. SHETLER: Did you have -- again please bear with me. I appreciate it
23 and I'm terribly sorry I have to ask you these questions.

24 PROSPECTIVE JUROR #010: It's okay.

25 MR. SHETLER: Did the drugs actually make it into the home?

1 PROSPECTIVE JUROR #010: I never could find any. He did admit during
2 the divorce -- I didn't know that there was any for a long time. I couldn't figure out
3 was wrong with the behavior. He admitted to me later on that that's what he was
4 doing and he admitted to -- we had a court mediator during the divorce and he
5 admitted to that person. And so then there was some -- he had to go through some
6 drug testing, but that was about it, and as far as I know he hasn't touched any since.

7 MR. SHETLER: That experience is a traumatic experience and unfortunately
8 you've had other traumatic experiences as well. I want to talk just briefly about the
9 perpetrator in your daughter's case. Did that case go to trial?

10 PROSPECTIVE JUROR #010: Yes.

11 MR. SHETLER: Were you -- the fact that person went to trial, does that have
12 any impact on your ability to sit here on a jury?

13 PROSPECTIVE JUROR #010: I don't believe so.

14 MR. SHETLER: In other words, do you think that it was okay that it went to
15 trial?

16 PROSPECTIVE JUROR #010: Do I think what?

17 MR. SHETLER: It was okay that it went to trial?

18 PROSPECTIVE JUROR #010: That that case was okay to go to trial?

19 MR. SHETLER: It was okay that he went to trial as opposed to taking a deal?

20 PROSPECTIVE JUROR #010: I can't hear you.

21 MR. SHETLER: It's probably this damn -- excuse me.

22 THE COURT: Hey, hey, hey.

23 MR. SHETLER: I'm sorry.

24 PROSPECTIVE JUROR #010: I don't hear very good.

25 MR. SHETLER: No, it's my -- the fact that he went to trial and did not take a

1 deal, do you feel that it was appropriate for him to go to trial?

2 PROSPECTIVE JUROR #010: Yes.

3 MR. SHETLER: And obviously if that case went to trial there were a number
4 of uncomfortable moments in there for yourself and your daughter; did that
5 experience leave anything in your -- cause you any reason not to sit on this jury?

6 PROSPECTIVE JUROR #010: No.

7 MR. SHETLER: In that domestic violence -- in a domestic relationship if one
8 person is being physically violent with another person, do you think it's okay for the
9 other person to use violence to stop it?

10 PROSPECTIVE JUROR #010: To defend themselves.

11 MR. SHETLER: Correct. And did you ever find yourself in that situation
12 where you had to defend yourself?

13 PROSPECTIVE JUROR #010: Yes.

14 MR. SHETLER: Were you able to do so?

15 PROSPECTIVE JUROR #010: Not very well.

16 MR. SHETLER: I understand. But that concepts makes perfect sense to you?

17 PROSPECTIVE JUROR #010: I'm sorry?

18 MR. SHETLER: That concept makes perfect sense to you?

19 PROSPECTIVE JUROR #010: Yes, it does.

20 MR. SHETLER: Thank you again for all your honesty. I sincerely appreciate
21 it.

22 MS. BAHARAV: Your Honor, can we approach?

23 THE COURT: Yeah, come on up.

24 [Bench conference -- beings]

25 MS. BAHARAV: I know we said eleven but I'm concerned that he has a self

1 return on that case tomorrow.

2 THE COURT: That he has what?

3 MS. BAHARAV: There's a subpoena return on the case that Mr. Shetler has
4 to appear on tomorrow. So, I'm wondering would the Court be okay with one. That
5 would allow you to get your meeting. Or do you want it go at eleven?

6 MR. SHETLER: Yeah. I just -- it's entirely possible to go till -- even a pro tem
7 we'll probably end up in there until noon.

8 THE COURT: I don't mind. I'm just worried because we still have a lot of jury
9 selection left. We're not leaving any time for the actual trial.

10 MS. BAHARAV: I know.

11 THE COURT: So, I'm just concerned.

12 MR. SHETLER: And my concern, the other case notwithstanding, my
13 obligation is not withstanding but certainly my obligation to Mr. Perry.

14 THE COURT: Right.

15 MR. SHETLER: And I know the Court recognizes that.

16 THE COURT: Yeah, I mean, because tomorrow is Thursday. So, if we start
17 at one and it takes us, you know, at least a couple hours to finish jury selection, I
18 don't know how many witnesses you have?

19 MS. BAHARAV: We have six; we might have five.

20 THE COURT: So, we could -- you could call some tomorrow afternoon. Can
21 you start Friday morning?

22 MR. SHETLER: I just have that calendar call on the other darn case which is
23 appropriate because they need to know what's going on; right?

24 THE COURT: On overflow at 8:30. So, overflow shouldn't be done in 15
25 minutes, you know.

1 MS. BAHARAV: You can tell Barker that you have to go first.

2 MR. SHETLER: Ms. Baharav can tell him that.

3 THE COURT: I can tell him that.

4 MR. SHETLER: Yes.

5 MS. BAHARAV: I think -- because three of our witnesses are very fast, ten
6 minutes apiece.

7 THE COURT: Right.

8 MS. BAHARAV: Three of them are a little longer but I don't anticipate we will
9 need to go into Monday still. I think we can finish it.

10 MR. SHETLER: Could we come back to this juror?

11 MS. BAHARAV: Do you have more questions?

12 MR. SHETLER: No, I don't have questions. I'm worried that I believe there
13 could be testimony that he tried -- that my client tried to isolate the victim in this case
14 from friends and family. There are text messages to that effect. I'm worried that
15 that may be --

16 MS. BAHARAV: Well I'm not planning on admitting this.

17 MR. SHETLER: -- too close to -- I don't know. I mean, it's just a concern. I
18 don't -- I like certainly some of her responses and I'm quite comfortable with, but it is
19 pretty close to the bone and I don't know that particular issue and there was a lot of
20 head nodding from one of the potential jurors in the front row on that question. I'm
21 concerned about her. I would like to challenge but.

22 MS. BAHARAV: The State's going to object to your challenge for cause. I
23 think the peremptory would be most appropriate in this situation. She indicated she
24 could be fair and impartial.

25 THE COURT: Right. I mean, what I've heard from her to me doesn't

1 establish that there's cause to excuse her although she had some similar
2 circumstances, she did indicate she could separate that from the evidence here and
3 could be fair. So, I'm going to deny the challenge.

4 MR. SHETLER: I understand. Thank you.

5 MS. BAHARAV: Okay.

6 THE COURT: So, 1 o'clock.

7 MS. BAHARAV: We'll do it. A Judge will make it happen.

8 THE COURT: Okay.

9 MR. SHETLER: Thank you, Judge.

10 [Bench conference -- concluded]

11 THE COURT: All right, folks. So, I apologize. I know it is a little past five
12 now. I am going to be excusing you for the day and we're going to be picking up
13 tomorrow. Because of some other conflicting hearings and things that we're
14 involved in, we're going to be starting tomorrow at 1 o'clock not in the morning. I still
15 -- we're still talking.

16 UNKNOWN PERSON: 1 a.m.?

17 THE COURT: Sorry. 1 p.m. I will not be here at 1 a.m. I should have been
18 more clear. One in the afternoon. So, you don't need to be here in the morning.

19 But what I'm telling you though is what I told you about the schedule
20 earlier that we're still expecting to finish the presentation of the trial Friday is still
21 accurate but there may be some deliberations still going on on Monday for your own
22 planning purposes.

23 Remember what I talking about earlier in terms of not talking to anyone
24 about the case other than the minimal information that you are in jury selection in a
25 criminal case and what the general timeframe you're looking at is. So, between now


1 and tomorrow at one in the afternoon, you are admonished not to talk or converse
2 among yourselves or with anyone else on any subject connected with this trial or to
3 read, watch or listen to any report of or commentary on the trial or any person
4 connected with the trial by any medium of information, including without limitation,
5 newspapers, television, the internet or radio or to form or express any opinion on
6 any subject connected with this trial until the case is finally submitted to you. See
7 you tomorrow afternoon at one.

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9 [Jury Trial, Day 1, concluded at 5:12 p.m.]

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ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.


PATRICIA SLATTERY
Court Transcriber



CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,
9
10 Plaintiff,

CASE #: C298879-1

DEPT. VI

11 vs.

12 GENARO PERRY,

13 Defendant.
14

15
16 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
17 THURSDAY, MAY 7, 2015
18 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**
19 **JURY TRIAL - DAY 2**

20 APPEARANCES:

21 For the State:

MICHELLE SUDANO, ESQ.
COLLEEN BAHARAV, ESQ.
Deputy District Attorneys

22
23 For the Defendant:

TRAVIS S. SHETLER, ESQ.

24
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 THURSDAY, MAY 7, 2015 AT 1:30 P.M.

2
3 [Outside the presence of the prospective jury panel]

4 MS. BAHARAV: Your Honor, to be fair --

5 THE COURT: It's no longer morning.

6 MS. BAHARAV: Good afternoon. The State recently had two witness issues.
7 So, we are down to four witnesses.

8 THE COURT: Okay.

9 MS. BAHARAV: But in light of the fact that one of the witnesses was the
10 doctor that is no longer available; he had an emergency surgery in California
11 tomorrow. He had to cancel the reason he was going to be in Las Vegas because
12 of that emergency surgery. I believe that opposing counsel has a request of the
13 Court to make. So, that's why we asked to talk to you outside the presence of the
14 jury.

15 THE COURT: Okay.

16 MR. SHETLER: Very briefly, Your Honor.

17 Ms. Baharav has been extremely gracious in putting together the notes
18 and agreeing to use her doctor to get in my expert's testimony because he is also
19 unavailable. In reviewing the notes and talking with my client, we would ask to
20 continue the matter because we think that having no doctor here to talk about
21 anything for the jury is a little too risky because that is one of the aggravating factors
22 of the crimes we're charged with.

23 MS. BAHARAV: The State's prepare to present its case without the testimony
24 of a doctor and to, I guess, allay some of the concerns of opposing counsel. We did
25 agree to admit some information from their doctor along with our medical records

1 and then allow the parties to argue. The State is of the opinion that we could
2 proceed without a doctor. I'm not sure if they're arguing that it's their theory of
3 defense or that it is part of their defense that they will need a doctor. So, if that's
4 something that they're arguing then that obviously goes to an issue that they might
5 have. I understand --

6 THE COURT: If they want to challenge whether there's substantial bodily
7 harm.

8 MR. SHETLER: It's the crux of the most significant issue of my client's. And I
9 mean this with all sincerity for the record and for my colleague who it's a pleasure to
10 work with, they have bent over backwards to accommodate us on the records.

11 THE COURT: Right. So -- okay. So, to back up, and I know you guys had
12 talked about some of this before. You had retained a doctor for the Defense --

13 MR. SHETLER: Correct.

14 THE COURT: -- but that doctor wasn't available this week.

15 MR. SHETLER: Correct.

16 THE COURT: So, then you were both going to proceed using --

17 MS. BAHARAV: Our doctor.

18 THE COURT: -- the doctor State was going to present. Is that actually a
19 treating doctor?

20 MS. BAHARAV: He actually did the surgery to the victim's eye --

21 THE COURT: Right.

22 MS. BAHARAV: -- to repair the orbital fracture.

23 THE COURT: Okay. So, yes, it's a treating.

24 MS. BAHARAV: Yes; sorry.

25 THE COURT: Okay. And now that doctor who did that is not available

1 tomorrow because he had some emergency come up?

2 MS. BAHARAV: He did.

3 THE COURT: And so yesterday there was some conversation about the
4 possibility, for other reasons, that you might not call the doctor and there was some
5 talk about whether you could reach certain stipulations or use the records. So I
6 gather that after further discussion and analysis that you feel like that's not sufficient
7 without a witness.

8 MR. SHETLER: Right. After reviewing the record which again the State very
9 generously took care of the redactions and putting together the documents. I talked
10 about it with my client and what that entails, what the risk are, and what part of our
11 Defense is possibly disabled by not being able to get questions and answers with
12 the treating professional because of the serious bodily injury element. That's been
13 the primary factor that he's been mostly concerned about throughout the course of
14 the case. We probably would have resolved the case earlier but for that factor. And
15 I understand completely where the State's at. They have documentation that says
16 she has a fractured orbit and they've got to protect the public. I completely
17 understand that.

18 THE COURT: Right. So -- I understand that to some extent there's strategy
19 and attorney-client communication. So, I'm not trying to unduly infringe on that, but
20 as a strategy or to best represent your client you think that it's better to have the
21 doctor on the stand to attack instead of the records without a witness?

22 MR. SHETLER: But there are --

23 THE COURT: I'm just asking.

24 MR. SHETLER: -- It's a very legitimate question, Your Honor, and it's a little
25 bit like Mr. -- I can't pass judgment and yet I have a lot of judgment to say -- there's

1 two sides to the argument.

2 THE COURT: Yes.

3 MR. SHETLER: There are two sides to -- there are some great value to not
4 having a magic witness on the stand that the jury can listen to and become
5 enamored with and just have paper with the proper instructions to our currently
6 sitting Ob-Gyn on the jury. However, such it is a key element of the crime, that's the
7 strategy that we've discussed in length, the pros and cons, and my client's most
8 comfortable with having a doctor on the stand at this point in time. And you've gone
9 right to the crux of the matter.

10 THE COURT: The doctor that you had who unfortunately isn't available this
11 week but you had consulted with him about how to address this issue --

12 MR. SHETLER: Right. And he had reviewed the records --

13 THE COURT: -- is that to say?

14 MR. SHETLER: -- her prior and current medical records as well and as a
15 great deal of commentary which a lot of that is still within the redacted section.
16 Some of our allegations are overtreatment or pre-existing conditions although the
17 fracture is pretty difficult to lay a solid foundation for that issue.

18 THE COURT: Okay. So, State feels that you can proceed in establishing our
19 case without the doctor using the records.

20 MS. BAHARAV: Yes, Your Honor.

21 THE COURT: And obviously Defense feels that he can't fully present his
22 defense without a witness.

23 MR. SHETLER: Correct, Your Honor.

24 THE COURT: And did you ever reach any stipulation about the medical
25 records?

1 MS. BAHARAV: Yes; we did converse this morning and after I found out that
2 our doctor is unavailable, to see about which particular information from his doctor
3 would be admissible and then also the records from our physician that would be
4 admissible. It's my understanding that counsel at this point did not have an issue
5 with the records as they are. He indicated he wanted to talk to his client first before
6 discussing whether or not he needed a witness also.

7 THE COURT: Right. Because to be specific, the reason for my question is
8 that if this is the Defense's position and I don't know where you are but if, as a result
9 of that they won't stipulate to the records coming in without the doctor, you may
10 have a problem with your case as well.

11 MS. BAHARAV: Yes, Your Honor, we would at this point have a problem.
12 She could testify but I think it strengthens the substantial bodily harm with the
13 medical records themselves.

14 THE COURT: Right. You've got -- the victim could testify to some extent
15 about her injuries.

16 MS. BAHARAV: But the short answer is yes. Without actual documentation
17 that she sought medical attention for those, I mean, the argument can always be
18 made that she's exacerbating so that would put the State at a disadvantage.

19 MR. SHETLER: Your Honor, I'm happy to consult once again with my client
20 after this discussion here in the courtroom and make sure that the full -- both sides
21 of the sword are clearly presented. It may have a different impact but --

22 THE COURT: Let's talk a little more about logistics and then I'll give you
23 some time.

24 MR. SHETLER: Yes, Your Honor.

25 THE COURT: So, the underlying events of this case apparently happened

1 May 1st of 2014; right?

2 MS. BAHARAV: Yes, Your Honor.

3 THE COURT: So, a year ago. Has he been in custody this whole time for a
4 year now? Okay. And if we need to continue this --

5 MS. BAHARAV: Yes. If we need to continue I guess we need to look
6 [indiscernible].

7 MR. SHETLER: I misspoke. He was apprehended not immediately, there
8 were a couple weeks.

9 THE COURT: Okay. So, it wouldn't have been right then but --

10 MS. BAHARAV: Fifty weeks he's been in custody.

11 THE COURT: Right. So, close to a year. Okay. So, if we're not doing it right
12 now, you know, in the stack I'm in the middle of, the next criminal trial stack I have
13 starts June 29th through the week of July 27th. That's five weeks there. And then I
14 have another one in September.

15 MS. BAHARAV: I could do the week of the 13th.

16 THE COURT: Of July.

17 MS. BAHARAV: Of July, yes.

18 THE COURT: Obviously this would be overflow eligible.

19 MS. BAHARAV: Yes.

20 THE COURT: I needed to put it in there. So, I at least wanted you to have in
21 mind what we were looking at. If you feel we can't proceed and if you want to go
22 ahead and call things off at this point, we haven't seated a jury so jeopardy hasn't
23 attached yet. So, potentially we could do that obviously. That's not the ideal for
24 anybody. But I wanted you to at least know what we were looking at if we do need
25 to continue it.

1 [Proceedings resumed at 1:48 p.m.]

2 [Outside the presence of the prospective jury panel]

3 THE COURT: Okay. So, now that you've had an opportunity to talk with your
4 client, where are we?

5 MR. SHETLER: Your Honor, we would like to continue the matter until we
6 can have our physician attended and be able to cross-examine everybody. That
7 goes to the crux of our Defense. And we have looked at some dates with the clerk
8 and with the government and we do have a date that seems to work for everybody.

9 THE COURT: Okay. And to be clear and we've talked about this before, but
10 you knew your doctor wasn't available but you at least thought you were going to be
11 able to have the State's doctor --

12 MR. SHETLER: Yes.

13 THE COURT: -- and agreed to proceed on that basis. But now that that
14 doctor is no longer available because of an unforeseen emergency which is beyond
15 all of our control, he also can't be here for this trial.

16 MS. BAHARAV: Right.

17 MR. SHETLER: That's correct, Your Honor.

18 THE COURT: Okay.

19 MS. BAHARAV: And counsel found out at ten this morning.

20 THE COURT: Right. Let's have a clear record. Thank you. Okay. So, what
21 are you looking at?

22 MR. SHETLER: It appears that you have availability the week of September
23 28th for trial.

24 THE COURT: I do; yeah, we can put it over to there. I mean, it's fine with
25 me. There's always cases set. You could always go to overflow if you need to as

1 long as Mr. Perry understands that that's, you know, four more months -- well more.

2 MR. SHETLER: We did talk at length about that and he understands that it is
3 time sitting in custody and it's unfortunate.

4 THE COURT: Okay. Well, you know, as I'm sure you recognize it could be
5 another opportunity for you to talk further about a possible negotiation. That
6 ultimately obviously that's up to, you know, it's up to you guys to discuss and
7 ultimately up to Mr. Perry. Okay. And Mr. Perry, I want to have a clear record. You
8 agree with your -- what your client has said in terms of wanting to put off -- over the
9 trial because of not having a doctor and re-scheduling it for the week of September
10 28th?

11 THE DEFENDANT: Yes, ma'am. Patience is a virtue and both of these
12 people work hard all year round. I mean, I've been here a year and the stuff that
13 I've seen and cases. I mean, people need a break. And I know he definitely need a
14 vacation.

15 THE COURT: Well we're not doing it because of that but that's fine.

16 THE DEFENDANT: Well you know I'm a man.

17 THE COURT: Right.

18 THE DEFENDANT: Patience is a virtue.

19 THE COURT: Right. I see. You had vacation scheduled in July. Got it.

20 MR. SHETLER: The earlier date did -- correct.

21 THE COURT: Right. And I, you know, I would rather not cause you to lose
22 your vacation as well. Okay.

23 MR. SHETLER: Thank you. My wife thanks everybody.

24 THE COURT: So, let's schedule a calendar call and trial.

25 THE DEFENDANT: As long as I keep you, Judge Cadish, because you are a

1 very honest judge.

2 THE COURT: Well I appreciate that.

3 THE DEFENDANT: And fair and all that. Everybody likes you.

4 THE COURT: Oh, thank you. We should be clear though that you may get
5 sent to overflow in any given week.

6 THE DEFENDANT: I'll sit until we can see you.

7 THE COURT: Well I appreciate your support. We'll see what happens. I
8 mean, who knows what's going to go in any given week. I have a couple murder
9 trials set that week. I have our friend, Mr. War Machine's trial, set that week.

10 MS. BAHARAV: Oh, so it's definitely your case because Rob's on that case
11 too.

12 THE COURT: But, again, whether any of those will actually go that week
13 remains to be seen and that's true for any week.

14 MR. SHETLER: One of the most challenging parts of this profession that
15 complete lack of control. Thank you, Judge.

16 THE COURT: Let's go ahead and get that on the record.

17 THE COURT CLERK: Calendar call September 21st at 9:30; jury trial
18 September 28th 10 a.m.

19 THE COURT: Okay. With respect to the jurors who have been waiting out
20 there, you can just let them know that the trial is not proceeding and that they're
21 dismissed. If they want to they can talk about the case now.

22 All right. Unfortunately we had these circumstances beyond our control
23 for all of us all week. So, I appreciate that all of you have been very professional
24 and courteous all week and I'm sure you will continue to be.

25 MS. BAHARAV: Thank you, Your Honor.

1 THE COURT: Okay. Thank you.

2 MR. SHETLER: A pleasure to be here.

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[Jury Trial, Day 2, concluded at 1:52 p.m.]

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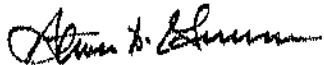
ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

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Patricia Slattery
PATRICIA SLATTERY
Court Transcriber



CLERK OF THE COURT

1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
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7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 GENARO RICHARD PERRY,

11 Defendant.
12
13

CASE NO. C298879-1

DEPT. VI

ROUGH DRAFT

TRANSCRIPT OF PROCEEDINGS

14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
15 MONDAY, JULY 21, 2014
16

CALENDAR CALL
17
18

19 APPEARANCES:

20 For the State:

ROBERT STEPHENS, ESQ.
Deputy District Attorney

22 For the Defendant:

23 TRAVIS SHETLER, ESQ.
ROSS SMILLIE, ESQ.
24

25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, JULY 21, 2014, at 9:48 A.M.

2
3 THE MARSHAL: Bottom of page 13, State of Nevada v. Perry, Genaro
4 Richard.

5 MR. STEPHENS: Rob Stephens for the State.

6 MR. SHETLER: Good morning, Your Honor, Travis Shetler and Ross Smillie
7 on behalf of the Defendant who's present, in custody.

8 THE COURT: Okay, good morning.

9 MR. SMILLIE: Good morning.

10 THE COURT: Okay, you're on for calendar call today. Where are we?

11 MR. SHETLER: We've -- we'll let Mr. Stephens speak.

12 MR. STEPHENS: Your Honor, I handed some discovery to Defense counsel
13 some of the CCDC records along with some jail phone calls. Additionally, Your
14 Honor, I will be forthcoming -- the victim is still seeking treatment for some of the
15 injuries she sustained and so I have not obtained all the medical records at this time
16 to disclose to Defense counsel.

17 Having said that, the State would be ready, although if the Defense
18 would like a continuance being that I haven't disclosed all the discovery as of yet --
19 it's still ongoing, Your Honor, so it's not like I don't have it and don't want to give it to
20 them. Like I said, --

21 THE COURT: No, I know.

22 MR. STEPHENS: -- it's ongoing.

23 THE COURT: No, I'm not -- I understand you're giving what you can give and
24 what you have.

25 MR. STEPHENS: Yeah.

1 THE COURT: Right, I --

2 MR. STEPHENS: So I'd have no objection, though, if the Defense requested
3 a continuance.

4 THE COURT: Right. I mean he was also arraigned June 26th and invoked
5 and here we are, you know, July 21st.

6 MR. SHETLER: Right, it's been a quick run, Your Honor, and I've -- I was
7 involved in a ridiculous tax trial, at least what it took from mental capacity was
8 ridiculous, not --

9 THE COURT: Okay.

10 MR. SHETLER: -- the rest of it --

11 THE COURT: Right.

12 MR. SHETLER: -- for about a month and a half.

13 I've spoken with our client, explained to him the lack of the medical
14 records right now, explained that there's a possibility of the injury to the eye being
15 significant enough that there may be a problem with retaining the eye on the victim
16 and that that's an important issue for us to have resolved before we make a final
17 decision about resolution and before we go to trial. He did invoke. He would prefer
18 to keep the trial on for when it's going. We talked about the fact that my advice is
19 we don't go to trial until we have those records and know exactly what our universe
20 of potential outcomes is.

21 He does have another matter that he's currently detained on. If there is
22 a stack in September, what I would ask is the Court's permission to talk to my client
23 a little bit and see if that's a feasible resolution for him but we are in a little bit of a
24 difficult spot.

25 THE COURT: Is this going to be an overflow eligible case when it goes?

1 MR. STEPHENS: It would be an overflow eligible case when it goes.

2 THE COURT: Okay. So then -- I mean I could put it over the top of some
3 other matters I have in September if that works for everybody.

4 MR. SHETLER: We do have -- if we -- with the Court's permission, we'll talk
5 to our client a little bit. If we could --

6 THE COURT: Okay.

7 MR. SHETLER: -- possibly go about when you were just talking about with
8 the last case, that middle. I've got a trial the first week of September, so.

9 MR. STEPHENS: As do I but I could do the end of September.

10 THE COURT: So -- right. There's the week of the 22nd or the 29th or October
11 6th.

12 MR. STEPHENS: The 29th or the 6th would be better for me.

13 THE COURT: Okay, so you want to talk with --

14 MR. SHETLER: With your permission, Your Honor.

15 THE COURT: -- your client? Okay, so let's trail this a little bit.

16 MR. SHETLER: Thank you very --

17 MR. STEPHENS: Thank you, Your Honor.

18 MR. SHETLER: -- much for the courtesy.

19 [Matter trailed at 9:51 a.m.]

20 [Matter recalled at 10:13 a.m.]

21 THE MARSHAL: Recalling the bottom of page 13, State of Nevada v. Perry,
22 Genaro Richard.

23 MR. STEPHENS: Rob Stephens for the State.

24 THE COURT: Okay.

25 MR. SHETLER: Your Honor, thank you for the consideration. We've spoken

1 with our client, if it's possible to go on that -- September 29th did we say, Mr.
2 Stephens?

3 MR. STEPHENS: Yes. Perfect.

4 THE COURT: Right, September 29th.

5 Okay, so it's -- in light of the short-type, short setting and the additional
6 discovery still being provided, Defense requested for a continuance; correct?

7 MR. SHETLER: That's correct, Your Honor.

8 THE COURT: And -- with the understanding that I'm going to put it
9 September 29th; is he waiving to allow that to happen?

10 MR. SHETLER: That is what we discussed over there. The Court, I
11 understand, may need to address that further and I tried to brief him for that and --

12 THE COURT: Okay.

13 MR. SHETLER: -- prepare him.

14 THE COURT: So, Mr. Perry, with the understanding that I'm intending to
15 continue the trial to September 29th, are you waiving your right to a speedy trial to
16 allow that to happen?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay, let's go ahead and continue the trial then.

19 THE CLERK: Calendar call September 22nd, 9:30; jury trial September 29th,
20 10:00 a.m.

21 MR. STEPHENS: Thank you, Your Honor.

22 THE COURT: Thank you.

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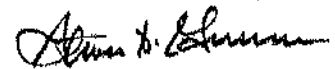
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[Proceedings concluded at 10:15 a.m.]

* * * * *

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

Cynthia Georgilas
CYNTHIA GEORGILAS
Court Recorder/Transcriber
Eighth Judicial District Court Dept. XVIII



CLERK OF THE COURT

1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 GENARO RICHARD PERRY,

11 Defendant.
12
13

CASE NO. C298879-1

DEPT. VI

ROUGH DRAFT

TRANSCRIPT OF PROCEEDINGS

14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
15 THURSDAY, SEPTEMBER 17, 2015

16 **DEFENDANT'S MOTION TO ADMIT EVIDENCE PURSUANT TO NRS 48.045**
17 **PETROCELLI HEARING**

18 APPEARANCES:

19 For the State:

MICHELLE L. SUDANO, ESQ.
Deputy District Attorney

22 For the Defendant:

23 TRAVIS SHETLER, ESQ.
ANAIS-MARIE CACCAMO, ESQ.

24
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 17, 2015, at 8:47 A.M.

2

3 THE MARSHAL: State of Nevada v. Perry, Genaro Richard.

4 THE DEFENDANT: Good morning, Judge.

5 THE COURT: Good morning.

6 All right --

7 THE MARSHAL: And Mr. Perry, you can have a seat for that. [Indiscernible]
8 they want to talk.

9 THE COURT: All right, so what's up? Sorry, state your appearance.

10 MR. SHETLER: Travis Shetler on behalf of Genaro Perry who is present, in
11 custody. With me at --

12 THE COURT: And we've told --

13 MR. SHETLER: -- counsel --

14 THE COURT: -- Mr. Perry he could have a seat, it's okay.

15 MR. SHETLER: With me at counsel table is Anais Caccamo.

16 THE COURT: Okay. How do you spell that last name?

17 MS. CACCAMO: C-A-C-C-A-M-O, and bar number 13083.

18 THE COURT: Okay.

19 THE CLERK: What was the first name?

20 MSS. CACCAMO: A-N-A-I-S, Anais.

21 THE COURT: Okay, so -- and we have Ms. Sudano --

22 MS. SUDANO: Good morning.

23 THE COURT: -- on this.

24 MS. SUDANO: So Ms. Carpenter is here and I have spoken to her. It's my
25 understanding that if she were to get up on the stand she would acknowledge that

1 this incident at the TJ Maxx did occur. She would acknowledge that she did tell the
2 Defendant, Mr. Perry, about that. So in light of that, I don't know that we need to call
3 her to testify to those things. I believe that Mr. Shetler also was potentially going to
4 call a security guard from TJ Maxx just to verify that it happened and maybe even
5 his client to confirm that his client was aware of it. But in light of Ms. Carpenter's
6 representations to me that I don't have any reason to doubt, I don't know that we
7 need to take the Court's time by putting her up there. I think that we just need to
8 then move on to the analysis of whether or not that comes in, if its more probative
9 than prejudicial, and addressing the scope of how far into that we're going to get.

10 MR. SHETLER: I -- she's of course got it right I think.

11 THE COURT: So, I think at the last hearing we had on this matter my
12 recollection of what you told us is that your intention was to use it only in support of
13 the self-defense defense, that is, in an attempt to show that because your client
14 knew about this prior incident that that affected how he responded to what
15 happened that day.

16 MR. SHETLER: I think that that's the most meat for that information. I agree
17 with that, Your Honor.

18 There is one other angle and that is going to be a little bit more of a
19 battle for us and that is the idea that if, in fact, the victim was willing to use a knife on
20 somebody in the middle of TJ Maxx then why wouldn't she do it in the privacy and
21 comfort of her own home which now it's an argument basically that she did it once
22 why didn't she do it again? And I understand that the government's going to be
23 much more excited about that argument but --

24 THE COURT: Not in a good way.

25 MR. SHETLER: No, not in a positive fashion whatsoever. You're right.

1 You're right. But that would be the other benefit we would try and get in from that,
2 Your Honor, but that's going to be very much dependent on the testimony at trial
3 because it's going to have to come up at trial now.

4 THE COURT: So are you trying to use it to show she's a violent or
5 aggressive person?

6 MR. SHETLER: Well, in a -- if everything lined up perfectly, yes, I understand
7 that I'm -- that's my far reach. But the main thing is, look, we have -- we know this
8 happened and we had to protect our self and that's solid ground I believe that we're
9 in a good position on that.

10 THE COURT: Okay, so to the extent it's just being used to show what your
11 client was aware of for a possible self-defense that's one thing. But to the extent
12 that it's attempted to be used regarding Ms. Carpenter's character for aggression or
13 violence, then that opened the door for the State to introduce similar evidence to
14 rebut that position.

15 MR. SHETLER: Right, and that's a conversation that needs to be gone
16 through a little more detail with Mr. Perry.

17 THE COURT: So what are we doing today?

18 MS. SUDANO: So today I think we just need to address whether or not this is
19 going to be more probative or prejudicial as to the self-defense claim. I think
20 obviously if that's the theory of Defense that they put forward at the time of trial it's
21 going to be pretty darn probative and we're going to have a hard time arguing that
22 it's prejudicial. But that obviously depends on them raising the self-defense claim at
23 the time of trial. If we don't get into self-defense it's obviously not relevant at all for
24 any purpose. And then to the extent that it's going to be used as character evidence
25 or propensity evidence for Ms. Carpenter, its -- that's completely improper under the

1 statute and as Your Honor said it does open the door to his prior acts of violence at
2 that point I think.

3 THE COURT: Well, I mean if it's trying to show that she was the aggressor, I
4 mean there are some case law that allows evidence to show that, but yes, it opens
5 the door for rebuttal evidence.

6 MS. SUDANO: That's correct. And so I think today one of the things that we
7 need to address is the scope to which we're going to get into that information with
8 her. It's the State's position that the question should be limited to, you know, very
9 briefly, hey, did this incident happen? To the extent they think that that's going to be
10 crucial, was there a knife involved, and then, you know, move on beyond that, you
11 know, no testimony from any of the additional witnesses, no gory details, for lack of
12 a better word, into it, just, hey, it happened and you told him and then we move on
13 from it.

14 MR. SHETLER: I do feel -- no, go ahead.

15 THE COURT: Well, what I was going to say is to the extent that its being --
16 that we're talking about possibly using knowledge of it on the self-defense issue,
17 number one, that would be about the incident itself and wouldn't get into whatever
18 legal convictions she may have from it. It would be about the incident itself is what
19 would be at issue that --

20 MR. SHETLER: That's all that goes to our state of mind. You're right, Your
21 Honor.

22 THE COURT: Okay. And that would not include whether she lied about her
23 name at the time she was picked up; correct?

24 MR. SHETLER: Right.

25 THE COURT: Okay. I see a nodding; that's not on the record.

1 MR. SHETLER: You're right. I'm sorry, Judge.

2 THE COURT: Okay. And in that narrow circumstance I think it would be
3 relevant to a self-defense defense, if he's raising a self-defense, and with respect to
4 the other prongs under Petrocelli, the clear and convincing evidence, it sounds like
5 based on talking to her you're not disputing clear and convincing evidence that the
6 incident happened --

7 MS. SUDANO: And that he knew about it.

8 THE COURT: -- and that he knew about it.

9 MS. SUDANO: Correct.

10 THE COURT: So, it's -- the relevance, the clear and convincing and not more
11 prejudicial. I mean --

12 MR. SHETLER: [Indiscernible].

13 THE COURT: -- to the extent its used in that context, I don't think it's more
14 prejudicial and I think it could come in as -- to present some evidence that, yes, this
15 incident happened and he was aware of it and that was part of what was in his mind
16 when he was dealing with her that day.

17 MR. SHETLER: Right, and that's certainly the most important --

18 THE COURT: And -- okay, --

19 MR. SHETLER: -- item that comes out of this whole --

20 THE COURT: -- so that I think you win. If that's the context, I would allow
21 based on the representation about Ms. Carpenter's testimony and the fact that that
22 part of it is not disputed at this point.

23 MS. SUDANO: That's correct.

24 THE COURT: Okay. Now, when you say that's most of it, that doesn't give
25 me great comfort because then we need to deal with whatever the rest of it is.

1 MR. SHETLER: Well, the issue regarding how she talked to my client about
2 this matter and there's only one way really to get that in if she doesn't want to get
3 into that and that's another issue because my client's very uncomfortable testifying
4 and is not ready -- not in a position -- he's not made the decision yet he's willing to
5 waive that right even for these limited purposes. There's other information that I
6 don't even want to get into with the Court right now because I don't have it in the
7 record any other way then from my busy little brain, but it is -- there is other
8 information that [indiscernible] developed during trial that would go to what she had
9 to say about that --

10 THE COURT: About?

11 MR. SHETLER: -- the fashion in which she told him about how that incident
12 went down, the -- I'm trying to be very careful, Your Honor, the -- her analysis of how
13 the system dealt with her and would deal with her in the future, if I can be slightly
14 vague. Those are matters that are only residing in our heads and I don't anticipate
15 that even on the stand those are things that she would get into, [indiscernible] --

16 MS. SUDANO: And I don't understand how any of that's relevant to the
17 self-defense claim.

18 MR. SHETLER: It's -- no, no, I agree. We're -- I completely can see that
19 that's not going to be part of our self-defense claim. It's purely trying to show prior
20 bad -- basically bad character, character [indiscernible] which very dangerous and it
21 goes both ways and it -- and that's a little bit developed depending on how it
22 develops at trial.

23 THE COURT: Okay.

24 MR. SHETLER: The number one issue we're fine. The number two issue I
25 can't put completely to bed because it's not completely my decision and we don't

1 know exactly what's going to happen with my client and his desire to waive or not
2 waive his right to get on the stand. And from a strategy and legal advice point of
3 view, I think stopping the bus at the point where we are may well be in my client's
4 best interest. I just can't --

5 THE COURT: Well, okay. I mean I --

6 MR. SHETLER: -- leave chips on the table.

7 THE COURT: -- hear what you're saying about that, but at the same time
8 other bad act stuff needs to be at least -- there are times that we -- that Petrocelli
9 hearings are had right before the trial starts or even during the trial on a break
10 without the jury. But having said that, there's -- I at least need to know what you're
11 moving to admit I think. I don't know. I mean I --

12 MR. SHETLER: I don't think I have a basis to -- that's my problem, I don't
13 have a basis to move to admit anything yet. I mean you need to know what she's
14 going to say or we all -- it would be great but we're not going to know.

15 THE COURT: So, you want to leave it as, okay, so to the extent that he
16 raises self-defense at trial and seeks to admit evidence about this incident of which
17 he was aware to show what he -- to show that it affected his state of mind on this
18 day, I would grant your request.

19 MR. SHETLER: And with the limitations that you've put on that and the -- to --
20 I'm comfortable with that. That makes sense and I --

21 THE COURT: But to --

22 MR. SHETLER: -- think that's all they're --

23 THE COURT: -- the extent --

24 MR. SHETLER: -- entitled to --

25 THE COURT: -- you're asking --

1 MR. SHETLER: -- right now.

2 THE COURT: -- for anything else, I would not be granting that yet today.
3 You're not clearly requesting more than that today, and so you would need to raise it
4 outside the presence of the jury and take it up and we would need to do whatever
5 hearings were necessary at that point should you want to introduce more.

6 MR. SHETLER: I would like to leave that option available. I don't want to
7 waste time during trial and I know we're here today and I'm happy to do that, I just
8 don't have -- my client is not in a position where he's willing to make the final
9 decision on that issue right now whether he testifies or testify even in this limited --
10 even if we were to have the hearing right now in this limited capacity he's not
11 comfortable with that.

12 THE COURT: Ms. Sudano?

13 MS. SUDANO: I mean I don't know what else we can do here. It sounds like
14 there's no additional information that we could even have a Petrocelli hearing on at
15 this point. We've addressed the self-defense --

16 THE COURT: Right.

17 MS. SUDANO: -- prong and the rest of it we'll have to address during trial
18 if it --

19 THE COURT: Right, but -- so here's --

20 MS. SUDANO: -- becomes relevant.

21 THE COURT: -- what I would say. I mean there is some case law out there
22 that would indicate that in a dispute between two people that there is some area to
23 introduce some character evidence about somebody's character for violence or
24 aggression, whatever you want to call it, but it's also clear that if at least offered by
25 an accused --

1 MR. SHETLER: Right.

2 THE COURT: -- and it's also clear under NRS 48.045(1) that in that
3 context it allows similar evidence to be offered by the prosecution to rebut that
4 evidence and if you're seek -- to the extent you chose to try to go into that area we'll
5 have to talk about to what extent it opens the door for the State to rebut that by
6 showing evidence that might indicate to the contrary.

7 MR. SHETLER: Exactly, and that's -- you're correct, Your Honor, and that's
8 the part where Mr. Perry and I need to have a long, relaxed --

9 THE COURT: Right, because --

10 MR. SHETLER: -- discussion.

11 THE COURT: -- it could certainly end up coming back to bite him.

12 MR. SHETLER: Yes. Yes.

13 THE COURT: Okay.

14 So, I guess I'm granting your motion to admit evidence to the limited
15 extent I described --

16 MR. SHETLER: As -- yes.

17 THE COURT: -- in connection with a proposed self-defense defense and
18 based on him knowing about this incident and not getting into the -- and that -- about
19 the incident itself, not getting into the conviction, not getting into lying about her
20 name, but focused on the confrontation or, you know, act with the knife or a tire iron
21 with this woman in the TJ Maxx store.

22 MR. SHETLER: Right.

23 MS. SUDANO: And this also doesn't get into her beliefs about the criminal
24 justice system or anything like that; right, Your Honor?

25 THE COURT: Right.

1 MS. SUDANO: Right.

2 THE COURT: I don't have anything before me to indicate how that would
3 become relevant.

4 MR. SHETLER: I understand what you're saying.

5 THE COURT: Okay. So, perhaps one of you should prepare an order so it's
6 clear what I have and haven't done today.

7 MR. SHETLER: I'm happy to work on that and have Ms. Sudano check and
8 make sure I've not --

9 THE COURT: And we didn't have the evidentiary hearing, but based on the
10 representations and the offer of proof made about what she would say satisfied that
11 those requirements are met under Petrocelli.

12 MS. SUDANO: Thank you, Your Honor.

13 THE COURT: I guess we're done with this for today. I mean we're back next
14 Monday for calendar call so there's not a whole lot --

15 MR. SHETLER: Right.

16 THE COURT: -- more time.

17 MR. SHETLER: Correct. And my client, of course, is extremely -- there's two
18 issues -- one other issue I think we should mention. My client does want to remain in
19 this courtroom. My client is willing -- and it's only a request, it hasn't been decided
20 and it's not our decision, my client would be comfortable with a bench if the Court -- I
21 understand the government may have a different opinion about that but we have not
22 addressed it. We just don't want to give you any extra surprises, Judge.

23 THE COURT: Right. I do have I think one murder case still set the same
24 week as you so I have to see how that goes. Other cases that were set there that
25 are high priority cases have for the most part moved off of that week for various

1 reasons but I have at least one left. I mean so I understand and I appreciate your
2 confidence in me but you know there are so many weeks that nothing goes to trial
3 but you know then it happens where they all want to go at once and you know we do
4 the best we can to deal with it. I mean have you yet been in contact with the
5 witnesses that you'll be bringing to know their availability?

6 MS. SUDANO: We don't have a lot of witnesses on this case to my
7 knowledge.

8 THE COURT: Well, we already had to continue it once --

9 MS. SUDANO: Correct.

10 THE COURT: -- because one became --

11 MS. SUDANO: One of the doctors.

12 THE COURT: -- not available.

13 MS. SUDANO: Yeah, so they're going to be the hang-up I think again
14 potentially would be the doctors. To my knowledge at this point we are prepared to
15 go forward barring some emergency surgery like last time. We shouldn't have an
16 issue.

17 THE COURT: Okay.

18 MR. SHETLER: My client does understand -- my client understands there are
19 delays. You'll recall from the last hearing -- I'll stop talking. We've been here a long
20 time but I think that -- I just don't want to surprise the Court. I want the Court to know
21 at least as much as we know and --

22 THE COURT: Right.

23 MR. SHETLER: -- [indiscernible].

24 THE COURT: Okay. All right, so that much is granted. We can talk more at
25 calendar call when I see what else we have on for that week and -- so this criminal

1 stack you're on the second to last week of the stack. The last week of this criminal
2 stack is October 5th. Obviously, -- I mean I've got you know of course a bunch of
3 cases set every week and --

4 MR. SHETLER: Right.

5 THE COURT: -- you never know if they're going to go or not go, but.

6 MR. SHETLER: Was it a two week stack then or three week stack?

7 THE COURT: No, it's a five week stack but --

8 MR. SHETLER: We're at the end. We're --

9 THE COURT: Right.

10 MR. SHETLER: Okay.

11 THE COURT: Right, its -- right, it started a few weeks ago, so.

12 MR. SHETLER: Okay.

13 THE COURT: Right.

14 So, that's the current stack and then I go into a five week civil and then
15 the next criminal stack is November 16th through December 14th weeks.

16 MR. SHETLER: All right, Judge. We'll get an order. Do you need the order
17 before we're here next Monday?

18 THE COURT: Not necessarily, but certainly before trial.

19 MR. SHETLER: Right. Okay.

20 THE COURT: Okay.

21 MS. SUDANO: Thank you, Your Honor.

22 THE COURT: Thanks.

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MR. SHETLER: Thank you for the courtesy, Judge.

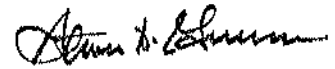
THE COURT: Okay.

[Proceedings concluded at 9:05 a.m.]

* * * * *

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


CYNTHIA GEORGILAS
Court Recorder/Transcriber
Eighth Judicial District Court Dept. XVIII



CLERK OF THE COURT

1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 GENARO RICHARD PERRY,

11 Defendant.
12
13

CASE NO. C298879-1

DEPT. VI

ROUGH DRAFT

TRANSCRIPT OF PROCEEDINGS

14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
15 MONDAY, SEPTEMBER 21, 2015
16

17 **CALENDAR CALL**
18

19 **APPEARANCES:**

20 For the State:

MICHELLE L. SUDANO, ESQ.
Deputy District Attorney

22 For the Defendant:

TRAVIS SHETLER, ESQ.

24
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, SEPTEMBER 21, 2015, at 10:18 A.M.

2

3 THE MARSHAL: Page 13, State of Nevada v. Perry, Genaro Richard.

4 MR. SHETLER: Good morning, Your Honor.

5 THE COURT: Good morning.

6 State your appearance, please.

7 MR. SHETLER: Travis Shetler on behalf of Genaro Perry who is present, in
8 custody, Judge.

9 THE COURT: Okay.

10 MS. SUDANO: Good morning; Michelle Sudano for the State, Your Honor.

11 THE COURT: Okay.

12 So, we're on for a calendar call today. Are you ready for trial next
13 week?

14 MR. SHETLER: We are. I believe we're ready and we can proceed, yes.

15 MS. SUDANO: The State is also ready.

16 THE COURT: How long?

17 MS. SUDANO: Four to five days. The State has 7 to 9 witnesses. One of
18 them is technically out of state.

19 THE COURT: Okay. Let me -- and I know you've been here a long time
20 already this morning. I want to hear my other calendar calls and see --

21 MR. SHETLER: That's what we were just talking --

22 THE COURT: -- if I'm going to --

23 MR. SHETLER: -- yeah.

24 THE COURT: -- need to send you to overflow or not.

25 MR. SHETLER: And, Your Honor, we would, as I told you last week --

1 THE COURT: Oh, that's right.
2 MR. SHETLER: -- Mr. Perry --
3 THE COURT: You don't --
4 MR. SHETLER: -- would like to remain.
5 THE COURT: Right.
6 MR. SHETLER: He's willing to --
7 THE COURT: Okay. Right, so to determine --
8 MR. SHETLER: -- hang.
9 THE COURT: -- whether I can try it next week or not at a minimum.
10 MR. SHETLER: Thank you, Judge.
11 THE COURT: Okay so hang tight and --
12 MR. SHETLER: Yes.
13 THE COURT: -- we'll try to figure that out shortly.
14 MR. SHETLER: Yes, Your Honor.
15 [Matter trailed at 10:19 a.m.]
16 [Matter recalled at 11:29 a.m.]
17 THE COURT: Okay, it looks like I'm available for trial next week. So next
18 Monday four to five days, so I guess can we start Monday afternoon with jury
19 selection and move through the week?
20 MS. SUDANO: Yes, Your Honor.
21 MR. SHETLER: That would be great.
22 THE COURT: I want to take a quick look at my --
23 MR. SHETLER: I do have some help. I have a contractual obligation which
24 usually requires chunks of the mornings during the week and I have help for next
25 week to help cover those, but that would be great.

1 THE COURT: Okay, so -- because my criminal calendar next Monday is
2 going to be pretty hefty. We put a lot over there although the rest of the week
3 shouldn't be too bad on my end, so Monday at 1:30. Are we okay there? Hopefully
4 --

5 MR. SHETLER: Yes, Your Honor.

6 THE COURT: -- that means we could get it done next week if we set it there.

7 MS. SUDANO: I anticipate --

8 MR. SHETLER: I feel confident.

9 MS. SUDANO: -- that shouldn't be an issue, Your Honor, no.

10 MR. SHETLER: Yes. And my client would like to renew his request that we
11 waive the need for a jury, notwithstanding the State of Nevada's not super excited
12 about that.

13 MS. SUDANO: And the State's not going to agree --

14 THE COURT: Okay.

15 MS. SUDANO: -- to waive the right to a jury trial in this particular case.

16 THE COURT: Okay, that's fine. I understand. So, we will have a jury then
17 because we don't have a stipulation.

18 So, let's get the trial set for the 28th at 1:30.

19 THE CLERK: Okay, September 28th at 1:30.

20 THE COURT: And I would ask to get proposed instructions -- well, I'm going
21 to be out this Wednesday but if you could get them to us Thursday that would be
22 great.

23 MR. SHETLER: What type of format, Your Honor?

24 THE COURT: In Word with citations and without citations to my assistant, Mr.
25 Kelly. You can get his e-mail address if you don't have it.

1 MR. SHETLER: I think we do from last time. We're good.

2 THE COURT: Okay, and I think that's about it.

3 MR. SHETLER: I know it's been a long morning and know the Court's
4 made --

5 THE COURT: It has.

6 MR. SHETLER: -- a decision, my client would very much like to just make a
7 comment about the need or not need for jury. I don't know if the Court would be
8 willing to entertain that. I understand --

9 THE COURT: Without a stipulation there's nothing I can do in response to
10 that. So I appreciate his confidence but the State has a right to a jury trial as well
11 and if they're exercising that right we're going to have a jury.

12 MR. SHETLER: I understand. I just want to make sure.

13 Thank you, Judge.

14 THE COURT: Okay. Thank you.

15 [Proceedings concluded at 11:31 a.m.]

16 * * * * *

17 ATTEST: I do hereby certify that I have truly and correctly transcribed the
18 audio/video recording in the above-entitled case to the best of my ability.

19 
20 CYNTHIA GEORGILAS
21 Court Recorder/Transcriber
22 Eighth Judicial District Court Dept. XVIII
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IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 69139

Electronically Filed
Jun 21 2016 03:27 p.m.

Tracie K. Lindeman
Clerk of Supreme Court

GENARO PERRY

Appellant,

vs.

STATE OF NEVADA

Respondent.

Appeal from a Judgment of Conviction

Eight Judicial District Court, Clark County

The Honorable Elissa F. Cadish, District Court

**Appendix
Volume I**

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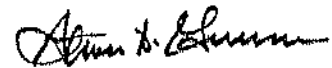
Counsel for Appellant

GENARO PERRY

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CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 GENARO PERRY,

13 Defendant.

CASE#: C298879

DEPT. VI

14 BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE
15 TUESDAY, SEPTEMBER 29, 2015

16 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**
17 **BENCH TRIAL - DAY 1**

18 APPEARANCES:

19 For the State:

ROBERT BRAD TURNER, ESQ.
Chief Deputy District Attorney
MICHELLE SUDANO, ESQ.
Deputy District Attorney

22 For the Defendant:

TRAVIS E. SHETLER, ESQ.

24
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

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[None presented.]

1 TUESDAY, SEPTEMBER 29, 2015 1:35 P.M.

2
3 THE MARSHAL: All rise. District Court, Department 6 is now in session. The
4 Honorable Judge Cadish presiding.

5 Please be seated. Come to order.

6 THE COURT: All right, folks, go ahead and state your appearances for the
7 record.

8 MS. SUDANO: Good afternoon, Your Honor. Michelle Sudano and Brad
9 Turner on behalf of the State.

10 THE COURT: Okay.

11 MR. SHETLER: Good afternoon, Your Honor. Travis Shetler on behalf of Mr.
12 Perry, who's present at the counsel table in custody.

13 THE COURT: Okay. So let me just confirm on the record. It's my
14 understanding that both parties have agreed for this to be a bench trial, with me at
15 the trier of fact rather than a jury.

16 The State agree?

17 MS. SUDANO: That's correct, Your Honor.

18 THE COURT: Defendants?

19 MR. SHETLER: That is correct, Your Honor.

20 THE COURT: Okay. And I guess part -- because it's a bench trial, rather
21 than a jury, Mr. Perry was not dressed out --

22 MR. SHETLER: Right.

23 THE COURT: -- today. I've seen him in the jail uniform before, so we know
24 he's in custody, and I'll still rule based on the facts and the law.

25 MR. SHETLER: Right. Thank you, Your Honor. Noted.

1 THE COURT: Okay. No objection to --

2 MR. SHETLER: On objection.

3 THE COURT: Okay. Thank you.

4 And although -- so we put this over till today from yesterday because
5 there were some issues about the doctor availability. And now it's my
6 understanding that he is available.

7 MS. SUDANO: That is --

8 THE COURT: Somehow he made himself available.

9 MS. SUDANO: That is correct, Your Honor. I apologize for all the confusion
10 and I do want to thank Your Honor and the department for being accommodating
11 and pushing this back for us for a day in order to attempt to get the doctor here.

12 THE COURT: Okay. Trying to think if -- I did get instructions on the law from
13 the State. And I -- even though it's a bench trial I think it's useful to have
14 instructions even, you know, for my own use and to make sure that we're on the
15 same page about the law that applies as we go through the trial and ultimately when
16 you argue at the end.

17 I expect that when we end it and I'm -- I'll sort of take some time with
18 the evidence in chambers and then call you back when I've got a decision. I don't
19 expect it to be a particularly -- I mean, lengthy time, but however much time it takes
20 for me to review it and feel comfortable. But there will sort of be a deliberation
21 among me, myself and I, I guess.

22 MR. SHETLER: Good. That's all we could ask for, Judge.

23 THE COURT: Okay. So with that, is there anything else we need to discuss
24 before we just do like an opening statement?

25 MR. SHETLER: No, Your Honor. We do think that we can probably wrap up

1 things, if not today, certainly tomorrow.

2 THE COURT: Okay.

3 MR. SHETLER: And Ms. Sudano and I had spoken about what the Court
4 wanted as far as an opening statement or not. I know her doctor is supposedly
5 ready to go at 1:30.

6 THE COURT: Okay.

7 MS. SUDANO: I just checked out there. Hé had not arrived --

8 THE COURT: Okay.

9 MS. SUDANO: -- a few moments ago. He may be there now and I have
10 confirmed that he's on his way here.

11 THE COURT: Okay.

12 THE MARSHAL: What's his name?

13 MS. SUDANO: Dr. Leivowitz.

14 MR. SHETLER: But we're certainly happy to accommodate the doctor's
15 schedule if you want to start --

16 THE COURT: Right.

17 MR. SHETLER: However the Court prefers.

18 THE COURT: Sure. So first, before I forget, I think we should schedule to
19 start I think 10:30 tomorrow. Does that work for you? Is that --

20 MR. SHETLER: I think I have three in the morning. I have a sentencing;
21 another calendar call, and that's in a court that sometimes take a little bit of time,
22 Your Honor. I'll try and get it pulled, but that might be a little bit tight to make it by
23 10:30.

24 THE COURT: Okay.

25 MS. SUDANO: That works for the State, Your Honor. I don't know why --

1 THE COURT: I mean, I'm hoping --

2 MS. SUDANO: -- I was thinking you had --

3 THE COURT: -- I'll be done --

4 MS. SUDANO: Okay.

5 THE COURT: -- with my regular morning calendar by then. The calendar's a
6 little shorter than some of what we've had lately. That doesn't necessarily mean it's
7 short, but -- I mean, we could call at, you know, 11 --

8 MR. SHETLER: I'm pretty sure by -- I would know what's going on. If there's
9 a problem I could give the Court a heads up much before then.

10 THE COURT: Right. I mean --

11 MR. SHETLER: Yeah.

12 THE COURT: We don't have -- I don't have a jury to stress over, so if we run
13 a few minutes behind 10:30 that's okay. I may be a little behind; you may be a little
14 behind, but --

15 MR. SHETLER: Thank you, Judge.

16 THE COURT: -- if we can get started then that would be good because --
17 because of a personal appointment I have, I'd like to be out of here by 3:30
18 tomorrow. Maybe we'll be done by then, but if we're not I'm going to want to finish,
19 so we'll see how it goes.

20 MR. SHETLER: That sounds fine, Your Honor.

21 MS. SUDANO: Absolutely, Your Honor.

22 MR. SHETLER: Easily doable. Thank you, Judge.

23 THE COURT: Ten-thirty tomorrow.

24 And then -- so a lot of times when I have -- so usually when I have
25 bench trials it's in civil cases not criminal cases. It's the second time I've had one in

1 a criminal cases. So -- but usually in a civil case, when I have a bench trial, I read
2 their pretrial briefs and I don't necessarily ask for an opening. I guess it's up to you
3 -- I mean, if -- I've seen the instructions and gone through it, but -- and I know we've
4 had some motion practice, but if you want to quickly outline what you expect to
5 present it might be helpful just -- especially if we have a minute before the doctor
6 starts.

7 MS. SUDANO: Absolutely, Your Honor.

8 So in this case the State intends to prove that on the evening of April
9 30th of 2014 the Defendant in this case, Genaro Perry, arrived at his ex-girlfriend's
10 house, that being Corla Carpenter. They had just broken up after about six months
11 of dating shortly prior to that. Once Mr. Perry arrived, Ms. Carpenter agreed to let
12 him stay in the house for the evening and then he was going to take his belongings
13 and leave the following morning.

14 Early on the morning of May 1st, 2014, Mr. Perry woke up and was in an
15 agitated state. He began making threats and statements to Ms. Carpenter that were
16 very concerning to her. She attempted to call 9-1-1 while she was still in her bed.
17 Once she attempted to call 9-1-1 the Defendant took her phone and threw it against
18 a wall. She tried to get out of the bedroom and into a bathroom to get away from
19 him. Once that happened, he began punching and kicking her; knocked her to the
20 ground inside the bathroom. Once she was on the ground in the bathroom the
21 struggle continued. She was able to pick up -- or pick herself up. She bit the
22 Defendant to get downstairs.

23 Once she was about halfway downstairs he caught up with her; kicked
24 her down the remaining stairs and into a landing inside her kitchen. Once she was
25 in the kitchen, she was still on the ground, he continued to beat and kick her while

1 she was on the ground in the fetal position in the kitchen. He then located kitchen
2 knife that was on a counter just to her side. He picked up the kitchen knife, began
3 swinging it at her; forced her to go inside the living room at knife point. While she
4 was in the living room he continued making threats against her and her family.
5 Made several statements to her about how he was going to kill her that evening.

6 While she was still in the kitchen he locate -- or he still had that knife,
7 he located her keys; picked up the keys to her 1999 Mercedes Benz and told her
8 that he was going to take the car. He then forced her back upstairs at knife point
9 and put her back into a back bathroom in the house and told her that she was not to
10 leave until she heard the garage door close. He again threatened to kill her and her
11 family or cause them great harm if she attempted to leave or call the police. He then
12 left he bedroom, went and got her cell phone that he had prior -- previously thrown
13 against a wall, came back into the bathroom and threw the cell phone in the toilet
14 and again told her not to call the police. She then heard the car leaving and was
15 able to go downstairs; attempted to leave the house to find a neighbor; was unable
16 to do so and then used her phone that was still wet to call the police.

17 You're going to also hear from the first responding police officer, Officer
18 Almedia Bragg, who responded to the scene and was able to observe the injuries to
19 Ms. Carpenter.

20 You're also going to hear from the crime scene analyst, Danielle Keller,
21 who was there to document the scene; the blood and the items found at the house,
22 as well as the kitchen knife with apparent blood on it that was located in the garage.

23 And finally you're going to hear from Officer Justin Terry of the Las
24 Vegas Police Department; will tell you that the following day, so May 2nd of 2014, he
25 located the victim's car approximately two to three miles away from where she lived

1 and where it had been taken the day prior.

2 And at the end of the evidence the State's going to ask that you, Your
3 Honor, acting as our trier of fact today, find the Defendant, Genaro Perry, guilty of all
4 of the counts as charged.

5 THE COURT: Thank you.

6 Mr. Shetler?

7 MR. SHETLER: Your Honor, the crux of our case, there are some of the facts
8 that are going to be in dispute and some we may be in agreement upon.

9 THE COURT: Mm-hmm.

10 MR. SHETLER: Mr. Perry's position is this stemmed from a dispute regarding
11 money that was loaned for drug purposes. That he went to get his -- there was a
12 fallout between the two of them a few days before the alleged date of the incident.
13 That he went to get his stuff from her house; tried to make arrangements to do that.
14 There was some discussion about what took place when he got there. What he was
15 worried about is that she was the aggressor. He knew of her previous incident
16 where she had used a knife on somebody. Any actions he did take were taken at
17 self-defense. And that we have -- there's no evidence that's going to tie him to the
18 Mercedes. But all his actions were taken in self-defense and any injuries that she
19 sustained as a result of that. There's also a question to the extent of her injuries in
20 light of the bodily harm charge. We'll get into that with the examination of the
21 doctor, but the x-rays do show at the emergency room that there was a fracture of
22 the orbit, so that's challenging.

23 THE COURT: Mm-hmm. Okay, you done?

24 MR. SHETLER: Yes, ma'am.

25 THE COURT: Sorry. Okay.

1 MR. SHETLER: Yes, Your Honor. I apologize.

2 THE COURT: It's all right.

3 Okay. So is the doctor here?

4 THE MARSHAL: I keep checking. I didn't see him. I'll check one more time.

5 THE COURT: Okay.

6 I see that the clerk has been given evidence that he's working on
7 marking exhibits. Are there any stipulations as to the evidence?

8 MR. SHETLER: Your Honor, last time we were able to stipulate to those. I
9 don't think we'll have any issue. We'll just go through them one more time. Ms.
10 Sudano's told me they're same as last time, but I haven't gone through with my
11 client this time yet. So maybe we could take, once they're done -- marked we'll do
12 that.

13 THE COURT: Why don't we go off the record while we're waiting for the
14 doctor and you can do that.

15 MR. SHETLER: Thank you, Your Honor.

16 MS. SUDANO: And, Your Honor --

17 THE COURT: Oh, stay on.

18 MS. SUDANO: -- the named victim is present. I can call her so we don't keep
19 the Court waiting. If Mr. Shetler wants to look through the exhibits first, and then if
20 the doctor's still not here we'll call Ms. Carpenter.

21 THE COURT: Okay.

22 MR. SHETLER: That's great. Thanks.

23 THE COURT: All right. Let's go off.

24 [Off the record at 1:46 p.m.]

25 [Proceedings resumed at 1:50 p.m.]

1 THE COURT: So my understanding is defense will stipulate to Exhibits 1
2 through 37?

3 MR. SHETLER: That's correct, Your Honor.

4 THE COURT: Okay. So they'll be admitted by stipulation then.

5 And my understanding is the doctor's here, so we can get started.

6 MS. SUDANO: That is --

7 THE COURT: Let's go.

8 MS. SUDANO: -- correct, Your Honor. And --

9 THE COURT: Is anybody invoking the exclusionary rule?

10 MS. SUDANO: I was just going to say, yes, the State does, Your Honor.

11 THE COURT: Okay. So we'll make sure that we don't have witnesses in the
12 courtroom before they testify. Let's go.

13 THE MARSHAL: If you could make your way up into the box and remain
14 standing. Raise your right hand and face that gentleman right there.

15 **STEVEN LIEVOWITZ**

16 [having been called as a witness and being first duly sworn, testified as follows:]

17 THE COURT CLERK: Thank you. Please be seated.

18 Please state your complete name, spelling both your first and last name
19 for the record, please.

20 THE WITNESS: Steven with a V -- S-T-E-V-E-N, LEIBOWITZ,
21 L-E-I-B-O-W-I-T-Z.

22 THE COURT: Go ahead.

23 MS. SUDANO: Thank you, Your Honor.

24 ///

25 ///

1 **DIRECT EXAMINATION**

2 BY MS. SUDANO:

3 Q Sir, how are you employed?

4 A I'm self-employed.

5 Q What's your educational background?

6 A I went to Brandeis University for undergraduate. Then I went to
7 Columbia College of Physicians and Surgeons in New York for medical school. And
8 I did my internship in internal medicine at Stanford University. And I did my
9 ophthalmology residency and fellow -- and fellowship in ophthalmic plastic and
10 reconstructive surgery and orbital surgery at Harvard University.

11 Q How long have you been practicing medicine?

12 A I think 20 -- 27 -- since 1985.

13 Q Now do you have any additional certifications beyond the ones that
14 you've already listed?

15 A Well, I'm board certified in ophthalmology by the American Board of
16 Ophthalmology. And I'm a member of the American Society of Ophthalmic Plastic
17 and Reconstructive Surgeons, ASOPRS, which isn't really a board certification, but
18 in order to do that you have to do an approved fellowship, which now I think there's
19 17. At my time there was only 14 in the country. You have to do a written exam and
20 an oral -- a written exam, a thesis, and an oral exam.

21 Q Do you have any sort of teaching background?

22 A Yeah, I'm assistant clinical professor at UCLA, the Jules Stein Eye
23 Institute.

24 Q What do you teach there?

25 A Ophthalmology, ophthalmic plastic and reconstructive surgery.

1 Q Now I want to draw your attention to May 27th of 2014. On that day did
2 you have occasion to consult with a patient named Coral Carpenter?

3 A I have the chart here. If it's okay I'll refer to that.

4 Q Would that refresh your recollection as to the date?

5 A Yeah. I certainly wouldn't know the date without looking at that.

6 THE COURT: Okay, go ahead.

7 THE WITNESS: It was on --

8 THE COURT: So what are you looking at?

9 THE WITNESS: I'm sorry?

10 THE COURT: What are you looking at?

11 THE WITNESS: My note from May 27th, 2014 --

12 THE COURT: Okay.

13 THE WITNESS: -- which is the first time I saw the patient.

14 BY MS. SUDANO:

15 Q And that patient was Coral Carpenter?

16 A Correct.

17 Q What was the nature of your consult with her that day?

18 A Well, it was referred by Dr. Voo. She was referred by Dr. Voo, who's
19 the retinal surgeon, so I assumed that she saw Dr. Voo for a retinal consultation. I
20 don't really handle inside the eye itself. So I do -- I do -- I'm an oculoplastics and
21 orbit surgeon, so I was sent because they believed that she had an orbital fracture,
22 so that's why they sent her to me because we're very sub-specialized in
23 ophthalmology.

24 Q Now were you able to confirm that she had an orbital fracture?

25 A Well, I was very suspicious of it by the examination, but I also had the

1 CT scan available at the time, which I actually still have in my chart. So when I
2 looked at the CT scan I could confirm it.

3 Q Which eye fracture --

4 THE COURT: You confirmed that --

5 THE WITNESS: She had a orbital fracture.

6 THE COURT: Okay.

7 BY MS. SUDANO:

8 Q And which eye was that orbital fracture in?

9 A It was the right eye.

10 Q Were you able to determine any other fractures based on the CT scan?

11 A Well, the CT report, if I could read you that, it's fair -- you know, fairly
12 specific. There it is. The impressions -- you know, they have a whole -- long report,
13 but this is the impressions.

14 Q Now, doctor, I'm going to interrupt you there; I apologize. Would you be
15 able to remember all of this information without looking back at your chart?

16 A I can only remember what -- the part that I do, which is that she had a
17 right orbital fracture. You asked me about other fractures that don't really pertain to
18 my work; that's why I wanted to review the -- from the chart. But from my -- my
19 recollection she had a typical blow -- what we call blowout fracture, which is an
20 orbital fracture of the orbital floor, as well as a fracture of the medial orbital wall,
21 which is called the lamina papyracea.

22 Q Now when we're talking about the right orbital, where is that on the
23 face?

24 A The orbit are bones around the eye. Like the socket is -- it would be a
25 -- you know, layman's way of talking about it. There's four sets of walls around the

1 eye that house it. And when there's a -- what they call a blowout fracture, there's
2 really two different theories as to how they happen. Both of them are very
3 interesting in that -- usually happens like from a punch or something like that where
4 a blunt trauma, where the eye itself compresses almost to -- they've shown this with
5 fast action photography, compresses to the size of a -- you know, of a pancake, but
6 doesn't -- the eyeball is more like a rubber ball and doesn't lacerate unless it's a
7 sharp object.

8 And the two theories as to what causes the blowout fracture are that
9 when the -- one is that the eyeball, when it expanse, the force of it blows out the
10 walls at the weakest portions, which are the inferior wall, down below eye, or the
11 medial wall on the side of the eye. And when I said lamina papyracea for the side of
12 the eye that's -- means paper plate, so you can it's paper thin. And those both
13 connect with sinuses. Those walls connect with the two sinuses. The inferior wall
14 connects with the maxillary sinus and the medial wall connects with the ethmoid
15 sinus.

16 Q Now you said that there were two theories for how --

17 A A second theory is that the actual trauma itself turns the bone itself and
18 the torque of it blows out the orbits.

19 Q Now through your training and experience, doctor, are blowout fractures
20 generally associated with some sort of trauma?

21 A It's almost always blunt trauma because as you can see if it were -- let's
22 say with a stick or something or whatever -- the actual orbital rim, which is the bone
23 you feel right here, doesn't fracture. It's underneath the eye or on the side of the
24 eye at the weakest points. So it's really a -- an injury that happens from the blunt
25 trauma, but it's not where directly the trauma hits.

1 Q So if a client were -- or a patient were to have some sort of other
2 ongoing medical history -- history of say lupus or something along those lines, would
3 that be consistent with an orbital fracture?

4 A I don't understand the question.

5 Q So if an individual had a pre-existing medical condition, such as lupus,
6 is that something on its own that could cause an orbital fracture?

7 A No -- no way.

8 Q Okay. Now you indicated that you were able to observe the orbital
9 fracture on Ms. Carpenter. Were you able to make any other diagnoses on May 27th
10 of 2014?

11 A Well -- I mean, do you want to know what the problems were; why I
12 thought there was a blowout fracture or what are you asking?

13 Q We'll start there and then we'll go onto the other diagnoses as well.

14 A Okay. So the things that -- the symptoms that people have when they
15 have a blowout fracture is -- one is the diplopia, in other words, double vision. And
16 the reason for that is because there are six muscles that move the eye like pulleys.
17 And the inferior rectus muscle is on directly right below your pupil at the bottom, and
18 you can see it's right where the orbital rim is. So when there's a fracture, that
19 muscle becomes somewhat entrapped in the fracture cite itself, so people can't
20 move their eye up and down real well and that's why they have diplopia. So that's
21 one of the main things you have. In her particular case, she also had numbness of
22 the cheek, upper lip and teeth area, which indicates a more posterior fracture; in
23 other words, a bigger fracture going further back.

24 Q Now did she also report any additional issues, or were you able to
25 observe any issues perhaps with where the eye was located?

1 A Well, she had enophthalmos, I'm sure.

2 THE COURT: She had what?

3 THE WITNESS: Enophthalmos, E-N ophthalmos. And -- E-N-O-P-H-T-H-

4 THE COURT: Thank you.

5 THE WITNESS: -- A-L-M-O-S.

6 THE COURT: Thank you.

7 THE WITNESS: Enophthalmos --

8 THE COURT: Uh-huh.

9 THE WITNESS: -- which means the eyeball is sunk in.

10 THE COURT: Okay.

11 THE WITNESS: And the reason for the eyeball being sunk in is pretty
12 obvious and it's a volume question. So the eye is in its normal position, but if there's
13 more volume; in other words, the bone is all of a sudden down, the eyeball sinks in
14 because there's -- it's -- there's -- it's taking up more of the volume of the orbit. It
15 would be like where the attorney is standing --

16 THE COURT: Mm-hmm.

17 THE WITNESS: -- if all of a sudden was a hole in the floor there, she would
18 be halfway into the 14th floor.

19 THE COURT: Right.

20 THE WITNESS: Okay. And she would be sink back -- you would only see
21 half of her. That's why you would see -- that's why there's enophthalmos and that's
22 what basically happens when there's a orbital floor fracture. If you could picture
23 where her feet are, are where the inferior rectus muscle is. You can see why it
24 would get entrapped into the fracture cite itself because right now the floor is solid
25 there.

1 THE COURT: Right. We hope so.

2 THE WITNESS: Yeah.

3 MS. SUDANO: I didn't eat lunch, so just everybody's clear.

4 BY MS. SUDANO:

5 Q Now, doctor, so those two additional diagnoses, the enophthalmos and
6 then the diplopia --

7 A I would call that traumatic enophthalmos, which is the code for it.

8 Q Now -- and is that just related to a trauma?

9 A Correct.

10 Q So those are not two separate diagnoses. Those are more consistent
11 with just the diagnosis overall of an orbital fracture?

12 A Well, for insurance to approve repair of an orbital fracture -- not every
13 fracture has to be repaired, okay, because God heals them on their own. They just
14 -- we want to treat orbital fractures that need to be treated. The ones that need to
15 be treated are ones that are symptomatic with diplopia, that's one criteria;
16 enophthalmos is the other criteria. If they just had a fracture that wouldn't be
17 enough to -- for insurance to approve that.

18 Q Now was the fracture in this case one that did need to be repaired?

19 A Yes.

20 Q Were you actually the surgeon that completed that repair?

21 A I was the surgeon.

22 Q When did that occur?

23 A I'm going to have to ask -- look at the date here of my op report
24 because --

25 THE COURT: You --

1 BY MS. SUDANO:

2 Q And would that refresh your recollection, doctor?

3 A I hope so. It would have the date on it, so it should -- oh, here it is. And
4 it was --

5 THE COURT: Okay.

6 BY MS. SUDANO:

7 Q And you're looking at -- you said your op report, doctor?

8 A Well, I didn't even make it there yet, but I'm looking at the face sheet,
9 which was on 6-14-14. And then the next page is the op report.

10 THE COURT: Okay.

11 BY MS. SUDANO:

12 Q Can you just walk us through, very generally, the surgery that you
13 performed on --

14 A Okay. We'll get back to the hole in the floor analogy where you're
15 standing. If you -- if there was a hole in the floor and you were halfway on the 14th
16 floor what would we do? We'd lift you up with a hoist, although you don't seem that
17 heavy we could just pick you up, and we would put a piece of plywood down
18 underneath your feet. And the construction people would come and fix the floor and
19 then everybody would be okay.

20 Same kind of thing in the orbit. We don't usually repair the medial
21 fracture, the lamina papyracea, even though that does still cause traumatic
22 enophthalmos -- you know, can cause enophthalmos. We want to fix mostly the
23 inferior wall problem because the eyeball and the muscle are sinking down into the
24 sinus; that's not good. So what we do is we -- I go in by a cosmetic approach,
25 where I go in from the inside of the eyelid called the conjunctiva, so there's no scar

1 on the outside, and I go right down to the orbital bone, the orbital rim right here; you
2 can feel it. I make an incision in the lining of that bone called the periosteum, and I
3 lift up the periosteum and try to get everything that was formally in the orbit back in
4 the orbit. So you want to -- the stuff that's in the sinus, by hand-over-hand
5 maneuvering you lift it up to -- with both a elevator and a retractor to try to get the
6 stuff back in the orbit.

7 Q Now when you say the stuff, are you referring to pieces of bone, or
8 you're referring to the eye matter; what are you referring to?

9 A No, it's the orbital contents. You want to get whatever was in the orbit
10 before, the periosteum, the muscle, the fat, everything that's now in the sinus that
11 doesn't belong there back to where it belongs. So then -- I told you we'd put a piece
12 of plywood underneath your feet, we put an orbital implant there that's to -- to make
13 the new floor. In her case I used a titan orbital implant, I believe, which is --

14 Q Are you referring back to your op report again, doctor?

15 A Yes, I am. Yeah, titan implant. And that's the state-of-the-art implant in
16 that it's -- about ten years ago we used just titanium mesh, okay, but a lot of the --
17 which you use -- like titanium is used in your golf clubs and stuff. But what we found
18 is that a lot of the orbital contents stuck to the mesh itself. So there's a material
19 called porex [phonetic], which is devised by the Porex Company, that's -- allows
20 vascularization to grow into it. So they have the new -- when I put this in, this was a
21 fairly new implant. Now it's the number one used implant in the country. And it
22 allows the vascularization to grow into the porex and shields it away from the
23 titanium.

24 Now you say why would you even do that? The reason I put that
25 implant in as opposed to just a piece of silastic plastic is that a lot of the floor was

1 missing so you needed more support. So you need a heavier duty implant than -- if
2 it was just a tiny microfracture that I lifted the stuff up, I would just put a piece of
3 absorbable implant material and it would've been dissolved in six months. But this
4 needed some heavy duty support there.

5 Q Now is that because it was a more serious fracture, I believe is how you
6 characterized it earlier?

7 A Yes.

8 Q Now did you perform any additional operations or functions while you
9 were operating on Ms. Carpenter?

10 A I don't believe so.

11 Q Okay. Now did you have occasion to see Ms. Carpenter again after
12 June 14th of 2014?

13 A Right. I saw -- I see everyone in post-op always. So I saw her on
14 6-23-14.

15 Q What was the purpose of that visit?

16 A It's a post-op visit. I check everyone that I operate on post-operatively
17 to make sure everything's okay.

18 Q Were there any ongoing issues with Ms. Carpenter that concerned you
19 on that June 23rd visit?

20 A It said that she had some slight intermittent diplopia still; in other words,
21 some intermittent double vision. It was much better, but she still had some
22 intermittent double vision.

23 Q And so that would've been a week and a half after your surgery --

24 A Right.

25 Q -- she was still suffering from the double vision?

1 A Yeah.

2 Q Okay.

3 A And she also had a -- I wrote a subconj hemorrhage. That was still from
4 the original trauma; in other words, the weight of eye is covered with -- it kinda looks
5 like has blood in it, which it does.

6 Q Was that -- and I'm sorry, you said that that was from the original
7 trauma?

8 A Most likely from the original trauma. It could have been from the
9 surgery, but usually not.

10 Q Did you observe any of that, or note any of that prior to the surgery; do
11 you recall?

12 A I don't recall, but I'll look in my note here. And I don't have it down
13 there, so it could have been from the surgery. I don't know though.

14 Q Now -- I believe you already testified that the injuries in this case could
15 be -- or generally are consistent with trauma; is that fair?

16 A Correct.

17 Q Could that be consistent with being kicked in the face in addition to
18 being punched in the face?

19 A Kicked or punched; blunt trauma.

20 Q So could -- would that also be consistent with maybe having your head
21 struck against the floor or an object?

22 A Not usually --

23 Q Okay.

24 A -- because it -- it really is -- has something like -- has to go in to
25 compress the eyeball, like the fist or a boot or something, you know. It's not -- it just

1 doesn't happen from, you know, just hitting your head on the floor. When you hit
2 your head on the floor you just get like a black and blue mark all over your face, but
3 not an orbital fracture.

4 Q Now can you make any conclusions I suppose about whether the
5 trauma was from a single blow or from multiple blows?

6 A No.

7 MS. SUDANO: Okay.

8 Court's indulgence.

9 THE COURT: Uh-huh.

10 MS. SUDANO: I apologize, doctor.

11 BY MS. SUDANO:

12 Q Can you make any conclusions or opinions about the amount of force
13 that would be required to sustain this level of trauma?

14 A Not really. I mean, it's -- you know, it's basically being punched out. I
15 mean, that's really how I would describe it. I mean, I unfortunately see quite a bit of
16 this. And lots of times -- you know, as from a -- it's a reportable event. We're
17 supposed to report abuse of some kind or another. And -- so the first question I ask
18 is how did this happen. And -- you know, or is -- you know, if the -- if the patient is --
19 you know, says that oh, the guy's already in jail or something I leave it at that, but
20 otherwise -- you know, lots of times they try to shield the person who did this, you
21 know, I try to have more intense questioning about it because it's obvious that this
22 was, you know, an abuse situation from the clinical pattern.

23 Q Now when you spoke with Ms. Carpenter about this case, did you have
24 that conversation with her about what happened that caused this trauma?

25 A Absolutely.

1 Q Okay. What did she tell you?

2 A She said she was assaulted and the -- the guy's in jail. And then we
3 had her sign up for the Victims of Crime.

4 MS. SUDANO: No further questions, Your Honor.

5 THE COURT: Cross.

6 MR. SHETLER: Thank you, Your Honor.

7 Dr. Leibowitz, my name is Travis Shetler and I appreciate you being
8 here today. Thank you for rearranging your schedule and making yourself available.

9 **CROSS-EXAMINATION**

10 BY MR. SHETLER:

11 Q I want to ask you a couple of questions. The -- you just stated to Ms.
12 Sudano's last question that it was obvious that this was an abuse situation. Is that
13 based on what you observed independently of what Ms. Carpenter related to you, or
14 is that based on what she told you?

15 A It's based on the clinical observation of what I see; that she was
16 punched out. I assume it was abuse. I mean, it could've been any other kind of
17 fight, but it looked as though she was punched out. That's --

18 Q And that's -- and that's of course the crux of my concern, you used the
19 term abuse. It could've been mutual combat; correct?

20 A Well -- I mean, I think when someone gets punched by their significant
21 other that's abuse. I'm not a lawyer, but that's what it seems like to me.

22 Q Right, but you're not -- you're here to talk about her eye. You're not
23 here to talk about whether she was a victim of abuse; right?

24 A Well, I'm also -- the reason I came is because I don't think this stuff
25 should happen. You know, I -- I see -- I have, you know, a sister and daughter and I

1 wouldn't want them punched out and that's how I look at it.

2 Q And I appreciate that. And I could assure you I don't believe there's
3 anybody in this courtroom, and I could certainly speak for myself, that wants this to
4 happen to anybody, male or female. It's -- but my concern, because we are in the
5 courtroom, is your use of the term abuse. Did -- it's entirely possible, based on your
6 training and expertise, that an injury like this could happen from you and I in a fight;
7 correct?

8 A Anyone could have punched this person.

9 Q And so when you use the word abuse that brings in some -- an extra
10 truckload of baggage with it to this courtroom proceeding. Well, you're here --

11 A Well --

12 Q -- to talk about just the mechanism of injury; is that correct?

13 A Well, I'm supposed to as a physician evaluate that also and try to -- as I
14 said, it's a report -- my understanding is that it's a reportable event for me, so I have
15 to determine that -- what happened.

16 Q Right. Are --

17 A And that's why I assumed -- I concluded that it was abuse because I'm
18 charged with that as the treating physician.

19 Q Would the -- once you -- is it your --

20 A I'm not just a guy who fixes the stuff. I'm supposed to -- you know, if I --
21 if I thought that someone was punched out by someone, and it was an abuse
22 situation, I'm supposed to report it.

23 Q Right. Then you said you would then have some additional follow-up
24 questions; right? You would have a -- I think -- I don't want to misquote you, but I
25 believe you said once you thought that there might be some sort of abuse you would

1 then have other questions you would follow up on; is that correct?

2 A Right. I would ask if they've reported it to the police, which is the first
3 step. And if they haven't reported it, I'm supposed to report it. And if not -- and in
4 this case, we sent her to Victims of Crime.

5 Q Right. Right. If I came in and -- and I had the same injuries as Ms.
6 Carpenter, what you observe there, and you asked me what happened and I said I
7 was in a fight, would that be a reportable event?

8 A Well, possibly. I mean, if it was an assault situation; yes.

9 Q You said earlier that you assumed it was abuse or you then concluded
10 it was abuse. You said both; correct?

11 A Well, I asked her questions and I asked her what happened and she -- I
12 asked her who did this. It wasn't like there were two girls, you know, doing this in
13 the middle of the night at a bar or something or she punched herself out. I mean,
14 that's -- you know, to me when someone -- some other person, especially a
15 significant other -- a man punches you that's abuse. I mean, that's how I think about
16 it.

17 Q But abuse can occur between two women as well; correct?

18 A There can be assault between two women, but I consider this abuse.

19 Q Well, that's not my question. Abuse -- abuse is not gender specific; is
20 that correct?

21 A Once again, this is not my area. I would -- but if another woman had
22 punched her I would report that also.

23 Q Right. That's exactly where -- have you ever seen an injury such as
24 what you've observed in Ms. Carpenter that was not the source of abuse -- or result
25 of abuse? Excuse me for misspeaking.

1 A Well, once again, I -- I have -- theoretically you could have -- and I have
2 seen construction injuries and so on cause a blowout fracture, but 99 percent of the
3 time it's because they're punched out.

4 Q Dr. Leibowitz, you stated that the symptomology -- not -- let me keep it
5 simple. I don't want to get mixed up on the words. You stated that not every orbital
6 fracture needs to be repair; is that correct?

7 A Yes.

8 Q And you specifically stated in this case that you believed it needed to be
9 repaired because the double vision and the displacement of the eye; is that correct?

10 A The enophthalmos of the eye.

11 Q Right, which is the displacement?

12 A It's -- the eye really -- she did have displacement, or called globe ptosis,
13 which is the eye sinking down, but that's not what I was meaning. The
14 enophthalmos, the eyeball sinking back, is the reason for the trauma enophthalmos.
15 Those are the two criteria that insurance company -- that's not my criteria, but they -
16 - she fit both of them. You need only one of them to have the operation --

17 Q Do --

18 A -- to be approved.

19 Q Do -- at any point, in your opinion, was Ms. Carpenter at risk of losing
20 her eyesight in that eye as a result of this injury?

21 A It's not an eyesight issue; okay. It's not a -- the trauma to the eye that I
22 do is not an eyesight issue. You could lose obviously vision in your eye from trauma
23 for lots of reasons. One is that the vessels to the eyes the vasculature gets
24 compromised by the trauma; that did happen in this case, or two is that, you know,
25 have trauma to the lens or the retina or so on. Now she was sent to me by the

1 retina person, so I assumed that her retina was cleared. I'm down the line as far as
2 fixing the eye. All this intraocular stuff has to be done before it gets to me.

3 Q Were you of whether or not Ms. Coleman [sic] had a history of -- and I
4 don't want -- I'm going to be very general, any type of eye condition -- pre-existing
5 eye condition, or symptomology, or problems?

6 A If you'll let me look at my chart there I'll tell you what I --

7 Q Would by --

8 A -- what she told me.

9 Q Before you do that, doctor, by looking at your chart would that refresh
10 your recollection --

11 A Yes.

12 Q -- as to your question, please?

13 MR. SHETLER: Court's permission.

14 THE COURT: Go ahead.

15 THE WITNESS: She claimed no prior eye problems because I always ask,
16 you know, really four sets of questions besides the why you're there now.

17 MR. SHETLER: Uh-huh.

18 THE WITNESS: I always ask past ocular history, past medical history, what
19 medications they're on, and what allergies they have; every single time, every
20 patient. And under POH, that's past ocular history, I have a negative sign, so --

21 BY MR. SHETLER:

22 Q Were you aware of any sort of a history -- and, of course, you're relying
23 on the patient to be honest and frank with you in the history; correct?

24 A That's my only way.

25 Q And do you find that patients are always honest and frank in their

1 history?

2 A Not really.

3 Q Did you find any evidence in there -- or do you note any evidence in
4 your chart of problems with conjunctivitis?

5 A No, but conjunctivitis wouldn't -- a lot -- people wouldn't even tell me
6 about that because that really isn't a -- what I'm looking for. When I ask them have
7 they had anymore eye problems in the past -- I mean, conjunctivitis is a minor thing
8 that half the population has had at one point, including myself. I mean, I wouldn't
9 give that in my history if I had a blowout fracture. I mean, I'm asking -- I ask them if
10 they've had any history of glaucoma, retinal detachment, cataracts.

11 Q Right.

12 A Those are the three things I usually ask them. That's what I consider
13 more significant ocular history.

14 Q And are those matters that you have to rely on the patient reporting to
15 you, or are those matters that you can observe independently based on your training
16 and education?

17 A Well both. I mean, the part I'm saying now is what I ask them, but then
18 when I do the physical examination and look with the slit lamp, you know, I can see
19 if they've had cataract surgery. I mean -- you know, I -- you know, they'll be an
20 implant there rather than a lens. I mean -- and this happens all the time. I say, you
21 ever had any eye problems; no, no, nuh-uh, nuh-uh. And then I look with a slit lamp
22 and there's two implants in there and I go, well, you had cataract surgery; oh, yeah,
23 yeah, I had cataract surgery. I mean, that's pretty standard stuff. It's not, you
24 know --

25 Q Ms. Sudano asked you if a prior -- if a history of lupus would've had any

1 impact on your observations or treatment. I would ask you the same question
2 regarding any sickle cell anemia.

3 A No, sir. I mean, these are medical issues that we have to deal with
4 [indiscernible] and they have to be cleared for surgery --

5 Q Right.

6 A -- but not the actual causation of the problem.

7 Q What was your prognosis after you conducted your affairs to Ms.
8 Carpenter's --

9 A Well --

10 Q -- eye orbit, I guess?

11 A I always tell people it's never gonna be perfect. You know, it's just not.
12 You're dealing -- now in her case -- let me just get the timeline again. The -- I saw --
13 the assault was supposedly on 5-1-14. And I operated on her on -- what date did I
14 give you there?

15 THE COURT: 6-14 maybe?

16 THE WITNESS: Yeah, so that's, you know, a month and a half later. That's
17 not good. The optimal time to operate is ten days to two weeks by our academy. All
18 literature tells you that because after that, I always tell the patient God's been
19 healing it. And if there's material that's in the orbit that's into the sinus now, there's
20 already scar tissue around that and everything else, so it's not -- the prognosis is not
21 nearly as good. If it's a fresh fracture, ten days to two weeks -- and it's the same if
22 you fractured your arm. You wanna -- they want to set it right away before it starts
23 to heal itself, so that's one thing that I always tell the patient about.

24 The other issue is that, you know, the numbness of the cheek, upper lip
25 and teeth area could be permanent in nature. And I actually can make it worse by

1 fooling around with it during the operation because the nerve that cause -- it's call in
2 the infracillary nerve, and that goes right through the bone that's been fractured. So
3 when we're leaving the fracture we're traumatizing that nerve some more. We tell
4 patients that if it comes back it takes a full six months to come back, and then it may
5 not come back at all. It feels like you've been to the dentist on one side. People
6 can't see it. You know, they don't -- they don't -- they can't -- it's not a motor
7 problem. They can't see like one side of your face being numb --

8 MR. SHETLER: Right.

9 THE WITNESS: -- but, you know, you feel it. And people have trouble
10 chewing; they bite their tongue. It's an annoying thing.

11 BY MR. SHETLER:

12 Q Is that factor -- is the timeframe that took place here -- and let me lay a
13 little foundation. I'm sorry. If there was no -- if she sustained this injury -- Ms.
14 Carpenter sustained this injury and there was no -- if I use the words displacement
15 of any of the eye orbit is that --

16 A Enophthalmos.

17 Q I can't say that word. I can't do it. I'm sorry. The -- if there was no --
18 you said there are times you don't repair this injury; is that right?

19 A Correct.

20 Q One of those times --

21 A This wasn't one of those.

22 Q -- would be -- right.

23 A This wasn't one of those.

24 Q Is that factor -- you said there were two factors. A double -- or at
25 least --

1 A Right.

2 Q -- two factors you mentioned. I don't mean two factors exclusively, the
3 double vision or the displacement --

4 A Right, enophthalmos.

5 Q -- enophthalmos. Would the timeframe, the six weeks that had
6 transpired, would that also be a factor in making that decision?

7 A No, it wouldn't be a factor in the decision making process. A decision in
8 the prognosis -- it's a factor in the prognosis, that's the problem.

9 Q Can you elaborate a little bit on that?

10 A Well, it's like I said, the optimal time to operate is ten days to two
11 weeks. When I go in there -- and I told you I lift up the stuff, you know, and try to put
12 it back where it belongs and then put the implant in -- slide the implant in. It's a lot
13 easier when the stuff hasn't stuck down and made a scar. It's -- you know, it --
14 when it's made a -- it's already -- when it's six weeks already it's tough because it --
15 it's made a scar with the sinus tissue; now it's merged with that. Any -- anything
16 heals, you know, so it makes into a scar and it's tougher to separate the stuff that
17 should be in the orbit from the stuff that's in the sinus.

18 And I tell all the patients that, you know. It's -- you know -- you know, I
19 had a kid last week that, you know, was hit by a soccer ball and had a fracture
20 around the eye and I told him I was going to -- I operated this past weekend and I
21 told him I'd fit him in and they were busy. They had stuff to do, so I said, well, that's
22 not real smart, but that's what they chose to do. So in this case, I didn't have a
23 choice because she came to me, which is very common by the way. By the time
24 they get to me I'm a tertiary guy; it's already past ten days to two weeks. They don't
25 send them right away.

1 Q Is that -- when you talk about the difference in the diagnosis or the
2 prognosis is that also a factor in whether or not it's going to be covered by insurance
3 or not covered by insurance. That timeframe --

4 A No.

5 Q -- not an issue at all?

6 A No, insurance covers it if they have the two criteria is what I -- that's not
7 a criteria whether they're going to cover it or whether I'm going to do it. I've done
8 fractures six months later, you know, but I tell them that, you know, the prognosis is
9 worse; that's all. It's not a Fixodent.

10 Q Is it possible that another doctor with your training would have looked at
11 Ms. Carpenter's injury and said it did not need to be repaired surgically?

12 A Well, anything's possible. I don't think it would be good medicine, but
13 anything's possible.

14 Q Do you believe there's any part of your treatment of Ms. Carpenter that
15 wasn't necessary? And I mean that with all due respect, doctor.

16 A Oh, absolutely not. I would tell you if I did.

17 Q Do you have --

18 A Absolutely not.

19 Q -- do you have, as you sit here today -- did you have any opportunity to
20 visit with Ms. Carpenter after your follow-up visit?

21 A No. And, you know, that's unusual in itself because what my usual
22 pattern is, is I see people like a week or, you know, eight days or ten days
23 depending on when we do the surgery. If I did it on a Saturday I'll see them like a
24 week from Monday or Tuesday for their first post-op visit and then I see them three
25 months later. And apparently she didn't come for the three month later appointment,

1 but, you know, that's when I usually see them because then I see if, you know, A
2 they're -- you know, what -- if something else has to be done or not. Insurance
3 doesn't usually approve a second surgery until three months anyway, so that's why I
4 have them come back three months later to see if they need any more surgery. But,
5 you know, no news is good news too. A lot of people don't come back when they're
6 doing better.

7 Q So if she -- if Ms. Carpenter had report to other individuals three months
8 later that she was worried about losing her vision, would you have expected her to
9 show up for your appointment?

10 A Once again, the vision part is not mine.

11 Q Nothing to do with this injury?

12 A I wouldn't be dealing with this surgery. You know, they would go to her
13 -- I think she went to Dr. Yee and Dr. Voo. Dr. Yee is a general ophthalmologist
14 corneal specialist and Dr. Voo is a retinal specialist, so they would be more handling
15 the actual vision part of it.

16 Q If she had complaints like that to a third party and didn't follow up with
17 any of those doctors would you be surprised?

18 A Nothing really surprises me. I mean -- you know, I have -- honestly,
19 nothing really surprises me. I have patients that lost -- I had one patient this year
20 that I -- I treat a lot of thyroid disease around the eye. That's the orbital problem,
21 you know, because the eyeballs stick out, the opposite problem to this, and I've had
22 two patients in the 20 years of practice I've been here in Las Vegas who went blind
23 in the eye from -- that they didn't have surgery and that their optic nerve was
24 compressed. The first one, you know, normally called me that minute and, you
25 know, we worked on it and that's a normal response. The second one came a

1 month later to my office, which I just can't understand. I mean, people would call me
2 if they have a contact lens flipped inside out --

3 Q Right.

4 A -- you know, and someone goes blind in the eye --

5 Q Right.

6 A -- and doesn't call you for a month. So people have denial and nothing
7 surprises me is what I'm saying.

8 Q Doctor, when you used the recent example of the child who was injured
9 by the soccer ball, that was a different type of injury; is that correct?

10 A No, actually a soccer ball can cause a blowout fracture if the ball is --
11 you know, goes right in -- oh, actually -- I'm sorry. It wasn't the soccer ball, it was
12 the knee in the that did it.

13 Q Uh.

14 A Okay, while they were playing soccer.

15 Q It doesn't seem ideal, no.

16 A You know --

17 Q And that was not a reportable event because there was a logical history
18 of how that came about --

19 A Right, and --

20 Q -- that you were comfortable with?

21 A -- you know, the coach was there too. I mean, everybody was there.

22 Q Right.

23 A It wasn't a -- besides the mom -- and the -- but the injuries can be just
24 as bad. I'm actually -- you know, I have dealt with this more than regular orbit
25 surgeons because UCLA in the infinite wisdom sent me to Martin Luther King

1 Hospital for 13 years in my -- when I first started in practice, so I'm a trauma
2 specialist. There's no designation for that, but I'm the one who's taking care of lots
3 and lots of trauma.

4 MR. SHETLER: We're all glad you're out there doing that. Thank you,
5 doctor.

6 If I could have the Court's indulgence for just one moment?

7 THE COURT: Yep.

8 MR. SHETLER: Doctor, Your Honor, thank you. We don't have any further
9 questions at this time.

10 THE COURT: Okay. Any redirect?

11 MS. SUDANO: No, Your --

12 THE COURT: Hold on. Sorry.

13 MS. SUDANO: No, Your Honor.

14 **QUESTIONS BY THE COURT**

15 THE COURT: Okay. Just a quick question. I just -- because probably
16 everybody understands this but me. Where did you see Ms. Carpenter?

17 THE WITNESS: In my office.

18 THE COURT: Which is --

19 THE WITNESS: In Summerlin.

20 THE COURT: -- in California?

21 THE WITNESS: No, in Summerlin.

22 THE COURT: In Summerlin.

23 THE WITNESS: I'm a Nevada resident. I live here. I just have maintained
24 my UCLA professorship --

25 THE COURT: Uh --

1 THE WITNESS: -- and I go there once a week. And I'm actually -- I'm
2 missing my flight right now --

3 THE COURT: Sorry.

4 THE WITNESS: -- to testify here.

5 THE COURT: I apologize for inconvenience, but I do appreciate it.

6 So you -- where was the surgery done?

7 THE WITNESS: At Sunrise.

8 THE COURT: At Sunrise; okay.

9 Anything else?

10 MR. SHETLER: No, Your Honor.

11 MS. SUDANO: No, Your Honor.

12 THE COURT: Okay. Thank you, doctor, I do appreciate --

13 THE WITNESS: Thank you.

14 THE COURT: -- you making your way here.

15 Okay. Next witness.

16 MS. SUDANO: State calls Corla Carpenter.

17 THE MARSHAL: If you could step up in the box and remain standing. Raise
18 your right hand and face that gentleman right there.

19 **CORLA CARPENTER**

20 [having been called as a witness and being first duly sworn, testified as follows:]

21 THE COURT CLERK: Thank you. You may be seated.

22 Please state your complete name, spelling both your first and last name
23 for the record.

24 THE WITNESS: Corla Carpenter, C-O-R-L-A C-A-R-P-E-N-T-E-R.

25 THE COURT CLERK: Thank you.

1 **DIRECT EXAMINATION**

2 BY MS. SUDANO:

3 Q Good afternoon, Ms. Carpenter.

4 A Good afternoon.

5 Q Do you know Genaro Perry?

6 A Yes, I do.

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

8 A Yes, I do.

9 Q Would you please point to him and identify an article of clothing he's
10 wearing today?

11 MR. SHETLER: Your Honor, we'll stipulate to [Indiscernible] Perry.

12 THE COURT: Okay, so stipulated.

13 BY MS. SUDANO:

14 Q Now, Ms. Carpenter, how did you first meet the Defendant in this case?

15 A I first met Mr. Perry when I was taking some boxes or some -- moving
16 some things from my car to my condo and he was walking down the street going to
17 visit a neighbor in the same condo complex and he offered to carry one of the
18 articles for me.

19 Q Do you recall approximately when that was?

20 A Maybe September -- August -- sometime in the summer part of 2012, I
21 believe. Maybe --

22 Q Now, did you have --

23 A 2013; I'm sorry.

24 Q So summer of 2013?

25 A Yes.

1 Q Did you have occasion to meet him -- or see him again after that first
2 time in the summer of 2013?

3 A I believe it was a couple months later he was back visiting the same
4 neighbor. And she had told him what I was doing and --

5 Q What were you doing?

6 A I owned my own independent paralegal service. I was working with a
7 team of attorneys throughout the State.

8 Q Now did the Defendant have a legal matter that he asked you to help
9 him with?

10 A Yes, at that time he was being evicted from an apartment and he asked
11 if he could -- if I could help him in some way, so I had him make an appointment with
12 me.

13 Q At some point did your roman -- or your relationship become romantic?

14 A It did.

15 Q When was that?

16 A Towards fall.

17 Q Later on in that same fall?

18 A Right, that same year towards the fall.

19 Q So 2013?

20 A Yes.

21 Q Now how long did you date?

22 A The complete relationship from start to finish?

23 Q Yes.

24 A My best guess would be six to eight months, somewhere in there.

25 Q So it started fall of 2013, when did you break up?

1 A The end of April 2014.

2 Q Now was your relationship physical during that period, fall of 2013 to
3 spring of 2000 -- or -- sorry -- fall of 2013 to 2014 in the spring?

4 A When you say physical what do you mean?

5 Q Was it sexual in nature?

6 A It got sexual at some point.

7 Q About when did it get sexual?

8 A Towards the winter of 2013.

9 Q Did it continue on that course? Was it still sexual up until the end of
10 April 2014?

11 A It was off and on.

12 Q Now I want to draw your attention to the end of April 2014. Were the
13 two -- you said the two of you broke up?

14 A Yes, I broke up with him. I ended the relationship.

15 Q Do you recall when that was?

16 A Yes, it was mid to the end of April 2013.

17 Q 2013?

18 A 2014; I'm sorry.

19 Q Now I want to fast forward a little bit to April 30th of 2014. Were you and
20 the Defendant dating on April 30th of 2014?

21 A No, we were not.

22 Q Had you seen the Defendant since you broke up a couple weeks prior?

23 A No, I had not.

24 Q Had you been in communication with him at all?

25 A Yes.

1 Q How was that?

2 A Via text message.

3 Q Now did there come a time on April 30th of 2014 that he came to your
4 house?

5 A I'm sorry, repeat that.

6 Q Did there come a time on April 30th of 2014 where the Defendant came
7 to your house?

8 A Yes.

9 Q How did that come about?

10 A What I recall happening is he showed up to my home and he asked to
11 be let in. And I told him I didn't want him at my house without a police escort and he
12 showed up anyway.

13 Q So just to be clear, had you invited him over to your house on April 30th
14 of 2014?

15 A No.

16 Q And approximately what time did he arrive on April 30th of 2014?

17 A It was later in the evening, so -- and when I say evening, late evening,
18 so 10 p.m. or on --

19 Q Okay.

20 A -- being I was already in bed.

21 Q Now where were you living on April 30th of 2014?

22 A In my attorney's condo at 2461 Old Forge Lane, Apartment 106 --

23 Q Okay.

24 A -- or condo 106; sorry.

25 Q Is that here in Clark County, Nevada?

1 A Yes.

2 Q Now when the Defendant showed up at your house on April 30th of
3 2014 did you let him in?

4 A Eventually, yes.

5 Q How did that come about?

6 A He had told me he had been in a fight that night and he needed his
7 blood pressure medication.

8 Q Was the blood pressure medication at your house?

9 A Yes, it was.

10 Q Was that just something that had been left there when you were dating?

11 A Yes.

12 Q So is that why you agreed to let him come into the house?

13 A Yes.

14 Q Were there any additional conversations that took place that night
15 between you and the Defendant?

16 A Once I let him in I told him he had to leave in the morning. I also was
17 very dry. I didn't have too much conversation. I made it known there would be no
18 physical interaction with us and I soon went back to sleep.

19 Q Now you say back to sleep. Were you asleep before he came to your
20 house on the 30th?

21 A I believe so. I was already in bed. It was pretty late.

22 Q Now did the Defendant spend the night over at your house that night?

23 A Yes, he did.

24 Q Where did he sleep?

25 A He slept in my bed.

1 Q Now where were you sleeping?

2 A I slept in my bed.

3 Q So I want to fast forward then to the following morning on May 1st of
4 2014. Was the Defendant still in your bed when you woke up?

5 A I think he had gotten up before me and had went to use the restroom.

6 Q Do you know approximately what time you woke up?

7 A It was seven in the hour -- seven o'clock hour.

8 Q In the morning?

9 A Yes.

10 Q Now -- so you said the Defendant had gotten up and gone to the
11 bathroom?

12 A Yes.

13 Q Was he still in the bedroom when you woke up?

14 A Yes.

15 Q Was he clothed?

16 A Yes.

17 Q What about shoes; was he wearing shoes?

18 A Yes.

19 Q How about you; were you clothed?

20 A I was clothed. I normally don't wear clothes when I sleep, but I did have
21 on a -- like a sports bra, but from the waist down I was not clothed. That's how --
22 more comfortable sleeping.

23 Q So that's just your normal practice, I guess?

24 A Normal pattern; yes.

25 Q Okay. Now did you ever have a conversation with the Defendant on the

1 morning of May 1st of 2014?

2 A When I got up that morning, I believe I asked him -- I didn't wake up
3 talking to him as if it was normal, but I did say, okay, you know, you spent the night.
4 You had a chance to take your blood pressure medication, I want you to leave.

5 Q How did the Defendant respond to that?

6 A He started using profanity. He started making remarks about my
7 mother that were unkind. And at that point I kinda knew I was in trouble because he
8 still appeared agitated.

9 Q When you say he still appeared agitated, when was he agitated
10 previously?

11 A I noticed he was agitated that evening, but I just dismissed it as he had
12 just been in a fight, 'cause that's what he told me, so he was still worked up. I was
13 not alarmed at that point, but in the morning he was aggressive and he was moving
14 kinda fast paced in my room. He was cursing. He was making up -- you know, just
15 using obscene language about my mother. And that really upset me and I realized,
16 oh, God, I should've followed my gut; I'm in trouble now, so I went to grab my
17 phone.

18 Q Now where were you when you went to grab for your phone?

19 A In my bed.

20 Q Were you lying down or sitting up?

21 A I sat up at that point.

22 Q Where was your phone?

23 A In close proximity to me.

24 Q Was it on the bed or --

25 A It was on the bed.

1 Q Now where was the Defendant when he started to get agitated and you
2 were reaching for the phone?

3 A He was standing in front of my bathroom door.

4 Q Is that still in the bedroom?

5 A Yes.

6 Q Okay. So master bedroom --

7 A With an attached bathroom.

8 Q Now what, if anything, happened when you went to reach for your
9 phone?

10 A He charged towards me; took my phone and threw it up against the
11 wall.

12 Q What did you do after he took the phone?

13 A I think I ran -- or walked -- ran or walked, but in a hurriedly fashion, to
14 my bathroom so that I could kinda close myself in there till he calmed down. I don't
15 know why I was going to the bathroom, but I knew I was trying to get away from him.

16 Q Did the Defendant say anything to you when he took your phone or
17 when you were going to the bathroom?

18 A He said -- he used some more obscene language. I don't recall the
19 exact pattern of obscene language, but he told me I was not going to call the police
20 on him.

21 Q Was that when he took your phone?

22 A That was when he saw me reaching for my phone.

23 Q All right. So prior to taking the phone he said you're not calling the
24 police?

25 A Yes.

1 Q Okay. Now was he making any additional statements as you were
2 going into the bathroom?

3 A I don't recall.

4 Q What happened -- well, did you make it to the bathroom?

5 A Not quite.

6 Q What happened before you got to the bathroom?

7 A He punched me in my face.

8 Q And when we say he you're talking about the Defendant; correct?

9 A Yes.

10 Q Now, just to be clear, were you -- were you dressed at this point?

11 A No.

12 Q So same top, no bottom situation as before?

13 A Correct.

14 Q Had you taken a swing at the Defendant at this point?

15 A No.

16 Q Did you have any weapons or anything in your bedroom?

17 A No.

18 Q Now what happened after he took a swing at you?

19 A I fell backwards into the restroom; I hit my head on the toilet and -- the
20 toilet and the tub are in close proximity, so I kinda tumbled over and landed on my
21 back.

22 Q Now what happened after you tumbled over and landed on your back in
23 the bathroom?

24 A He started punching me in my face. I started screwing. He told me to
25 shut the fuck up. He started punching me some more, so a struggle did ensue. At

1 that point, I was in defense mode and so I bit his -- bit his hand and that allowed the
2 grasp of him and his -- his punches making contact to my face to stop. And I got up.
3 I was able to get -- get to the point where I got up and I took off down my stairs.

4 Q Now approximately how many times did the Defendant punch you while
5 you were in the bathroom?

6 A I think five or less.

7 Q Is it more than one?

8 A More than one.

9 Q Now, just to be clear, did you ever punch the Defendant or hit him other
10 than the biting?

11 A No.

12 Q Okay. Now was the biting enough for you to get out of the bedroom at
13 that point?

14 A Yes.

15 MS. SUDANO: Your Honor, may I publish Exhibit 13?

16 THE COURT: Go ahead.

17 MS. SUDANO: And permission to publish all the exhibits.

18 THE COURT: Yeah, they're all admitted; go ahead.

19 MS. SUDANO: Thank you.

20 BY MS. SUDANO:

21 Q Ms. Carpenter, I'm showing you State's Exhibit 13; do you recognize
22 what's depicted in that photo there?

23 A Yes.

24 Q What is that?

25 A That's my bedroom.

1 Q And that's how it looked on May 1st of 2014?

2 A Yes.

3 Q Now what part of the bedroom specifically are we looking at in this
4 photo?

5 A There's a -- the shoe closet, a fan, an end table and a bed -- or excuse
6 me, two mattresses.

7 Q Now -- so off to the left is that shoe closet and then your bed is in the
8 bottom right of this photo; is that fair?

9 A No, off to the right of the room -- oh, you mean on this picture?

10 Q Yeah.

11 A Yes, off to the left.

12 Q Okay. Now showing you also Exhibit 14; what's depicted in Exhibit 14?

13 A That is the restroom and the proximity to the door to exit out of my
14 master bedroom.

15 Q Now, Ms. Carpenter, if you actually touch that screen you can indicate
16 on there what you're talking about. So where's the bathroom door depicted?

17 A This is the bathroom room.

18 Q So that's the door to the left in this photo?

19 A Yes, and this is the door exit to get out of the master bedroom.

20 Q And that's the door to the right?

21 A Correct.

22 Q So when -- can you also see the corner, I guess, of the mattress or the
23 bed in this photo?

24 A Yes, I do.

25 Q And is that in the bottom right?

1 A Yes.

2 Q Okay. So just using this photo can you walk us kinda through where
3 the altercation with the Defendant started and where it ended up in the bedroom?

4 A Sure. So when I knew I was in trouble and he came and snatched my
5 phone and threw it up against a wall that's not in this photo --

6 Q Okay.

7 A -- I walked this way to kinda get to my -- my bathroom. And right
8 around here is where I was punched and then fell into the restroom. And actually
9 my feet were kinda hanging out of the door here and I was on my back into the
10 restroom.

11 Q Now -- so you were indicating that you walked from the bottom right of
12 this photo up to the left towards the bathroom, and you were punched right around
13 the doorway to your bathroom?

14 A Yes.

15 Q Okay. And then after you left the bathroom you walked towards the
16 door to exit your bedroom, which is the door on the right?

17 A I didn't walk; I ran. I scurried out of there as fast as I could.

18 Q And then you indicated that you started to go down your stairs; is that
19 fair?

20 A I was running down the stairs.

21 Q Were you able to make it all the way down the stairs?

22 A No.

23 Q What happened?

24 A So on the staircase it is a set of stairs, a landing, and then a set of
25 stairs that takes you downstairs. When I got to about the landing I was kicked in the

1 back and I tumbled down the rest of the stairs into the kitchen.

2 Q Now who kicked you?

3 A Genaro Perry.

4 Q So you said you kinda tumbled down the stairs into the kitchen?

5 A Yes.

6 Q Where did you land in the kitchen?

7 A I landed on my stomach in front of the stove.

8 MS. SUDANO: And if you tap -- will you tap either the bottom left or the
9 bottom right of that screen it will clear out those marks for me. Perfect. Thank you.

10 BY MS. SUDANO:

11 Q Now I'm showing you State's Exhibit 6; do you recognize what's
12 depicted there?

13 A Yes, I do.

14 Q What's that?

15 A That is the bottom -- towards the left side of the screen that's the
16 bottom part of the stairs. And then that's the kitchen -- leading into the kitchen. And
17 there's also a little half bath, and the garage, so --

18 Q Now I know this isn't the best picture to do this, but can you kind of
19 indicate on State's Exhibit 6 how you ended up in the kitchen?

20 A Sure. So I was tumbling down these stairs from him kicking me and I
21 slid right here and here's the stove. There's some clutter on the counter, but the
22 stove sits in the middle here, but I landed here on the floor on my stomach kinda in a
23 fetal position.

24 Q What happened while you were in the fetal position in the kitchen?

25 A Genaro Perry continued to punch me in my face, and kick me with

1 boots on in my head, and punch me in the eye, and kick me on my right side
2 because I was laying in a fetal position on my left side, so I took several blows to my
3 face via his foot and his fist.

4 Q Now when you say several blows, do you recall approximately how
5 many times he struck you?

6 A I don't. I wasn't counting, but I remember pleading for him to stop.

7 Q Now I'm going to show you --

8 MS. SUDANO: Can you clear that out for me, Ms. Carpenter?

9 THE WITNESS: Sure.

10 BY MS. SUDANO:

11 Q I'm showing you State's Exhibit 7; now is that a different angle of that
12 kitchen?

13 A Yes, it is.

14 Q And can you see better where you were located at that point?

15 A Yes.

16 Q Now -- go ahead; I'm sorry.

17 A No, I was just gonna say right around where this blue towel is is kinda
18 where I landed.

19 Q And so that's right in front of -- or the middle of the picture to the left of
20 the stove?

21 A Yes.

22 Q Now you said that you were begging for the Defendant to stop hitting
23 you?

24 A Yes.

25 Q At some point did he stop hitting you?

1 A Yes.

2 Q What happened when the Defendant stopped hitting you?

3 A What do you mean what happened? I don't understand.

4 Q Well, so let's back up. Prior to him, I guess, stopping hitting and kicking
5 you, was there ever a point where anything else happened in the kitchen?

6 A Yes.

7 Q What happened in the kitchen?

8 A So obviously I'm not the best housekeeper; I own that. So there was --
9 actually I had had a steak dinner the night before. There was actually a knife that I
10 had left on the stove. I think it was like one of the only knives I owned. He picked it
11 up and he started to attack me with the knife. So after that -- after -- I started to
12 blackout briefly. And I was pleading and begging for him to stop and -- you know,
13 not to hurt me, don't kill me, I was screaming. And I sat up and he took that knife;
14 he began to swing it at me, and then he drug me up and then walked me into the
15 living room with the knife at my back.

16 Q Now when he was swinging that knife at you did he ever strike you with
17 the knife?

18 A He did.

19 Q Where did he strike you?

20 A My hands.

21 Q Now you said that he picked you up and dragged you into the living
22 room at knife point?

23 A No, I sat up and he kinda drag -- when I say dragged, he was gripping
24 me. I don't recall where, but he had a really strong hold onto the shirt that I was
25 wearing and then he had the knife to my person and walked me into the living room.

1 Q What happened when you got to the living room?
2 A He told me to sit on the loveseat that I had in the living room at the time.
3 Q Did you sit on that living -- or that loveseat in the living room?
4 A Yes.
5 Q Now did you want to sit on the loveseat in the living room?
6 A No, I didn't want to sit there.
7 Q Why did you sit there?
8 A Because he had a knife on me.
9 Q What --
10 A He -- when -- he had the knife still in his possession and he did not
11 allow me to go anywhere else.
12 Q Now showing you State's Exhibit 21.
13 MS. SUDANO: If you could clear that out for me one more time.
14 THE COURT: What exhibit?
15 MS. SUDANO: Twenty-one, Your Honor.
16 THE COURT: Thank you.
17 BY MS. SUDANO:
18 Q Now what's depicted her in Exhibit 21?
19 A That is the loveseat that I had to sit on at his demand.
20 Q And that's to the right of this photo?
21 A Yes.
22 Q Now what happened while you were sitting on the loveseat?
23 A He paced in front of me and I sat there holding a Bible and bleeding.
24 He's pacing and acting very erratic. He then threatened me several more times. He
25 also made a statement, look at your eye; look at what you made me do. He made

1 the statement, because he knew from a previous marriage I was married to a Muslim
2 man, and he said you're going to go see Allah tonight. And I sat there -- I don't
3 know if you could see it, but there's -- for whatever reason a Bible on that couch. I
4 don't read the Bible daily, so I'm not sure how it even got there. I just sat there,
5 kinda gripped the Bible like, oh, my God, this is how I'm gonna die.

6 Q Now how long were you on the couch?

7 A About 50 minutes.

8 Q Fifty, 5-0?

9 A Fifty, 5-0.

10 Q Now the entire time you were on the couch where was the Defendant?

11 A He was standing in front of me pacing back and forth. I don't know if
12 you have slides to show it, but there's a fireplace. He was walking back and forth in
13 front of the fireplace with a knife in his hand making more plans to kill me.

14 Q When you say that was he making additional statements?

15 A He was.

16 Q Do you recall any of those statements?

17 A Yes. He said, I'm going to kill you. I'm gonna -- he said, I'm going to
18 kill. He said, I'm going to leave you here until this evening and you're gonna die.
19 He was cursing and saying things about my family, my children, my ex-husband; he
20 was a very jealous person. And I think -- what -- what really stood out was you're
21 gonna go see Allah tonight. And I just -- I just thought, oh, my God, this is how I'm
22 going to die. And my sister and everybody else told me so; I should've let this man
23 alone.

24 THE COURT: Okay. What --

25 MR. SHETLER: Objection, Your Honor. This is beyond the scope. There's

1 no relevance; there's no foundation for what's going on here.

2 THE COURT: Sustained, so I'll strike the last part of that answer. Go ahead.

3 MS. SUDANO: And, Ms. Carpenter, I just want to focus on what you did. I
4 don't want to focus on what anybody else told you; okay.

5 BY MS. SUDANO:

6 Q Now at some point do you get up off the couch?

7 A I do.

8 Q Where'd you go?

9 A I exited to the half bath downstairs.

10 Q Where was the Defendant when you went to the half bathroom?

11 A Behind me with the knife in my back.

12 Q Was he making you go to the half bathroom?

13 A No, he wasn't making me go to the half bath, but at that point --

14 instinctually, by being a paralegal, I was like well, if I'm gonna die I'm gonna leave
15 some evidence to show that there was a struggle, I was bleeding, something
16 happened. So I went to wipe blood on the wall and spit in the sink because I was
17 bleeding so heavily. And because he had made the statement previously, look at
18 your eye, I wanted to see my eye. I hadn't seen it before then, but I know I was
19 bleeding profusely as I sat on the couch.

20 Q Now I'm showing you Exhibit 10; what's depicted in Exhibit 10?

21 A That's the half bathroom that I exit -- that I went into from the living
22 room and I wiped my hand on the wall as I went in.

23 Q Let me zoom in on that a little bit. Can you mark on this photo where
24 you wiped your hand?

25 A Sure.

1 Q And so that should be your blood, I guess, on that doorway in the
2 middle of the photo?

3 A Yes, it is.

4 MS. SUDANO: Okay. If you'd clear that for me, please, Ms. Carpenter.
5 Thank you.

6 BY MS. SUDANO:

7 Q I'm showing you now Exhibit 12; what's depicted in Exhibit 12?

8 A More blood.

9 Q And is this also in your half bathroom?

10 A It is.

11 Q Now you'd indicated something about the sink?

12 A Yes.

13 Q Can you sort of see the sink in that photo?

14 A It's a pedal stool sink off to the right.

15 Q Now what was it specifically that you were doing with regards to the
16 sink?

17 A So I walked up to the sink to look at my eye because there's also a
18 mirror above the sink. I again wiped my hand down the side of the wall to leave
19 more blood evidence, and then I spit and I looked at myself in the mirror.

20 Q Was that the first time that you were able to see your injuries?

21 A Yes.

22 Q Now what, if anything, happened after you looked in the mirror?

23 A I was numb. I just looked -- Genaro Perry was still behind me with the
24 knife and I just tried to act as normal as possible like I was just going to spit -- I was
25 just gonna spit; kind of damp the blood off.

1 Q Now where did you go after you left the bathroom?

2 A He escorted me back to the couch.

3 Q You sit back down on the couch?

4 A Yes.

5 Q What, if anything, happened this time while you were sitting on the

6 couch?

7 A I'm looking for ways to escape. I'm looking towards the door to see it's

8 locked. To see do I have enough time to unlock the door and run. Do I have

9 enough time to grab something to get him to -- to be able to fight him back and win.

10 I'm terrified at this point, but I sit there. And then I say to him -- so I realized I don't

11 have time to do that. He's gonna catch me; he's gonna kill me. So I say to him, it's

12 going to be okay. I start telling him things to kinda get him to calm down; it's going

13 to be okay. My eye will heal. We'll be fine.

14 Q Now did he say anything back to you at that point?

15 A I don't recall.

16 Q At some point does the Defendant obtain some of your property?

17 A Yes. So we sat there for a little bit longer and he observed the keys on

18 a coffee table that I had downstairs and he --

19 Q Specifically what keys?

20 A The keys to my Mercedes Benz.

21 Q What kind of Mercedes do you have?

22 A I have a CLK430.

23 Q What year is that?

24 A A '99, I think. It's a '99.

25 Q Now do you recall the license plate number to that car?

1 A No. I can give you a partial, I believe, because I just wrote it down for
2 something, but I don't recall the entire --

3 Q What's the partial that you remember?

4 A I believe LTU.

5 Q Now I'm going to come back to the car in a little bit, but what happened
6 when the Defendant found your car keys?

7 A He stated, I spoke up for you on this car and I'm going to take it.

8 Q Did you understand what he mean when -- or what he meant when he
9 said I spoke up for you on the car?

10 A Yes.

11 Q What did that mean to you?

12 A He was there when I was purchasing the car.

13 Q When did you buy it?

14 A March that same year.

15 Q So March of 2014?

16 A Yes.

17 Q How much did you pay for the car in March of 2014?

18 A Nearly \$5,000.

19 Q Now --

20 A It was marked at \$4,200, but when they added taxes and things, doc
21 fees, it was about \$5,000.

22 Q So it was \$4,200 plus tax?

23 A Yes.

24 Q Did you ever have occasion to go onto a website and obtain the value
25 of that car?

1 A Yes.

2 Q When did you do that?

3 A After Mr. Perry was arrested and one of the prior DAs that was handling
4 this case asked me to get the value.

5 Q What was the value of that car when you looked it up?

6 A Five thousand, one hundred and some odd dollars.

7 Q Now -- so I want to go back to -- the Defendant said, you know, I spoke
8 up for you when you got this car. What did he do at that point?

9 A He took the keys and then he marched me upstairs.

10 Q Did he still have the knife on his person -- or on him when he was
11 taking the keys?

12 A Yes.

13 Q Did he do anything with that knife while he was making the statements
14 about I spoke up for you?

15 A No, not while he said that. He still had it in his hand, but not to me.

16 Q Now at some point you said he marched you upstairs?

17 A Yes.

18 Q Can you explain that a little bit?

19 A He told me to get up. He took the knife and put it to my back. He
20 marched me up the stairs, me being in front of him, he was in the back of me with
21 the knife in my back. He told me that he was going to leave in the car and that if I --
22 if I left out of the bathroom, because he marched me up to a secondary bathroom.
23 Not the one that you showed as an exhibit earlier, but there's another bathroom
24 attached to another bedroom upstairs, and he stated to me that if I left and tried to
25 come after him before he left in the car -- excuse me. If I left out of that bathroom

1 before he left my home in my car before the garage shut he would kill me.

2 Q Now you brought up a good point. You said you went to a different
3 bathroom. I guess, how many bedrooms are in your condo?

4 A Two.

5 Q How many bathrooms?

6 A Three total.

7 Q So is it the one downstairs that we're looking at in this photo here --

8 A Yes, that's a half bath --

9 Q -- Exhibit 12?

10 A -- downstairs and one in each of the bedrooms upstairs.

11 Q Okay. And so this was the bedroom not in -- or excuse me -- the
12 bathroom not in your bedroom?

13 A Yes.

14 Q Now did the Defendant say anything else to you while you were going
15 up to that bathroom?

16 A I don't recall, but I -- I do recall him going back into the bedroom that he
17 attacked me in and grabbing my only form of communication that I owned in the
18 home.

19 Q What was that form of communication?

20 A It was a Samsung Galaxy cell phone.

21 Q Was that the same cell phone that he thrown against the wall earlier?

22 A Yes.

23 Q Now what, if anything, did he do with that phone the second time?

24 A So once he had barricaded me in the restroom and told me not to leave
25 or he would kill me, he took that phone and threw it in the toilet.

1 Q Did he make any additional statements when he threw the phone in the
2 toilet?

3 A He said something about you won't be able to call the police.

4 Q Now what happened -- well, did the Defendant still have the knife when
5 he came back into the bedroom that second -- or the bathroom that second time?

6 A Yes, he did.

7 Q What happened after he threw the phone in the toilet and told you that
8 you couldn't call the police?

9 A I sat there.

10 Q Did the Defendant stay in the bathroom?

11 A No, he left.

12 Q When you say he left, did he leave the room or did he leave the house?

13 A He left the bathroom. He exited because I heard the garage door open
14 and I heard my car start. And I assumed when I heard the motor to my car start he
15 left in my car, so I ran out of the bathroom at that point.

16 Q Now -- so your car was obviously parked in a garage?

17 A Yes.

18 Q When you ran out of the bathroom did you go downstairs to the
19 garage?

20 A Yes.

21 Q Was your car still there?

22 A I didn't go immediately. I actually ran out to -- outside to a neighbor's
23 home.

24 Q What was the purpose of running to the neighbor's home?

25 A I was bleeding half to death; I needed help. I wanted to -- I wanted him

1 to be apprehended shortly after he left my home so, you know, he could be
2 prosecuted for what he had done.

3 Q Now when you left your house were you able to find a neighbor or
4 anybody outside?

5 A No.

6 Q What did you do at that point?

7 A I ran back upstairs praying like please let this phone work; please let
8 this phone work and I got it out of the toilet.

9 Q Now once you got your phone out of the toilet what did you do?

10 A I started banging the water out of it, trying to get the power on, and I
11 called 9-1-1.

12 Q So the phone worked enough for you to call 9-1-1?

13 A Yes.

14 Q Did the police respond?

15 A Yes, they did.

16 Q Now are you still at the house when the police show up?

17 A Yes, I am.

18 Q Did the police show you anything or ask you about anything that was
19 located in your garage?

20 A Yes, they asked me how did the knife -- a bloody knife get in my
21 garage.

22 Q Now I'm showing you here Exhibit 26; do you recognize what's depicted
23 in the exhibit?

24 A Yes.

25 Q What is that?

1 A That is the steak knife I had on my stove that he attacked me with.

2 Q Now around this steak knife -- and I've got a better picture for you in a
3 minute. What's around the steak knife in that photo?

4 A A lamp he had given me, a bottle of water, a lighter. And I'm not sure
5 what this is. This was there when I moved in. I think it was some construction
6 materials left over from before I moved there.

7 Q I'm going to show you Exhibit 25. Is that just kind of a zoomed out
8 picture of that same area?

9 A Yes, it is.

10 Q So where is this area?

11 A So on the -- the other side of this wall is the half bath. You walk outside
12 and this is the garage and sort of a landing here. And then in this area is where my
13 car was parked.

14 Q And so obviously there's no car there, right, at the point this picture's
15 taken?

16 A Yes.

17 MS. SUDANO: Now if you clear the screen for me.

18 BY MS. SUDANO:

19 Q Zooming back in, this item here in Exhibit 26, that's the knife you were
20 talking about?

21 A Yes.

22 Q And not your normal practice to leave the knife in the garage?

23 A No.

24 Q Okay. Now at some point after the police arrive do you leave the
25 house?

1 A Yes, I do.

2 Q Where'd you go?

3 A To my sister's. Well, my sister picked me up and she took me to my

4 mother's house.

5 Q Why did your sister take you to your mother's house?

6 A Because he had the keys to my house and she did not -- and she was

7 in fear of my safety and she didn't want me there alone, because I lived alone,

8 knowing that at any moment he could come back and finish me off, so she made me

9 leave.

10 Q Now when we're saying he there you're talking about the Defendant?

11 A Yes.

12 Q And she is your sister?

13 A Yes.

14 Q Why did the Defendant have your keys?

15 A Because they were attached to my car keys.

16 Q So they were on some sort of key ring?

17 A Yeah.

18 Q Prior to this day had the Defendant had a key to your house?

19 A No.

20 Q Had he had a key to your car?

21 A No.

22 Q Now at some point do you also go to the hospital?

23 A Yes.

24 Q When did you go to the hospital?

25 A Later that evening.

1 Q When you went to the hospital were you able to talk to some doctors?

2 A Yes.

3 Q Now I want to talk a little bit about your injuries now. So we heard
4 about your eye. What was -- specifically what happened with your eye?

5 A I had a right orbital blowout and it was fractured, it was swollen, I had a
6 black -- two black eyes at this point.

7 Q Did you have any additional fractures to your face?

8 A I did. I had a broken nose.

9 Q Now did you have to undergo any sort of treatment for the injuries to
10 your eye?

11 A Yes.

12 Q Specifically what treatment?

13 A Initially I had to see a specialist that had to determine what damages
14 were done to my eye. And then I had to -- I had started seeing what's called flashes
15 and floaters, so I had to see a retina specialist to make sure that I didn't have a
16 detached retina. And then I had to -- they diagnosed me with an onset of glaucoma
17 due to trauma, so I had to go see another doctor -- another specialist that treated
18 that particular injury. And then I started seeing -- well, I didn't start seeing -- I had
19 been seeing a pain management doctor, but I had -- the hospital had notified my
20 pain management doctor that I had -- had some pretty serious injuries and was it
21 okay for them to -- because I had signed a narcotic agreement, if it was okay, and
22 the doctor said give her anything she needs. He was --

23 Q Now -- so prior to this day -- prior to May 1st of 2014, you said that you
24 were already seeing a doctor for pain management?

25 A Yes.

1 Q Why is that?

2 A I have been diagnosed with lupus -- systemic lupus.

3 Q And that was obviously prior to May 1st of 2014?

4 A Yes.

5 Q Now -- so you said that you got some pain medication and then you had
6 some other things going on; you received additional diagnoses. Did you ever have
7 to have any surgery after this incident?

8 A Well, I didn't actually get -- I got pain medication in the hospital. I opted
9 not to take any away from there because I normally got that from my pain
10 management doctor. But I -- was the question did I have any more treatment?

11 Q Yes.

12 A Yes, I did. I started seeing -- I had surgery on my eye where they
13 placed an implant in my face to build the orbital wall that was damaged so that my
14 eye could sit back in its proper place. I started going to physical therapy. And I
15 started seeing a retina consultant and a -- his name is Doctor Singh, and it leaves
16 me what practice he works for right now, but I started seeing him for the glaucoma --
17 the induced glaucoma due to trauma.

18 Q Now --

19 A And I also started seeing a psychiatrist.

20 Q So you said you were going to physical therapy?

21 A Yes.

22 Q Why were you going to physical therapy?

23 A Because as I laid in a fetal position in my kitchen and he stomped me,
24 and kicked and punched me, he did some damage to the right side of my hip area.
25 And I gotten to the point where I just wasn't walking well and it's something my pain

1 management had asked me to follow up with. He wrote a prescription for I think
2 eight -- eight weeks of physical therapy.

3 Q Did you go to all eight weeks of that physical therapy?

4 A We -- I went to four; they extended it. I went to four more and then after
5 that I would go sporadically.

6 Q Now prior to May 1st of 2014 were you going to physical therapy for any
7 hip issues?

8 A No.

9 Q Now did you have any additional physical injuries after May 1st of 2014?

10 A I was pretty battered and bruised, but you know I had two black eyes, a
11 fractured nose -- a broken -- fractured nose. I had bones sticking out of my face
12 where it was a concern with my eye. I was really sore. I was seeing physical --
13 physical therapy and then -- I had sore ribs all from laying in that fetal position and
14 getting beat -- beaten.

15 Q Now are you still undergoing treatment for your glaucoma?

16 A Yes.

17 Q Prior to May 1st of 2014 had you been diagnosed with glaucoma?

18 A No.

19 Q What treatment are you undergoing for that glaucoma?

20 A At this point, they were -- I became a glaucoma suspect due to trauma.
21 And what they had me on was a steroid called prednisonal [sic] -- prednisonal [sic]
22 eye drops, artificial tears, and there's another one that I use as needed that I don't
23 recall the name of.

24 Q And are you still on the prednisone and that other eye drop?

25 A Yes.

1 Q Now additionally you had an eye surgery to replace your -- or to repair
2 your eye socket; is that correct?

3 A Yes.

4 Q Are you still following up with any issues with regards to your eye
5 socket?

6 A I still follow up with the retina consultant because of the flashing and
7 floating and I have one more surgery scheduled. They're try -- my face from the
8 right over is numb because of the nerve damage that Mr. Perry caused when he
9 was beating me. So I'm numb and so the doctor is trying to help stimulate those
10 nerves so I can get the feeling back in my face.

11 Q Now prior to May 1st of 2014 had you had any nerve damage or nerve
12 issues with the right side of your face?

13 A No.

14 Q Now you said you had one more surgery.

15 A Yes.

16 Q Have you previously had some surgeries with regard to that nerve
17 damage?

18 A Yes, I had two -- in addition to Dr. Leibowitz, I've had two additional
19 surgeries to try to rejuvenate the nerves to get them -- get the numbness out.

20 Q Now -- and you said you have a third surgery scheduled?

21 A Yes.

22 Q In addition to the numbness, are you having any additional issues with
23 the right side of your face?

24 A Yes, when I -- when I eat hot or cold foods -- mainly hot foods, like a
25 slice of pizza, sometimes if I forget that I can't eat like I used to be able to, I'll bite

1 into the pizza and it burns so bad the right side of my face because that's all
2 damaged. And I don't know exactly how it works, but I feel the heat from the top of
3 my lip all the way to the upper part of my eye and near this part of my cheek.

4 Q And you're indicating kind of just to the right part of your cheek where
5 your molars are?

6 A Right.

7 Q Is that an issue that you had prior to May 1st of 2014?

8 A No. And I forgot to say this. I also lost teeth and so those -- I'm seeing
9 a dentist for the repair of the teeth he kicked out as well.

10 Q How many teeth did you lose?

11 A Two.

12 Q And you lost those May 1st of 2014?

13 A It wasn't that day. They fell out shortly after that. I don't recall the day
14 that I actually noticed I had loose teeth and had to go see a dentist for that, so I
15 don't -- I don't recall.

16 Q Now did you say that those teeth have been replaced now?

17 A No. I'm actually in the process of getting my whole mouth
18 reconstructed, so -- that was the recommendation from the dentist because of -- I
19 guess he wasn't able to just go in and fix what was damaged. He had to kinda
20 repair teeth next to it as well.

21 Q And so is that treatment ongoing today?

22 A Yes.

23 Q At some point are you going to have to have dental surgery?

24 A Yes.

25 Q Do you know how many teeth are going to have to be replaced or what

1 area of your mouth they're in?

2 A On the right side of my face they're -- I'm gonna have an implant put in
3 as soon as they're done moving the teeth back into a normal space and that is
4 gonna occur next year.

5 Q Prior to May 1st of 2014 did you have any dental issues that would
6 require surgery and reconstruction?

7 A No, it would've been cosmetic things that I would've just liked to have,
8 but they weren't considered necessary.

9 Q So maybe you were going to get adult braces or something along those
10 lines?

11 A Possibly, but it wasn't in the works.

12 Q Now are you still in any sort of pain from the incident on May 1st, 2014?

13 A Yes.

14 Q Can you describe that?

15 A Sure. So there are times in -- where I'm -- if I'm eating something hot
16 that my face burns. That's painful. There are times where I'm in hip pain. That --
17 that can be very painful. And I have this throbbing issue in my eye that's ongoing
18 and I think that -- that is about it.

19 Q Okay. And prior to May 1st of 2014 did you have any issues with the
20 throbbing pain in your eye?

21 A No.

22 Q I think I already asked you about the other two. Now I want to follow up
23 with you a little bit more about your glaucoma. I believe you already said that you
24 had not been diagnosed with glaucoma prior to May 1st of 2014.

25 A Correct.

1 Q Now I think you also testified that you have glaucoma suspect?

2 A That's what Dr. Singh indicated that I was a glaucoma suspect due to
3 trauma.

4 Q Now is it possible that you're going to lose your eyesight in your right
5 eye?

6 A I have not gotten a definitive yes or a definitive no from any of my
7 doctors 'cause that was a concern. I had asked some very specific questions
8 regarding, you know, the implant in my eye; how it's gonna affect me long term and
9 the nerve damage in my face because of, you know, the implant and the kicking.
10 And the answers that I get is that there's no guarantee that that feeling will ever
11 come back.

12 Q Okay. And there's also no guarantee about what could potentially
13 happen with your eyesight?

14 A Correct.

15 Q Okay. Now -- so we talked about your medical treatment and that all
16 started the evening of May 1st, 2014; right?

17 A Yes.

18 Q Now I want to fast forward to the next day, May 2nd of 2014. Did you
19 have occasion to go back to your house on May 2nd, 2014?

20 A Yes.

21 Q Why did you go back?

22 A I went back -- I don't know. That was my home. I wanted to go back,
23 grab some things. I just went back.

24 Q Did you take any precautions on May 2nd when you went back to the
25 house?

1 A I did.

2 Q What did you do?

3 A Well, first of all, I didn't go alone. And I also called for police suspect --
4 a police escort because my keys were still missing -- they weren't missing. Mr.
5 Perry had left with them, so I didn't know if he was hiding in the house waiting to
6 finish me off, and I had taken a girlfriend.

7 Q Now when you got back on May 2nd, 2014 did you take any additional
8 steps; you do anything else at the house?

9 A I did. I had bought a lock to rekey my home. And the metropolitan
10 SWAT had come with one of the K9s and sniffed the house out to make sure that
11 there was no one hiding in there.

12 Q Okay. Now were you able to change the locks on your front door?

13 A I wasn't, but the police assisted me in doing so.

14 Q Okay. Now while the police were there helping you change your locks
15 did anything else happen regarding this case?

16 A Yes. I figured I better try to find my car, so I called my finance company
17 and said, hey, I know this thing has GPS on it, do you think you can help me locate
18 it, and they said -- I kinda explained to them what had happened and they said sure,
19 right away. So they did do a search and they located the car.

20 Q Now do you recall where your car was located?

21 A Not the specific address, but I know the vicinity in which it was found.

22 Q And what was that vicinity?

23 A It was off of Karen Avenue and just before you hit Paradise in some
24 rundown type of apartments.

25 Q Now had you ever been to that apartment complex before?

1 A No.

2 Q To your knowledge, did the Defendant have any connections to that
3 apartment complex?

4 A Yes.

5 Q Okay. Now about how far away from your condo was that apartment
6 complex?

7 A One mile.

8 Q And were you able to recover your vehicle that day?

9 A Not that day I don't think. It was parked in such a way that the tow truck
10 wasn't able to get to it so -- I don't know if they got to it later that evening, but they
11 eventually got it.

12 Q Okay.

13 A I'm not sure if it was that day or the next day.

14 Q But at some point the vehicle's returned to you?

15 A Yes.

16 Q Is there any reason you couldn't just drive it home?

17 A I didn't have the keys.

18 Q Is there only one set of keys?

19 A Yes.

20 Q And that was the set that the Defendant took?

21 A Yes.

22 Q Okay. Now I want to talk to you, Ms. Carpenter, about an incident that
23 happened in 2012. Did you have occasion to go to a T.J. Maxx on July 2nd of 2012?

24 A Yes.

25 Q Now can you give us a little bit of the backstory about why you went to

1 that T.J. Maxx?

2 A Sure. I had a girlfriend that owed me some money. The money was
3 allocated already to purchase my severely disabled daughter's summer school
4 clothes because he had attended what's called ESY, extended school year, and she
5 had asked me to meet her there.

6 Q Now did you go to that T.J. Maxx?

7 A Yes, I did.

8 Q Were you able to meet this woman there?

9 A Yes, I did.

10 Q Did something else happen while you were in the store?

11 A Yes, it did.

12 Q Tell me about what happened.

13 A Sure. So I got there -- but prior to me arriving there she had kinda led
14 me on a goose chase. I had just gotten out of the hospital from having like a spinal
15 tap surgery, so we had been to a Walgreens; we had been to a bank, and this was
16 finally what I considered shenanigans. And so when we finally got to T.J. Maxx I
17 was really irritated.

18 Q So you meet her at the T.J. Maxx; right?

19 A Yes.

20 Q What happened inside the T.J. Maxx?

21 A I chased her. We had a brief argument and I chased her through the
22 store. I think I had a weapon. It was a crowbar and I chased her. What happened
23 was when we had the altercation she did not have the amount of money that she
24 had said she would have. And at that point I was furious. All I could think about is I
25 am so sick, and here it is my daughter has to return to school, and she's led me on a

1 goose chase and I lost my temper. And I went to threaten her. I didn't go to hurt
2 her; I went to threaten her. And when she started running I started chasing her.

3 Q Now, Ms. Carpenter, do you take responsibility for that action?

4 A Absolutely.

5 Q Did you plead guilty to a misdemeanor assault and a misdemeanor
6 carrying concealed weapons?

7 A Yes.

8 Q Now did you complete the requirements that were outstanding in that
9 case?

10 A Yes, I did.

11 Q Now I want to direct your attention now back to that day on May 1st,
12 2014. Did one of the police officers take your photo?

13 A A detective took -- a crime scene detective took photos of me; yes.

14 Q Now I'm going to show you State's Exhibit 29 here; do you recognize
15 that photo?

16 A Yes.

17 Q What's depicted there?

18 A That's me.

19 Q Is that how you looked on May 1st of 2014?

20 A Yes.

21 Q Can you show -- or tell the Judge some of the things that we can see in
22 that photo?

23 A So my right eye at that point is swollen shut. And actually my left eye
24 was closed because it was painful to keep it open, but they had asked me to open it
25 so that they could get pictures. At that point, I was laying down on a mattress that I

1 had put downstairs for my daughter because she is legally blind and it's hard to
2 maneuver her up and down the stairs, so I was laying on that mattress that I had
3 took downstairs. And then I have on a -- the bloody sports bra that I had slept in,
4 but when I slept in it it wasn't bloody. That blood came from me bleeding from the
5 injuries that I had from a broken nose, a busted lip and a fractured eye.

6 Q Okay. Now so this sports bra, is that what you were wearing when you
7 went to sleep on the -- or the night of April 30th of 2014?

8 A Yes.

9 Q Okay. Now I'm going to zoom in a little bit with this. This is Exhibit 30.
10 Is that just a closer-up photo of you?

11 A Yes.

12 Q And can you see kinda the blood a little bit better on your face there?

13 A Yes.

14 Q Okay. What I want to show you next is State's Exhibit 35; do you
15 recognize that photo?

16 A Yes.

17 Q When was that photo taken?

18 A I think that may have been a photo I took of myself.

19 Q Okay. Was that that same day, May 1st of 2014?

20 A I don't believe so. I think that was a couple of days later.

21 Q So this would've been a couple days after May 1st of 2014?

22 A Yes.

23 Q Now what can we see in this photo from a couple days after May 1st of
24 2014?

25 A Well, you can start to see that the swelling has taken place, so you can

1 see busted lips; you can see my nose is quite larger than what it normally is, and
2 you can see a black -- a black eye on the left side, but on the right side you can see
3 kind of a bone sticking out in the lower part of my eye and it was pretty much closed
4 shut.

5 Q I also want to show you Exhibit 36. Let me reposition that. So is that
6 another photo that you took a couple days later?

7 A Yes.

8 Q Now this is the top photo on Exhibit 36. Can you see some of those
9 other injuries that you were talking about; for instance, the black eyes?

10 A Yes.

11 Q And can you also see the bone sticking out or kind of the deformity on
12 the right side of your face?

13 A Yes.

14 Q And can you see the swelling to your nose? Is that a yes?

15 A Yes.

16 Q Okay. Now is the swelling worse in these photos than the photos that
17 were taken by the detectives and the crime scene folks?

18 A Yes.

19 Q Okay. And is that just because it was later on?

20 A Yes.

21 Q Now I'm going to show you kind of this other one. This is the bottom
22 photo on State's Exhibit 36; what's depicted there?

23 A My left eye was blackened and I had some swelling to my lips from him
24 punching me and -- as if -- I had blood clots in my nose because I wasn't able to
25 blow it -- get that -- that sort of dried out blood from out of there.

1 Q Now next I want to show you Exhibit 37. Let me zoom out there.

2 What's depicted in Exhibit 37 here?

3 A Cuts to my hands.

4 Q Now when was this photo taken?

5 A I don't recall.

6 Q Was it the same time that you took the pictures of your face?

7 A Yes, I believe so.

8 Q So a couple days after May 1st of 2014?

9 A Yes.

10 Q Now are these the cuts that we had talked about previously?

11 A These were defensive wounds from what happened in the kitchen of
12 me trying -- to kinda get him off of me and plead for my life; yes.

13 Q Now specifically you say defensive wounds. What were you defending
14 against?

15 A Him slicing at me with that knife that he found in the kitchen.

16 MS. SUDANO: Court's indulgence, Your Honor.

17 Your Honor, no further questions.

18 THE COURT: Okay. Why don't we take a short break; okay.

19 MR. SHETLER: Your Honor, if it would be okay to take slightly longer than
20 short, just a few moment to go over a few things with my client and then make a
21 phone call?

22 THE COURT: Okay.

23 THE MARSHAL: All rise. Court's now in recess.

24 [Recess taken at 3:34 p.m.]

25 [Proceedings resumed at 3:51 p.m.]

1 THE MARSHAL: Please rise. District Court Department 6 is back in session.

2 Please be seated.

3 MR. SHETLER: Thank you, Your Honor.

4 THE COURT: Sure. Okay, cross.

5 MR. SHETLER: Yes.

6 Ms. Coleman [sic], my name is Travis Shetler and I represent Mr. Perry.

7 I'm going to ask you some questions. If you need to take a break, if you need some
8 water -- I just need to get some information out; okay?

9 THE WITNESS: Okay, but my name isn't Miss Coleman. It's Ms. Carpenter.

10 MR. SHETLER: Thank you, Ms. Carpenter; I apologize.

11 THE WITNESS: No problem.

12 MR. SHETLER: Jury or no jury you still get a little nervous, you know.

13 **CROSS-EXAMINATION**

14 BY MR. SHETLER:

15 Q Ms. Carpenter, I want to go back briefly to the T.J. Maxx incident before
16 we go over to the condo. Do you remember what weapon you told the Court you
17 had with you that day?

18 A I do. I think I said a crowbar.

19 Q Was there another weapon also?

20 A There was a knife; yes.

21 Q And you told the Court -- Mr. Perry knew about that incident; is that
22 correct?

23 A He did.

24 Q Did you -- you told the Court that you took responsibility for that
25 incident; correct?

1 A Yes, I did.

2 Q You said you pled to a misdemeanor case?

3 A Yes.

4 Q Was that how it was charged originally?

5 A It was not charged as a misdemeanor originally.

6 Q What was the original charge?

7 A I believe there were two charges. There was a charge of an assault
8 with a deadly weapon and I don't know the other charge.

9 Q You had mentioned that you'd recently undergone -- I believe you said
10 a spinal tap --

11 A Yes.

12 Q -- shortly before that? And I don't want to take a lot of your time on that
13 and I don't want to pry, but what type of symptomology were you having that
14 required the spinal tap?

15 THE WITNESS: I don't know. Am -- do I answer that?

16 THE COURT: Yes.

17 THE WITNESS: Okay. I don't recall exactly. I just know that when I got to
18 the hospital -- it was during that time I had a lot of complications, but when I got to
19 the hospital that's the procedure that the ER recommended.

20 BY MR. SHETLER:

21 Q Do you remember how long before the T.J. Maxx incident that was?

22 A Two to three days, I believe.

23 Q And were those -- the complications that you talked about having, were
24 those stemming from an accident of some type?

25 A No.

1 Q Did any of those complications you were having cause you to have any
2 problems with your vision?

3 A No.

4 Q Any problems with your teeth?

5 A No.

6 Q Any problems with insomnia?

7 A No.

8 Q Any problems with an inability to control your anger?

9 A I'm sorry, I don't understand where -- what you mean. Are you --

10 MR. SHETLER: I'll reask it. And, please, if I do ask a question sometimes I
11 get so excited about my own words just please ask me to repeat it; okay?

12 BY MR. SHETLER:

13 Q The -- you said, I believe -- I'm paraphrasing, bear with me. You said --
14 talking about the T.J. Maxx incident and the victim in that -- what was the victim's
15 name in that case?

16 A I don't recall her entire name at this point.

17 Q She led you on a goose chase all over town?

18 A Yes.

19 Q And I don't remember if you said you'd snapped or you just lost it. Do
20 you remember the words you used?

21 A I think I said I lost it.

22 Q That's what I'm talking about. Did the -- did the complication you were
23 having that led up to whatever other procedures were performed, including the
24 spinal tap, were those complication -- would they cause you to lose it or to not be
25 able to control your anger?

1 A No, it had nothing to do with the spinal tap. I was agitated at her.

2 Q Have you had any other incident where you lost control of yourself in
3 public like that?

4 A No.

5 MS. SUDANO: And, Your Honor, I'm going to -- I withdraw that
6 [indiscernible].

7 THE COURT: Okay.

8 BY MR. SHETLER:

9 Q How did Mr. Perry know about that incident?

10 A We shared several things in confidence with each other that we had
11 done in our past.

12 Q In the course of sharing the facts relating to the T.J. Maxx incident, did
13 you ever brag to him about the outcome of that incident?

14 A No, I did not.

15 Q Did you ever get the rest of your money?

16 A No, I did not.

17 Q On the incident that took place at the condo, did that incident stem from
18 a dispute about money or drugs?

19 A No, it did not.

20 Q Did you know Mr. Perry to be involved at all with drugs?

21 THE WITNESS: I'm sorry, Judge, can I speak to a counselor about that?

22 THE COURT: You need to answer the question.

23 MR. SHETLER: [Indiscernible] pending.

24 THE WITNESS: Okay, just answer that. I did.

25 ///

1 BY MR. SHETLER:

2 Q How was that?

3 A What do you mean, how did I know to -- know of it?

4 Q Yeah.

5 A He frequently had it on his person.

6 Q Did he have the drugs on his person to use, did he have it on his
7 person to see, or do you know?

8 A I'm not -- what drugs are you referring to because I know of a couple of
9 different types?

10 Q I'm just talking about drugs in general. Did Mr. Perry -- you said Mr.
11 Perry frequently had drugs on his person; correct?

12 A Yes.

13 Q Did -- do you have an opinion or do you know if he had those on his
14 person for his personal use, if he had those on his person to sell, or do you not
15 know?

16 A If we're referring to marijuana, he had that normally to use. I don't
17 really recall if he sold that or not. And he told me that he had crack. I had never
18 seen crack cocaine prior to meeting Mr. Perry, so there were times that he showed
19 me, but I never witnessed him using it; I never witnessed him selling it.

20 Q Now when you say using it or selling it are you talking specifically about
21 just crack cocaine or any other drugs besides marijuana?

22 A Just crack cocaine.

23 Q Did he -- did you ever have occasion to -- well, let me strike that. I
24 apologize. Did you ever help him sell drugs?

25 MS. SUDANO: I'm going to object as to the relevance of that, Your Honor.

1 THE COURT: Relevance?

2 MR. SHETLER: Your Honor, our position is that there was a dispute that
3 night that took place related to drug money, drug loans. And there are -- is evidence
4 in text messages that the victim was aware that Mr. Perry was involved in drug
5 usage, drug sales. And I'd like a little bit -- well [indiscernible] the answer. Anyhow,
6 I believe it's relevant because I believe that's what the source of the dispute possibly
7 could have been that night and a dispute over money that the victim believed she
8 was owed by the Defendant, which is referenced in text message.

9 THE COURT: Ms. Sudano?

10 MS. SUDANO: Your Honor, in going through the text messages there's
11 reference to money, but I don't believe that that's what the money is for. There's no
12 relevance or foundation for that question or that line of inquiry, frankly, in this case.

13 THE COURT: So your theory is that it's a dispute about drug money that
14 gave rise to this dispute.

15 MR. SHETLER: Specifically that the victim was expecting money from my
16 client that she wanted some of the money that evening. And --

17 THE COURT: And there's going to be some evidence relating to that in this
18 trial?

19 MR. SHETLER: The -- they're in the text messages, yes. I don't think it
20 would take special lawyering to get there, Judge.

21 THE COURT: All right, I'll give you some leeway. Go ahead. Overruled.

22 BY MR. SHETLER:

23 Q You were aware that -- you communicated by text message with Mr.
24 Perry frequently; is that right?

25 A Yes.

1 Q And do you remember sending him text messages in the vein of being a
2 drug dealer?

3 A Possibly.

4 Q Do you believe he was a drug dealer?

5 A Yes.

6 Q Do you know how much money he made as a drug dealer?

7 MS. SUDANO: Your Honor, I'm going to object. I don't think that we really
8 have the proper foundation for this laid at this point. I don't know what text message
9 we're talking about here or when.

10 THE COURT: Okay.

11 MR. SHETLER: I don't want to go -- I'll, of course, do whatever the Court
12 would like. I don't -- I don't think we need to spend a lot of time in the heart of those
13 messages, but I'm happy to do that, Judge.

14 THE COURT: So the question is what?

15 MR. SHETLER: Do you have any idea how much money he made as a drug
16 dealer?

17 THE WITNESS: He asked me did I help him sell drugs.

18 THE COURT: You can ask about the money. Go ahead.

19 BY MR. SHETLER:

20 Q Do you have any idea how much money Mr. Perry made over the time
21 that you knew him from selling drugs?

22 A No, I -- I have no idea.

23 Q Did you ever make any money from his sale of drugs?

24 A No, I did not.

25 Q Did you ever assist him in his travels to sell drugs?

1 A I several times gave Mr. Perry rides. I don't -- I didn't know what he
2 was doing. I didn't -- I gave him a ride; I sat in my car. I didn't witness him doing
3 anything other than getting out of the car and going into the places he needed to go
4 into.

5 Q Did Mr. Perry -- do you believe Mr. Perry owed you money that night
6 before he came over to the condo?

7 A Yes.

8 Q Do you know why he owed you money?

9 A Because he signed a promissory note stating that he owed me money
10 for \$1,250.

11 Q What was the reason for that note?

12 A 'Cause he borrowed the money from me and I wanted some sort of
13 paper trail on getting it back.

14 Q And that was the amount you loaned him was \$1,250?

15 A Yes.

16 Q You weren't going to make any interest on the deal?

17 A There was a clause in there regarding interest.

18 Q Do you know what he used that money for?

19 A Not specifically. I know what he told me he was gonna use it for.

20 Q What was that?

21 A He wanted to invest in a travel company and purchase a car.

22 Q Did you ever see Mr. Perry with trying to generate revenue from
23 prescription drugs?

24 A Did I ever see it; no.

25 Q Do you -- well, strike that.

1 On the -- do you remember texting with Mr. Perry the night before he
2 came over to the condo?

3 A Yes.

4 Q Do you remember telling him that you needed money the following day
5 for a doctor?

6 A That what?

7 Q That you needed money the following day for a doctor or doctor's
8 appointments?

9 A Possibly.

10 Q Do you remember him stating that he needed to get his medications
11 and identification from you?

12 A Yes.

13 Q Do you remember what you told him?

14 A I don't.

15 Q Before Mr. Perry came to your condominium that night was he -- were
16 you scared of him?

17 A I was leery, I wasn't scared, no.

18 Q And when you say leery can you elaborate a little, please?

19 A He tended to have erratic behaviors.

20 Q In public department stores; where?

21 A I wouldn't have any idea other than when he was with me the behaviors
22 he exhibited so. He tended to have erratic behavior when he was with me.

23 Q Can you give us an example, please?

24 A He would get upset when I was handling business with people from out
25 of town that needed -- two gentlemen that was coming from out of town to transact

1 business with me that I needed to pick up from the airport. He would get upset at
2 comedy clubs when the comedians on stage, whom I was friends with, would heckle
3 me and make jokes. He would get upset about that.

4 Q Jealousy stuff you're talking about?

5 A Yes.

6 Q Did he ever raise a hand to you?

7 A When? I don't understand.

8 Q Any time before the events we're talking about that night in the
9 condominium. Did he ever raise a hand to you?

10 THE WITNESS: Can I talk to counsel about that because she told me not to
11 bring up incidents.

12 THE COURT: Right, but defense counsel is inquiring so I guess defense
13 counsel is knowingly getting into this issue, correct?

14 THE WITNESS: Yes he did.

15 MR. SHETLER: Yes, Your Honor.

16 THE COURT: Okay. All right.

17 MR. SHETLER: Thank you.

18 THE COURT: Go ahead.

19 MR. SHETLER:

20 Q And did he use a weapon against you previously?

21 A No.

22 Q Did you ever have to seek medical treatment previously?

23 A Yes.

24 Q Can you tell the Court what kind of treatment that was?

25 A Well, I was pretty embarrassed that I was doing what someone -- that I

1 was taught to be unequally yoked with me. So when we had --

2 Q I'm really stuffed up myself. Can you repeat that? I don't -- I didn't hear
3 it properly.

4 A Sure. I was pretty embarrassed regarding the first time he put his
5 hands on me.

6 Q You used a phrase though.

7 A Unequally yoked.

8 Q Yoked. Thank you.

9 A So, what I did was I informed two of my closest friends and my doctor
10 that I had been strangled by the Defendant and I did not report it to police.

11 Q And how did he -- what did he use to strangle you with? Did he use his
12 hands or did he use an object or an item?

13 A I don't recall.

14 Q Do you remember how long prior to this incident that was?

15 A I believe it was in November 2013.

16 Q And do you remember how long it was you maintained a relationship
17 with Mr. Perry after that?

18 A It was off and on until April 2014.

19 Q Do you remember texting Mr. Perry the night before the incident that
20 we're talking about in this case at the condo; do you remember texting him about
21 sending his stuff to the police station to pick it up?

22 A Yes.

23 Q Do you remember texting him about putting his stuff out on the front
24 steps to pick it up?

25 A No.

1 Q Did he tell you how much money -- did he ever tell you he was going to
2 bring you any money that night?

3 A No.

4 Q Did you think he was going to bring you money that night?

5 A No.

6 Q Do you remember what time it was when he arrived at your condo?

7 A Not specifically, I know it was late in the evening.

8 Q Still dark outside?

9 A Yes.

10 Q If I said that you were still texting between, say, midnight and one a.m.
11 would that sound about right to you?

12 A Possibly.

13 Q And you think he arrived sometime between one a.m. and before the
14 sun came up; is that fair?

15 A Yes.

16 Q And can you tell me how you knew he was at your condo?

17 A I think he rang the doorbell.

18 Q Did you know it was him when he rang?

19 A Not when he rang, when I went to the door and asked him who -- you
20 know, who's there I knew it was him.

21 Q Did he ask for his items at that time?

22 A No.

23 Q What happened?

24 A He -- I opened the door and he explained to me that he had been in an
25 altercation and that he wanted to just come in and I think he said he wanted to

1 spend the night.

2 Q You didn't tell him no?

3 A No. He mentioned he needed his blood pressure medication so, that
4 was the basis of me not turning him away

5 Q Do you remember in the course of the texting conversations back and
6 forth telling him that if anybody showed up other than Metro you were going to call
7 the police?

8 A Possibly.

9 Q But you didn't do that?

10 A I did not.

11 Q You said after he arrived, shortly after he arrived, you went back to
12 sleep.

13 A Yes.

14 Q And, do you have any trouble with sleeplessness or insomnia?

15 A I have had trouble in the past, yes.

16 Q Were you experiencing any problems with that at that point in time?

17 A I don't recall.

18 Q Is it a big deal for you to be woken up in the middle of the night? Do
19 you go back to sleep easily or is it something that creates problems for you?

20 A Normally if I'm woken up it's difficult for me to go back to sleep.

21 Q In this case you were able to go back to sleep easily?

22 A I don't recall if it was easy or not but I went back to sleep.

23 Q Fair enough. Thank you for clearing that up.

24 Was there any place else Mr. Perry could have stayed that night other
25 than in your bed?

1 A I'm sorry, inside my apartment?

2 Q No, inside your bed with you. Is there some place else he could have
3 slept in the condo?

4 A Possibly, yes.

5 Q Did you suggest that he sleep somewhere else?

6 A No.

7 Q Did he tell you where he was going to sleep?

8 A No.

9 Q How did the decision come to be made that he was going to sleep in
10 your bed?

11 A He just got in the bed.

12 Q Were you comfortable with that?

13 A I didn't care.

14 Q Do you remember what it was that woke up, either you or him, in the
15 morning?

16 A I believe he woke me up.

17 Q Do you remember how?

18 A No.

19 Q Were you alarmed when he woke you up?

20 A No.

21 Q Do you remembered what happened after he woke you up when you
22 first felt threatened or scared or worried?

23 A Yes.

24 Q What was that?

25 A He started pacing the floor, cursing about my mother and other things

1 that he was unhappy with.

2 Q And was he dressed at that point in time?

3 A Yes.

4 Q Had on, what kind of shoes did he have on?

5 A I don't recall what kind of shoes. I know they were some sort of high-
6 top tennis shoes.

7 Q Did he have them on at that time as far as you could tell or you
8 remember?

9 A Yes.

10 Q At some point in time did he later put on some boots?

11 A No.

12 Q Do you remember testifying earlier that he was kicking you with a
13 boot? foot?

14 A Yes.

15 Q Are you talking about a different shoe or are you referring to the high-
16 top or?

17 A I was referring to the high-top sneakers.

18 Q So he's up pacing or moving in some sort of agitated manner and you
19 become concerned?

20 A Yes.

21 Q What do you do next?

22 A I reach for my phone.

23 Q What happens?

24 A He charges towards me and grabs the phone away from me and threw
25 it.

1 Q Where'd he throw it?

2 A He threw it against the southwest window in my room.

3 Q Did it break the window?

4 A No.

5 Q Did it hit the glass or some other part of the window?

6 A It didn't hit any part of the window he just threw it on that wall that the
7 window set on.

8 Q In that direction?

9 A Yes.

10 Q What happened next?

11 A So I was concerned at the level of irritability so I went to the bathroom
12 that was in my bedroom and I was -- my plan was to lock myself in there, I guess,
13 but I did quite make it in.

14 Q And that's when you told the Court that he hit you the first time in the
15 face?

16 A Yes.

17 Q I used a fist, I'm sorry; what did he hit you with?

18 A He hit me with his fist.

19 Q Do you know if it was his right or left fist?

20 A I don't recall.

21 Q And as you sit here today or even at that time, that morning, do you
22 have any idea what caused him to go from pacing to striking you?

23 A I have no idea.

24 Q At some point you were able to get up and try to leave the bedroom; is
25 that right?

1 A Yes.

2 Q And you made it to the stairs; right?

3 A Yes.

4 Q And of the stairs, you talked about stairs and a landing and stairs; are
5 they straight down stairs or do they make a turn at the landing?

6 A Um, I can go from my bedroom down about five steps, then there's a
7 landing, and then I go about another five steps.

8 Q Are you still going to the same direction though when you hit that
9 landing and keep walking or do you have to turn left or right from the landing to get
10 down?

11 A I go down the stairs I make a left, and then I go down the stairs and
12 make a right, a left to get off of them again, so two lefts.

13 Q They're not a straight staircase?

14 A No.

15 Q All right. And you testified that as you were going down the steps that
16 Mr. Perry kicked you and you fell -- tumbled down the rest of the steps; is that
17 accurate?

18 A Yes.

19 Q And you landed in the middle of your kitchen?

20 A Yes.

21 Q And you said you landed on your stomach originally; is that right?

22 A Yes.

23 Q And then you stated that you were in a fetal position?

24 A Yes.

25 Q And, was your face facing the -- so were on your side at that point

1 then?

2 A I was.

3 Q And were you facing the stove, were you facing away from the stove?

4 A I was facing the stove.

5 Q And what happened next?

6 A I kind of curled up in a fetal position and he continued to kick me in my

7 head and punch me.

8 Q So you were laying on right side or left side?

9 A My left side.

10 Q And he's kicking and punching you; where is he striking your body?

11 A My face, my right side. He's kicking and punching my right side

12 because I'm laying on my left side --

13 Q Right.

14 A -- kind of balled up trying to protect myself.

15 Q And you're facing the stove; right?

16 A Yes.

17 Q Is he between you and the stove?

18 A I don't know where he was.

19 Q You're positive he kicked you in the face?

20 A I'm positive.

21 Q You said you were blacking out a little bit?

22 A Somewhat.

23 Q Can you elaborate on that a little for us?

24 A I did not lose consciousness. I just remember my eye being swollen

25 shut and he was punching me so hard that I was kind of losing clarity, mental clarity,

1 kind of in and out.

2 Q Little bit surreal?

3 A I don't know if it was surreal, I just kind was in shock.

4 Q I don't take you through this for any other reason that I need to do this, I
5 apologize.

6 Is it possible he was standing between you and the stove?

7 A I don't know.

8 Q If he wasn't standing between you and the stove do you know how he
9 could have kicked your face?

10 A I don't know. I -- honestly I don't know. I just know that I was balled up
11 in a fetal position trying to keep from getting beat any further in my face and kicked.

12 Q I think you testified that you were having some pain problems in your
13 hip after this; is that accurate?

14 A Yes.

15 Q And those you believe were related to the incidents that you say that
16 Mr. Perry performed upon you?

17 A Yes.

18 Q Not related to any diagnosis or symptomology you had prior to this?

19 A I don't believe that the particular injuries I sustained after May 1, 2014
20 were lupus related.

21 Q Thank you, you knew where I was going. Did any doctor ever tell you
22 they were not related?

23 A What they did tell me is I didn't have a history and this was most likely
24 caused by the blows taken from Mr. Perry.

25 Q Let me take you out of that scene for just a second. You mentioned

1 that you had a pain management doctor; do you remember that?

2 A Yes.

3 Q Why did you have a pain management doctor?

4 A Because I've been diagnosed with sickle cell and lupus.

5 Q And what type of symptomology were you getting that caused you to
6 seek a pain management doctor?

7 A Joint pain mostly. Joint pain, I'm trying to think of what all I was treated
8 for, but it was mostly joint pain and joint swelling.

9 Q Was any of that related to the complications you were having prior to
10 the T.J. Maxx incident; do you believe any of those issues were related to your
11 diagnosis?

12 A No.

13 Q That was completely separate?

14 A It was a separate issue.

15 Q When you would have joint pain related to the -- before this incident
16 allegedly occurred, would it be random throughout your body, were there specific
17 areas that would suffer more than other areas?

18 A It was pretty random but normally my joint pain and swelling occurred in
19 places that bend such as my elbows, such my wrists, such my knees, anything that
20 bends or that I do repetitiously is normally where -- when I got the most pain.

21 Q Would it be fair to say that elbows and knees would be more of an issue
22 than say shoulders and hips; is that what you're trying --

23 A Yes.

24 Q Thank you. You mentioned to Ms. Sudano that you had -- you didn't
25 seek any other pain medication treatment when you went to get treated for the

1 injuries you allege were inflicted by Mr. Perry because you had your pain
2 management doctor; correct?

3 A Correct.

4 Q And you also mentioned specifically a narcotics authorization, I believe?

5 A Correct. I was under a pain management contract where I was not to
6 take any controlled substance from any other doctors besides my pain management
7 doctor, so when I was treated in the ER they gave me intravenous --

8 Q Right.

9 A -- medication.

10 Q They just called to clear that you gave -- you advised them of that and
11 they called to let the doctor.

12 A Yes.

13 Q Thank you. Did you ever obtain any prescription medications from Mr.
14 Perry?

15 A No.

16 Q Did you ever give him any prescription medications to try and sell?

17 A Not that I can recall.

18 Q Is it possible?

19 A Is it possible? I -- I don't recall. I'm jogging my memory regarding our
20 interaction. Mr. Perry knew that I received narcotic medication from my pain
21 management doctor.

22 Q A little or a lot?

23 A Did he know a little or are you asking about the quantity?

24 Q Did you receive a little or a lot?

25 A I received a therapeutic dose for what I was diagnosed with.

1 Q Were you under -- back at the T.J. Maxx incident, you did not have a
2 pain specialist at that point; is that correct?

3 A That's correct.

4 Q Did you have prescription medications on you that day?

5 MS. SUDANO: I'm going to object to the relevance of this, Your Honor.

6 THE COURT: Counsel?

7 MR. SHETLER: I'd be happy to lay some foundation, Your Honor.

8 THE COURT: Go ahead.

9 MR. SHETLER: I believe that it's possible that there was joint engagement in
10 the sale of prescription drugs. I believe that it's possible that the, I don't want to go
11 too far without a foundation, there are a number --

12 MS. SUDANO: And, Your Honor -- I apologize.

13 MR. SHETLER: That's okay.

14 MS. SUDANO: Continue. I'm sorry I didn't mean to interrupt you.

15 MR. SHETLER: There are a number of pills that were in her bag that day that
16 are not identified.

17 THE COURT: Okay.

18 MR. SHETLER: And, where I'm going is to try and determine if there was an
19 issue there that was existent and during the relationship with Mr. Perry, and that
20 could have influenced the incident that evening or morning is a better or accurate
21 statement.

22 THE COURT: Wait, there were pills in her bag the day of T.J. Maxx --

23 MR. SHETLER: Correct.

24 THE COURT: -- or the day of the incident with your client?

25 MR. SHETLER: T.J. Maxx.

1 MS. SUDANO: I think one, that assumes facts not in evidence; two, I don't
2 understand the relevance of something that happened a year and a half before this
3 incident before she even knew the Defendant.

4 THE COURT: Right. So, I'm sorry --

5 MR. SHETLER: Overrule?

6 THE COURT: I'm having trouble also, so.

7 MR. SHETLER: Okay. I'll withdraw the question, Your Honor. Thank you.

8 THE COURT: Okay. Sustained.

9 MR. SHETLER:

10 Q Can you tell me at some point in time he stops allegedly kicking and
11 hitting you in the kitchen floor; is that accurate?

12 A Yes.

13 Q What happens next?

14 A We kind of -- I sit up. I beg him and plead with him to quit hitting me
15 and I stand up. He kind of drags me up and marches me up into the living room.

16 Q And you talked about that earlier, kind of drag but you don't recall if it
17 was by an arm, by your hair, by your shoulders, or --

18 A No, when I say dragged I mean he more so dragged the article of
19 clothing that I had on.

20 Q Thank you. I'm sorry. Go ahead; he took you to the living room?

21 A He took me into my living room.

22 Q And what happened at that point?

23 A I sat down on the couch where he told me to sit and he began pacing in
24 front of me and threatening me, discussing things that had agitated him throughout
25 the time of our relationship so he talked about my ex-husband, my children, killing

1 me at seven p.m. that evening.

2 Q Why 7 p.m.?

3 A I don't know.

4 Q What caused him to go from pacing -- it was just trying to use your cell
5 phone that caused him to go from pacing to first reaching out and doing anything?

6 A I'm not following.

7 Q You wake up and at some point in time between waking up and all this
8 starting he's pacing and in an agitated manner. You feel the need to call for help;
9 right?

10 A Yes.

11 Q But you don't call for help because he takes your phone away; right?

12 A Correct.

13 Q And there was no incident that you're aware of that went from sleeping
14 to pacing to taking away your phone?

15 A I believe what happened was that he was still agitated by the fight that
16 he had told me he had the night before. I also had not -- I had not been in an
17 environment of drug users, what that behavior looked like. So when he woke up the
18 next morning and he was erratic, pacing, and cursing and talking about my mother I
19 didn't know whether he had been involved in some sort of illicit drugs or if he was
20 still hyped up about the fight he had gotten into the night before. All I know is that I
21 had asked him to leave the next morning, I had given him the privilege of staying the
22 night and taking his blood pressure medicine, I was ready for him to go ahead,
23 made that clear, and I went to grab my phone when I saw him acting erratic because
24 I knew at that point it was not gonna -- I was in some sort of danger. It wasn't gonna
25 lead to anything that I wanted it to lead to.

1 Q Why didn't he -- strike that.
2 After you go to the living room does he do anything to you, physically?
3 A Aside from holding me there against my will?
4 Q Right.
5 A He does not punch me or slice at me anymore. No.
6 Q And it was in the course of this slicing at you that your hands got cut?
7 A Yes.
8 Q Do you know why that's not in the police report?
9 A Because I was pretty dazed. I did make mention of quite a few things in
10 that particular time frame that I had to write the police report.
11 Q At any time during this night, morning in the condominium did you ever
12 initiate any aggression towards him?
13 A No.
14 Q Did you ever verbally harass, abuse, excite him?
15 A No.
16 Q This man who you told if he came to your house you're going to call the
17 police you decided, out of the kindness of your heart, to let him crash there; correct?
18 A I don't know that it was out of the kindness of my heart. Being
19 someone that needs medication I know what that's like to be in a position to be
20 without it, so it was empathy.
21 Q Empathy, that's a better description, thank you.
22 Do you remember the photograph Ms. Sudano showed you of the door
23 to the half bath that had the blood smear on the hinge?
24 A Yes.
25 Q Do you know what that blood was from?

1 A The blood was from my body. I don't know if it can from my nose, eyes,
2 lips but it was from my body.

3 Q Right. Was your hand bleeding?

4 A I don't recall what part of my body was bleeding at that point I was in
5 survival mode where I was just trying to leave some sort of evidence that a struggle
6 had occurred.

7 Q You used the word survival mode, previously, as well. Do you believe
8 at any point during your interaction with Mr. Perry that he was in survival mode?

9 A No.

10 Q Do you believe at any point during your interactions that he was scared
11 of you?

12 A No.

13 Q Have you ever given him reason, during the course of your relationship,
14 to be scared of you physically?

15 A No.

16 Q Have you ever threatened him verbally?

17 A When you say threatened, can you kind of be more specific?
18 Threatened bodily harm or threatened to leave him or, I don't understand.

19 Q Bodily harm.

20 A No.

21 Q When you gave him rides where he may or may not have been selling
22 drugs was that up and down Boulder Highway?

23 A Sometimes.

24 Q Do you remember when it was in your relationship that you were first
25 aware of drug activity?

1 A I don't.

2 Q Was it before this incident at the condo?

3 A Yes, it was.

4 Q You think it was before Christmas?

5 A I don't recall a specific time frame.

6 Q Was there anybody else in your condo during this time?

7 A No.

8 Q When you ran out to get help can you tell the Court what you did to try
9 and secure help?

10 A I ran across the way meaning adjacent to my apartment well, kind of
11 parallel actually, and I banged on a neighbors door. I heard someone home but
12 they didn't open the door.

13 Q Like heard voices inside?

14 A Yes. And at that point I just thought well I don't know if I would open my
15 door for a bleeding woman that looks like this either so I kind of ran back into my
16 home and ran upstairs to grab the phone to see if I could use the one form of
17 communication that I had in my home.

18 Q But it had been laying in the toilet for some time at least?

19 A Correct.

20 Q When the police showed up they took some photographs.

21 If I may approach?

22 THE COURT: Yes.

23 MR. SHETLER:

24 Q Correct?

25 A Yes, they did.

1 Q And then you took some photographs yourself a couple days later you
2 said; is that right?

3 A Yes.

4 Q You don't remember how many days later?

5 A It had to be maybe a couple because I had decided I was going to chart
6 the progress of my healing.

7 Q How long were you at the hospital before they released you to go to
8 your sister's home -- you went home but you went to your sister's house; right? Do
9 you remember how long?

10 A I didn't go to my sister's house I went -- she transported me to my
11 mother's home and I was treated and released from the hospital, I believe, the same
12 day.

13 Q I'm going to, with the Court's permission, put Exhibit 28 on the
14 overhead.

15 THE COURT: Go ahead.

16 MR. SHETLER:

17 Q And that's a picture that the police took; is that correct?

18 A Yes.

19 Q And I think it was 30 -- Exhibit 35, 36 and 37. I'm going to start with
20 Exhibit 35; and that you believe is a picture that you took of yourself?

21 A Yes.

22 Q And the same with 36?

23 A Yes.

24 Q And the same with 37, this is a picture of your hands; correct?

25 A Yes.

1 Q And it looks, on the bottom of the picture of 37, do you see the spot on
2 your knuckle there; there's a dark spot and then there's a not as dark spot, for a lack
3 of an artful term?

4 A Yes.

5 Q Do you know what that medium colored spot is?

6 A The little black dot or the --

7 Q No, the one next to the black dot. I don't have a good --

8 THE COURT: Why don't you put your finger on it.

9 MR. SHETLER: No pun intended.

10 THE COURT: Yes.

11 MR. SHETER:

12 A I believe that to be blood.

13 Q Blood, a couple days later?

14 And in the picture 36, the top picture, it looks like you're showing -- you
15 got your hair pulled back to get a good clear shot of your face; is that an accurate
16 statement?

17 A Yes.

18 Q And there's still quite a bit of blood still located around your mouth and
19 your nose; is that accurate?

20 A Correct.

21 Q And then do you see what top you're wearing in that picture?

22 A Yes.

23 Q Do you know what top that is?

24 A Looks like the same top that I had when the police showed up to my
25 home.

1 Q That's the top here in picture 28?

2 A Yes.

3 Q Exhibit 28, excuse me. You don't remember changing out of that top at

4 any time?

5 A No. This picture could have possibly been taken that same day.

6 Q And the same thing in 35; that looks like the same top?

7 A Yes.

8 Q And do you know what -- did you -- were those pictures taken with a cell

9 phone or with a camera or do you know?

10 A A camera.

11 Q Who's camera was that?

12 A My camera, I believe.

13 Q Did someone help you take those pictures?

14 A No, I don't recall, I don't think so.

15 Q Were they selfies?

16 A Yes. I do believe they were selfies.

17 Q But you didn't use the phone that was in the toilet?

18 A I don't know what phone I used. I had a couple of different cell phones

19 that I hadn't used in a couple of years since -- I had a nephew pass away and I had

20 kind of stored that phone without battery or SIM card so I may have pulled that one

21 out and begin to use that one to take selfies since the other one was damaged, but I

22 don't quite recall.

23 Q Did you have an opportunity -- did you ever try to get the phone from

24 the toilet, did it ever work later or did it just work for that 9-1-1 call, or do you know?

25 A I think, um, it eventually worked, sort of, like there was still some

1 features that did not work correctly.

2 Q I'm all too familiar with that, unfortunately.

3 Why do you think Mr. Perry took your car? Why do you believe --

4 MS. SUDANO: I'm going to object as to speculation, Your Honor.

5 MR. SHETLER:

6 Q Why did you tell the Court that Mr. Perry took your vehicle? You
7 testified that Mr. Perry took your car; correct?

8 A Yes, I did.

9 Q Why did you -- why do you believe that? Why do you believe it was
10 him; that's where I was trying to get. I apologize, Your Honor.

11 THE COURT: Okay.

12 MR. SHETLER:

13 Q Why do you believe it was Mr. Perry that took your car? I apologize to
14 the State as well.

15 A He took my keys in front of me when he was holding me hostage on the
16 couch in the living room. He marched me up my stairs at knifepoint and took me
17 into a bathroom where he asked me to stay until he left in my car and not to leave
18 the restroom until I heard the garage door up and there was no one else in the
19 home.

20 Q But you don't know if he drove your car away?

21 A I did not see him drive my car away.

22 Q Or if somebody else drove your car away?

23 A There was no one else in my home.

24 Q Once the garage -- the car was parked in the garage?

25 A Yes, it was parked in my garage.

1 Q And you heard the garage door open after Mr. Perry allegedly left you
2 upstairs in the bathroom; correct?

3 A Yes.

4 Q But somebody else could have taken the car?

5 A No.

6 Q It's not possible at all; 100 percent?

7 A I don't believe it to be possible.

8 Q That's fair enough.

9 What was the next time you saw Mr. Perry after this alleged incident?

10 A Two weeks later on Boulder Highway.

11 Q Can you explain how that came about?

12 A Sure. I was pretty determined that he would not go without -- he was
13 not gonna victimize me and think he was gonna walk the streets. So, I started
14 because I know that, you know, Metro doesn't have the manpower to go after one
15 criminal. They run into them and find out that they have an arrest, they arrest them.
16 But they -- he hadn't been charged for the crime that he had committed on me so I
17 figured I would assist and be proactive and helping locate Mr. Perry. So, I went in a
18 rental car that I had that my insurance had given me because my car had been
19 stolen by Mr. Perry and I went to places that I knew he would frequent hoping to
20 bump into him, and that day that I did bump into him. I called the police and said I
21 see him and he has a warrant. It was not at that time for me but I knew that he had
22 a warrant and I asked them to apprehend him and explained to him that I had been
23 attacked by the same person two weeks prior.

24 Q You believe that he had that warrant when he showed up at your condo
25 that night?

1 A Yes.

2 Q Is that one of the reasons you did not call the police?

3 A Yes.

4 Q Did you make any contact with Mr. Perry when you saw him on Boulder
5 Highway in the rental car?

6 A No.

7 Q Do you know how long it was before you got your car back?

8 A About a month and a half later. Well, they found it right away --

9 Q Right.

10 A -- but it had some damages to it so it went into a body shop and they
11 took a little longer to have it fixed.

12 Q Did you ever have an opportunity to say anything to Mr. Perry that -- the
13 police showed up after you called them.

14 A The police showed up and asked me not to say anything or approach
15 him.

16 Q Did you watch them take him into custody?

17 A Yes.

18 Q But you didn't say anything?

19 A No.

20 Q Do you know if he saw you?

21 A I don't.

22 Q How'd you feel when he got taken into custody?

23 A I don't know how I felt. I was upset, um, but I was happy to see that my
24 prayers had worked and that he was off the street.

25 Q Have you had any communication with Mr. Perry since that time?

1 A No. I was granted a TPO and an extension on a TPO. I've asked to
2 not never communicate with him.

3 Q And you haven't communicated -- you haven't reached out to him?

4 A No.

5 Q At any time during this altercation did you have the knife in your hand?

6 A No.

7 MR. SHETLER: May I have the Court's indulgence, please?

8 THE COURT: Mm-hmm.

9 MR. SHETLER:

10 Q After you received medical treatment you had several different
11 providers regarding your injuries; is that right?

12 A Yes.

13 Q And do you remember Dr. Leibowitz?

14 A Yes.

15 Q And Dr. Leibowitz did the reconstructive surgery; is that right?

16 A Yes.

17 Q And I want to -- you mentioned several times that there was a bone
18 protruding. You're not telling the Court the bone was through the skin are you?

19 A No.

20 Q Just that it was misshapen underneath; right?

21 A I read it in the medical report from Sunrise Hospital and Dr. Leibowitz.

22 Q All right. You said on being questioned on direct from Ms. Sudano that
23 you -- nobody could give you a good idea what was going to happen with your
24 vision?

25 A Correct.

1 Q And as you sit here today you still don't know that?
2 A I don't know that for sure.
3 Q You believe you may lose your vision in that eye?
4 A I don't know.
5 Q Did you do everything you could medically to try and insure that doesn't
6 happen?
7 A Yes, I have.
8 Q Do you remember having a post-op visit with Dr. Leibowitz?
9 A Yes.
10 Q And do you remember him telling you that he wanted you to come back
11 three months later?
12 A No.
13 Q If there was another appointment that Mr. Leibowitz -- Dr. Leibowitz
14 wanted you to go to would you have gone to that appointment?
15 A Yes.
16 Q And if he testified that you didn't would you have any explanation for
17 that?
18 A I would not?
19 MR. SHETLER: Thank you very much.
20 THE WITNESS: Thank you.
21 THE COURT: Redirect?
22 MS. SUDANO: Briefly, Your honor.

23 **REDIRECT EXAMINATION**

24 BY MS. SUDANO:

25 Q Now, Ms. Carpenter, you were asked whether you saw the Defendant

1 drive away in your car.

2 A Yes, I was.

3 Q And you didn't actually see him drive away?

4 A No, I did not.

5 Q Can you give us a time frame, how long before the Defendant left the
6 bathroom that you were in did you hear the car leave the house?

7 A Approximately 30 seconds.

8 Q Now, there was some communication or some questions about whether
9 or not you believed that the Defendant owed you money April 30th and into May 1st
10 of 2014.

11 A Yes.

12 Q And you testified that he did owe you some money.

13 A Yes.

14 Q Now, is one of the reasons that he owed you money also because you
15 were renting rooms for him?

16 A No, that's not one of the reasons although, I did rent rooms he paid for
17 them on his own.

18 Q So it was just the promissory note?

19 A The promissory note that he signed.

20 Q Now, there were also some questions about a prior incident with the
21 Defendant in this case and you said that, I believe, he choked you?

22 A He did, he choked me and banged my head up against my -- up against
23 the floor.

24 Q When was that?

25 A Sometime -- I don't recall but it was obviously prior to this incident. It

1 was sometime in the fall, the fall of 2013.

2 Q Now, you indicated also that you didn't report that first incident; is that
3 correct?

4 A I did not report it to the authorities.

5 Q But you told your doctor?

6 A I told my doctor and two of my closest friends, one of them is in the
7 courtroom today.

8 Q Now, why is it that you didn't tell the police about that?

9 A I was so embarrassed, I was completely embarrassed.

10 Q Why were you embarrassed?

11 A Because my mother had not raised me to deal with thugs and at this
12 point I had considered him kind of thuggish but yet we had a chemistry in common.
13 I also again was working with a team of attorneys and I thought that I would be
14 judged like -- it was just crazy. It was -- I was just embarrassed.

15 Q Now, did that changed the nature of your relationship at all after that
16 first incident?

17 A Somewhat and temporarily.

18 Q So what happened after that first incident where he choked you?

19 A So we didn't see each other for -- I don't know for what period of time, it
20 was off and on. We didn't see each other but he was very charming; so he would
21 still come to my office and bring coffee or ask if I needed anything. I was still
22 apprehensive of him because my circle of friends, family, coworkers and loved ones
23 unanimously hated him. They thought that he was kind of out of my character.

24 MR. SHETLER: Your Honor, I'm going to object. I believe this is beyond the
25 scope of my cross.

1 THE COURT: I'll sustain it that it was also non-responsive so, go on.

2 MR. SHETLER: Thank you, Your Honor.

3 MR. SUDANO:

4 Q So now, I believe you testified that you were kind of on and off after this
5 incident where he choked you?

6 A Yes.

7 Q Eventually did you get back together?

8 A We did.

9 Q Now, why did you take him back after he choked you?

10 A I was just the girl trying to be in love, trying to give him a chance. He
11 told me he wanted to be a pastor. He told me that -- he used to call me his first lady,
12 that I was his queen. He was very charming and I thought with a little bit of
13 grooming and counseling we could make it work somehow.

14 Q Now, you'd broken up again prior to April 30th of 2014; correct?

15 A Yes.

16 Q Now, when he came over to your house on April 30th of 2014 did you
17 give him any indication that you wanted to reconcile?

18 A No.

19 Q Had he made any statements to you about wanting to reconcile?

20 A No.

21 Q Okay. Now, you were also asked about the time period where you
22 were sitting on the couch where he was kind of in front of you with a knife; do you
23 recall that?

24 A Right.

25 Q Now, did there come a point where he asked you about or he made a

1 statement to you about your eye?

2 A Yes.

3 Q What did he say specifically?

4 A He said look at what you made me do, look at your eye.

5 MR. SHETLER: Objection again, Your Honor. Believe this is still passed the
6 scope of my cross.

7 THE COURT: Overrule.

8 MS. SUDANO: Your Honor, I have no further questions with that.

9 THE COURT: Okay. Any recross?

10 MR. SHETLER: Briefly, Your Honor.

11 **RECROSS EXAMINATION**

12 BY MR. SHETLER:

13 Q By the time these incidents allegedly went down at the condo you
14 believed he was, at that time, a thug?

15 A Are you talking about my first condo because I moved in between that
16 time --

17 Q The reason we're here today.

18 A I believed he was a thug, somewhat.

19 Q But you let him sleep in your bed.

20 A Yes.

21 Q Do you have any idea what kind of message that would give to
22 somebody who might consider themselves to be a thug?

23 MS. SUDANO: I'm going to object as to speculation on that one.

24 MR. SHETLER: I'll withdraw the question

25 THE COURT: Sustained.

1 BY MR. SHETLER:

2 Q Do you believe that that may have given him a message that the
3 relationship was not over

4 MS. SUDANO: I'm going to object as to speculation again.

5 THE COURT: Sustained.

6 BY MR. SHETLER:

7 Q When you were renting the room for him you would do the paperwork in
8 his name, correct?

9 A Yes.

10 Q And he would pay you at that time or over time?

11 A No, he would pay at that time.

12 Q And do you know what the source was of those funds he was paying
13 you with?

14 A Not -- I had speculation of where they were from but I didn't know for
15 sure.

16 Q He helped you with money to get the car, correct?

17 A No.

18 MR. SHETLER: Court's indulgence, I'm trying to be very specific, Judge.

19 THE COURT: Uh-huh.

20 MR. SHETLER: Those are all the questions I can ask you. Thank you again.

21 THE COURT: Any further direct?

22 MS. SUDANO: No, Your Honor.

23 THE COURT: I just have a quick question, I think.

24 **QUESTIONS BY THE COURT**

25 THE COURT: You had a surgery by Dr. Leibowitz who was here.

1 THE WITNESS: Yes.

2 THE COURT: And I think you said you had two other surgeries since then?

3 THE WITNESS: Yes.

4 THE COURT: They were done by a different doctor?

5 THE WITNESS: Yes.

6 THE COURT: What doctor did those other surgeries?

7 THE WITNESS: They were done by Monos Health Institute and, specifically, I

8 don't recall his name. I don't see them for pain management any more other than

9 for my eye surgeries but the doctor at Monos Health Institute, the main doctor there

10 performed the surgeries. It was stellate ganglion block was the nature of the

11 surgery, for nerve damage.

12 THE COURT: Okay. And it was pain management practice?

13 THE WITNESS: Right. And it's attached to a day surgery facility.

14 THE COURT: Okay. It's here in town?

15 THE WITNESS: Yes.

16 THE COURT: And both of those surgeries are related to nerve damage in

17 your face?

18 THE WITNESS: Yes. And I have one more scheduled.

19 THE COURT: When is that?

20 THE WITNESS: We're waiting for insurance authorization.

21 THE COURT: Okay. Any follow-up?

22 MS. SUDANO: Is it Dr. Lipshutz who was perform --

23 THE WITNESS: Yes, Dr. Lipshutz, sorry.

24 THE COURT: Okay. Any follow-up.

25 MR. SHETLER: No, thank you, Your Honor.

1 THE COURT: Okay. Thank you ma'am, I appreciate your time.

2 Okay. So for tomorrow, how many witnesses does State have?

3 MS. SUDANO: State has three witnesses tomorrow, Your Honor.

4 THE COURT: Okay. About how long do you think they'll take?

5 MS. SUDANO: They should all be fairly quick. It's the first responding officer,
6 the crime scene analyst and then the officer who found the car.

7 THE COURT: Okay.

8 MS. SUDANO: I would anticipate two hours, maybe, for all three of them.

9 MR. SHETLER: That's sounds accurate.

10 THE COURT: Okay. And are you anticipating presenting any witnesses?

11 MR. SHETLER: Mr. Perry still has to make a decision about whether he's
12 going to take the stand. I have one witness lined up, a second one possibly but we
13 may not. They may be [indiscernible] we don't need to use the Court's time for and
14 if I can avoid that I will.

15 THE COURT: Okay. Why don't you stand up for a minute, Mr. Perry.

16 THE DEFENDANT: Yes, Ma'am.

17 THE COURT: I'm going to take this opportunity to advice you of your rights
18 during this trial.

19 THE WITNESS: Yes Ma'am.

20 THE COURT: Under the Constitution of the United States and under the
21 constitution of the State of Nevada you cannot be compelled or forced to testify in
22 this case. Do you understand that?

23 THE DEFENDANT: Yes, Ma'am.

24 THE COURT: You may, at your own request, give up this right and take the
25 witness stand and testify and if you do you'll be subject to cross examination by the

1 State and anything you say whether on direct or cross would be the subject of fair
2 comment by the State when they argue at the end of the case. Do you understand
3 that?

4 THE DEFENDANT: Yes, Ma'am.

5 THE COURT: And, of course, if you choose not to testify because that is your
6 right, I, as the trier of fact, am not permitted to take that into consideration or to draw
7 any inference of guilt from the fact that you choose not to testify. Do you understand
8 that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: If you have a felony conviction in the last ten years that could
11 be raised if you testified. Do we have -- what do we got?

12 MS. SUDANO: There is one yes, Your Honor.

13 THE COURT: Okay. So what do we got?

14 MS. SUDANO: I have a certified Judgment of Conviction out of the state of
15 Illinois from 2005 for unlawful delivery for a controlled substance.

16 THE COURT: Okay. Now, so that means if you, I mean, I'm the trier of facts
17 so this is a little unusual situation, but if you take the witness stand and testify the
18 State will be allowed to ask you whether you've been convicted of a felony, what the
19 felony was, and when it happened but without going into the details regarding that
20 offense; do you understand that?

21 THE DEFENDANT: Yes, Ma'am.

22 THE COURT: So that would be part of the evidence in the case. Now, the
23 decision whether to testify is a decision that is left to you as the Defendant in this
24 case; do you understand that?

25 THE DEFENDANT: Yes, Ma'am.

1 THE COURT: Now counsel, as your counsel, gets to make a lot of decisions
2 about strategy and tactics and evidence and objections and things like that but the
3 decision whether to testify is one that is clearly your decision to make; do you
4 understand that?

5 THE DEFENDANT: Yes, Ma'am.

6 THE COURT: Now, of course, having said that, you should consult with your
7 lawyer who has education, training and experience to assist you and advice you
8 regarding that decision but ultimately the decision is yours to make. You understand
9 that?

10 THE DEFENDANT: Yes, Ma'am.

11 THE COURT: So before you make the final decision after the -- at the time
12 the State rests you should consult with him. I'm assuming you've already consulted
13 but you should consult with him so that you're prepared to make that decision when
14 the State does rest. Okay?

15 THE DEFENDANT: Yes, Ma'am.

16 THE COURT: Okay. So, we're scheduled for 10:30. I'll try to be done with
17 my calendar, you try to be done with your other matters and we'll start as soon as
18 we can at or close to 10:30, we hope.

19 MR. SHETLER: Thank you very much, Your Honor.

20 THE COURT: Okay.

21 MS. SUDANO: Thank you, Your Honor.

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THE COURT: Have a good night.

MR. TURNER: Thank you, Your Honor.

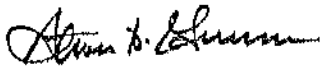
[Bench Trial, Day 1, concluded at 5:02 p.m.]

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

Sandra A Pruchnic
SANDRA PRUCHNIC
Court Transcriber

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

Dalyné Easley
DALYNÉ EASLEY
Court Transcriber


CLERK OF THE COURT

1 RTRAN
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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 GENARO PERRY,

13 Defendant.

CASE#: C298879

DEPT. VI

14 BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE
15 WEDNESDAY, SEPTEMBER 30, 2015

16 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**
17 **BENCH TRIAL - DAY 2**

18 APPEARANCES:

19 For the State:

ROBERT BRAD TURNER, ESQ.
Chief Deputy District Attorney
MICHELLE SUDANO, ESQ.
Deputy District Attorney

22 For the Defendant:

TRAVIS E. SHETLER, ESQ.

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25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

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[None presented.]

1 WEDNESDAY, SEPTEMBER 30, 2015 1:07 P.M.

2
3 THE MARSHAL: Please rise. District Court Department Six is now in
4 session. The Honorable Judge Elissa Cadish now presiding.

5 Please be seated. Come to order.

6 THE COURT: Good afternoon.

7 MS. SUDANO: Good afternoon.

8 MR. SHETLER: Good afternoon, Your Honor.

9 THE COURT: Unfortunately, my calendar, which page wise looked like it
10 wasn't going to be that long, turned out to be really long. So, it's okay.

11 MR. SHETLER: Understood. And I was -- but I was stuck in 19, I think, so.

12 THE COURT: That's what I understand. Okay.

13 We can pick up now. I am -- thank you -- trying to reschedule the
14 appointment -- what happened to my pen?

15 THE MARSHAL: You keep taking them, Judge.

16 THE COURT: Not me; got to talk to the new law clerk.

17 THE MARSHAL: All right. I'll yell at her then.

18 THE COURT: Okay. Thank you.

19 I'm trying to reschedule the appointment I had this afternoon that has
20 me trying to leave at 3:30 because we're just starting and it's after one. So I'm
21 trying to work that out.

22 MR. SHETLER: I'm not confident it's going to pose a huge problem, Your
23 Honor.

24 THE COURT: Okay, well, we'll see. We can get going anyway.

25 MS. SUDANO: The State's case should be done --

1 THE COURT: Right.

2 MS. SUDANO: -- prior to that, so.

3 THE COURT: Okay.

4 MR. SHETLER: And I don't anticipate a great deal of cross. I need to make
5 an offer on a witness that we have standing by but I'm not confident I'm going to be
6 able to get the witness on the stand. So I think once we just make a record of that I
7 think we'll probably be ready to wrap it up. Mr. Perry and I are still talking so that he
8 may need some time tomorrow, but --

9 THE COURT: Yeah. And I don't have anything on calendar tomorrow.

10 MR. SHETLER: I do have my morning contract obligations and I will have
11 some assistance. I have a double conflict at 8:30 but we'll do whatever we can to
12 move along.

13 THE COURT: So, if we want at least to do a calendar page for tomorrow,
14 what time could you be here to start?

15 MR. SHETLER: I'm confident I'll have somebody here by 10. I might have
16 them by 9:30.

17 THE COURT: Just call it 10 tomorrow?

18 MR. SHETLER: Thank you, Your Honor, I appreciate it.

19 THE COURT: That's fine.

20 MS. SUDANO: Works for the State.

21 THE COURT: Okay. So, I mean, if we're not done today we'll plan to start at
22 10 tomorrow. We'll put it on calendar for 10.

23 Okay. So whatever proofer you're talking about that after we're done
24 with the State's case --

25 MR. SHETLER: Absolutely, Judge.

1 THE COURT: Okay. All right. Then, let's begin.

2 MS. SUDANO: State calls Justin Terry.

3 THE COURT: After the last few weeks I still keep wanting to say, you know,
4 do you stipulate to the presence of the jury, or wanting to admonish them when we
5 take a break, and like, oh yeah, they're not here.

6 MR. SHETLER: It does go a bit quicker, doesn't it?

7 THE COURT: Yeah.

8 THE MARSHAL: If you could step up in the box and remain standing.
9 Raise your right hand and face that young lady right there.

10 JUSTIN TERRY

11 [having been called as a witness and being first duly sworn, testified as follows:]

12 THE COURT CLERK: Please be seated.

13 Would you please state and spell your first and last name for the
14 record.

15 THE WITNESS: Name is Justin Terry, it's J-U-S-T-I-N, last name T-E-R-R-Y.

16 THE COURT CLERK: Thank you.

17 THE COURT: Go ahead.

18 MS. SUDANO: Thank you, Your Honor.

19 DIRECT EXAMINATION OF JUSTIN TERRY

20 BY MS. SUDANO:

21 Q Sir, how are you employed?

22 A Work for the Las Vegas Metropolitan Police Department.

23 Q In what capacity?

24 A Police officer.

25 Q How long have you been a police officer?

1 A Um, on November 5th of this year it'll be nine years.

2 Q Were you working on May 2nd of 2014?

3 A Yes.

4 Q Did you have occasion to respond to a call on Karen Court?

5 A I did.

6 Q What was the nature of that call?

7 A I believe the details of the call were that there were other officers

8 somewhere within Las Vegas area that were out with a victim who was stating that

9 her vehicle had been located by a GPS or some sort of electronic device, and that it

10 was somewhere in the vicinity of Karen Court.

11 Q Now, do you recall the specific location or the specific address where

12 you located the vehicle?

13 A Yeah, I located the vehicle at 2635 Karen Court.

14 Q Is that here in Clark County, Nevada?

15 A It is.

16 Q Do recall approximately what time you located the vehicle?

17 A Um, I'm not sure exactly what time it was when Eric located it.

18 Q What shift were you working on May 2nd of 2014?

19 A It was day shift.

20 Q Do you recall if it was -- so what time is day shift?

21 A Around 6:30 to 4:30 p.m.

22 Q 6:30 a.m. to 4:30 p.m.?

23 A Mm-hmm.

24 THE COURT: Was that a yes?

25 THE WITNESS: Yes.

1 THE COURT: Sorry, mm-hmm's don't transcribe very well.

2 THE WITNESS: Sorry.

3 MS. SUDANO:

4 Q Do you recall if it was towards the beginning or the end of your shift?

5 A Um, I believe it was near the end of my shift.

6 Q So would it be fair to say it was probably sometime in the afternoon?

7 A Yes.

8 Q Now, when you located the car was anybody in it?

9 A No.

10 Q Was it running?

11 A I don't think so, no.

12 Q Where's --

13 A I know it wasn't.

14 Q Specifically, where was it located within that 2635 Karen Court?

15 A It was parked on the north side. It would have been more towards the
16 west corner of the building.

17 Q What is 2635 Karen Court?

18 A It's an apartment complex.

19 Q Now, what was the condition of the car when you located it?

20 A Um, I didn't -- like I said, I didn't know if it was drivable since I didn't see
21 it driving but I really don't remember very -- what the condition -- I think it was keyed,
22 I think it had been keyed. It had some minor -- it had some damage, I don't
23 remember exactly what the damage was.

24 Q But it's your recollection that it would -- it had been keyed?

25 A I believe so.

1 Q Now, were you able to get inside the vehicle?
2 A No.
3 Q Why is that?
4 A The vehicle was locked.
5 Q Could you see the keys anywhere inside the vehicle?
6 A No.
7 Q While you were at that scene at 2635 Karen Court, did anybody else
8 arrive?
9 A Um, I have a vague recollection but I'm not a 100 percent sure if -- you
10 talking about other officers did arrive, yes.
11 Q Do you know if the registered owner arrived as well?
12 A I'm not real sure if I spoke to them but I think they did arrive while I was
13 there.
14 Q Now, what happened to the car after you had recovered it?
15 A I don't know exactly. I know it was returned to the owner. Actually I'm
16 pretty sure that the owner did return while I was still there and I think it returned to
17 the owner but that the owner did not have the keys at the time, if I recollect right.
18 Q Okay. So, there were no keys in the vehicle?
19 A No.
20 Q And the owner, you said, didn't have the keys either?
21 A I don't think so, no.
22 Q Now, normally when you recover a vehicle is there any sort of recovery
23 form or paperwork that you have to fill out?
24 A Yeah, there is. Yes, there is.
25 Q What is the purpose of that paperwork?

1 A It's to document the transfer of the property to the individual.

2 Q In addition to that is there any additional follow up or investigation that
3 you need to do before you return a car to an owner?

4 A Um, it all depends on the situation. Um, in some instances -- well, we --
5 typically we'll contact the owner, obviously, and in this case the owner had been
6 contacted. We possibly could process it with calling criminalistics and have them do
7 their job on the vehicle to get evidence.

8 Q Was that done in this particular case?

9 A No.

10 Q Why wasn't it not done in this case?

11 A Um, it's not -- like I say, it's not always a necessary thing. In this case I
12 would not have made that call as to whether or not it should be processed due to the
13 fact that I had been called by another officer out to the scene I was at, so I most
14 likely would have spoken to another officer and asked what they wanted me to do
15 with the vehicle.

16 Q So you weren't the one that was making the final decision --

17 A No, no.

18 Q -- on what needed to be done.

19 A No. Just because I didn't have all the details with the other side of the
20 incident.

21 Q Now, did you have any information about the relationship of the parties
22 involved in this case, as far as the registered owner and the individual who had
23 taken the vehicle?

24 A I don't remember for sure if I knew exactly what the relationship was. I
25 think I understood they had a domestic relationship.

1 Q Anything about the fact that it was a domestic relationship that would
2 have factored into the decision on whether or not to call ID out and have
3 criminalistics done?

4 A Um, if the vehicle is used within the domestic violence incident and
5 there was some type of evidence that the vehicle could provide, possibly.

6 Q Did you have any information that the vehicle was involved in the
7 domestic situation in this case?

8 A Not that I knew other than, I mean, to what I understood is that it was a
9 taking without owner's consent kind of situation, or that the vehicle possibly had
10 been used by the suspect prior. But I didn't know all the details, so.

11 Q And when you say that the vehicle had possibly been used by the
12 suspect prior, can you explain how that factored into your decision making process a
13 little bit more?

14 MR. SHETLER: Your Honor --

15 A Usually in a --

16 THE COURT: Hold on.

17 MR. SHETLER: I'm going to object to relevance. He didn't make the decision
18 whether criminalistics was going to be called. And now he said, several times, he
19 was just responding on behalf of another officer.

20 MS. SUDANO: And I'm just asking for his training experience whether or not
21 knowing if this was a domestic situation would have factored into the decision
22 making process.

23 THE COURT: Okay. So he can talk about in general how that might factor in.
24 Overrule.

25 MR. SHETLER: Thank you, Judge.

1 MS. SUDANO:

2 A So, what was the question?

3 Q So the question was, knowing that this was a domestic situation,
4 knowing that the suspect may have used the car prior, would that factor into the
5 decision of whether or not criminalistics was needed at this -- on this particular car?

6 MR. SHETLER: Your Honor, I'm sorry, I'm going to renew my objection --

7 THE COURT: Right.

8 MR. SHETLER: -- that she's referring to this situation. Not a generic, general
9 situation.

10 MS. SUDANO: I can rephrase it.

11 MS. SUDANO:

12 Q Just in general, through your training and experience, Officer.

13 A The fact that it was a domestic relationship would definitely influence
14 whether I called criminalistics because if the subject had been in the vehicle prior,
15 any evidence that we obtained such as prints, DNA evidence would be difficult to
16 determine whether it occurred prior to the incident.

17 Q So basically, there's not a lot of relevance necessarily to fingerprints or
18 DNA if somebody's been in the car before?

19 A Not to my understanding, I mean, I'm not a criminalistics specialist but it
20 only makes sense to me.

21 Q Just generally, through your training experience?

22 A Yeah.

23 Q Okay.

24 A Yes.

25 Q Now, did you inventory the car before it was returned to the registered

1 owner in this case?

2 A No, I did not.

3 Q Why is that?

4 A I -- there were no car keys to the vehicle and it was returning to the
5 owner. I don't believe the owner had keys as well.

6 Q Now, normally would you inventory a car before returning it to a
7 registered owner?

8 A Typically, yes, we would.

9 Q But again, in this case did you have any reason to believe that there
10 was anything of evidentiary value inside the car?

11 A I didn't know of any, no, otherwise I would have probably objected it --
12 to us -- probably would have tried to influence the officer that was requesting or at
13 least talk to him about it and made sure that he understands that there's evidence in
14 there. And I don't remember any evidence that was specific to the -- that was
15 relevant that I understood.

16 Q Now, if you didn't have keys to a vehicle that you're trying to inventory
17 and its locked what would you need to do in order to be able to inventory the
18 vehicle?

19 A Um, we would -- if it didn't have keys? I can't think of a time I ever
20 inventoried a vehicle if it didn't have keys. I mean, if it's a major case and I'd
21 possibly would request a hold on the vehicle and seal the vehicle, that's the only
22 other -- that's the only time I would do something like that if it was a serious enough
23 case that we would actually keep the vehicle and have it sealed and have it
24 impounded.

25 Q In this case, did you have any information that something like that was

1 required?

2 A I didn't. I had not been instructed that that was what we wanted -- what
3 they wanted me to do so it's not what I did.

4 Q Okay. Now, I'm going to show you here, Officer, State's Exhibit 1. Do
5 you recognize what's depicted there?

6 A I -- yeah, that's a -- that's the apartment complex that I located the
7 vehicle at.

8 Q The 2635 Karen Court?

9 A Yeah.

10 Q Now, do you recall the registered owner's address in this particular
11 case?

12 A I don't.

13 Q Would looking at your property return sheet refresh your recollection as
14 to registered owner's address?

15 A I mean, I could -- I probably -- I mean, I could look at it but it's not
16 gonna refresh my memory. I never was at the scene and I've never been to the
17 registered owner's house. I mean, I can look at it if you want me to.

18 Q Did you -- would you have, while you were completing this property
19 return form, would you have --

20 A I did write it down so, I mean, you want me to look at it?

21 Q Now, would it refresh your recollection -- I'm sorry -- do you recall the
22 license plate number for the vehicle that you returned?

23 A No.

24 Q Would looking at your property return sheet refresh your recollection as
25 to the license plate on the vehicle?

1 A Sure.

2 Q Did you write that one down?

3 A Yes, I did.

4 MS. SUDANO: Okay. May I approach, Your Honor?

5 THE COURT: Yes.

6 MS. SUDANO:

7 Q I'm showing you, for the record, the property return sheet for this
8 particular case, Officer.

9 A Okay.

10 Q Does that refresh your recollection as to the license plate number?

11 A 6-1-7, Lincoln, Tom, Union, so. I mean, that's what I wrote down. It's
12 not a number I would have just memorized though.

13 Q So at the time you wrote that down, how did you get it?

14 A I would have either looked on the vehicle plate or I would have looked
15 on the details of the call. I'm not sure.

16 Q And you would have written it down as you were looking at one of those
17 two things?

18 A Possibly, or else I possibly ran the plate and was looking off my
19 computer and looking at the DMV return.

20 Q And would it have been close in time when you looked at that
21 information to when you wrote it down on your property return sheet?

22 A Yeah.

23 MS. SUDANO: Your Honor, no further questions.

24 THE COURT: Cross?

25 MR. SHETLER: Briefly, Your Honor.

1 CROSS-EXAMINATION OF JUSTIN TERRY

2 BY MR. SHETLER:

3 Q Officer, my name is Travis Shetler and I represent the Defendant in this
4 case. I want to thank you for your nine years of service.

5 You're just here today to tell us that there was a car on Karen Court,
6 right?

7 A I'm here to answer whatever questions you have for me.

8 Q Well, but it wasn't your case, you were not the investigating officer, is
9 that correct?

10 A Well, I was dispatched to the call but there was a prior incident --

11 Q Right.

12 A -- that occurred and I was -- as far as I remember, I was being
13 requested to assist an officer who was on the scene at another call.

14 Q Right. Right. There wasn't -- you didn't generate all the other
15 paperwork in this case, you just filled out the slip transferring ownership --

16 A That's --

17 Q -- or possession is a better word.

18 A That's basically -- yes, that's true.

19 Q I appreciate that.

20 You mentioned when you first started answering questions, Ms. Sudano
21 asked you if there's anything you noticed about the vehicle; you said it was keyed?

22 A Yeah, that's true, I think it was keyed.

23 Q Was that -- do you have an independent recollection of that?

24 A Um, I'm pretty sure it was keyed. What do you mean?

25 Q Just that. I mean --

1 A I mean, this is quite a time ago but, yeah.

2 Q Not a hugely significant event for you?

3 A Not hugely significant, no.

4 Q Is it possible to tell if a car's keyed -- is it possible to tell if it's keyed

5 within the last day or the last month or the last year?

6 A I mean there's probably a way to tell, I'm not like a specialist on it, but.

7 Q Right. That's not any training that you have in particular?

8 A No.

9 Q Okay. So you're not -- when you tell the Court that the car was keyed

10 you're not saying that the fact that it was keyed has anything to do with anything

11 happening in this courtroom today?

12 A I have no idea if it was related.

13 Q I appreciate that.

14 And you testified that criminalistics was not called but that was not your

15 decision to make whether they were called or not, is that right?

16 A They were not called and I was not instructed to do that, to call them,

17 so.

18 Q I appreciate that.

19 Thank you very much, Officer. Be safe.

20 THE COURT: Any redirect?

21 MS. SUDANO: No, Your Honor.

22 THE COURT: Okay. Thanks Officer, appreciate your time.

23 Next witness?

24 MS. SUDANO: Almedia Bragg, please.

25 THE MARSHAL: Okay, make your way up into the box, remain standing.

1 Raise your right hand and face that young lady right there.

2 **ALMEDIA BRAGG**

3 [having been called as a witness and being first duly sworn, testified as follows:]

4 THE COURT CLERK: Please be seated.

5 Would you please state and spell your first and last name for the
6 record.

7 THE WITNESS: Almedia Bragg, A-L-M-E-D-I-A B-R-A-G-G.

8 THE COURT CLERK: Thank you.

9 THE COURT: Go ahead.

10 MS. SUDANO: Thank you, Your Honor.

11 **DIRECT EXAMINATION OF ALMEDIA BRAGG**

12 BY MS. SUDANO:

13 Q Ma'am, how are you employed?

14 A I'm retired.

15 Q Where did you retire from?

16 A Las Vegas Metropolitan Police Department.

17 Q When did you retire?

18 A December 31, 2014.

19 Q How long were you with the Las Vegas Metropolitan Police
20 Department?

21 A 23 years 10 months.

22 Q And what was your job title when you were with the Metropolitan Police
23 Department?

24 A Patrol officer.

25 Q Were you working on May 1st of 2014 at approximately 9:30 a.m.?

1 A Yes.

2 Q Did you have occasion to be dispatched --

3 THE COURT: I apologize, I should have -- I'm sure I should know this by
4 now. Give me the date and time again.

5 MS. SUDANO: May 1, 2014 at approximately 9:30 a.m.

6 THE COURT: Thank you. Go ahead.

7 MS. SUDANO:

8 Q Were you dispatched to 2461 Old Forge Court, apartment number 106?

9 A Yes.

10 Q Is that here in Clark County, Nevada?

11 A Yes.

12 Q What was the nature of the call when you were dispatched?

13 A Domestic violence.

14 Q Did you have any additional details about the call when you were in
15 route?

16 A No. That the female had been beaten up by her boyfriend and he was
17 gone. That was it.

18 Q Do you know -- did you have any information about how he had left the
19 scene?

20 A He had stole her car.

21 Q And that came out in your initial call?

22 A Uh, I'm not sure. I believe so.

23 Q Would looking at the catalog for this event number refresh your
24 recollection as to whether or not you were provided that detail while you were in
25 route?

1 A Yes.

2 MS. SUDANO: Your Honor, may I approach the witness?

3 THE COURT: Yes.

4 MS. SUDANO:

5 Q Officer, I'm showing you a catalog for -- can you verify for us that it's the
6 particular event number that we're talking about in this case?

7 A Yes, that's the victim, that's my P number. Yes.

8 Q Did that refresh your recollection as to whether or not you were
9 informed by dispatch on your way to the call that the victim's car had been stolen by
10 the suspect?

11 A Yes.

12 Q Okay. Now, were you the first responding officer or was anybody
13 present at the scene before you arrived?

14 A I was the first responding and no one else was there besides the victim.

15 Q Now, typically when you respond to a scene, what are your duties as
16 the first responding officer?

17 A First to make sure that the suspect doesn't come back, then to make
18 contact with the victim; which I knocked on the door and she wouldn't open the door,
19 she was afraid to open the door.

20 Q Now, what makes you say that she was afraid to open the door?

21 A I think she thought it was her ex-boyfriend coming back.

22 Q Okay. Did you know that somebody was inside the house?

23 A Yes.

24 Q What gave you that information?

25 A She had just called. It didn't take me that long to get there.

1 Q Now, does the victim eventually open the door for you?

2 A Yes.

3 Q You're able to make contact with the victim?

4 A Yes.

5 Q And is that Corla Carpenter?

6 A Yes.

7 Q What was her demeanor when you first made contact with her?

8 A She was crying, she was scared, her face was all bloody.

9 Q Now, when you say her face was all bloody --

10 A Her nose and her lips were bleeding and her hand was bleeding.

11 Q Where was her hand bleeding, if you recall?

12 A I think it was one of her fingers, I'm not sure.

13 Q Now, did you notice any other injuries to Ms. Carpenter when you

14 arrived at the scene?

15 A Her eyes were swollen.

16 Q After you made contact with Ms. Carpenter, what did you do next?

17 A I had called for another officer to take pictures cause it was -- I knew

18 right then there had been domestic violence. And then, uh, had her explain to me

19 what happened, I actually had dispatch send other units to ATL for the car which --

20 to look for the car. And then I started taking a report and then one of the other

21 officer came, we found a knife and the blood in the garage so we decided to call ID

22 cause it was gonna be a felony.

23 Q Okay. Now, when you arrive at the house you said it was just you and

24 Ms. Carpenter.

25 A Yes.

1 Q So nobody else was present, initially?

2 A I don't think so.

3 Q Do you recall the next person who showed up at the scene?

4 A I think it was one of her friends or else it was Officer -- a different

5 officer.

6 Q Who would that officer have been?

7 A Um, what's his name? I know his first name.

8 Q What is his first name?

9 A Frank.

10 Q What that be Frank Elam?

11 A Yes.

12 Q Now, who else -- did anyone else arrive at the scene?

13 A One of her friends did, the ID tech did, and then another officer, I think,

14 also came.

15 Q Now, at some point you said that you were going through the scene and

16 assessing what was going on at the house; is that correct?

17 A Yes.

18 Q Okay. So, I want to walk through that with you a little bit. I'm going to

19 show you here, State's Exhibit 2, initially. Do you recognize what's depicted in that

20 photo there?

21 A That's her apartment.

22 Q And that would be the 2461 Old Forge address?

23 A Yes.

24 Q All right. Now, do you recall how big the apartment was? Was it a one

25 bedroom apartment or were there more than one bedrooms?

1 A I'm not sure. I know it had a upstairs, there was a upstairs.
2 Q So it was a downstairs and an upstairs?
3 A Yes.
4 Q And do you recall if there was just one bathroom or multiple
5 bathrooms?
6 A I know there was one downstairs cause that's where, I think, the cell
7 phone was in the toilet.
8 Q Now, was there evidence or things that were significant to your
9 investigation located throughout the apartment?
10 A It was in disarray. You could tell a fight had taken place, basically.
11 Q Now I'm going to show you here, State's Exhibit 7. Do you recognize
12 what's depicted there in State's Exhibit 7?
13 A Yeah, there's blood on the floor.
14 Q Do -- is this from the victim's apartment?
15 A Yes.
16 Q What area of the apartment are we looking at here?
17 A That's the kitchen.
18 Q And you said that there was blood on the floor?
19 A I believe that's blood right there, or a footprint or something.
20 THE COURT: You can touch it if you want to.
21 MS. SUDANO:
22 Q And then if you'll hit either the bottom right or the bottom left of the
23 screen for me it will clear it out. There you go. Perfect. Thank you, Officer.
24 And now, I'm showing here you Exhibit 8. What is depicted there in
25 Exhibit 8?

1 A Cups thrown over, looks like a towel maybe that he tried -- looks like it
2 has blood on it a little bit.

3 Q Now, is that just a closer image of what we were looking at before in
4 State's Exhibit 7?

5 A Yes.

6 Q So can you see that same blood stain there in State's Exhibit 8?

7 A Yes.

8 Q As it's just sort of in the center of the picture?

9 A Yes.

10 Q Okay.

11 A Looks like there's blood on the refrigerator also.

12 Q And so that would be over on the left of the photo?

13 A Yes.

14 Q Now I'm going to show you next State's Exhibit 10. What's depicted
15 there in State's Exhibit 10?

16 A That's the exit door from the house to the garage.

17 Q Is there anything else of significance located in this particular photo?

18 A Blood on the door in the doorjamb.

19 Q Now, I'm going to show you next State's Exhibit 11. Do you recognize
20 what's depicted there?

21 A Yes.

22 Q Is that just a close up photo of that blood from State's Exhibit 10?

23 A Yes.

24 Q Okay, on that same doorjamb?

25 A Yes.

1 Q Now, I'm going to show you next State's Exhibit 12. Do you recognize
2 what's depicted there?

3 A Yes.

4 Q What is that?

5 A Blood on the walls in the restroom.

6 Q Now, you had said something else about something of potential
7 evidentiary value located in that bathroom. Can you walk us through that a little bit?

8 A There was a cell phone, I believe, somewhere in the toilet. I don't see
9 it, though.

10 Q Now, was the cell phone actually in the toilet when you saw it?

11 A You know, I don't remember but I know it was thrown against the wall, it
12 was against the floor and it was cracked, the whole screen was cracked, so.

13 Q So you did -- you saw the cell phone at some point?

14 A Yes.

15 Q And you said that there was a crack on the screen?

16 A Yes.

17 Q Possible it was located in the toilet, possible you saw it afterwards?

18 A Yes.

19 Q Okay. Well, next I'm going to show you State's Exhibit 13. Do you
20 recognize what's depicted there?

21 A I believe that's the living room.

22 Q Let me show you a different angle of that, Officer. I'm showing you now
23 State's Exhibit 14. Do you recognize what's depicted there?

24 A That's the bedroom.

25 Q And so is that -- I'm going to direct your attention down here to the

1 bottom right of the photo and then I'm going to take away that photo and show you
2 again State's Exhibit 13. So what -- I'm sorry, State's Exhibit 13 you testified was
3 the living room?

4 A This right here?

5 Q Yes.

6 A I think that's the bedroom.

7 Q Okay. So, and that's, basically, you can see the same corner of the
8 bed in State's 13 as in State's 14?

9 A Yes.

10 Q Okay. Was there anything of evidentiary value located in that
11 bedroom?

12 A Um, not that I remember. I believe there was blood upstairs but I think
13 it was on the walk when you go up the stairs. I know there was blood on the
14 walkway when you go up the stairs. I didn't really see any blood in the bedroom, I
15 didn't -- I came down and started really taking the report.

16 Q Okay. Now, I'm going to move on with you next to State's Exhibit 20.
17 Do you recognize what's depicted in State's Exhibit 20?

18 A That's the living room.

19 Q Anything of evidentiary value located within that living room?

20 A I don't see anything.

21 Q Do you recall anything of evidentiary value within the living room?

22 A There was -- it was in disarray.

23 Q Okay. And so, you did know -- when you say disarray, what specifically
24 do you mean by that?

25 A Stuff that's thrown over that normally wouldn't be thrown over in a

1 house like stuff on the floor, like if there was something on the table to be -- if the
2 table was thrown over or something like that. It wasn't a normal household.

3 Q Now, through your training and experience, when you see that kind of
4 disarray what, if anything, does that indicate about that living room area?

5 A A physical altercation took place.

6 Q Now, is that kind of consistent with what you learned from Ms.
7 Carpenter?

8 A Yes.

9 Q Okay. Now, next photo I'm going to show you here is State's Exhibit
10 24; and what are we looking at in 24?

11 A That's the garage.

12 Q Was there anything of evidentiary value located inside the garage?

13 A The knife was in there but I don't see it on here.

14 Q Okay. So you located a knife in the garage?

15 A Yes.

16 Q Do you recall what kind of knife it was?

17 A It was like a little steak knife.

18 Q Was there anything of significance about locating that knife in the
19 garage?

20 A It had blood on it.

21 Q Now, I'm going to show you here, State's Exhibit 25. Is that just a
22 closer up image of the corner of the garage?

23 A Okay. Yeah, there's the knife right there.

24 Q And can you mark on the screen for me, please? So, just kind of in the
25 bottom center of that photo is the knife that you were talking about?

1 A Yes.

2 Q Now, I'm going to show you here Exhibit 27. Is that an actual close up
3 shot of that knife?

4 A Yes.

5 Q And, you indicated that there was blood or apparent blood on that
6 knife?

7 A Yes.

8 Q Where was the blood located?

9 A On the end. I believe it was on the end.

10 Q And when you say the end, do you mean --

11 A The jagged edge.

12 Q Okay. So the actual blade of the knife as opposed to the handle?

13 A Yes.

14 Q Okay. Now, was there anything else of significance about the garage in
15 your investigation?

16 A The vehicle was gone.

17 Q Now, had Ms. Carpenter told you, given you information that the vehicle
18 had previously been located in the garage?

19 A Yes.

20 Q And when you arrived, there's obviously no vehicle in the garage; is that
21 fair?

22 A Yes.

23 Q What, if anything, did you do with the information that the vehicle was
24 missing?

25 A Just put it on the radio to be on the look-out. She said he'd probably be

1 going down Boulder Highway so we had units checking Boulder Highway.

2 Q Now, was the vehicle ever formally reported stolen?

3 A Yes.

4 Q What's the process for reporting a vehicle stolen, just generally?

5 A You just take a report and then you call a WVS and they enter it into the
6 system. And when somebody runs a license plate it comes back as a stolen
7 vehicle.

8 Q Now, is that the process that you followed in this particular case?

9 A Yes.

10 Q Were you actually the officer that took the report for the vehicle?

11 A Yes.

12 Q And so it was listed as stolen on May 1st of 2014?

13 A Yes.

14 Q Now, do you know if the vehicle was ultimately recovered?

15 A Yes.

16 Q Do you know when it was recovered?

17 A It was like two or three days later. Maybe two days later.

18 Q Were you actually present when it was recovered?

19 A No.

20 Q Now, I'll walk you through some additional photos here. I'm going to
21 show you now State's Exhibit 28. Do you recognize what's depicted there?

22 A Yes.

23 Q What is that?

24 A That's the victim.

25 Q That's Ms. Carpenter?

1 A Yes.

2 Q Was that taken while you were at the house at 2461 Old Forge on May
3 1st of 2014?

4 A It was taken at that time cause I was there but I didn't -- I wasn't there
5 when she took the picture.

6 Q Okay. So you didn't actually take the photo?

7 A No.

8 Q But it was taken that day?

9 A Yes.

10 Q Now, is that a fair and accurate depiction of how Ms. Carpenter looked
11 when you saw her on May 1st?

12 A Yes. I think she actually looked worse than that picture.

13 Q So you're saying the picture doesn't really do it --

14 A No, she --

15 Q -- justice?

16 A Her eyes looked like raccoons, like it was swollen and it was black
17 [Indecipherable] it looks horrid, she looked worse.

18 Q Now, I'm going to show you a closer up picture here. I'm showing you
19 Exhibit 29.

20 A Yes. That's it right there.

21 Q So, can you walk us through some of the injuries that you had
22 described previously that you saw in Ms. Carpenter?

23 A Her eyes were swollen, she had the black marks like a raccoon. Her
24 nose was bleeding, her lips were bleeding, her hand was bleeding.

25 Q Can you see any sort of swelling or anything on her face?

1 A Yeah, it was -- her whole side of her face was swollen, one whole side.
2 Q Do you recall which side that would have been?
3 A I think it was her right side.
4 Q And you said at least one of her eyes was swollen shut?
5 A Oh yeah.
6 Q Was that the same, that right eye?
7 A Yes.
8 Q Now, I'm showing you again here State's Exhibit 28. What is Ms.
9 Carpenter doing in that particular photo?
10 A Looks like she's just laying down.
11 Q Is there anything significant to you about the fact that she was laying
12 down?
13 A Oh, she -- I think she said her back or her stomach hurt real bad. One
14 -- something hurt really bad and she couldn't hardly move. I couldn't remember
15 what it was cause like we couldn't mark it on the report because it was no marks but
16 it hurt really bad and she could hardly move.
17 Q Okay. And so that's why she was laying down when --
18 A Yes.
19 Q -- these photos were taken?
20 A Yes.
21 Q Now, I think we've kind of walked through this but I want to walk
22 through it a little bit more. So, there was an upstairs and a downstairs to this
23 apartment?
24 A Yes.
25 Q And we walked through -- there was -- can you walk me through where

1 there was blood located in the apartment?

2 A There was blood on the walkway, on the walls going up the stairs, in the
3 kitchen, in the bathroom, in the garage. I think that's it. And the living room, I'm
4 sorry, the living room.

5 Q Now, was there any blood in the bedroom upstairs?

6 A There was, I think there was but I didn't really pay attention to it
7 because I was trying to get the report. It was one of those calls that would take all
8 day so I was trying to get the report done and ID, I think, had come by then and was
9 upstairs.

10 Q Okay. And so you kind of left the documenting the scene upstairs to
11 ID?

12 A Yes.

13 Q Now, was there anything significant to you, through your training or
14 experience, about the fact that there was blood located in multiple areas throughout
15 the house?

16 A It seemed to me that like she was trying to get away from him.

17 Q So, did this seem like a short struggle through your training experience?

18 A No.

19 Q Okay. Seem like something that had gone on longer?

20 A Yes.

21 Q Now, was medical also called out to the scene?

22 A Yes.

23 Q Do you know if the -- if Ms. Carpenter was transported away from the
24 scene?

25 A I don't think so.

1 Q So medical did not transport --

2 A I don't think so.

3 Q -- Ms. Carpenter? Okay.

4 Now, other than this day on May 1st of 2014, was there any additional
5 follow-up that you or Officer Elam did with regards to this particular victim, Ms.
6 Carpenter?

7 A Officer Elam changed her locks; so, the Defendant took her keys, so he
8 couldn't get back in.

9 Q Now, do you know if that occurred that same day on May 1st of 2014 or
10 if it occurred a different day?

11 A I'm not sure. It may have occurred the same day, I'm not sure. I know
12 he changed her lock though because she was really scared.

13 Q And so the victim had indicated to you and Officer Elam that she was
14 frightened?

15 A Yes.

16 Q And that was because the suspect had taken the keys to her house?

17 A Yes.

18 Q Now, Officer Bragg, you had testified that there were some cuts on Ms.
19 Carpenter's hands?

20 A Mm-hmm, yes.

21 Q Through your training and experience was there anything significant
22 about the cuts on her hands?

23 A They looked like defensive wounds.

24 MS. SUDANO: Your Honor, no further questions.

25 THE COURT: Okay. Cross.

1 MR. SHETLER: Thank you, Your Honor.

2 Court's indulgence.

3 THE COURT: Uh-huh.

4 **CROSS-EXAMINATION OF ALMEDIA BRAGG**

5 BY MR. SHETLER:

6 Q I know you're retired but I've got to -- if it's okay with you I'm going to
7 refer to you as Officer Bragg.

8 A Sure.

9 Q Were you an -- what was your rank when you were an officer, 23 plus
10 years -- 23 years 10 months --

11 A Yes.

12 Q -- approximately?

13 A Yes.

14 Q Thank you for your service.

15 A Thanks.

16 Q I've got a couple -- my name's Travis Shetler, I represent Mr. Perry.
17 I've got a couple of questions. I don't think we're going to have to take a lot of your
18 time. If I misstate or I speak too quickly or I get too excited about what a great
19 question I'm asking or I get confusing, please just ask me to repeat it; okay?

20 A Yes, sir.

21 Q In 23 years -- were you in law enforcement before LVMPD?

22 A I was in Texas.

23 Q Same thing?

24 A Yes.

25 Q How many years down in Texas?

1 A Two.

2 Q And how about before that?

3 A No.

4 Q How many -- do you have an idea, I won't ask you for a number but
5 what percentage of the calls you responded to were domestic violence calls?

6 A Seventy-five to eighty percent. It's a lot.

7 Q During the course of your over a quarter of a decade as a law
8 enforcement officer, did you receive specialized training in domestic violence
9 investigations?

10 A Yes.

11 Q Can you give us just a little bit of an idea what that would involve?

12 A We get trained on special classes; everybody has to take them,
13 mandatory every year. We have to go and refresh the classes and then when
14 something else, a new law, comes up every year the domestic violence unit comes
15 in and gives a class for training. So we keep up on it every year, basically.

16 Q And was there anything in your career that resulted in you receiving
17 specialized training above and beyond an average officer on domestic violence?
18 Did you go away for any classes or any special seminars?

19 A I did go to a class, a domestic violence class that they have at the
20 academy, yes.

21 Q What type of topics, if you -- can you recall what type of topics you
22 covered in them?

23 A Just what to -- it actually covered sex trafficking and domestic violence
24 cause they were both in the same. When a victim is scared to talk always separate
25 them, you know? So, because a lot of times they're scared to talk and how they

1 appeared to be detached and you just have to read the signs because a lot of
2 suspects they'll hit the victim where you can't see it, so.

3 Q And a lot of victims try and protect the possible defendant, right?

4 A Oh, yeah. I've been attacked from a victim trying to arrest a suspect.

5 Q Is it the number one source of officer injury or is that traffic stops?

6 A I think it's domestic, probably.

7 Q I believe you're --

8 A Yes.

9 Q Yeah, that's my understanding.

10 A Yes.

11 Q Have you -- you made a couple of comments about this crime scene
12 about maybe blood on this wall going up the stairs.

13 A Yes.

14 Q And blood upstairs in the bedroom.

15 A Yes.

16 Q If there's no photographs of that would that rule that out or would the
17 photographs have nothing to do where there was blood -- and that's a clumsy
18 question, I apologize. If there was blood would you expect it to be in these
19 photographs?

20 A Could be or it couldn't be, I didn't really take the pictures.

21 Q Not your job.

22 A Yes, so. I mean there was enough blood everywhere else that it was
23 immaterial, I mean, you could just tell what happened.

24 Q Right. Officer Bragg, in the -- in your experience responding to a
25 horrific percentage of your career to domestic violence calls, do you have any idea

1 what percentage of those involve male on female violence?

2 A Probably 75 percent of them.

3 Q Do you receive any training or did you ever have any experience during
4 the course of your career where you responded to a domestic violence call and the
5 facts turned out to be opposite than what the victim relayed them to you?

6 A Yes.

7 Q Can you put any number on that, a competent number?

8 A Not too many, probably around three or four.

9 Q Okay. Pretty tiny?

10 A Yes. Yes.

11 Q Would -- in the course of investigating a domestic violence incident, I'm
12 sure any of -- let me just limit it to this, I apologize. In the course of investigating a
13 domestic violence incident does the alleged perpetrator's criminal background
14 history have any impact on your investigation? Does it have any significance to
15 you?

16 A Very little. We try to just go by the evidence at the scene.

17 Q And what about the same question for a victim's criminal background?

18 A No. We just try to go by the evidence at the scene.

19 Q But you did say that it's not unusual for a victim to be reluctant to give
20 up information?

21 A Yes.

22 Q And it does happen although, not in a ton of cases but there were cases
23 where the victim would give up incorrect information?

24 A Yes. It's very seldom that the victim ever shows up to court. They
25 hardly ever show up to court after it happens.

1 Q Unfortunately, I'm very familiar with that. I can't get over that number
2 still.

3 I believe Ms. Sudano took you back to the issue; you mentioned the cell
4 phone and the toilet downstairs?

5 A Yes.

6 Q You're not sure now if there was one in the toilet or not?

7 A No, I -- he had threw it in the toilet. He had threw it in the toilet.

8 Q You're not sure if it was there when you got there?

9 A No, I'm not sure.

10 Q You're not sure if it was downstairs or upstairs?

11 A I believe it was downstairs in the living room on the floor.

12 Q There was a photograph shown to you, this photograph number 28, and
13 on the bed with her on the mattress, the upside down mattress, there's a cell phone
14 there. Is that the same cell phone we're talking about?

15 A I don't believe so. The cell phone I seen had a cracked mirror.

16 Q Do you know if Ms. Carpenter had access to more than one cell phone
17 that day?

18 A I don't know.

19 Q But at least in your testimony here in Court is there were at least two in
20 that house within a short period of time?

21 A Yes.

22 Q I asked you the question about either the victim or the potential
23 defendant or the perpetrators criminal background. Would that -- would your answer
24 to those questions change, talking about their criminal history specifically, if there
25 were a violent criminal history would that have any impact or would it still be the

1 same answers?

2 A It's evidence at the scene.

3 Q And Ms. Sudano asked you what happened when you arrived at the
4 scene and you stated, please don't let me misquote this, you think she was afraid to
5 open the door because you're worried about her ex-boyfriend coming back?

6 A Yes, she was.

7 Q She told you that?

8 A Yes.

9 Q Okay. You also said that it seemed that she was trying to get away
10 from him; do you remember that?

11 A Yes.

12 Q And that's based on your observation of the house in disarray?

13 A Well, she also said she tried to call 9-1-1 and then he wouldn't let her
14 call and that's when he took the phone and threw it and she tried to run and he
15 wouldn't let her. He wouldn't let her get away.

16 Q I'd like to come back to this idea of disarray just a little bit. Ms.
17 Carpenter testified yesterday that she was not, I'm going to paraphrase here slightly,
18 but housekeeping was not number one on her list of stuff.

19 A Mm-hmm.

20 Q When you talk about disarray are you talking about a place with Top
21 Ramen on the bed, are you talking about the cups that were in the floor on the
22 kitchen, where do you draw -- I mean, my seven year old and my four year old make
23 disarray every minute every day but.

24 A Yeah. Well, you can tell when somebody just keeps a nasty house.

25 Q Right.

1 A Or you can tell when there's a struggle.

2 Q Thank you, that's much cleaner.

3 A Yes.

4 Q Thank you. And you're talking about the later, a struggle?

5 A Yes.

6 Q And in this case there was evidence of both present, right?

7 A Well, it wasn't the cleanest house but you could tell there was a

8 struggle.

9 Q That was a nicer way to put it, thanks for helping me out.

10 The information that you testified to about the perpetrator taking her

11 car, stealing her car, that came from Ms. Carpenter; right?

12 A Yes.

13 Q You didn't conduct any other investigation into that or talk to any other

14 witnesses about that?

15 A What witnesses?

16 Q Any.

17 A She was the only witness.

18 Q She was the only source for that information?

19 A Yes.

20 Q Ms. Carpenter testified yesterday that she took some selfies of her

21 injuries. You're familiar with what a selfie is?

22 A Yes.

23 Q Have you had a chance to look at those photographs at all?

24 A No.

25 Q Can you tell me any additional information or any -- if there's any

1 information in your report that would help you with your statement to the Court that
2 you believe she was bleeding on her hands? Is there any other basis for that than
3 other what you recollect?

4 A He snatched her keys from her. That's how -- she said she think [sic]
5 he snatched the keys from her cause she said she didn't -- she wasn't sure he cut
6 her with the knife but when he snatched the keys she thinks that's how her hand got
7 cut.

8 Q If she testified yesterday that he picked up the keys off some surface in
9 the house would that have any impact on that?

10 A It could. She could've picked up the keys up, either way her hand was
11 cut.

12 Q You saw that though?

13 A Yes.

14 Q You're here to tell us today that you saw that?

15 A Her hand was cut, yes. Maybe she tried to get the keys back from him
16 and something like that but there was a struggle over the keys.

17 Q In your experience investigating domestic violence incidents where, let
18 me keep it simple -- do you find that the victims try and get themselves -- clean up
19 their injuries as much as possible?

20 A No.

21 Q Do you, same question, in your experience investigating these types of
22 incidents -- strike that.

23 How do you, after 25 years as a police officer investigating all these
24 types of crimes, what did you do to take care of yourself and just not --

25 A That's why I'm retired at a young age cause it's just a revolving door,

1 it's a revolving door. Like I said, she's one of the very few victims who's come into
2 Court to testify. Most of them will not come in to testify and you'll just keep going to
3 their house over and over again until one day you'll go and they're dead.

4 Q And that's a huge problem in Clark County.

5 A Yes. They just won't force them to testify and, I don't know. I just think
6 they should do mandatory restraining orders like other states.

7 Q And they -- and it's a huge source of our homicides in Clark County.

8 A Yes. And I've been on several where I've been to the house several
9 times and they wouldn't come to court and then one day I go and they're dead.

10 Q Do you know what type of injuries Ms. Carpenter was later diagnosed
11 with?

12 A Later on I heard her eye socket was broken but at the time I didn't
13 know.

14 Q The decision for her to get transported or not transported, was that your
15 decision, her decision, a combination?

16 A No, she -- we were still at the scene. So I believe her friend, if I'm not
17 mistaken, I believe her friend came and took her to the hospital.

18 Q That's right. Have you had any contact with Ms. Carpenter since you
19 submitted your file on this case?

20 A No.

21 MR. SHETLER: Court's indulgence, please.

22 MR. SHETLER:

23 Q You did make a comment on direct, Ms. Sudano asked you about the
24 garage if there was anything significant. There was a knife in the garage and you
25 said the car wasn't parked in the garage. That was -- you believed the car was

1 parked there before?

2 A Yes, that's what she said.

3 Q And that was based on what Ms. Carpenter said?

4 A Yes.

5 MR. SHETLER: Your Honor, if I could just consult with my client for a second.

6 THE COURT: Sure.

7 MR. SHETLER: Officer Bragg, thank you and sincerely, thanks for your
8 service.

9 THE COURT: Any redirect?

10 MS. SUDANO: Briefly, Your Honor.

11 **REDIRECT EXAMINATION OF ALMEDIA BRAGG**

12 BY MS. SUDANO:

13 Q Now, Officer Bragg, you testified that I believe it was three or four of
14 your investigations over the course of 25 plus years investigating domestic violence
15 cases where what actually happened was different than what you thought happened
16 initially; is that correct?

17 A Yes.

18 Q And that was just based on what you were told by witnesses or --

19 A Or just going over the story or -- and noticing things when you first get
20 there and then you go outside in the car and then there's something else there that
21 wasn't there when you got there and you're like, hmmm, so.

22 Q So people kind of tampering with the scene --

23 A Yes.

24 Q -- after the fact maybe?

25 A Yes.

1 Q Now, was there anything about this particular scene that caused you
2 concern with regard to diversion of events that you heard from Ms. Carpenter?

3 A No. This was -- this was one of the -- this was a pretty bad one and her
4 eyes were like -- I've never seen eyes like that except once before and it was a girls'
5 eyes were like that where he beat up so bad her eyes were like that.

6 Q Now, so was everything that you saw at the scene consistent with the
7 version of events you heard from Ms. Carpenter?

8 A Yes.

9 MS. SUDANO: No further questions.

10 THE COURT: Any recross?

11 MR. SHETLER: Briefly, Your Honor, thank you.

12 **RECROSS EXAMINATION OF ALMEDIA BRAGG**

13 BY MR. SHETLER:

14 Q Officer Bragg, did you ever have a chance to inspect Mr. Perry after he
15 was apprehended?

16 A No. That -- this is the first time I seen him beside his on wanted [sic]
17 poster.

18 Q Did you ever hear any evidence during your investigation of mutual
19 combat or self-defense on Mr. Perry's part?

20 A No. If it was self-defense he should've stayed there at the scene.

21 MR. SHETLER: Thank you very much officer.

22 THE COURT: Any further redirect?

23 MS. SUDANO: No, Your Honor.

24 THE COURT: Thank you. We appreciate your time.

25 Next witness.

1 MS. SUDANO: The State would call Danielle Keller, please.

2 THE MARSHAL: Okay, go ahead into the box, remain standing. Raise your
3 right hand and face that young lady right there.

4 **DANIELLE KELLER**

5 [having been called as a witness and being first duly sworn, testified as follows:]

6 THE COURT CLERK: Please be seated.

7 Would you please state and spell your first and last name for the
8 record.

9 THE WITNESS: Yes, it's Danielle Keller, D-A-N-I-E-L-L-E K-E-L-L-E-R.

10 THE COURT CLERK: Thank you.

11 THE COURT: Go ahead.

12 MS. SUDANO: Thank you, Your Honor.

13 **DIRECT EXAMINATION OF DANIELLE KELLER**

14 BY MS. SUDANO:

15 Q Ma'am, how are you employed?

16 A I'm a senior crime scene analyst at the Las Vegas Metropolitan Police
17 Department.

18 Q Now, I want to talk you through a little bit. Do you have to have special
19 training and education in order to be a crime scene analyst?

20 A Yes.

21 Q Walk us through a little bit of that, if you would.

22 A I have a bachelor's degree in criminal justice and then I completed the
23 academy infill training program at Metro and subsequent training ever since I've
24 been employed.

25 Q When you say subsequent training, what are some of the things you

1 have to do for that subsequent training?

2 A Various things such as: blood stain classes, shooting reconstruction,
3 photography classes; all sorts of courses.

4 Q How often do you have to take those additional courses?

5 A We have quarterly training and then there's various classes offered
6 throughout the year.

7 Q Now, you said that you are a senior crime scene analyst; is that
8 correct?

9 A Yes.

10 Q How long have you been a crime scene analyst, total?

11 A Seven and a half years.

12 Q And how is it that you become a senior crime scene analyst as opposed
13 to when you first start out?

14 A At around your fourth year you have to test which is a written, practical,
15 and oral board exam to promote to senior.

16 Q And you were able to do that?

17 A Yes.

18 Q Now, I'm going to draw your attention to May 1st of 2014. Were you
19 working that day?

20 A Yes.

21 Q Did you have occasion to be dispatched to a scene at 2461 Old Forge
22 Lane?

23 A Yes.

24 Q Is that here in Clark County, Nevada?

25 A Yes.

1 Q What was the nature of -- well, first, let's back up. What's your typical
2 process when you respond to a scene; just in general?

3 A Typically, I meet with the officers and the victim and they walk me
4 through the scene. I then take photos and notes to document the scene and collect
5 any evidence and recover latent prints.

6 Q Now, is it different when you respond to a scene where there are patrol
7 officers as opposed to when you respond to a scene with detectives?

8 A Yes.

9 Q What are those differences?

10 A Usually the detectives take the lead role in a scene if they're there. If
11 it's just the patrol officers, patrol and myself will take the lead role.

12 Q So you have a lot more involvement when you're with patrol officers; is
13 that fair?

14 A Yeah.

15 Q And why is that; just generally?

16 A Um, I mean, just how it goes. The detectives get all the information and
17 on bigger cases on different -- on cases that are not so involved they don't need to
18 be dispatched.

19 Q So now, on this scene at 2461 Old Forge, was there a detective
20 present?

21 A No.

22 Q So, were you just working with patrol officers?

23 A Yes.

24 Q Now, what was the first thing that you did when you responded to this
25 particular scene on May 1st of 2014?

1 A I met with officers who were at the scene already.

2 Q Based on your meeting with those officers, what, if anything, did you do
3 next?

4 A Then I took notes documenting what I saw at the scene and
5 photographed it as well.

6 Q What's your process for taking the photos at a scene?

7 A We try to do a chronological if we can tell or based on the information
8 that's given to us we do overalls just to document the rooms, how the house is laid
9 out. Then we'll show close ups and comparison and relationship photos of any
10 evidence or anything that we're trying to point out in the scene.

11 Q Now, in this particular case did also you meet with the victim and
12 discuss the crime scene with the victim?

13 A Yes.

14 Q Okay. After you meet with all the parties do you always take photos of,
15 I guess, every room in a house?

16 A Not typically.

17 Q Why wouldn't you take photos of every single room?

18 A Usually we'll just focus on the rooms that have disturbance or that were
19 -- there was information given to us that there was something relevant in that room.

20 Q Now, I'll walk through with you if I can some of the photos of this scene
21 that you took here. I apologize. These are in no particular order because I messed
22 them up earlier. All right. So while I'm tracking down my photos here, oh, there we
23 go.

24 I'm going to start you here with State's Exhibit 4. What's depicted in
25 State's Exhibit 4?

1 A That's the front door to the residence.

2 Q And then State's Exhibit 5, what's depicted in State's Exhibit 5?

3 A That's showing the condominium number.

4 Q And so, is there any reason that you would take Exhibit 4 and then also
5 Exhibit 5; so the faraway shot of the door and then the close up shot?

6 A Just to show that's it's from the same door and that's the address that
7 we're about to enter.

8 Q And so, that's just the first step you take when you're kind of
9 documenting the scene?

10 A Yes.

11 Q Now, after you took the photos of the door and the residence where did
12 you go next?

13 A I believe it was the living room, the downstairs portion of the residence.

14 Q See what I can find for the living room. Showing you State's Exhibit 20;
15 is that the living room?

16 A Yes.

17 Q Now, is there anything of evidentiary value located in that living room?

18 A No.

19 Q Okay. And then same with Exhibit 21; is that a different angle of the
20 living room?

21 A Yes.

22 Q Now, is there any reason why you would have multiple shots of the
23 same living room area?

24 A It's just to show the general layout of the room.

25 Q And is that so later on when we come back for something like this you

1 can kind of remember and document the entire room?

2 A Yes.

3 Q Okay. So, after you were done in the living room, where did you go

4 next?

5 A There was -- it was kind of one big room but there was a kitchen in the

6 center and then a bathroom and then a door that led to the garage.

7 Q Okay. Now, is there anything of evidentiary value located in the

8 kitchen?

9 A There was some blood on the floor and a bloody tissue on the counter.

10 Q So, showing you State's Exhibit 7; is that the kitchen of the residence?

11 A Yes.

12 Q Now, if you mark on the screen --

13 A Okay.

14 Q -- up there we can see kind of where these items are. Can you see the

15 blood on the floor?

16 A Yeah, it's back -- oh, let me see. Oh, there -- I'm sorry, back in that

17 corner.

18 Q Okay.

19 A And then the tissue was up here.

20 Q And then if you'll hit either the bottom right or the bottom left to clear

21 that out. And now, State's Exhibit 8 is -- what is depicted there?

22 A That's a close up of the blood.

23 Q And now, State's Exhibit 9; what's depicted in State's Exhibit 9?

24 A And that's a close up of the tissue on the counter.

25 Q And a way back you testified that it was kind of one big area and there

1 was the garage and a bathroom; is that correct?

2 A Yes.

3 Q Now, showing you State's Exhibit 6. What's depicted there?

4 A So, there's the kitchen again here, and then this is the door to the

5 bathroom and this is the door leading to the garage.

6 Q Is there anything of evidentiary value located in the bathroom?

7 A Yes.

8 Q What was that?

9 A There was some blood on the doorway, right here. And then there was

10 also some in the bathroom, as well.

11 Q Showing you State's Exhibit 11; is that the blood on the doorway to the

12 bathroom?

13 A Yes.

14 Q And then State's Exhibit 12; is that inside the bathroom?

15 A Yes.

16 Q And can you indicate just where the blood is and --

17 A There some. It's right here.

18 Q And so on that bathroom wall downstairs?

19 A Yes.

20 Q Is there anything else of evidentiary value located in the bathroom?

21 A Not that I recall.

22 Q Now, I'm showing you State's Exhibit 10. What's depicted there?

23 A That is, again, the bathroom door here and then the door leading to the

24 garage.

25 Q Is there anything of evidentiary value found outside in the garage?

1 A In the garage, yes; there was.

2 Q What was located in the garage?

3 A There was a steak knife on the floor.

4 Q Let me show you this one. State's Exhibit 26; is that the steak knife you

5 were talking about?

6 A Yes.

7 Q Now, was there anything additional of significance with that steak knife?

8 A There was some apparent blood on the steak knife.

9 Q Based on that apparent blood what, if anything, did you do with the

10 steak knife?

11 A I recovered it and impounded it.

12 Q Now, after you were done documenting the garage where did you go

13 after that?

14 A I believe upstairs to the master bedroom.

15 Q Now, was there anything of evidentiary value located inside the master

16 bedroom?

17 A There was apparent blood on the bedding of the bed in the room.

18 Q Okay. Showing you State's Exhibit 13; is that a photo of the master

19 bedroom with the bed in it?

20 A Yes.

21 Q Okay. Now, showing you State's Exhibit 19; is that a close up shot of

22 that bedspread and bed?

23 A Yes.

24 Q Now, can you see any of the apparent blood you were talking about?

25 A Yes, there's some right here and then I think a little bit on the floor as

1 well.

2 Q So that's just kind of to the center bottom right of that photo?

3 A Yes.

4 Q I'm also going to show you State's Exhibit 16. What's depicted in
5 State's Exhibit 16?

6 A That's more apparent blood on the bedding; down here and up here,
7 kind of all over.

8 Q Is there anything else of evidentiary value located inside the master
9 bedroom?

10 A No.

11 Q Okay. Now, after you went into the master bedroom did you go
12 anywhere else in the house?

13 A I photographed the victim back in the living room.

14 Q Did you ever photograph any of the bathrooms upstairs?

15 A No.

16 Q Did you photograph -- was there another bedroom upstairs?

17 A I don't recall if there was.

18 Q Did you take any photos of any additional bedrooms upstairs?

19 A No.

20 Q Okay. So after you documented this master bedroom upstairs you just
21 went back downstairs?

22 A Yes.

23 Q Now, was there anything else of evidentiary value located on the stairs
24 or anywhere else?

25 A Not that I had -- was -- not that I saw or that I recall.

1 Q Now, you said that you documented the victim back downstairs. Where
2 was the victim when you documented her injuries?

3 A She was lying on a mattress in the living room.

4 Q Now, is there any particular reason that she was lying on the mattress?

5 A She was not feeling well and seemed out of it, so I just let her stay on
6 the mattress to take pictures of her.

7 Q Normally, would you document somebody lying down on a mattress?

8 A Not typically, no.

9 Q How would you normally document somebody?

10 A We usually do standups, what's what we call standups where we'll
11 shoot vic pictures of all four sides and then a close up of their face.

12 Q Okay. Now, so I'm showing you Exhibit 28 there. Is that the victim
13 lying on that mattress?

14 A Yes.

15 Q Okay. And again, there -- are there are any, I guess, angles of her
16 back or anything?

17 A No.

18 Q And that was just due to her discomfort?

19 A Yes.

20 Q Okay. So I'm going to show you State's Exhibit 30. What's depicted in
21 State's Exhibit 30?

22 A That's just a close up of her face.

23 Q Are there any injuries that you can see on her face?

24 A She had injuries to her eyes and to her mouth.

25 Q Now are those depicted in that photo?

1 A Yes, and there should be some close ups as well of those.

2 Q Let's start with Exhibit 31. Is that one of the close up photos you took?

3 A Yes.

4 Q And, specifically, what area are you focusing on in 31?

5 A It was her right eye.

6 Q And then how about State's Exhibit 32; what area are you focusing on

7 in 32?

8 A That's the same photo. I will take a picture both with a scale and

9 without just to show that there's nothing that was covered up by the scale.

10 Q So same area of that right eye area?

11 A Yes.

12 Q Was there anything significant as far as injuries on that right eye?

13 A It just looked swollen and maybe starting to bruise.

14 Q Now, showing you Exhibit 33. What's depicted in Exhibit 33?

15 A That's her left eye.

16 Q Is there anything significant as far injuries in Exhibit 33?

17 A Same thing, swollen and just getting discolored from bruising.

18 Q And now State's Exhibit 34. What's depicted there?

19 A Her mouth.

20 Q Anything significant about the victim's mouth?

21 A There was some apparent blood and then also swelling and discoloring.

22 Q Is there apparent blood anywhere other than her mouth in that photo?

23 A It looks like closer to her nose there.

24 Q Now, after you took your notes and documented the scene with photos

25 did you do anything else to process this particular scene?

1 A I recovered some blood samples from the scene.

2 Q Do you recall specifically where you took those blood samples from?

3 A From the master bedroom, the bedding in the bedroom as well as the
4 doorway to that bathroom downstairs.

5 Q Now, when you recover potential blood from a scene do you do any
6 testing at the scene or does that all just happen at the lab?

7 A We'll do some presumptive testing at the scene but as far as looking for
8 DNA or anything like that, that's done at the lab.

9 Q So what kind of presumptive testing do you do?

10 A In this case I performed a test called phenolphthalein kit on the
11 samples, well, on a sample from the same area that I recovered the samples.

12 Q And can you just walk through, very briefly, what the phenolphthalein
13 sample is?

14 A You have two parts and you just apply a couple drops to the sample of
15 each and if it's positive for blood it will turn pink.

16 Q And you said you did that presumptive test on the presumptive blood
17 from the master bedroom?

18 A Yes.

19 Q Do you recall whether or not that was positive for presumptive blood?

20 A Yes, it was positive.

21 Q And you also tested for presumptive blood on the doorway of the
22 bathroom?

23 A Yes.

24 Q Was that test positive?

25 A Yes.

1 Q Now, in addition to the presumptive blood testing did you do anything
2 else at the scene?

3 A I recovered the knife.

4 Q What did you do with the knife when you recovered it?

5 A I put it in a package so that it could, if they wanted to later test it for
6 DNA, fingerprints, whatever they wanted to.

7 Q And so you impounded it into evidence?

8 A Yes.

9 Q But then as far as any sort of testing that would later be done on that is
10 that something you would do?

11 A Sometimes we will, but in this case I did not.

12 Q So you just booked it into evidence, essentially?

13 A Yes.

14 Q Did you have any additional involvement at the scene?

15 A No.

16 MS. SUDANO: Your Honor, I have no further questions.

17 THE COURT: Okay. Cross?

18 MR. SHETLER: Thank you, Your Honor.

19 **CROSS-EXAMINATION OF DANIELLE KELLER**

20 **BY MR. SHETLER:**

21 Q Ms. Keller, my name is Travis Shetler and I represent Mr. Perry.

22 A Okay.

23 Q I've got just a couple questions for you. Are you okay comfort-wise?

24 A Yes, I'm okay.

25 Q You, take a break?

1 A No, I'm okay, thank you.

2 Q It's a lot of stuff.

3 Ms. Sudano asked you if you recalled any blood going up the stairway.

4 A No, I don't.

5 Q If there was blood there would you have photographed it or

6 documented it?

7 A Yes.

8 Q If there was something there and you thought it was blood would you

9 have photographed it and documented it?

10 A Yes.

11 Q Right. You're not testing it at that point, you're just --

12 A No.

13 Q And when you took photographs of Ms. Carpenter's injuries you're

14 trying to document any injury that she has --

15 A Yes.

16 Q -- that you -- that would come out on a photo?

17 A Yes.

18 Q You didn't take any photographs of her hands, is that correct?

19 A No.

20 Q Did she tell you that she had cuts on her hands?

21 A No.

22 Q Do you rely on the victim to let you know what injuries there are or do

23 you make your own determination about that?

24 A Yeah, typically unless it's something really obvious we'll just ask them,

25 you know, where they're injured and try to look and see if there's anything visible to

1 document.

2 Q So if, and if I get this confused, please stop me. If there's no
3 photographs that you took of cuts on her hands does that mean there were no cuts
4 on her hands or does that mean you just didn't notice them, it didn't come up --

5 A I didn't notice them and wasn't told about them if there's no
6 documentation of that.

7 Q Well, it may be significant or it may not be significant.

8 A Correct.

9 Q Did you ever have an opportunity to view some -- you know what a
10 selfie is?

11 A A selfie?

12 Q Yes.

13 A Yes.

14 Q Have you ever had an opportunity to review any of Ms. Carpenter's
15 selfies of her injuries?

16 A No.

17 Q She told the Court that she took some photographs some number of
18 days later and then maybe the same day, it's not clear; so I'm going to show you a
19 photograph she took. It's Exhibit 37. Can you see that okay?

20 A Yes.

21 Q She testified in the lower photograph there two marks on what I'm --
22 would you agree that it seems possible to be her left pinkie?

23 A It could be, yes.

24 Q You see the two marks; there's a very dark small mark and then a
25 slightly bigger, not as dark mark?

1 A Yes.

2 Q Did either of those marks look significant to you from your experience
3 and training?

4 A If I had seen them at the time I probably would have photographed
5 them but I don't recall seeing them or her telling me about them.

6 Q I'm going to show you photograph 36 or -- Exhibit 36, excuse me.
7 Those are two photographs she took of her face.

8 A Uh-huh.

9 Q Again, she wasn't -- it was unclear when these were taken.

10 A Correct.

11 Q Those injuries seem consistent with what you saw?

12 A Yes, I mean, they appear darker but that can happen as time goes on.
13 Bruises can darken.

14 Q Right. And as you look at these today its -- do you have any ability to
15 tell how much later they were taken if it was --

16 A No.

17 Q -- the same day or different days?

18 A Everybody kind of goes differently as far as injuries.

19 Q Right. I mean, that would be as subjective as the quality of the camera
20 or the phone that was used, everything.

21 A Correct.

22 Q Yeah. Once you, and Ms. Sudano may have asked you this and if she
23 did, please excuse me; once you documented everything, recorded everything,
24 bagged up everything, have you had a chance to revisit this file for any reason?

25 A No, just for Court purposes.

1 Q Right, right. Okay.
2 Court's indulgence, please.
3 THE COURT: Mm-hmm.
4 MR. SHETLER: Officer Keller, thank you and I hope you get out of here
5 quick.
6 THE WITNESS: Thank you.
7 THE COURT: Is there any redirect?
8 MS. SUDANO: No, Your Honor.
9 THE COURT: Thank you, ma'am.
10 THE WITNESS: Thank you.
11 THE COURT: Appreciate your time.
12 Does State have any other witnesses?
13 MS. SUDANO: The State does not have any additional witnesses and I
14 believe all the Exhibits 1 through 37 have previously been admitted. So with that the
15 State --
16 THE COURT: Okay. Can the Court Clerk confirm that 1 through 37 is
17 admitted?
18 THE COURT CLERK: Yes, they are.
19 THE COURT: Okay.
20 MS. SUDANO: With that, the State would rest, Your Honor.
21 THE COURT: Thank you.
22 Defense?
23 MR. SHETLER: Your Honor, I would like to consult with my client to make a
24 final determination whether he will be testifying or not testifying.
25 THE COURT: Okay.

1 MR. SHETLER: I do have -- again, I believe it's just going to be an offer of
2 proof. I don't believe I have a good basis to have another witness in so we may just
3 have Mr. Perry or nobody.

4 THE COURT: Okay. So, we'll take a short break and come back in and see
5 what we're going to do.

6 MR. SHETLER: Thank you, Your Honor.

7 THE COURT: And, you know what; before we take a break let me just ask.
8 Did you -- have you gone through the State's proposed Instructions?

9 MR. SHETLER: I have.

10 THE COURT: Okay. Are you -- are we going to need to talk about objections
11 or additional proposed Instructions?

12 MR. SHETLER: There's one question, I will try and address that with Ms.
13 Sudano and see if we can avoid wasting the Court's time. I don't think -- because
14 we went through them last time, so.

15 THE COURT: Okay.

16 MR. SHETLER: Thank you, Your Honor.

17 THE COURT: Thank you.

18 [Recess taken at 2:27 p.m.]

19 [Proceedings resumed at 2:37 p.m.]

20 THE COURT: Okay. Mr. Shetler.

21 MR. SHETLER: Your Honor, I've spoken with my client, Mr. Perry does not
22 care to testify.

23 THE COURT: Okay.

24 MR. SHETLER: We -- the only other witness that we intended to possibly call
25 would have been the security guard. I can make an offer of proof. I think the Court

1 really, and I've spoken about this with Ms. Sudano, I think the Court's ruling on the
2 previous motion regarding -- would be just through *Gideon* testimony about more of
3 the details of what took place at T.J. Maxx --

4 THE COURT: So --

5 MR. SHETLER: -- and I don't --

6 THE COURT: Okay. The security guard --

7 MR. SHETLER: -- and I think based on the Court's ruling --

8 THE COURT: -- from T.J. Maxx.

9 MR. SHETLER: I'm sorry, Your Honor, I apologize.

10 THE COURT: Okay.

11 MR. SHETLER: I understand you may not be exactly where my little head's
12 at. It would be brought in to color up and give some more details as to her activities
13 that day.

14 THE COURT: Right.

15 MR. SHETLER: To try and establish a slightly more of what we would
16 consider a fuller picture of Ms. Carpenter. I think the Court's previous ruling on the
17 motion is sufficient for the record. I don't -- I'll do whatever the Court would like.
18 We've talked about it and we think that your ruling on that motion, you made it clear
19 in the evidence offer that would come if we would try to offer for that, but.

20 THE COURT: So, I was only allowing information about that incident to the
21 extent that it affected your client's --

22 MR. SHETLER: Right.

23 THE COURT: -- state of mind --

24 MR. SHETLER: Right.

25 THE COURT: -- that day. So unless he talked to the security guard I don't

1 see how that would be pertinent to that issue.

2 MR. SHETLER: Right. And I did speak about this with Mr. Perry. He
3 understands what's going on. I just wanted to make sure we talked about it.

4 THE COURT: Okay.

5 MR. SHETLER: The only other request we'd have at that time, and I'm
6 slightly ahead of the scheduling here, is I would like the opportunity to speak with
7 Mr. Perry and prepare for closing, if it would be possible to do our closings
8 tomorrow. I don't know if the Court's amenable to that.

9 THE COURT: Okay.

10 MS. SUDANO: And, Your Honor, I'm not going to belabor the point with the
11 security guard, I do think that Your Honor's prior ruling is sufficient there.

12 As far as Mr. Shetler's request on closings, I'm prepared to go forward
13 today or we can do it tomorrow, whatever Your Honor's preference, and whatever's
14 most convenient for Mr. Shetler, I'm fine with.

15 THE COURT: Right. I mean, I could, you know, we could do them now. I
16 don't mind if you want to do them tomorrow, but are you prepared to talk about the
17 Instructions?

18 MS. SUDANO: Oh, that's right.

19 MR. SHETLER: No. I spent my time back in the luxurious confines of the
20 little room. Maybe if -- I don't think we're going to have an issue there. I just -- it
21 would probably make sense to take a second and do that. In an hour we could put
22 that on right before closing, whatever you're comfortable with, Your Honor.

23 I'm not. The short answer is no, I'm not.

24 THE COURT: Right. Okay. Well, on the good side we won't have to make
25 14 copies of the Instructions, so. I guess we'll deal with that first when you come

1 back at 10 in the morning.

2 So, to be clear, Defense is resting then at this point, right?

3 MR. SHETLER: Yes. I didn't say that either. Yes, Your Honor.

4 THE COURT: Okay. I just wanted to be clear.

5 MR. SHETLER: And if I do come across something I will make sure that I do
6 that before the afternoon is over and send an email to the Court and everybody on
7 the issue.

8 THE COURT: Right. So, we can address the Instructions first and then I will
9 read the Instructions to myself before we proceed. I don't need to read them out
10 loud in Court and then have closings, I guess, tomorrow and then I'll probably just
11 vacate for some time to contemplate, review the Exhibits and my notes and come
12 back with a verdict.

13 Okay. So, with the evidence being complete, we'll come back at 10
14 tomorrow. We'll first address Instructions and then do closings, okay?

15 MR. SHETLER: Thank you, Your Honor.

16 THE COURT: Great.

17 MS. SUDANO: Thank you, Your Honor.

18 THE COURT: Thank you.

19 [Bench Trial, Day 2, concluded at 2:41 p.m.]

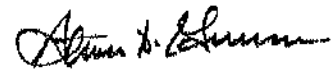
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22 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
23 acknowledge that this is a rough draft transcript, expeditiously prepared, not
24 proofread, corrected, or certified to be an accurate transcript.

25


DALYNÉ EASLEY
Court Transcriber



CLERK OF THE COURT

1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 GENARO PERRY,

13 Defendant.

CASE#: C298879

DEPT. VI

14 BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE
15 THURSDAY, OCTOBER 1, 2015

16 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**
17 **BENCH TRIAL - DAY 3**

18 For the State:

19 ROBERT BRAD TURNER, ESQ.
20 Chief Deputy District Attorney
21 MICHELLE SUDANO, ESQ.
22 Deputy District Attorney

23 For the Defendant:

24 TRAVIS S. SHETLER, ESQ.

25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 THURSDAY, OCTOBER 1, 2015 AT 10:39 A.M.

2
3 THE COURT: Good morning.

4 MS. SUDANA: Good morning, Your Honor.

5 THE COURT: And what have we here?

6 MS. SUDANO: Your Honor, I know that we put it on the record --

7 THE COURT: Go ahead and sit down.

8 MS. SUDANO: -- previously.

9 THE COURT: Hold on. Just, go ahead and have a seat.

10 THE DEFENDANT: Yes Ma'am.

11 MS. SUDANO: I know that we put it on the record previously that both sides
12 were waiving the jury but we do just want to have it in writing.

13 THE COURT: Yes.

14 MS. SUDANO: And so if Your Honor would sign our stipulation and order
15 after the Defendant has looked over it we would appreciate that.

16 THE COURT: Okay.

17 MS. SUDANO: May I approach to have that filed?

18 THE COURT: Yep.

19 MS. SUDANO: Thank you, Your Honor.

20 THE COURT: Do you need me to sign?

21 MS. SUDANO: Oh, yes, if you would, I apologize.

22 THE COURT: That's okay. So, it's just multiple copies of the stip and order?

23 MS. SUDANO: It is. I just wanted to have one original but I guess we have
24 them all signed.

25 THE COURT: Okay. So the clerk will file those or file the stip and return the

1 copies, I guess.

2 MS. SUDANO: Thank you.

3 THE COURT: Okay. So we've got the Instructions to discuss.

4 MR. SHETLER: Your Honor, we did phone chambers last night to let you
5 know that we were in good shape on the Instructions themselves. Ms. Sudano
6 wants to make a presentation regarding the self-defense Instructions.

7 MS. SUDANO: That's correct, Your Honor. I didn't hear any evidence
8 throughout the case even in inference of slight -- or self-defense so even though
9 those were initially included with the packet and they were presented to Your Honor,
10 at this point I don't think that there's any evidence to support the giving or the
11 including of the self-defense Instructions in this particular case. So that was
12 Instructions on pages 35 through 40.

13 THE COURT: Okay. Mr. Shetler.

14 MR. SHETLER: Your Honor, the evidence itself to support those Instructions,
15 it's a good argument that we didn't establish enough evidence to get to that point.
16 Certainly the victim did not assist us in that endeavor and Officer Braggs [sic] did not
17 -- Braggs right; did not say that she saw any evidence.

18 I will argue in closing that it's possible our officer was slightly biased,
19 with all due respect for her service, and I'll make an argument about that. I -- I'm
20 saying everything I think I can.

21 THE COURT: Right. I appreciate that. Right.

22 So, there is no evidence that Ms. Carpenter made any threat or
23 threatened any kind of violence or held a weapon or said she was going to do
24 anything to cause the Defendant harm. So, I think the State is correct that there is
25 not evidence to support the giving of those Instructions in this case. I just -- there

1 just isn't evidence of self-defense.

2 So, that's 30 -- pages 35 to 40 would be pulled then?

3 MS. SUDANO: Correct, Your Honor.

4 THE COURT: Is there any objection -- so, the State is still proposing all the
5 rest of what it had originally given though?

6 MS. SUDANO: Yes, Your Honor.

7 THE COURT: Are there any other objections by the Defense?

8 MR. SHETLER: No, Your Honor.

9 THE COURT: And have you reviewed the proposed verdict form as well?

10 MR. SHETLER: Not with my client but I have looked at that and I don't have
11 any concerns about that, but I have not done that with Mr. Perry. I'm sorry, Judge.

12 THE COURT: Do you have a copy to take a quick look at the verdict form?

13 MR. SHETLER: I do not. Thank you.

14 [Colloquy between Court and court staff not transcribed.]

15 THE COURT: While you're looking at that, Tim is going to go make a final set
16 of the Instructions and while I wait we can go off the record while they discuss the
17 verdict form.

18 [A brief recess was taken at 10:46 a.m.]

19 [Proceedings resumed at 10:48 a.m.]

20 THE COURT: Okay. Have you had an opportunity to review the verdict
21 form?

22 MR. SHETLER: I have, Your Honor and I've gone over those with my client
23 and we do not have any objections.

24 THE COURT: Okay. So, what we're going to do then is finalize the verdict
25 form and run a final set of the Instructions numbered as we would do for a jury. So

1 as I indicated, what I'd like to do is read them to myself. I don't think I need to read
2 them out loud.

3 MR. SHETLER: Right.

4 THE COURT: So, I guess, I don't know how you feel about it. I -- if I like
5 read them, the full set in chambers, and come in and say I've done that and sign it,
6 is that sufficient for you or do you think I need to sit in front of you and read them? I
7 don't want a problem later so, however you prefer.

8 MS. SUDANO: And, Your Honor, I would leave that to you. I'm certainly
9 comfortable with you going back to chambers if that's where you're more
10 comfortable to read them and then letting us know on the record that you have
11 reviewed them all.

12 THE COURT: And then I would sign them and make them part of the record.

13 MR. SHETLER: Right. I've talked with Mr. Perry about that. We're both
14 comfortable with that as well, Judge.

15 THE COURT: Okay. So I guess what I'm going to do then is take a few
16 minutes to do that in chambers and then I'll come back in and we'll do closings;
17 okay? All right. We'll take a few minutes here.

18 MR. SHETLER: Thank you

19 [A brief recess was taken at 10:49 a.m.]

20 [Proceedings resumed at 11:11 a.m.]

21 THE COURT: Okay. I think you were given the revised Instructions which
22 are numbered now one through forty-one. I believe they are in accordance with our
23 discussion a few minutes ago. Are there any concerns about that? Hearing none --

24 MS. SUDANO: No, Your Honor.

25 THE COURT: Okay. So I did, as we discussed, in chambers read to myself

1 Instructions 1 through 41. I'm going to now sign indicating that I have given myself
2 those instructions. Today's October 1st; correct?

3 MR. SHETLER: Correct.

4 MS. SUDANO: Yes, Your Honor.

5 THE COURT: Okay. Okay, so I'm giving that to the clerk and the clerk has
6 the verdict form ready to go. So with that, closing argument.

7 MS. SUDANO: Thank you, Your Honor.

8 **CLOSING ARGUMENT BY THE STATE**

9 BY MS. SUDANO:

10 Now, Your Honor, we're in a unique position here today. Obviously,
11 you understand all of the instructions that were provided to you so I'm not going to
12 go through those with you. The one thing that I do want to say first is that the
13 insinuations that you may have heard through Mr. Shetler's questions are not
14 evidence. So instead, what I'm going to do is walk through the scene that was in
15 Ms. Carpenter's house April 30th of 2014 into the morning of May 1st of 2014.

16 So you heard testimony from Ms. Carpenter that on the evening of April
17 30th of 2014 the Defendant, Genaro Perry, arrived at her house late in the evening in
18 order to pick up some medication. Because it was late she agreed to let him spend
19 the night in the house, they went to bed without much discussion. They woke up
20 early that next morning on May 1st of 2014 and they were here in Exhibit 13, the
21 master bedroom located upstairs in that residence.

22 Now, the Defendant woke up first and he still appeared to be agitated
23 from the fight or whatever had happened the night previous. Ms. Carpenter
24 originally didn't understand why he was agitated but he began threatening her
25 family, began making statements that she began to be concerned about. Prior to

1 this she had not been concerned but once she became concerned while she was
2 still sitting in that bed that's depicted there in Exhibit 13, she picked up her cell
3 phone and she attempted to make the first call to 9-1-1 of that morning.

4 Now, upon seeing her pick up that phone the Defendant took the phone
5 from her and he threw it against the wall. While he threw that phone against the wall
6 he made some statement along the lines of you're not calling the police. Now that's
7 part of the coercion charge here in this case was the taking of phone, throwing it so
8 that she could not call 9-1-1 which she was perfectly, lawfully permitted to do. Now,
9 as I've mentioned that is part of coercion count I believe here is charged as Count 5.

10 Now, after throwing the phone Ms. Carpenter got up and she tried to go
11 into the bed -- or to the bathroom, you can see that depicted here in Exhibit 14. So
12 she got up and she walked to the door to the left which was the bathroom. Before
13 she made it into the bathroom the Defendant punched her, knocked her down into
14 the ground in the bathroom. While she was down on the ground with her feet kind of
15 hanging back into that bedroom he then struck her repeatedly while she was on the
16 ground more than once she said, I believe, no more than five times. She began to
17 struggle back and was able to bite him, get released get free from that situation.
18 And then she took off through that second door, the door to the right there, out into
19 the hallway to go downstairs. Now, the incidents that took place up in that bathroom
20 in that bedroom is the first part of the battery count that Your Honor's heard about.

21 Now, when she got about halfway down the stairs the Defendant caught
22 up with her and he kicked her, he knocked her down the rest of the stairs. You can
23 see here to the left of State's Exhibit 6 that bathroom -- or that stairwell that she was
24 kicked down. When she was kicked she slid out into the middle of the kitchen that
25 you can see in Exhibit 6, and landed approximately where that blue towel was in

1 front of the stove in State's Exhibit 7. Now even though she was still on the ground
2 the Defendant continued to punch and kick her while she was there in that kitchen.
3 She had injuries consistent with being punched and kicked while she was on the
4 ground. All of the injuries were to the right side of her face. She also had injuries to
5 her hip, she had a bruised or sore rib all consisted with being kicked while she was
6 already down on the ground. Now, at some point during this struggle she's begging
7 for the Defendant to stop, she's begging that he stops beating her and he does but
8 not for any good reason.

9 Now, she testified that on top of this stove that you can see here in
10 Exhibit 9 was a steak knife. The Defendant picked that steak knife up and began
11 threatening her with it; he began swinging it at her. So that right there is the assault
12 with a deadly weapon. As used in this particular case, that knife constitutes a
13 deadly weapon, Your Honor. And he was obviously intending to hit Ms. Carpenter
14 to strike her with that knife because she did -- or because he did.

15 She testified that that's where the injuries to her hand came from. You
16 can see here in State's Exhibit 37 the bottom photo there's something that looks like
17 a cut mark there, and if you look at it it's actually consistent with being struck with a
18 serrated knife. There are two separate parts to that cut or at least two separate
19 parts to that cut that are consistent with being struck with a serrated knife.

20 Now, once the Defendant has that knife in his hand he does heed her
21 prayers and her requests to stop beating on her in the kitchen but what he does
22 instead is he drags her up, still holding the knife in her -- in his hand and puts her
23 into the living room. Now when she ends up in the living room she's just sitting there
24 on the couch in the living room. She's sitting there for approximately 50 minutes
25 while he's pacing back in front of her with the knife. Now, the entire time that he's

1 pacing back in front of her with the knife she's not free to leave. She's not free to
2 get up, go out of the house, go anywhere else in the house. So, that's our false
3 imprisonment with a deadly weapon because he still had that knife for the entire
4 time, Your Honor.

5 Now, as he's got her standing there he's making threats to her, to her
6 family, to her children, to her husband, he's telling her that he's going to kill her. For
7 some reason he picks seven p.m. that night as a time that he's going to kill her and
8 he's telling her -- he's referencing her Muslim background history and telling her
9 she's going to go see Allah tonight.

10 Now, at some point while she's up on that couch or she's sitting on the
11 couch she gets up and she goes into the bathroom downstairs, you can see here
12 the entrance to that bathroom in State's Exhibit 10. She's saying that the entire time
13 she's sitting on that couch she's trying to plan her escape, to see if she can get far
14 enough out. She doesn't think that she can so instead what she does is she tries to
15 leave some evidence behind and you can see that, you can see the blood smear on
16 the door in Exhibit 10 because she believes that the Defendant is going to kill her
17 throughout this entire thing.

18 Now, once we get into Exhibit 12, which is actually the inside of the
19 bathroom, you can still see again that blood that she was leaving intentionally
20 hoping that if things went wrong there would be enough evidence to tie it back to her
21 to what happened here. Now, once she is in that living -- or done with the bathroom
22 she goes back and she sits back on that living room couch again. The Defendant
23 still has the knife and he's still holding her there and still not letting her leave.

24 At some point though he finds the car keys; the car keys are sitting
25 somewhere downstairs and the victim, Ms. Carpenter, actually sees the Defendant

1 grab those car keys and pick them up. And he says something along the lines of I'll
2 take these and that's clearly done while he still has the knife and it's done in her
3 presence. So that right there is our robbery with use of a deadly weapon, still
4 holding onto that knife, threatening her with force if she tries to resist while he's
5 taking those car keys.

6 You know, he also makes a statement while he's taking those keys,
7 something along the lines of: I stood up for you when you got this car, implies that
8 he's going to take that car from her because he believes that he's somehow entitled
9 to it because he was there when she bought it and he helped her negotiate the
10 price.

11 Now, after they're downstairs and he's got those keys in his hand
12 already and he's still has the knife he takes her back upstairs, forces her back
13 upstairs at knifepoint into the other bathroom. And once she's back in that other
14 bathroom he goes and he gets that cell phone again, Your Honor, that same cell
15 phone that he'd previously thrown against wall. He takes it and he brings it back to
16 her in that bathroom where he's forced her up to at knifepoint, and he tells her again
17 that she's not to call the police and she's not going to be able to call the police, and
18 he takes the phone and he throws it into the toilet. Now that's the other part of the
19 coercion in this case, he was again making sure that she couldn't call the police.

20 Now, when he had her in that bathroom he also made the statement
21 that she was to stay in that bathroom until he left in the car, until she heard the car
22 drive away. And that if she left the bathroom or tried to get help prior to hearing that
23 he was going to kill her, her ex-husband, her family and things were just going to go
24 very badly for her if she left. So, based on all of those threats she stayed in the
25 bathroom while he left the house. Now, that right there is our dissuading a witness.

1 He actively told her that if she took steps to call the police or commence the
2 prosecution in this case that he would kill her or her family.

3 Now, after he leaves the bathroom she hears him go downstairs, hears
4 the garage door open, hears her car drive away and that's within about 30 seconds
5 worth of time. Now, once he leaves she's finally able to get out of the bathroom,
6 tries to go find a neighbor, she's unable to do so. She comes back in and,
7 thankfully, she pulls her phone out of the toilet and it works well enough for her to
8 make that 9-1-1 call.

9 Now, when the officers respond -- you heard from Officer Bragg that in
10 25 years' worth of doing domestic violence work this is one of the more severe
11 cases that she's ever seen. Now, Officer Bragg also corroborates all of the injuries
12 that were present on Ms. Carpenter's face. She sees the raccoon eyes, she sees
13 the cut on the hands, she sees the state that Ms. Carpenter's in. Initially she tells
14 Ms. Carpenter -- or Ms. -- Officer Bragg that she's not going to open the door
15 because she's terrified. She thinks initially that it's the Defendant who's coming
16 back to her house.

17 Now after that, after they get the scene evaluated, Carpenter's still
18 terrified. She still thinks that the Defendant is going to come back, and so she
19 actually has to call officers back a second time and they help her change her locks
20 because she's so scared that the Defendant has her keys in this case.

21 Now, what you also got from Officer Bragg and the crime scene analyst
22 was that this crime scene that we've walked through here spreads all over the
23 house. And Officer Bragg testified that from her training experience this wasn't just
24 a short interaction between these two people this was something that took a lot of
25 time. There was disarray and that was in addition to just the general clutter that was

1 in the house. There were signs of struggle there and that indicated to her again that
2 this isn't just some short interaction, it's a long struggle. She also said that
3 everything she saw at this crime scene was consistent with what Corla Carpenter
4 told her had happened in this case.

5 Now, you also heard from Officer Terry that on May 2nd of 2014, so the
6 day after all of this, he finds the car. And he finds the car here in States Exhibit 3
7 over to the left here is that Karen Court address. Over to the right is Ms.
8 Carpenter's apartment at 2461 Old Forge Lane. Now, the car is gone by the time
9 that Officer Bragg and the crime scene analyst get there and it's not found until
10 Corla remembers that she has this GPS tracking the following day in the car.

11 So, in order for there to be any inference that the Defendant isn't the
12 one who took the car you would have to believe, Your Honor, that somehow Ms.
13 Carpenter, in her state that morning, got the car over to this area on Karen Court
14 where she said she's got no connections but she knows the Defendant has ties. So
15 she drops it off there and then walks back to her apartment, which she testified was
16 approximately a mile away, in the state that she was in that morning.

17 Now, I also want to talk a little bit about the crime scene itself. You
18 heard from Ms. Carpenter that she was a paralegal and that she was thinking about
19 maybe leaving some evidence and making sure that somebody would be able to
20 see this. But do you really think that in her state, Your Honor, she would decide that
21 she needed to leave that knife in the garage; that same knife that she said that the
22 Defendant had, and in the garage right by where her car was? Do you think she
23 was in a state of mind to really plan that all out and to think enough in order to leave
24 this garage -- or that knife in the garage, that's depicted here in State's 25 and 27, to
25 leave it right by that car, to leave it with apparent blood on it where the crime scene

1 analyst are going to find it; and where the reasonable inference would be, that the
2 Defendant ran out into the garage, dropped the knife, got into the car and took off.
3 Now, I don't think that she was in any state of mind and I don't think that the
4 evidence has shown, Your Honor, that she was capable of thinking that far ahead to
5 really do something like that.

6 Now, I want to talk a little bit about the car. You heard from her that she
7 purchased it -- it was a Mercedes, a 1999 Mercedes that she purchased in March of
8 2014 for \$4200.00 which is more than the 3500 required by statute. And then after
9 this case started she went back and she looked on a Kelly Blue Book or a similar
10 site and ascertained the value as about \$5100.00. So either of those values are
11 above the \$3500.00 limit.

12 Now, as far as the grand larceny auto: You again heard the Defendant
13 make that statement when he had the car keys that was something along the lines
14 of I stood up for you when you got this car, which indicated that he thought he was
15 somehow entitled to it, that he's intending to take it because he helps her get the
16 deal, helps her get the car -- or the deal done or get the car. And so he's not
17 borrowing it, he doesn't intend to return it; he says I stood up for you so I'm taking
18 these, the keys meaning that he's also going to take the car. There's no indication
19 that he ever intended to return it. All indications show that he meant to permanently
20 deprive her of that automobile.

21 Now, the last thing that I want to talk about here are the injuries that Ms.
22 Carpenter sustained this day on May 1st of 2014. You saw in State's Exhibit 28 and
23 some of the additional exhibits her state and what she looked like, and you heard
24 from Officer Bragg that that's pretty consistent. Either Officer Bragg or the crime
25 scene analyst, one of them, said those pictures don't even really do justice to how

1 beat up she was, she actually, in person, looked even worse than that. Now, that's
2 important for a couple of reasons. This isn't -- you don't have any evidence before
3 you, Your Honor, that this was self-defense but even if there were some slight
4 inference of self-defense at some point this stopped being self-defense. Even if
5 there was some sort of altercation, which again you have no evidence of in front of
6 you, Your Honor, but even if that were the case at some point the Defendant won
7 the fight and he didn't need to continue beating her up this way. There's no
8 indication that any of this was done in any sort of mutual combat.

9 She's lying down on the ground and she's got those injuries that are
10 consistent with being kicked while she's on the ground; the injuries to the hips and
11 the ribs. And you heard from Dr. Leibowitz that the blow out fracture she sustained
12 to her right eye is always consistent with trauma, 100 percent of the time is from
13 some sort of trauma. He said 99 percent of the time it's from somebody getting
14 punched out. He also said it's possible that that comes from somebody being
15 kicked. Both of those are consistent with what Corla Carpenter told you happened.
16 She said that the Defendant punched her in the face multiple times and that while
17 she was on the ground he was kicking her while he was wearing those Nike boots or
18 his shoes.

19 Now, you also heard that that wasn't the extent of her injuries. She
20 also, still to this day, has numbness and pain and nerve damage in the right side of
21 her face. She's missing teeth, eventually she's going to have to get an implant to
22 have that done. She had to go and get physical therapy in order to deal with the hip
23 pain that she didn't have prior. She also is still undergoing surgery; she's had two
24 and she's going to have a third for the nerve damage and the nerve blocking in her
25 face. Now, she also has that diagnosis of potential glaucoma which is related back

1 to this trauma and what did she say about that; she said I haven't really gotten an
2 answer but it's possible that I'm gonna lose my eyesight as a result of this trauma
3 here.

4 Now, you also heard her say that while she was sitting on the living
5 room couch the Defendant was in front of her yelling at her making all those
6 statements and those threats to kill her. One of the things that he said was look at
7 what you made me do, look at your eye. Now, Your Honor's seen enough of these
8 cases to know that that's unfortunately not uncommon in this type of case but what
9 Your Honor --

10 MR. SHETLER: Objection, Your Honor. I believe that calls for the trier of fact
11 to make a decision beyond the evidence presented in the case.

12 THE COURT: Okay. Sustained. Let's talk about this case.

13 MS. SUDANO: Okay. Move on.

14 MS. SUDANO:

15 So, what Your Honor sees here and what Your Honor knows from that
16 statement that look at what you made me do, look at my eye, is that the Defendant's
17 action in this particular case and what he did, none of that was Corla Carpenter's
18 fault. All of the evidence that you have before you, Your Honor, indicates that the
19 Defendant was not only the initial aggressor but that he took all of these actions
20 against Ms. Carpenter simply because he was upset and he was agitated, there
21 wasn't really any good reason given to you.

22 And with that, Your Honor, when you go back to deliberate in this case
23 the State's going to ask that you find the Defendant, Genaro Perry, guilty of all
24 seven counts.

25 THE COURT: Thank you. Mr. Shetler.

1 MR. SHETLER: Thank you, Your Honor.

2 Court's indulgence one moment; let me make this a little quicker.

3 THE COURT: Uh-huh.

4 **CLOSING ARGUMENT BY THE DEFENSE**

5 MR. SHETLER:

6 Your Honor, I want to thank you for your time and the professional
7 courtesy you have extended to myself and my client here in this trial. I'm
8 cognizance of the fact that our victim is in the courtroom, and I mean no disrespect,
9 but I'm doing my job that I have to do here. I say that to the Court and to her.

10 The concern in this case and what I would ask this Court to do is to hold
11 the State to their burden. To prove my client guilty beyond a reasonable doubt of
12 the elements required for each of the charges.

13 We have an officer, who I have a great deal of respect for, I believe
14 some of her testimony indicates that she may have been slightly biased against
15 people who are charged with domestic violence. I think that she, Ms. Sudano was
16 clearly correct when she stated that she corroborated everything that Ms. Carpenter
17 stated and in fact, I think she went a little further. I think that she tried to corroborate
18 the hand injury that was documented at some point after this went down the same
19 day, four days later, it's not clear. The evidence would suggest it was the same day
20 because of the clothing.

21 The cell phone: She was adamant the cell phone was in the toilet and
22 then the toilet downstairs. She stuck on that pretty hard. It's our position that
23 perhaps the cell phone was in the toilet downstairs, or perhaps that was the story
24 that was related to the police. The evidence introduced by the victim is that the cell
25 phone was thrown into the toilet after the cell phone was already taken away from

1 her and that it remained in the toilet for some unknown period of time, but it's very
2 difficult to get any reliable time estimates out of any of the testimony that came out
3 of this trial. But after that period of time it was able somehow, to make that one
4 phone call.

5 We have the photograph taken by CSA Keller that shows our victim on
6 the bed on the mattress in the living room next to a cell phone. I'm not saying that's
7 a cell phone. The evidence doesn't say that's a cell phone. The evidence also
8 doesn't say that's not the cell phone.

9 We have the selfies. The victim wasn't able to tell us what phone those
10 were taken with or what camera it was taken with. Both items were mentioned in
11 cross-examination. I don't believe that the evidence can -- has established that the
12 cell phone was ever in the toilet beyond the victim's testimony on the stand. I asked
13 Officer Bragg several times and she was adamant that it was in the toilet and
14 possibly in the toilet when she got there. Those are inconsistent statements.

15 The crime scene: And I'm sorry, I should have referenced those. The
16 first exhibit talking about the cuts on the hand, it's Exhibit 37. The exhibit showing
17 Ms. Carpenter on the bed is Exhibit 28. Utilizing Exhibit 7 which shows the kitchen
18 area where Ms. Carpenter says she came to rest after she went down the stairs,
19 was pushed, kicked down the stairs, forced down the stairs. I believe the evidence
20 is clear that she testified she was somehow forced down the stairs quicker than
21 walking, and ended up falling coming to a stop in front of the stove.

22 She was adamant that she was curled up in a fetal position facing the
23 stove. That's not a wide kitchen. Mr. Perry, as everybody else in this courtroom, is
24 considerably smaller than I am, but there's not a lot of room in this area between the
25 refrigerator and the stove. I asked her several times how he was able -- she was

1 adamant that he was kicking her in the face. I asked her several times how that
2 could be in there and she was looking at the stove; there was no answer.

3 And this is what it comes back to, you know, the horrific events of
4 abuse that occur on a daily basis in our town. Nobody deserves to be injured. But
5 our Constitution requires that the government establish beyond a reasonable doubt
6 each element of the crime. Our Constitution requires that there is sufficient reliable
7 evidence to get to this stage. Our Constitution requires and our rules of evidence
8 require that the trier of fact make their decision just based on the evidence
9 presented in the trial.

10 And a significant element and in fact, the only remaining element we
11 have to work with on those jury instructions is the fact that if the trier of fact believes
12 that a witness, out of respect, was inconsistent at some point in time that that could
13 be taken into consideration. It doesn't mean the witness has to be completely
14 dismissed, but it is a factor and it's a significant factor. And this Court -- that right to
15 face our accused is one of the strongest rights in the Constitution. And nobody's
16 comfortable in a courtroom setting. Nobody wants to be asked questions by a
17 lawyer, but your story's got to make sense. It's got to be a linear story that explains
18 some ideas.

19 The holes or the problems, the inconsistencies in Ms. Carpenter's
20 story are not just: I can't be sure how much time it was, I can't be sure what
21 happened. There are significant inconsistencies. She has been present many
22 times in preparing for this case. There's no doubt that the story at T.J. Maxx was
23 going to come up. It escaped her memory that she happened to have a knife in her
24 purse until I asked her later. That's a significant factor that there's a kitchen knife in
25 your purse at a department store; a significant factor, Your Honor. That's not I don't

1 remember if I had my car keys or my apartment keys.

2 The significance of the phone initially, for no -- which there's not a
3 clear reason given. And perhaps my client was a drug-addled maniac, perhaps
4 there was a dispute that was ongoing between of them, perhaps they were engaged
5 in economic transactions to generate money and interest to support the promissory
6 note --

7 MS. SUDANO: I'm going to object, Your Honor. That assumes a lot of facts
8 not in evidence.

9 THE COURT: Right --

10 MR. SHETLER: She denied all those things.

11 THE COURT: -- so you've got to focus on what the evidence is.

12 MR. SHETLER:

13 She denied all those things. But the story of this man who hurt me
14 previously, shows up at my door, I know he has a bench warrant and I know he
15 needs his medication because that causes problems for people, sounds very
16 humane and very compassionate. It also sounds somewhat inconsistent with a
17 person who may have been scared of a person who act in that fashion, who shows
18 up at her door in the middle of the night, and I mean this in absolutely no disrespect
19 to Ms. Carpenter, everybody should be able to do what they want to do, but to greet
20 a former lover at the door essentially disrobed, not direct him to the mattress in the
21 living room downstairs but he comes upstairs, gets in bed with her and again, I don't
22 need to say it again, it's -- those are not the actions of a woman, no matter how tired
23 she is, who's worried about this person.

24 She told him earlier in the text messages that she would leave his stuff
25 outside, that didn't happen. She told him earlier that she would send him to the

1 police station, that didn't happen. She knew he had a warrant. She knew the
2 weeklies where he stayed, that didn't happen. That's unusual.

3 The morning after, he's agitated. He's walking around and for no
4 reason he takes my cell phone and throws it. Okay. He says -- she said twice
5 maybe three times that he said something about my mother, and I'm not minimizing
6 it, but then he punches her in the face so hard that he fractures her eye socket,
7 maybe. Maybe that happened downstairs when we're between her and the stove
8 kicking her in the face, maybe. The doctor did say that he was pretty adamant that
9 mostly these are as a result of abuse but he also said that a kid had just gotten a
10 similar injury from a soccer ball.

11 We're going to convict a man of several felonies here and the standard
12 needs to be observed.

13 The -- Ms. Carpenter knew that my client needed his medication. She
14 didn't take any steps to do anything with it other than let him into her home.

15 She was a trained paralegal who knows what evidence is important.
16 She knows it was important to leave this blood trail on the door jam. Perhaps,
17 contrary to what Ms. Sudano says, perhaps, it's important that that knife get dropped
18 in the garage before he gets in the car because it makes more sense.

19 There's not a clear explanation of what happens between this incident
20 in the floor in the kitchen and this undetermined period of time where we're happy to
21 leave a blood trail, and where at some point my client forces her back upstairs and
22 sets her down and then throws this cell phone in the toilet and then leaves. There's
23 not a clear timeline. There's not a reason, why does it stop. Ms. Sudano said at
24 some point this fight was over. At some point it was no longer self-defense or there
25 was no longer a mutual combat -- I'm going to be very careful -- excuse me, but

1 there's no explanation as to why it changed.

2 She said he cut her hands and Officer Bragg was confident that he cut
3 her hands, and Ms. Sudano says that those injuries are in the bottom of Exhibit 37
4 are consistent with a serrated knife. I think that's a bit of a stretch. We don't know
5 when those were. We don't know when that occurred but we know the CSA did not
6 document them. The CSA is a trained professional, this is her job.

7 We know that this woman was in so much pain that she couldn't get up
8 and do standups for the CSA, which is how they do their business. And I'm sure
9 they're accommodating at the scene but they want stuff done the way they want
10 stuff done. The decision to take these photographs with her lying down, I'm sure,
11 was not made lightly but that same woman doesn't allow an ambulance to transport
12 her. She somehow gets up and walks up on this injured [sic] hip that she talked
13 about to get in the car and go to the hospital and walk into the emergency room.
14 That doesn't make sense.

15 The common sense instruction is, of course, controlling here and it's
16 frequently all the criminal Defendants have to work with. It's important. It's -- our
17 position is it's not enough and it's not common sense enough to get to a conviction.

18 Ms. Carpenter's special training and knowledge of not only the legal
19 system but of the activities of her partner that she talked about; she talked about
20 driving him up and down Boulder Highway selling drugs. She knew where he lived
21 on Boulder Highway. She talked about specifically going and staking him out on
22 Boulder Highway weeks after this so the police could find him.

23 This just sounds like a case of overreaching. It sounds like a case
24 where whether it's a fatal attraction, whether it's a mutual combat, whether it's an
25 agreement that's gone wrong maybe a business agreement that's gone wrong.

1 There's no logical step from, I woke up to I have a fractured eye socket. And, no
2 matter what my client is involved in or doing or the allegations are against my client,
3 and his irregular activities or his irregular behavior, there's no step from I'm lying in
4 bed and he says something about my mother and I have a fractured eye socket.
5 That's not connected, Your Honor.

6 The car: Our position is that there is completely insufficient evidence to
7 connect us to the car. Ms. Sudano's explanation or discussion of this occurring
8 down the street or her getting up and doing it and then injuring herself, there's just
9 nothing there. That's too far to reach.

10 Mr. Perry may not be a model citizen and he may be a convicted felon
11 or at least prior convictions for these injuries, similar; but just as I objected to during
12 Ms. Sudano's argument, this trier of fact needs to focus on the facts of this case and
13 this trial. The State has to show these elements. The State has very skillfully
14 presented this case. Both sides are working with the evidence that they have and
15 there's insufficient evidence to convict this man of seven felonies. There's
16 insufficient evidence and the trier of fact's not be allowed to fill in gaps that don't
17 flow.

18 We're confident in this trier of facts to be able to analyze the case. And
19 once again, I thank you for your time and I again, on behalf of the victim, I do this as
20 my job and I feel for her being here.

21 Thank you.

22 THE COURT: Thank you. Final argument?

23 MS. SUDANO: Thank you, Your Honor.

24 May I have the Court's brief indulgence while I grab one more?

25 THE COURT: Sure.

1 **REBUTTAL ARGUMENT BY THE STATE**

2 BY MS. SUDANO:

3 Your Honor, Mr. Shetler stood before you and said that there was no
4 link between waking up in the morning and having a fractured eye socket. That it
5 just doesn't all add up, that something's missing. I would submit, Your Honor, that
6 you did hear some testimony and some evidence of this relationship, this domestic
7 type relationship that was going on. They'd been together for approximately six
8 months. They'd broken up, kind of on again off again relationship.

9 Now, you heard from Ms. Carpenter that they'd broken up at some point
10 before April 30th of 2014 but that prior to that, even though there was some history
11 between the two of them, she wasn't afraid of the Defendant in this case. So when
12 the Defendant wanted to come over and get his medicine she told him no but when
13 he showed up she empathized. She said you know what you need your medicine
14 that's fine. And then Mr. Shetler pointed out that she wasn't wearing a lot of clothing
15 when he arrived. She wasn't wearing a lot of clothing when she went to bed. She
16 let him sleep in the bed with her.

17 Now, we've heard that that following morning the Defendant's just
18 upset. He's just angry he's making statements about Ms. Carpenter and her family.
19 I would submit to you, Your Honor, that is it possible that he wanted to reconcile and
20 he was given some signals by this woman who's letting him sleep in her bed while
21 she's not wearing a ton of clothing that maybe she wants to reconcile? But that she
22 told you up on the stand she didn't want to reconcile. She didn't give him any
23 additional indication of that other than that just letting his stay over for the night. But
24 is it possible that that's what started this all was him wanting to reconcile and then
25 finding out that morning that she wasn't interested in reconciling? That's for your

1 Honor to determine but you're free to use your common sense in evaluating that
2 situation.

3 Now, you also heard Mr. Shetler's argument, Your Honor, that Officer
4 Bragg, who sat up here and was very happily retired, had some bias because she'd
5 worked so many domestic violence cases. But what did she tell you? She told you
6 that three or four times she's been wrong. She admitted that there have been cases
7 where she's been wrong. She also told you that she didn't believe that this was one
8 of those cases where there was anything inconsistent. So she didn't seem like a
9 witness who was biased and had to be right and had to have everything fit with her
10 version of events. No. She told you that the way that she investigated this case
11 everything seemed consistent, and this wasn't a case where she was concerned
12 about anything.

13 Now, you also heard that there was some confusion about that phone
14 being in the toilet. Now, Officer Bragg was adamant that at some point she's
15 learned the phone was in the toilet but she couldn't remember if it was in the phone
16 -- or in the toilet, excuse me, when she arrived. She was adamant that that phone
17 that she saw had a cracked screen. So I would submit to Your Honor that that
18 cracked screen is still evidence of that coercion and still corroborates the coercion
19 because regardless of when and if the phone ends up in the toilet, throwing the
20 phone against the wall, taking the phone away from the victim, throwing it against
21 the wall when she's attempting to call 9-1-1 after the Defendant's getting agitated
22 and making threats, that in-of-itself is sufficient for the coercion.

23 MR. SHETLER: Your Honor, I'm sorry, I have to object. The testimony was
24 not that the phone was thrown against the wall the testimony was that the phone fell
25 short of the wall.

1 THE COURT: That's not my recollection. So I'll rely on my recollection of the
2 evidence. Go ahead.

3 MR. SHETLER: Thank you, Your Honor.

4 MS. SUDANO: Thank you, Your Honor.

5 MS. SUDANO:

6 Now, there was also testimony and argument here about what
7 happened at the T.J. Maxx. And Mr. Shetler told you that it was inconsistent and it
8 didn't make any sense the way that Ms. Carpenter relayed to you what happened at
9 the T.J. Maxx. Two arguments that are important on that point, Your Honor, one:
10 you heard evidence of what happened at that T.J. Maxx based on the belief that this
11 was going to be a self-defense case and you were going to hear additional evidence
12 that this was self-defense. You didn't hear any of that evidence, so what happened
13 at that T.J. Maxx, respectfully, probably isn't even properly before Your Honor at this
14 point.

15 Now in addition, what happened at that T.J. Maxx, none of those facts
16 are material to what happened here, Your Honor. And the Instruction on the
17 creditability of witnesses tells you that if you believe a witness has lied or has been
18 untruthful or inconsistent about a material fact you're free to disregard their
19 testimony or limit the consideration you give to their testimony. Anything that
20 happened at that T.J. Maxx is not a material fact regarding what happened here,
21 what happened at Ms. Carpenter's house on May 1st of 2014.

22 Now, Mr. Shetler also argued that it was inconsistent. That based on
23 the prior history of Ms. Carpenter and the Defendant that she wouldn't be afraid of
24 him and she would just let him back in, but what did she say about that? She said
25 that she'd let him back into her life previously, that she'd given him chances

1 because she was just a girl trying to be in love. And that was her phrase, Your
2 Honor. That she was willing to give the Defendant chances, probably more than,
3 looking back, she wishes she had but that was just because she this girl trying to be
4 in love. And so as far as her story being inconsistent or not making sense because
5 she wasn't always afraid of the Defendant no, she was overlooking a lot of things
6 because she wanted to believe, and she wanted to believe that they could have a
7 future and that she could be his queen like he promised.

8 So, none of that is inconsistent. It doesn't require Your Honor to make
9 leaps that don't comport with your common sense. Now that's just her explanation
10 of why she kept giving him chances.

11 Now, you also heard again that your common sense is going to guide
12 and that there are too many holes for Your Honor to fill in. But I would submit that
13 your common sense, Your Honor, would tell you that Ms. Carpenter did not do this
14 to herself. That these injuries are not something that somebody's going to fabricate
15 or go to all of these lengths, which seemed to be the insinuation by Mr. Shetler, that
16 she's this paralegal and she's, for whatever reason, just particularly upset with the
17 Defendant on this day.

18 Now, you also heard testimony that she was after the fact -- after this
19 she was kind of looking around for the Defendant because she wanted to make sure
20 that he was held accountable for what had happened to her. And Mr. Shetler tried
21 to infer and argue to Your Honor that that was because of this vendetta that she
22 has. I would submit, Your Honor, that that's just because she was finally done being
23 embarrassed. She had said previously that she'd overlooked some things because
24 she was embarrassed and she just wanted to let it all go but this was kind of the
25 final straw for Corla Carpenter, Your Honor. And this, what you have before Your

1 Honor in Exhibit 30, was why she was willing to follow this man around and look for
2 him for two weeks just to make sure that he didn't get away with what he did to her.

3 And with Your Honor -- with that, Your Honor, I would submit it to you
4 for deliberation.

5 THE COURT: Thank you. Okay.

6 So, what I'm going to do is, I'll be going into chambers to deliberate. I'll
7 get the exhibits and I have the verdict form and I guess we'll give you guys a call
8 when I'm ready. I don't think it'll be too long but I will go through the evidence and
9 my notes before rendering a verdict.

10 So I guess just make sure we have your cell numbers to reach you
11 when that happens.

12 MR. SHETLER: I will, Your Honor. And I do -- just to inform, that there's a
13 prelim downstairs that's waiting for me right now --

14 THE COURT: Okay.

15 MR. SHETLER: -- so I will be in Justice Court 10.

16 THE COURT: Okay.

17 MR. SHETLER: And see if we can get that wrapped up as quickly as
18 possible, Your Honor.

19 THE COURT: Okay.

20 MR. SHETLER: Thank you, Your Honor.

21 THE COURT: Thank you.

22 MS. SUDANO: Thank you, Your Honor.

23 [The Court retired to deliberate at 11:58 a.m.]

24 [Proceedings resumed at 12:59 p.m.]

25 THE COURT: Okay, folks. Thanks for coming back.

1 I did review my notes and the exhibits and have reached a verdict, so
2 I'm now handing the verdict to the Clerk.

3 Defendant and his counsel please stand and the Clerk will read the
4 verdict out loud.

5 THE COURT CLERK: District Court, Clark County, Nevada, the State of
6 Nevada, plaintiff, versus Genaro Richard Perry, Defendant, case number
7 C14298879-1, Department Six, Verdict.

8 I, the finder of fact in the above entitled case find the Defendant,
9 Genaro Richard Perry, as follows: Count 1, robbery with use of a deadly weapon,
10 guilty of robbery with use of a deadly weapon. Count 2, false imprisonment with use
11 of a deadly weapon, guilty of false imprisonment with use of a deadly weapon.
12 Count 3, grand larceny auto, guilty of grand larceny auto value \$3,500.00 or more.
13 Count 4, assault with a deadly weapon, guilty of assault with a deadly weapon.
14 Count 5, coercion, guilty of coercion with force. Count 6, battery resulting in
15 substantial bodily harm constituting domestic violence, guilty of battery resulting in
16 substantial bodily harm constituting domestic violence. Count 7, preventing or
17 dissuading witness or victim from reporting crime or commencing prosecution, guilty
18 of preventing or dissuading witness -- excuse me -- witness or victim from reporting
19 crime or commencing prosecution. Dated this 1st day of October, 2015, District
20 Court Judge Cadish.

21 THE COURT: Thank you. You can go ahead and have a seat.

22 Defendant will be remanded into custody without bail pending
23 sentencing. Let's go ahead and set a sentencing date.

24 THE COURT CLERK: That will be November 16th, 8:30.

25 THE COURT: Okay. Thanks for your professionalism and courtesy all week.

1 MS. SUDANO: Thank you, Your Honor.

2 [Bench Trial, Day 3, concluded at 1:01 p.m.]
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21 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23 
24 DALYNÉ EASLEY
25 Court Transcriber

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FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

OCT 01 2015

BY, S. BOYLE, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 GENARO RICHARD PERRY,
13 #1456173
14 Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

15 STIPULATION AND ORDER

16 COMES NOW, the Defendant, GENARO RICHARD PERRY, by and through his
17 counsel, TRAVIS SHETLER, and the State of Nevada, by and through MICHELLE
18 SUDANO, Deputy District Attorney, and pursuant to NRS 175.011(1), hereby agree and
19 stipulate to the following:

- 20 1. Defendant, GENARO RICHARD PERRY, consented to allow his
21 attorney Travis Shetler to request a bench trial as opposed to a jury trial
22 in case C-14-298879-1.
- 23 2. Defendant, GENARO RICHARD PERRY, thoroughly discussed the
24 differences between a bench trial and a jury trial with his attorney prior
25 to requesting a bench trial. Defendant, GENARO RICHARD PERRY,
26 understands that by requesting a bench trial, he gives up his right to have
27 an impartial jury decide the case. Instead, the Judge will determine guilt
28 or innocence.

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1 DATED this 15th day of October 2015.

2
3 ATTORNEY FOR DEFENDANT

CLARK COUNTY DISTRICT
ATTORNEY

4
5 BY: 

6 TRAVIS SHETLER
Attorney for Defendant
Nevada Bar #004747

BY: 

MICHELLE SUDANO
Deputy District Attorney
Nevada Bar #013260

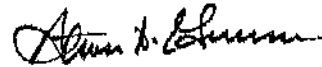
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10 GENARO RICHARD PERRY

11 IT IS SO ORDERED.

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14 DISTRICT JUDGE
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a/L-3

JOC



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY
#1456173

Defendant.

CASE NO. C298879-1

DEPT. NO. VI

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of
COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in
violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE
OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –
GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT
4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS
200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;
COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM
CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS

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1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and
4 the Defendant having been found guilty of said crimes; thereafter, on the 6th day of
5 January, 2016, the Defendant was present in court for sentencing with his counsel,
6 TRAVIS SHETLER, ESQ., and good cause appearing,
7

8 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO **COUNT 3** - TO A
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS
22 TO **COUNT 4** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;
24 AS TO **COUNT 5** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole
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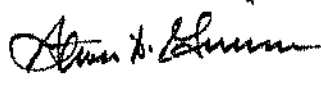
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1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;
2 AS TO **COUNT 6** - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with
4 Count 5; and AS TO **COUNT 7** - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.
7 Defendant's AGGREGATE TOTAL SENTENCE is THREE HUNDRED THIRTY-SIX
8 (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96) MONTHS.
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12 DATED this 22 day of January, 2016.

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15 ELISSA F. CADISH
16 DISTRICT COURT JUDGE
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CLERK OF THE COURT

1 RTRAN

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 GENARO RICHARD PERRY,

10 Defendant.

CASE NO. C298879-1

DEPT. VI

ROUGH DRAFT

TRANSCRIPT OF PROCEEDINGS

11
12
13 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
14 MONDAY, NOVEMBER 23, 2015

15 **SENTENCING**

16
17
18 APPEARANCES:

19 For the State:

MICHELLE L. SUDANO, ESQ.
Deputy District Attorney

20
21 For the Defendant:

TRAVIS SHETLER, ESQ.

22
23 Victim Impact Speaker:

CORLA CARPENTER

24
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, NOVEMBER 23, 2015, at 10:01 A.M.

2
3 THE MARSHAL: Top of page 16, State of Nevada v. Perry, Genaro Richard.

4 THE COURT: Good morning.

5 MR. SHETLER: Good morning, Your Honor, Travis Shetler on behalf of Mr.
6 Perry who's present, in custody.

7 MS. SUDANO: Good morning, Michelle Sudano on behalf of the State.

8 MR. SHETLER: Your Honor, first let me apologize for not being here last
9 week and being late this morning. I received the Presentence Investigation Report
10 on November 12th. I hand carried it over to CCDC, gave it to CCDC, and it came
11 back to me in the mail with insufficient postage on Monday following that, which I
12 didn't have any postage, it's true, but I didn't think I needed it. We forwarded a
13 second copy to Mr. Perry. He had that last Tuesday when I was not here and he
14 was. There are -- the recommendations for a significant amount of time.

15 THE COURT: Yes.

16 MR. SHETLER: Mr. Perry would like to sit down with me face to face and go
17 over this together so we can submit a proper sentencing memo, so I am going to
18 ask for some time. I know the State's objecting and I know the victim's here for a
19 second time and I apologize for that. If there's any way I can assist in that matter --
20 but I do think in light of the time that's out there I need the time to meet with him face
21 to face and prepare a memorandum to make sure I do my job, Your Honor.

22 MS. SUDANO: And, Your Honor, yes, for the record, the State is going to be
23 objecting to that again just because we do have the victim present again for the
24 second time with several members of her family. When we were here last week I
25 understand Mr. Shetler was ill and there's not much we can do about that one --

1 THE COURT: Right.

2 MS. SUDANO: -- but they did specifically ask for just a week to get Mr.
3 Shetler back up to health and up to speed.

4 THE COURT: So, they returned the PSI to you the first time and then it was
5 given to him last week --

6 MR. SHETLER: Correct.

7 THE COURT: -- but you haven't been able to meet with him?

8 MR. SHETLER: I have not been able to. I haven't recovered one hundred
9 percent. I have a strep throat and --

10 THE COURT: Okay.

11 MR. SHETLER: -- it was like revisiting elementary school at my own house
12 again for a while, but it's completely on me. It's not the Court's problem or Mr.
13 Perry's, and I again I apologize. It's just unfortunately the way it was, Your Honor. If
14 there's a fee or something I'm happy to cover that on behalf of the victim. I just --

15 THE COURT: Okay.

16 MS. SUDANO: And I'm not sure if Your Honor would entertain potentially
17 allowing -- or Mr. Shetler allowing the victim to speak today and then continuing the
18 sentencing.

19 MR. SHETLER: I'm not horribly opposed to that. We do have some issues
20 with some of that but it's not like we would have a chance to examine her on that
21 matter, so it might facilitate for the victim --

22 THE COURT: I would be in kind to allow that rather than inconveniencing her
23 again. I'd be happy to hear what she would like to add. Obviously I heard her
24 testimony at trial.

25 MS. SUDANO: Correct, Your Honor. Give me one moment --

1 THE COURT: And so you're not objecting?

2 MR. SHETLER: No.

3 THE COURT: Okay.

4 Go ahead and talk with her. And so then I'd be continuing the
5 sentencing other than hearing from her.

6 MR. SHETLER: Correct.

7 MS. SUDANO: And Ms. Carpenter does wish to address the Court today,
8 Your Honor.

9 THE COURT: I understand that. Okay. So, let's get her up to the table and
10 we'll swear her in.

11 MR. SHETLER: Your Honor, do you mind if I join Mr. Perry in the box?

12 THE COURT: You can go over there, yes.

13 **VICTIM IMPACT SPEAKER: CORLA CARPENTER**

14 [having been called as a witness and being first duly sworn, testified as follows:]

15 [Colloquy between Court and Witness]

16 THE COURT CLERK: Please state your first and last name and spell it for
17 the record.

18 THE WITNESS: Corla Carpenter, C-O-R-L-A, C-A-R-P-E-N-T-E-R.

19 THE COURT: Okay, ma'am, go ahead.

20 THE COURT CLERK: Thank you.

21 THE WITNESS: So as I sit before the district court today I'd like to thank God
22 for even being here and being alive, Honorable Judge, Elissa Cadish, and my legal
23 team, my friends, family, and colleagues that have been so patient, and those in the
24 courtroom and those that couldn't be here, and my doctors who have been
25 instrumental in my healing and piecing me back together.

1 So, Judge, as you -- I guess I was prepared for a sentence to be set
2 today.

3 THE COURT: Right, and I'm sorry that, for reasons beyond our control, that's
4 not happening but I appreciate you speaking today.

5 THE WITNESS: What I'd like to say is on the morning of May 1st, 2014, the
6 Defendant -- I just pray that he pays for his crimes against me and his past victims.
7 And I have been instrumental in being here and being diligent and doing my part to
8 make sure that this does not happen and that he thinks twice about harming anyone
9 else. And it's just funny to me how he never seem to -- not that I want anyone hurt,
10 but he never seemed to attack men, just women that he thinks he can overpower.

11 So, Judge, as you decide on a sentence that is appropriate, I want you
12 to understand that he left me for dead and that --

13 THE COURT: Ms. Sudano, want to hand her the -- thanks.

14 THE WITNESS: Thank you.

15 I have a disabled child who's blind who does not talk. If he's able to
16 make good on his threats to come back and kill my entire family she wouldn't be
17 able to escape unassisted. He's threatened me numerous times. I currently have a
18 temporary protection order. And I just need to say this. I've come to court with
19 makeup, hair done, trying to be presentable but don't make any assumptions that
20 this is how I am every day. Some days it is very hard. My right face is numb for the
21 rest of my life and when my kids go to kiss me I don't feel it anymore. I don't get to
22 feel their warmth. I have an implant in my eye.

23 THE COURT: Right.

24 THE WITNESS: The Defendant is a menace to this community. And I
25 haven't been perfect but I am a 30 year resident of Nevada and I have done

1 community service. I have talked to women in abusive relationships. I've done
2 several things with UNLV and disabled children. And during the time, the brief
3 period of time, I was in a relationship with him I was just a girl in love, just a girl in
4 love. I did not ask for any of this. I was very diligent in making sure he was caught.
5 I know it doesn't work like it does on TV so I went to every place that I thought he
6 might be until we found him and that was my responsibility to the community.

7 I have years of rehabilitation. My eyesight will never be the same. I
8 actually rent -- one of the attorneys I work for I rent his house. My blood is stained
9 throughout that house which will be addressed in a separate civil matter, but -- he's
10 never paid for his crimes, not for me and not for people in the past and I just ask that
11 as you make an appropriate sentence that it's a lengthy amount of time because I
12 will never fully recover.

13 And I thank you for letting me address the Court. I do not want to ever
14 come back here and be in his presence again. And I pray that he gets everything
15 coming to him. Thank you.

16 THE COURT: Thank you very much. I appreciate your time today.

17 So now that we heard from the victim I will go ahead and continue the
18 remainder of the sentencing hearing.

19 MR. SHETLER: Thank you, Your Honor.

20 THE COURT: I am out next week, and having tried the case I would like to
21 impose the sentence.

22 MR. SHETLER: And, Your Honor, I have trial set for both of the following
23 weeks of that -- after that. I've -- I could do it the week right before Christmas which
24 would be super fun, or the week inbetween Christmas and New Year's which would
25 be almost as much fun. I'll do whatever you tell me, Judge. I'm the slow poke here,

1 so.

2 THE COURT: I could do it -- I understand you just said you're in trial, I could
3 do it on the 14th or the 16th, or I can do it in January.

4 MS. SUDANO: Whichever works for the State, Your Honor -- or for the Court,
5 Your Honor. We can do it --

6 THE COURT: And he's remanded so --

7 MR. SHETLER: If January is possible then we -- I would appreciate that
8 courtesy if it's possible, Judge.

9 THE COURT: So --

10 MR. SHETLER: There's crazy trials --

11 THE COURT: -- are you available the first week in January?

12 MR. SHETLER: No, the third week looks pretty good, but I will do what you
13 tell me. I'll have plenty of time to get my stuff. I'll just have to get a judge that works
14 with me as you did so I can do my county commitments. It's going to be a whirlwind
15 couple of weeks. The 14th or 15th would not be ideal for me, but anything after that
16 I'm going to take whatever you tell me, Judge.

17 THE COURT: After that?

18 MR. SHETLER: The 14th or 15th of December, those first two days.

19 THE COURT: Oh, but I'm -- so --

20 MR. SHETLER: Anything after that I'll work around.

21 THE COURT: So the beginning of January we could do it like --

22 MR. SHETLER: I'll make it work.

23 THE COURT: January 6?

24 MR. SHETLER: Yeah. Yes.

25 THE COURT: Okay, let's put it then.

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THE COURT CLERK: January 6, 2016, 8:30, sentencing.

THE COURT: Okay.

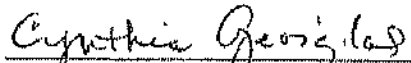
MR. SHETLER: Thank you for all the courtesy, Judge. I appreciate it.

THE COURT: Thank you.

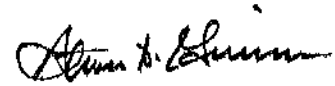
[Proceedings concluded at 10:11 a.m.]

* * * * *

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



CYNTHIA GEORGILAS
Court Recorder/Transcriber
Eighth Judicial District Court Dept. XVIII



CLERK OF THE COURT

1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 GENARO RICHARD PERRY,

11 Defendant.
12
13

CASE NO. C298879-1

DEPT. VI

ROUGH DRAFT

TRANSCRIPT OF PROCEEDINGS

14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
15 WEDNESDAY, JANUARY 6, 2016
16

17 **SENTENCING**
18

19 **APPEARANCES:**

20 For the State:

MICHELLE L. SUDANO, ESQ.
Deputy District Attorney

22 For the Defendant:

23 TRAVIS SHETLER, ESQ.
24

25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, WEDNESDAY, JANUARY 6, 2016, at 9:23 A.M.

2

3 THE MARSHAL: Bottom of page 6, State of Nevada v. Perry, Genaro
4 Richard.

5 MR. SHETLER: Good morning, Your Honor, Travis Shetler on behalf of Mr.
6 Perry who is present, in custody.

7 THE COURT: Good morning.

8 So of course I have the PSI which I had last time when we were here.

9 MR. SHETLER: Right.

10 THE COURT: I got a sentencing memorandum by facsimile from your office
11 yesterday.

12 MR. SHETLER: Yes; thank you for the courtesy, Your Honor.

13 THE COURT: And the memorandum says that Mr. Perry -- wait, wait, hold
14 on: "Mr. Perry has made several additional points in a letter attached herein." And I
15 have not seen that letter and don't know what you're talking about.

16 MR. SHETLER: We did discuss attaching that letter and at the end of that
17 decided not to do that and I apologize, I should have corrected that, Your Honor.

18 THE COURT: Okay, so -- because I -- that's all right, I read what you gave
19 me.

20 MR. SHETLER: Right. And then I do have a number -- I have approximately
21 18 Certificates of Completion I would like to include in the Court's file if I may?

22 THE COURT: Show that to the State. Have you shown them to the State?

23 MS. SUDANO: I have. He did.

24 THE COURT: Okay.

25 MR. SHETLER: Ms. Sudano didn't seem as impressed with those as I am so

1 she doesn't care if we're copied [Indiscernible].

2 THE COURT: Understand. Let me take a quick look at these certificates.
3 These are copies for me?

4 MR. SHETLER: Yes, Your Honor.

5 THE COURT: Okay.

6 MR. SHETLER: And does the Court object if I join Mr. Perry in the box?

7 THE COURT: I do not object.

8 THE RECORDER: Just stay close --

9 THE COURT: Just make sure you're --

10 THE REOCRDER: -- to [indiscernible] mic.

11 THE COURT: -- on a mic, yeah.

12 MR. SHETLER: Yes.

13 [Pause in proceedings]

14 THE COURT: Right, so I've reviewed the stack of Certificates of Completion
15 which run from June of 2014 until July of 2015 it looks like.

16 MR. SHETLER: The last few may be out of order.

17 THE COURT: Oh no, there are some after that date.

18 MR. SHETLER: Right.

19 THE COURT: They're not necessarily in order but -- so spanning a period of
20 time that he has been in custody at CCDC encompassing various anger
21 management programs, marriage and family relationships, and maybe a couple of
22 other programs that he has attended in custody.

23 With that, this is the time set for entry of judgment and imposition of
24 sentence. Is there any legal cause or reason why judgment should not be entered
25 at this time?

1 MR. SHETLER: No, Your Honor.

2 THE COURT: By virtue of the verdict rendered at trial in this case, I hereby
3 adjudicate you guilty of Count 1, robbery with use of a deadly weapon, a B felony;
4 Count 2, false imprisonment with use of a deadly weapon, a B felony; Count 3,
5 grand larceny auto, value \$3,500.00 or more, a B felony; Count 4, assault with a
6 deadly weapon, a B felony; Count 5, coercion with force, a B felony; Count 6, battery
7 resulting in substantial bodily harm constituting domestic violence, a C felony; Count
8 7, preventing or dissuading witness or victim from reporting crime or commencing
9 prosecution, a D felony. Did I get all 7 counts?

10 THE COURT CLERK: Yes.

11 THE COURT: Okay, thank you.

12 Okay, so we are set to proceed with sentencing then today. I would
13 note at the prior time scheduled for sentencing, although Mr. Shetler requested and
14 was granted a continuance of the sentencing, we did have the victim speaker
15 present at that time and the parties agreed and I agreed to allow her to speak at that
16 time which she did so we heard from her at that time and of course heard her
17 testimony at the time of trial as well.

18 With that being said, let me hear from the State about sentence.

19 MS. SUDANO: Thank you, Your Honor.

20 In this case and Mr. Shetler's sentencing memorandum he's asking for
21 a 3 to 8 which is essentially the minimum that the Defendant can receive on this
22 case because of the robbery with the deadly weapon conviction.

23 THE COURT: Right.

24 MS. SUDANO: This is absolutely not a case that deserves the minimum
25 sentence. If you look at P&P's recommendation, they actually recommend that all 7

1 of these counts run consecutive. So their total sentence that they recommend on
2 this Defendant is a 14 to 53 year sentence and I'm going to submit it to Your Honor
3 on the recommendation of P&P as far as what's an appropriate sentence.

4 But the thing that I do want to reiterate is just absolutely this is not a
5 minimum sentence type crime. This Defendant has one prior drug felony. He has
6 two prior domestic violence convictions. Officer Bragg testified at the time of the trial
7 that in her 20 years of experience in working a ton of DV cases this is one of the
8 worst cases that she's ever seen. And we also heard from the doctor that this was a
9 serious fracture that this Defendant inflicted on Corla Carpenter and she required an
10 implant in her eye based on that. We also heard from the victim that in addition to
11 that implant in her eye she's still suffering from numbness and pain. She lost a
12 bunch of teeth. She may end up losing her eyesight as a result of this. She had back
13 pain, ongoing things. Even now I think it's almost a year and a half afterwards those
14 things were still going on. She said she's going to suffer those impacts and those
15 effects for the rest of her life because of the Defendant.

16 The other thing that I think is particularly telling in this case and means
17 that this is not a case that deserves the minimum sentence is what the victim said
18 she did after the crimes. After the crimes she knew that the Defendant had another
19 warrant out for a domestic violence on another woman and she wouldn't lay down
20 and just accept the abuse and walk away from the case because she knew that he
21 was going to do this to another woman. He's done it to multiple women in the past.
22 He did it to her. She thought that she was going to be different, that they were in
23 love. And when that proved false, she decided that she had to be the one to go
24 forward with these cases so that he couldn't do this to anybody else. And so that's
25 what brought us here, Your Honor. You know Corla thought she was going to be

1 lucky and she was going to be different and I don't think that anybody would say that
2 she was lucky for what this Defendant did to her but certainly she may be luckier
3 than the next woman when he gets out of prison.

4 And so with that, I would submit it to Your Honor. He has 597 days
5 credit.

6 THE COURT: Five hundred and what?

7 MS. SUDANO: Ninety-seven, Your Honor.

8 THE COURT: Thank you. Okay.

9 Mr. Perry, is there anything you would like to tell me today before I
10 impose sentence?

11 THE DEFENDANT: Yes, ma'am. First of all, I want to say Happy New Year
12 to you. I want to say Happy New Year to the DA and Happy New Year to my lawyer
13 Travis Shetler. I wish you all a prosperous and peaceful new year. I been quiet all
14 through this trial. I feel like we family, Judge Cadish, 'cause I been with you for quite
15 some time.

16 THE COURT: Yes.

17 THE DEFENDANT: But today I do have to fight in my defense. Since I been
18 incarcerated, Judge Cadish, I -- noticed that is two type of people in the world.
19 There's builders and destroyers. Obviously, you know, I have a weakness with
20 women. Sometimes I always get with the women that destroy. I even [Indiscernible]
21 the Bible verse. In the Bible it say: The wise women be over her house but with her
22 own hands the food is one that tears her down -- and obviously I got in the process
23 of -- with a woman that tears hers down.

24 With the victim statement that I have in my PSI I have my Brady
25 material and documents that is inconsistent but I know we don't have time to go

1 through that.

2 THE COURT: You've been convicted so we're --

3 THE DEFENDANT: Right, also, --

4 THE COURT: -- not going back over that.

5 THE DEFENDANT: -- Judge Cadish, I want to just say if you will have mercy
6 on me today for the sentences of my PSI that I read, the mandatory sentences, its
7 24 to 60, 12 to 36, and the 18 to 48 in Count 2, 3, 4, 5, and 7 run concurrent with all
8 of them, so I can go on with my life and build something new. And I just wish that
9 you have mercy to me -- on me today, Judge Cadish.

10 THE COURT: Thank you.

11 Mr. Shetler?

12 MR. SHETLER: Thank you, Your Honor, and thank you for the courtesy of
13 continuing this until this month.

14 Let me say very briefly, I disagree with Ms. Sudano that this is a case
15 that merits more than the minimums, not surprisingly. But we do agree on one other
16 fact and that is the conduct of Corla after this incident went down. He'd been
17 convicted. I've had a long talk with my client about what that means and where --
18 what flows from that. Our Courts, our laws in Nevada recognize that the danger an
19 individual feels at any point in time is completely subjective. And I'm not going to
20 minimize what she said she went through, but I do think it's very important this Court
21 bear in mind two things: she went and hunted him down on Boulder Highway to find
22 him. I think that cuts both ways. I also think that we have a woman who received in
23 essence essentially \$18,000.00 in benefits from Victims of Crime. And this is the
24 same woman who told this Court about her behavior in a department store where a
25 dispute with somebody over \$450.00 bearing a kitchen knife, and the final result of

1 the security guard taking her down was her going through a plate glass window. I
2 think those are important considerations that bear on her perception of things and
3 what's appropriate and essentially reality, Your Honor.

4 The Parole & Probation and report contemplates a sentence of 15 to
5 over 50 years on behalf of my client. Clearly, that's excessive. They even go so far
6 as to require the installation of an interlock device in his vehicle. At the end of all
7 that, which has absolutely no bearing whatsoever on anything in this case, I know
8 that -- let me just stop at that. Fifteen to fifty years; there's absolutely no basis and
9 no support for that. This Court -- I know my client feels comfortable with this. We're
10 very comfortably in front of this judge on this matter for this sentencing. I'm happy to
11 elaborate on any of these details or any questions that the Court has. I know that
12 you read through the paperwork. Fifteen years on the bottom end is excessive for
13 this man.

14 THE COURT: Okay. All right. So, obviously -- I mean I sat -- I didn't just sit
15 through the trial, I tried it because you stipulated to a bench trial in this case so it's
16 my verdict of guilty in this case, so obviously I was persuaded beyond a reasonable
17 doubt that he is guilty of each of these charged crimes based on the evidence
18 presented before me. And whether Ms. Carpenter was angry at Mr. Perry, whether
19 she demanded money from him, which really no evidence of that ever came out at
20 trial, but even assuming that something like that happened, in no way, shape, or
21 form would that ever justify the events that followed that and the injuries that were
22 inflicted on her which frankly she's lucky to be alive. So -- and you're lucky you're
23 not facing a murder charge. So, I think it warrants a significant sentence. I'm not
24 saying on the level of what P&P recommended, but it warrants a significant
25 sentence.

1 So, I will impose administrative assessment fee of \$25.00; DNA
2 analysis fee \$150.00 and require you to submit to testing for genetic markers; DNA
3 collection fee \$3.00; domestic violence fee \$35.00; civil indigent defense
4 assessment \$250.00. Those fees are a lien against you and collection can be
5 pursued on them.

6 On Count 1, I'm sentencing you to 120 months in the Nevada
7 Department of Corrections, minimum parole eligibility after 36 months, class A,
8 consecutive term of 120 months with minimum parole eligibility after 36 months for
9 use of a deadly weapon.

10 The restitution request is for \$18,103.28. I am awarding that amount of
11 restitution as well. Do you need the number again?

12 [Colloquy between Court and clerk]

13 THE COURT: On Count 2: 60 months with minimum parole eligibility after 18
14 months, concurrent with Count 1.

15 Count 3: 96 months with minimum parole eligibility after 24 months,
16 consecutive to Counts 1 and 2.

17 Count 4: 60 months with minimum parole eligibility after 18 months,
18 concurrent with Count 3.

19 Count 5: 60 months, minimum parole eligibility after 18 months,
20 concurrent with Count 4.

21 Count 6: 48 months with minimum parole eligibility after 18 months,
22 concurrent with Count 5.

23 Count 7: 36 months with minimum parole eligibility after 12 months,
24 concurrent with Count 6.

25 I believe that is an aggregate sentence of 336 months with minimum

1 parole eligibility after 96 months with 597 days credit for time served.

2 Good luck.

3 MR. SHETLER: Thank you, Your Honor.

4 THE COURT: Thank you.

5 [Proceedings concluded at 9:38 a.m.]

6 * * * * *

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

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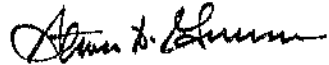
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Cynthia Georgilas
CYNTHIA GEORGILAS
Court Recorder/Transcriber
Eighth Judicial District Court Dept. XVIII


CLERK OF THE COURT

1 TRAVIS E. SHETLER, ESQ.
Nevada Bar No. 004747
2 TRAVIS SHETLER, P.C.
844 East Sahara Avenue
3 Las Vegas, NV 89104-3017
Telephone: (702) 866-0091
4 Facsimile: (702) 866-0093
Attorney for Defendant
5

6 DISTRICT COURT

7 CLARK COUNTY, NEVADA

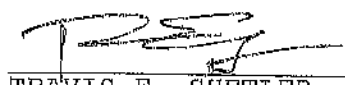
8 STATE OF NEVADA)	CASE NO.: C-14-298879-1
)	Dept. No.: VI
9 Plaintiff,)	
)	
10 v.)	
)	<u>NOTICE OF APPEAL</u>
11 GENARO RICHARD PERRY,)	
#1456173)	
)	
12 Defendant.)	
13)	

14
15 Notice is hereby given that Petitioner GENARO RICHARD
16 PERRY, Petitioner above named, hereby appeals to the Supreme
17 Court of Nevada from the jury verdict in this action on the 1st
18 day of October, 2015.

19 Dated this 4th day of November, 2015
20

21 LAW OFFICE OF TRAVIS SHETLER
22

23
24 By:


25 TRAVIS E. SHETLER, ESQ.
Nevada State Bar No. 4747
26 844 East Sahara Avenue
Las Vegas, NV 89101
27 Attorney for Petitioner
GENARO RICHARD PERRY
28

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Counsel for Petitioner
5 GENARO RICHARD PERRY

6
7 DISTRICT COURT
8 CLARK COUNTY NEVADA

9 STATE OF NEVADA

10 Plaintiff,

11 v.

12 GENARO RICHARD PERRY,
13 #1456173

14 Defendant.

)
)
) Case No. A-13-692122-C
)
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) CASE APPEAL STATEMENT
)
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15
16 CASE APPEAL STATEMENT

- 17
18 1. The name of appellant filing this case appeal
19 statement is GENARO RICHARD PERRY.
20
21 2. JUDGE ELLISA F. CADISH, was the Judge issuing the
22 judgment appealed.
23
24 3. THE STATE OF NEVADA and myself are the extent of the
25 parties to the proceedings in the District Court.
26
27 4. GENARO RICHARD PERRY is the only party involved in
28 this appeal.
5. TRAVIS E. SHETLER, ESQ., LAW OFFICE OF TRAVIS SHETLER,
844 East Sahara Avenue, Las Vegas, Nevada, 89104,
represented Petitioner GENARO RICHARD PERRY in
District Court.

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6. Appellant had appointed counsel in the District Court
7. The Initial Arraignment was held on or about June 2,
2014.

Dated this 4th day of November, 2015



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6 DISTRICT COURT

7 CLARK COUNTY, NEVADA


8 STATE OF NEVADA)	CASE NO.: C-14-298879-1
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27 Attorney for Petitioner
GENARO RICHARD PERRY
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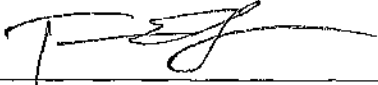
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