

1           A.     He admitted that he had a verbal argument  
2 with the victim Beverly McFarlane that escalated into a  
3 physical altercation.

4           Q.     This verbal altercation, did he ever tell  
5 you what this verbal altercation was about?

6           A.     Yeah. He seemed to believe that she was  
7 cheating on him or was having some type of other  
8 relationship with another man.

9           Q.     And did this verbal altercation ever become  
10 physical?

11          A.     Yes, it did.

12          Q.     Did he state how it became physical?

13          A.     Yes, he admitted that he shoved her and --  
14 do you want me to go over everything that he admitted?

15          Q.     Yes. If you'll continue on what other  
16 things happened during this physical altercation.

17          A.     Yes. Basically he admitted that during the  
18 course of the argument he admitted to shoving her  
19 forcefully with both hands, he admitted to slapping her  
20 in the face with the heel of the palm of his open hand,  
21 he admitted punching her repeatedly in the side with a  
22 closed fist and he also admitted to swinging a vacuum  
23 cleaner that struck her.

24          Q.     Did he say where it struck her?

25          A.     I believe he said that it struck her in the

1 hand was his contention.

2 Q. And did he also describe how it was that  
3 she was blocking herself in his own statements?

4 A. Yes, he did.

5 Q. How was that?

6 A. He said that she basically took, raised her  
7 hand up in a defensive motion and that's where the  
8 vacuum cleaner struck her.

9 Q. Did he ever make any statements to you  
10 about whether or not the vacuum cleaner ever hit her  
11 head?

12 A. He denied that it hit her head.

13 Q. Did he make any statements as to how the  
14 altercation concluded?

15 A. He did. He, his, what he had told us is  
16 that after the altercation ended that he went to a  
17 different part of the house and I think he said he did  
18 various things. I think he said he cooked a meal for  
19 himself and offered some to Beverly. He said that later  
20 on that evening he claimed that he had intercourse with  
21 her and then soon after or perhaps it was the next  
22 morning he said he left the residence.

23 Q. Did he make any statements as to who  
24 started the physical altercation?

25 A. I don't remember exactly the sequence of

1 events. I could refer to the transcript to refresh my  
2 memory. But I believe he said it was, the argument  
3 started with his accusation of her being in another  
4 relationship with some type of, some type of thing with  
5 another guy and that, you know, he shoved her or slapped  
6 her and it was kind of mutual at first, but he did admit  
7 that a physical altercation started because of his  
8 anger.

9 Q. Did he ever make statements to you about  
10 what the victim was doing during this altercation? Like  
11 did she ever fight back, did she ever swing at him, was  
12 there a mutual fight on their end?

13 A. I believe he said that she pushed him back  
14 and slapped him.

15 Q. And do you know, if you recall, whether or  
16 not he stated that she attempted to slap him first  
17 before he started any physical altercation against her?

18 A. I don't remember exactly. I'd have to  
19 refer to my transcript of that interview.

20 Q. Would that refresh your recollection?

21 A. It would.

22 Q. I'd ask you to be able to refer to your  
23 transcribed statement. Do you have it with you?

24 A. I have a copy. I'm not sure what line it  
25 will be at.

1 Q. I'll direct your attention.

2 I'll direct your attention to lines 98 and  
3 99, that general area.

4 Maybe starting even a couple lines before  
5 that.

6 A. Okay.

7 Q. Does that refresh your recollection?

8 A. It does.

9 Q. Okay. Can you tell me about that, about  
10 who started the fight or how it commenced?

11 A. Basically it was a verbal argument. He  
12 said he was trying to leave or walk down the stairs and  
13 that she pushed him and that he pushed her back and that  
14 it continued to escalate from there.

15 Q. Were there any other statements about him  
16 attempting to leave that residence, anything else  
17 besides that?

18 Let me ask you a better question than that.  
19 That's a vague question.

20 At some point did he actually leave the  
21 residence?

22 A. He did.

23 Q. And did he ever make any statements to you  
24 about how he left the residence?

25 A. He said that he had left or that he was

1 going, he was telling Beverly that he was going to leave  
2 and made some type of reference about going to LA.

3 Q. And did he -- I want to draw your attention  
4 back to this vacuum for a moment. Regarding the vacuum,  
5 did he ever change his -- initially I believe you've  
6 testified that he swung the vacuum and Beverly attempted  
7 to block it with her arms.

8 A. Yes.

9 Q. Did he ever make any other different  
10 statements about what he did with the vacuum?

11 A. At first he made references to something  
12 about swinging the vacuum and not hitting her with it  
13 and that the vacuum hit a bed post or some part of the  
14 bed and that it shattered or I think he even used a  
15 similar word saying that it blew up or whatever. But he  
16 basically at first denied that, that when he swung the  
17 vacuum that it hit her.

18 Q. And then eventually he admitted that she  
19 attempted to block it and she was actually struck in the  
20 arms with it?

21 A. Yes. Well, the way he described it is it  
22 hit her hand.

23 Q. Hit her hand. Okay.

24 Did he make any statements as to whether or  
25 not Beverly's face hit the ground as far as you recall?

1           A.     He did. He said that when he slapped her  
2     that she fell on the ground and that she basically, and  
3     again he had to, he at first didn't admit it, he said  
4     that she fell backwards and hit her back, but then he  
5     later admitted that her head hit the ground as well.

6           Q.     Did you discuss with him any treatment that  
7     he provided to Beverly?

8           A.     Yes. He had made comments about how he did  
9     not want her to go to work with a black eye and that he  
10    tried to basically provide some rudimentary first aid to  
11    her by giving her eye, trying to clean her up basically  
12    to make her appearance so it didn't like she was beat up  
13    before she went back to work.

14          Q.     Did he ever discuss with you whether or not  
15    Miss McFarlane wanted to seek medical treatment?

16          A.     I can't remember exactly if he said -- he  
17    never, basically he never offered to call an ambulance  
18    or anything like that. All the treatment that he gave  
19    was what he said he provided for her.

20          Q.     So whatever she was requesting he provided  
21    to her?

22          A.     As far as I can recall, yes.

23          Q.     And would it refresh your recollection to  
24    refer to the transcribed statement?

25          A.     It would.

1 Q. I'll direct your attention to the area  
2 around line 809.

3 Does that refresh your recollection?

4 A. It does.

5 Q. Can you tell me what he told you regarding  
6 whether or not he took her to the hospital?

7 A. He says he asked her if she wanted to go to  
8 the hospital and that she refused and just asked for  
9 some Tylenol or said she was going to take some Tylenol.

10 Q. And towards the end of the interview did he  
11 make any last statements regarding whether or not he  
12 ever struck her with the vacuum again?

13 A. I can't remember exactly what he said but  
14 he just basically kept repeating it only hit her in the  
15 hand.

16 Q. When you read him his Miranda rights, did  
17 you read it from memory or did you read it from a card?

18 A. Actually I was present and I remember  
19 distinctly my partner who has 23 years of police  
20 experience advised him from memory and he indicated that  
21 he understood his rights and he still wanted to talk to  
22 us, he waived his rights.

23 Q. And did he appear to be under the influence  
24 of anything?

25 A. Not at all.

1 Q. Did you guys, did you yell or scream at  
2 him?

3 A. No, all the entire interview was  
4 conversational tones.

5 Q. And this was recorded on --

6 A. Digital audio recorder and later sent out  
7 for transcription.

8 Q. Do you recall about how long this interview  
9 lasted?

10 A. I don't know exactly. I'm sure it was 45  
11 minutes to an hour.

12 Q. And during that time did he ever request  
13 any restroom breaks or any food or water or anything as  
14 far as you can recall?

15 A. No, he never indicated he was in need of  
16 that. We would have absolutely provided that to him if  
17 he did.

18 MR. STEPHENS: Are there any questions from  
19 the grand jurors?

20 THE FOREPERSON: No questions from the  
21 grand jurors.

22 By law, these proceedings are secret and  
23 you are prohibited from disclosing to anyone anything  
24 that has transpired before us, including evidence and  
25 statements presented to the Grand Jury, any event

1 occurring or statement made in the presence of the Grand  
2 Jury, and information obtained by the Grand Jury.

3 Failure to comply with this admonition is a  
4 gross misdemeanor punishable by a year in the Clark  
5 County Detention Center and a \$2,000 fine. In addition,  
6 you may be held in contempt of court punishable by an  
7 additional \$500 fine and 25 days in the Clark County  
8 Detention Center.

9 Do you understand this admonition?

10 THE WITNESS: Yes, I do.

11 THE FOREPERSON: Thank you. You're  
12 excused.

13 THE WITNESS: Thank you.

14 MS. BROWN: Ladies and gentlemen of the  
15 Grand Jury, we ask that you hold off on your  
16 deliberations at this point. We anticipate one final  
17 witness this afternoon.

18 Also the State will be withdrawing Grand  
19 Jury Exhibits 5, 6, 8 and 9. Thank you.

20 (Recess.)

21 MR. STEPHENS: Ms. Brown will be down  
22 momentarily. She's the other deputy that was with me.  
23 She'll be here momentarily but we'd like to get started  
24 with the time you guys have given us.

25 Our next witness will be Dr. Alane Olson.

1 I should say we are recalling case State of  
2 Nevada versus Anthony Mayo, Case Number 13BGJ036X.

3 State calls Dr. Alane Olson.

4 THE FOREPERSON: Please raise your right  
5 hand.

6 You do solemnly swear the testimony you are  
7 about to give upon the investigation now pending before  
8 this Grand Jury shall be the truth, the whole truth, and  
9 nothing but the truth, so help you God?

10 THE WITNESS: I do.

11 THE FOREPERSON: Please be seated.

12 You are advised that you are here today to  
13 give testimony in the investigation pertaining to the  
14 offenses of murder, battery constituting domestic  
15 violence - strangulation, coercion, preventing or  
16 dissuading witness or victim from reporting crime or  
17 commencing prosecution, involving Anthony Mayo.

18 Do you understand this advisement?

19 THE WITNESS: Yes, ma'am, I do.

20 THE FOREPERSON: Please state your first  
21 and last name and spell both for the record.

22 THE WITNESS: My name is Alane Olson. My  
23 first name is spelled A-L-A-N-E, my last name is spelled  
24 O-L-S-O-N.

25 THE FOREPERSON: Thank you.

1                    ALANE OLSON,  
2    having been first duly sworn by the Foreperson of the  
3    Grand Jury to testify to the truth, the whole truth,  
4    and nothing but the truth, testified as follows:

5

6

EXAMINATION

7

8    BY MR. STEPHENS:

9

Q.    Dr. Olson, what do you do for a living?

10

A.    I'm a medical examiner at the Clark County  
11    Coroner's Office.

12

Q.    And as a medical examiner do you need to  
13    have any prerequisites, any classes, any degrees?

14

A.    Yes.

15

Q.    What degrees or training have you had?

16

A.    I have a Bachelor's in microbiology from  
17    the University of Idaho. I went to medical school at  
18    the University of Nevada School of Medicine. Once I  
19    completed my medical education, formal medical  
20    education, I moved to Portland, Oregon and spent five  
21    years at Oregon Health Sciences University in a  
22    residency pathology training program. That's where I  
23    learned how to do autopsies, it's where I learned how to  
24    do what all pathologists do in their careers. Once I  
25    completed my residency I moved to Milwaukee, Wisconsin

1 and spent one year at the Milwaukee County Medical  
2 Examiner's Office in a fellowship program for forensic  
3 pathology and that's where I worked in a medical  
4 examiner's office doing the types of examinations that  
5 medical examiners typically do. Once I completed my  
6 fellowship I moved to Reno and worked at the coroner's  
7 office there for five years and I've been in Clark  
8 County since September of 2005.

9 Q. And since 2005 you've been working at the  
10 coroner's office?

11 A. Correct.

12 Q. And what do you do at the coroner's office?

13 A. I perform autopsies and other types of  
14 examinations with the goal of determining cause and  
15 manner of death.

16 Q. How many bodies do you see on a regular  
17 basis?

18 A. On an average per year I do around 250  
19 autopsies with another approximately 100 to 125  
20 additional examinations.

21 Q. And do you only do criminal requests or do  
22 you do a variety of other requests also?

23 A. There are a number of different  
24 circumstances which require death to be reported to the  
25 coroner's office. Most often those involve violence,

1 either violence perpetrated by another person or motor  
2 vehicle accident or suicides. And we also accept  
3 jurisdictions on cases of people who die for no obvious  
4 reason. Most commonly those are people under the age of  
5 50.

6 Q. Do you have to take any continuing  
7 education courses in order to maintain any licensing  
8 that you may have?

9 A. Yes., I'm licensed to practice medicine in  
10 the State of Nevada and that requires me to complete 41  
11 or 42 hours of continuing medical education over the  
12 course of the certification period which is two years.

13 Q. Okay. And you obviously maintain your  
14 certification?

15 A. Yes, I've maintained my licensure in the  
16 State of Nevada.

17 Q. Thank you.

18 Dr. Olson, were you asked to review a body  
19 who was identified as Beverly Estella McFarlane?

20 A. Yes.

21 Q. Was that given an assigned case number?

22 A. Yes. Every case that's accepted by the  
23 coroner's office is assigned a unique number. In this  
24 particular instance the case number was 12-7691.

25 Q. And why do you assign it a case number?

1           A.     So that we don't confuse anybody. That  
2 would be bad.

3           Q.     So it's to organize things, make sure all  
4 documents and what other examinations are done are  
5 maintained with the same body and the same file?

6           A.     Yes, correct.

7           Q.     And each autopsy is given its own unique  
8 number?

9           A.     Yes, each case that's accepted as a  
10 coroner's case is given a number, so all of the  
11 documentation, including autopsy reports, photographs,  
12 slides, everything, has that particular case number.

13          Q.     Dr. Olson, in reviewing this body how did  
14 you begin your autopsy?

15          A.     Typically autopsies start with what's  
16 called an external examination which is exactly what it  
17 sounds like. We look at the body surfaces and we  
18 describe everything from how tall, well, how long they  
19 are since they don't stand up, how much they weigh, if  
20 there's clothing with them, if they've had medical  
21 intervention, marks, scars, tattoos, any injuries that  
22 we can see. We also describe things like hair color,  
23 eye color and just generally what the body appears like  
24 from the outside.

25                   Once that's complete we do an internal

1 examination. That starts with a Y-shaped incision  
2 commencing on the shoulders continuing to the central  
3 chest and then down to the bottom of the abdomen. The  
4 skin is moved away from the center. We use a saw to  
5 take off the front of the rib cage and we have the  
6 chance then to look at everything, all of the organs as  
7 they lie in the body cavities. And the whole goal of  
8 this autopsy is to describe injuries as well as natural  
9 disease.

10           Once we've opened the body up, all of the  
11 organs are removed one by one. I weigh them and then I  
12 have the chance to look at them individually. I  
13 describe them. During the course of an autopsy we also  
14 collect samples for toxicology testing and any other  
15 kinds of testing, cultures or whatever, that may be  
16 necessary depending on the type of case this is.

17           We do look at the brain. We do that by  
18 making an incision or a cut across the top of the scalp  
19 from ear to ear. We move the scalp aside. We then use  
20 a saw to take off the top of the skull, remove that, and  
21 then I have the chance to look at the brain as it lies  
22 in the body. The brain is then removed and weighed. I  
23 may do the examination of the brain, or depending on the  
24 type of case it is, if there's head injury and I need an  
25 expert opinion I may save the brain and send it to a

1 neuropathologist who is a pathologist like me but they  
2 have specialized training in neuropathology, meaning the  
3 brain.

4           Once I've finished with the examination, I  
5 dictate what I saw. I get a paper copy from that  
6 dictation. I have a chance to edit and add to it. And  
7 once everything is complete and I've reached a  
8 conclusion for cause and manner of death, then I sign it  
9 and date it and it's done.

10           Q.     Okay. On this specific autopsy of  
11 Miss McFarlane, did you notice any abnormalities on the  
12 external body of her?

13           A.     She had evidence of medical intervention.  
14 She had been in the hospital and had a breathing tube.  
15 She also had some intervenous lines. Prior to my  
16 examination she also had undergone donation of organs  
17 while she was in the hospital. And she also had some  
18 small injuries on her body surfaces.

19           Q.     I'm going to show you what's been marked as  
20 Grand Jury Exhibit 11. Do you recognize this?

21           A.     Yes.

22           Q.     What is that a photo of?

23           A.     This is a photo of Mrs. McFarlane, the  
24 front of her body basically, her head, neck and upper  
25 chest.

1 Q. And this is the way she looked when she  
2 arrived at your office?

3 A. Approximately, yes.

4 Q. Actually I want to ask you one question.  
5 It looks like there's a cut down the middle of her  
6 chest. Was that done by you?

7 A. No. The incision on her central chest was  
8 done by the organ procurement organization.

9 Q. So that was prior to you really performing  
10 any procedures on her?

11 A. Yes.

12 Q. After reviewing the external surfaces of  
13 her body, what did you do?

14 A. Once the external exam is complete then we  
15 move onto the internal examination by the methods that  
16 I've just described and again I'm documenting natural  
17 disease as well as evidence of injury.

18 Q. Did you find anything unusual or of  
19 interest in the internal examination?

20 A. Yes. She had evidence of bleeding over her  
21 brain. There was also considerable amount of swelling  
22 in her brain. And those findings prompted me to save  
23 her brain and send it to the neuropathology specialist.

24 Q. You said there was bleeding on the brain.  
25 In your experience what would that be indicative of?

1 A. Most commonly that's indicative of trauma.

2 Q. And trauma being just some sort of injury  
3 to the brain area?

4 A. Either the brain, either the head being  
5 struck by an object or the head striking against a fixed  
6 object.

7 Q. Did you find anything, prior to, I want to  
8 stay there a minute, but did you find anything else  
9 relevant in the internal examination?

10 A. Aside from the injuries in her head, no,  
11 there wasn't anything significant.

12 Q. Did you take any photos once you, when you  
13 opened up the head, did you take any photos of the  
14 brain?

15 A. I asked our autopsy techs to photograph  
16 relevant injuries.

17 Q. And you were present when those photos were  
18 taken?

19 A. Yes.

20 Q. I'm going to show you what has been marked  
21 as Grand Jury Exhibits 12 through 14. Will you look at  
22 those?

23 Are those photos of Miss McFarlane's brain?

24 A. Yes.

25 Q. And those were taken at or around the time

1 you opened up her scalp?

2 A. Actually when her skull had been opened.

3 Q. Skull, sorry, that's correct.

4 A. That's when we have the opportunity to look  
5 at the brain itself.

6 Q. Let's start with Exhibit 12. Tell me what  
7 we're looking at here.

8 A. Exhibit 12 is a photograph that was taken  
9 when the scalp had been moved to the side, well actually  
10 the front and back, and the top of the skull had been  
11 removed with a saw and her brain is exposed. This  
12 photograph depicts the left side of her brain and it is  
13 discolored, there's blood over the brain surface. In  
14 this photograph you can actually see part of the right  
15 side of her brain and you can compare the color and you  
16 see that there's a big difference in the color.

17 Q. Do you recall whether or not you took a  
18 photo of the top of the brain?

19 A. Well, we typically take a photograph of the  
20 left and right and then usually from the back of the  
21 brain.

22 Q. I'm showing you Exhibit 13. Do you  
23 recognize that?

24 A. Yes.

25 Q. And what is that a photo of?

1           A.     This is a photograph that was taken  
2 standing essentially behind and above Miss McFarlane and  
3 it shows both sides of her brain.

4           Q.     And is there anything of interest in that  
5 photo?

6           A.     Yes. This is another depiction of the  
7 difference between the right and the left side of her  
8 brain and on the left again you can see that there's  
9 blood over the brain surfaces.

10          Q.     And is that indicated by the darker color?

11          A.     Yes.

12          Q.     And then lastly tell me what I'm looking at  
13 here in Exhibit 14.

14          A.     Exhibit 14 is a photograph which was taken  
15 of the top of the skull after it had been removed. In  
16 this particular photograph the skull is intact and also  
17 the membrane that lies directly on top of the skull  
18 inside the brain or inside the head is also intact, so  
19 it's still attached to the inner surface of the skull.  
20 And on that inner surface there is a coating of blood.  
21 The photograph as you hold it up, I guess with the  
22 label, if you keep the label on the opposite side of the  
23 piece of paper down, then when you look at the  
24 photograph, it's reversed. So the right side of the  
25 photograph is actually the left side of her skull and

1 you need to keep that in mind when you look at it. So  
2 the blood had accumulated on the left side rather than  
3 the right side as you would assume if you just looked at  
4 this without knowing how it's oriented.

5 Q. Did you find any of that interesting as far  
6 as trying to determine the cause of death?

7 A. Well, it all goes along with the fact that  
8 her brain was injured and that's ultimately what led to  
9 her death.

10 Q. And were you able to determine -- strike  
11 that.

12 Did you do any other further examination  
13 that assisted you in determining the cause and manner of  
14 death?

15 A. The further examination was limited to the  
16 neuropathologist examination of her brain once it had  
17 sat in a preservative.

18 Q. Did you eventually send that brain to an  
19 outside agency?

20 A. Yes.

21 Q. Do you recall who you sent it to?

22 A. The brain went to University of California,  
23 Davis to Dr. Claudia Greco.

24 Q. And based upon your entire review of the  
25 body of Miss McFarlane were you able to determine a

1 cause of death?

2 A. Yes.

3 Q. What was that?

4 A. I listed the cause of death as brain  
5 injuries due to assault.

6 Q. And were there any other conditions that  
7 may have caused this death?

8 A. There were other significant contributing  
9 conditions that I listed, yes.

10 Q. What were those?

11 A. I listed ischemic encephalopathy due to a  
12 occlusion of the left internal carotid artery,  
13 hypertension and diabetes.

14 Q. And in lay terms what does all that mean?

15 A. It means that you have basically two major  
16 arteries that take blood up into your brain and she had  
17 a complete blockage in the left artery, the left  
18 internal carotid artery. She also had partial blockage  
19 on the right internal carotid artery. So her brain was  
20 compromised in terms of its ability to have blood flow.  
21 That caused problems with the functioning of her brain.  
22 Which in technical terms is the ischemic encephalopathy  
23 meaning her brain wasn't getting enough blood flow and  
24 that causes problems with how the brain functions.

25 Q. And those were contributing conditions to

1 the actual trauma that was conducted?

2 A. Yes.

3 Q. Did you determine a manner of death?

4 A. Yes.

5 Q. What was the manner of death?

6 A. Homicide.

7 Q. Very briefly I want to talk to you. Do you  
8 ever examine bodies for strangulation?

9 A. Yes.

10 Q. What are some symptoms of someone who had  
11 been strangled?

12 A. If the person survives the strangulation  
13 they may not actually have much in the way of symptoms.  
14 It depends on how prolonged the strangulation is. They  
15 may also have symptoms that can range from confusion,  
16 altered level of consciousness, meaning that they're not  
17 all there, they're not quite with it, they're not awake,  
18 alert. If the strangulation is prolonged that may go so  
19 far as to result in death.

20 Q. And is there anything, any physical  
21 circumstances or physical things you'd be able to  
22 observe in somebody that had been strangled?

23 A. Sometimes there aren't actually any signs  
24 or any injuries externally. If we do a focused section  
25 of the neck, which I did in this particular case, if

1 someone has been strangled sometimes you see bleeding in  
2 the neck muscles underneath the skin. Occasionally you  
3 can see fractures either in the cartilage of the larynx  
4 or the voice box and there's another component of the  
5 neck called the hyoid, H-Y-O-I-D, bone, sometimes that's  
6 broken. In this particular case with Miss McFarlane I  
7 did not see any evidence of injury in her neck when I  
8 looked at it specifically.

9 Q. And if someone had survived would you  
10 notice, let's say they had lived and they came into just  
11 consult with you, would there be any injuries as to  
12 their, any other injuries besides the neck that they  
13 would sustain that you would be able to observe?

14 A. Again sometimes they have evidence of  
15 injury externally and sometimes they don't.

16 Q. Are you familiar with the term petechia?

17 A. Yes.

18 Q. Can you tell us what that means?

19 A. Petechia are pinpoint areas of hemorrhage  
20 that can occur for a variety of reasons, one of which is  
21 strangulation or sometimes hangings we see them. They  
22 typically occur in the lining of the eyelids, also  
23 sometimes on the surface of the eyes. We can see them  
24 also on the eyelids and sometimes in the lining of the  
25 mouth.

1           Q.     And sometimes when the subject gets to your  
2 office, are sometimes those signs of strangulation not  
3 apparent?

4           A.     Yes.

5           Q.     And the manner of death is homicide?

6           A.     Correct.

7           MR. STEPHENS:   Okay.   Any questions from  
8 the grand jurors?

9           THE FOREPERSON:   No other questions.

10          MR. STEPHENS:   Thank you.

11          THE FOREPERSON:   By law, these proceedings  
12 are secret and you are prohibited from disclosing to  
13 anyone anything that has transpired before us, including  
14 evidence and statements presented to the Grand Jury, any  
15 event occurring or statement made in the presence of the  
16 Grand Jury, and information obtained by the Grand Jury.

17          Failure to comply with this admonition is a  
18 gross misdemeanor punishable by a year in the Clark  
19 County Detention Center and a \$2,000 fine.   In addition,  
20 you may be held in contempt of court punishable by an  
21 additional \$500 fine and 25 days in the Clark County  
22 Detention Center.

23          Do you understand this admonition?

24          THE WITNESS:   Yes, ma'am, I do.

25          THE FOREPERSON:   Thank you.   You're

1     excused.

2                     THE WITNESS:   Thank you.

3                     MR. STEPHENS:   And lastly we are submitting  
4     to the grand jurors Exhibit 15 which is a certified  
5     certificate of death for Miss Beverly McFarlane.

6                     MS. BROWN:   As I stated earlier we would  
7     have a copy of the instructions to mark as Grand Jury  
8     Exhibit 2.   I'm tendering those to you now.

9                     Ladies and gentlemen of the Grand Jury, do  
10    you have any questions with regards to the elements of  
11    any of these offenses?

12                    Okay.   The State has concluded its  
13    presentation of evidence in this matter.   The matter is  
14    submitted for your deliberations.   Thank you.

15                    (AT this time, all persons, other than  
16    members of the Grand Jury, exit the room at 1:35 p.m.  
17    and return at 1:39 p.m.)

18                    THE FOREPERSON:   Mr. and Madame District  
19    Attorney, by a vote of 12 or more grand jurors a true  
20    bill has been returned against defendant Anthony Mayo  
21    charging the crimes of murder, battery constituting  
22    domestic violence - strangulation, coercion, and  
23    preventing or dissuading witness or victim from  
24    reporting crime or commencing prosecution, in Grand Jury  
25    Case Number 13BGJ036X.   We instruct you to prepare an

1 Indictment in conformance with the proposed Indictment  
2 previously submitted to us.

3 MS. BROWN: Thank you.

4 MR. STEPHENS: Thank you.

5 THE FOREPERSON: Thank you.

6 (Proceedings concluded.)

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3 **REPORTER'S CERTIFICATE**4 **STATE OF NEVADA** )  
5 : Ss  
6 **COUNTY OF CLARK** )7 I, Danette L. Antonacci, C.C.R. 222, do  
8 hereby certify that I took down in Shorthand (Stenotype)  
9 all of the proceedings had in the before-entitled matter  
10 at the time and place indicated and thereafter said  
11 shorthand notes were transcribed at and under my  
12 direction and supervision and that the foregoing  
13 transcript constitutes a full, true, and accurate record  
14 of the proceedings had.15 Dated at Las Vegas, Nevada,  
16 January 28, 2014

17 /s/ Danette L. Antonacci

18 \_\_\_\_\_  
19 Danette L. Antonacci, C.C.R. 222  
20  
21  
22  
23  
24  
25

## AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the  
preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER  
13BGJ036X:

X Does not contain the social security number of any  
person,

-OR-

\_\_\_ Contains the social security number of a person as  
required by:

A. A specific state or federal law, to-  
wit: NRS 656.250.

-OR-

B. For the administration of a public program  
or for an application for a federal or  
state grant.

/s/ Danette L. Antonacci

Signature

1-28-14  
DateDanette L. Antonacci  
Print NameOfficial Court Reporter  
Title

\$	4	across [4] 45/16 45/17 97/5 127/18
\$2,000 [6] 34/7 81/20 91/13 108/12 121/5 137/19	41 [1] 125/10 411 [1] 48/25	act [4] 7/10 8/15 8/16 9/1
\$500 [6] 34/9 81/22 91/15 108/14 121/7 137/21	42 [1] 125/11 4333 [4] 85/10 88/14 96/8 98/9	acting [1] 9/13
-	45 [1] 120/10	actions [1] 9/24
--oo0oo [1] 139/7	5	acts [1] 8/4
-OR [2] 141/10 141/14	50 [1] 125/5 500 [1] 12/14	actual [2] 81/8 135/1
/	6	actually [25] 8/7 15/15 21/25 22/3 33/10 40/25 45/1 60/8 62/8 63/14 70/6 70/7 100/5 102/7 103/7 116/20 117/19 119/18 129/4 131/2 131/9 131/14 132/25 135/13 135/23
/s [2] 140/17 141/18	656.250 [1] 141/13	add [2] 16/13 128/6
1	7	addition [6] 34/7 81/20 91/13 108/12 121/5 137/19
1 o'clock [1] 108/25	7691 [2] 15/3 125/24	additional [8] 16/14 34/9 81/22 91/15 108/14 121/7 124/20 137/21
1-28-14 [1] 141/18	8	address [6] 43/4 43/6 49/15 49/20 50/1 88/19
10 [8] 42/20 67/11 67/12 85/13 96/9 97/4 105/25 106/13	809 [1] 119/2 8:46 [1] 1/14 8th [1] 53/12	administration [1] 141/15
100 [1] 124/19	9	admit [2] 115/6 118/3
10th [9] 42/9 44/5 52/10 52/11 52/23 52/23 100/19 102/17 106/3	911 [3] 45/4 59/17 61/1 98 [1] 116/2 99 [1] 116/3 9th [1] 74/2	admitted [10] 113/1 113/13 113/14 113/17 113/18 113/19 113/21 113/22 117/18 118/5
11 [2] 79/21 128/20	A	admonish [1] 33/23
11th [2] 74/1 106/18	A-K-E-R [1] 92/17	admonition [12] 34/5 34/11 81/18 81/24 91/11 91/17 108/10 108/16 121/3 121/9 137/17 137/23
12 [5] 95/9 130/21 131/6 131/8 138/19	A-L-A-N-E [1] 122/23	adults [1] 80/24
12-7691 [2] 15/3 125/24	A-S-H-A-N-T-I [1] 35/11	advise [1] 6/14
120s1468 [1] 14/13	a.m [1] 1/14	advised [8] 10/15 35/1 83/14 92/7 109/10 112/17 119/20 122/12
125 [1] 124/19	abandoned [1] 7/4	advisement [6] 10/21 35/7 83/20 92/13 109/17 122/18
13 [2] 12/1 131/22	abdomen [1] 127/3	affectional [1] 8/21
13BGJ036X [5] 1/7 5/16 122/2 138/25 141/5	ability [3] 5/7 106/25 134/20	affirm [1] 141/4
14 [4] 130/21 132/13 132/14 141/18	able [37] 26/17 28/3 28/4 30/6 31/21 33/6 42/17 43/17 47/18 50/22 50/25 55/12 55/22 65/19 65/24 69/23 74/2 75/8 76/24 86/19 88/2 88/4 99/11 102/1 102/5 103/3 103/15 106/19 107/4 107/4 107/9 107/13 115/22 133/10 133/25 135/21 136/13	AFFIRMATION [1] 141/1
14th [1] 33/4	abnormalities [7] 12/18 16/12 17/16 17/19 18/19 19/1 128/11	aforethought [1] 6/20
15 [1] 138/4	about [58]	afraid [2] 60/18 69/4
16 [6] 1/13 2/1 5/1 19/15 20/14 110/19	above [3] 21/11 104/13 132/2	after [27] 11/18 11/22 13/24 14/1 15/14 17/6 18/6 44/13 44/13 49/17 50/3 52/18 55/19 55/21 68/16 69/17 77/1 79/4 79/8 98/12 100/12 106/13 111/12 114/16 114/21 129/12 132/15
17 [1] 23/16	abrasion [7] 97/12 101/9 104/18 104/20 105/14 105/22 105/24	afternoon [3] 6/16 108/25 121/17
18 [2] 25/17 93/10	abrasions [2] 89/4 89/8	again [24] 21/19 22/5 22/5 23/19 24/18 25/21 50/24 57/2 57/17 61/11 64/3 70/13 75/3 78/24 88/21 99/12 100/10 102/8 106/22 118/3 119/12 129/16 132/8 136/14
19 [1] 25/8	abreast [1] 13/4	against [4] 8/4 115/17 130/5 138/20
1:35 [1] 138/16	absolutely [3] 22/8 28/21 120/16	age [1] 125/4
1:39 [1] 138/17	abstain [2] 8/25 9/2	agency [1] 133/19
1st [1] 33/4	abuse [1] 103/15	agent [1] 9/23
2	academy [1] 94/3	aggravated [1] 29/22
20 [1] 24/11	accept [1] 125/2	ago [1] 94/20
2002 [1] 36/15	accepted [3] 13/20 125/22 126/9	agreed [1] 112/18
2005 [2] 124/8 124/9	accident [1] 125/2	ahead [6] 16/15 22/19 34/25 59/12 72/25 72/25
2012 [21] 15/8 15/9 38/11 38/21 39/13 39/14 41/17 41/22 42/1 42/20 85/13 96/9 97/4 105/25 106/4 106/13 111/4 111/25 112/1 112/20 112/25	accidentally [1] 54/21	aid [2] 104/23 118/10
2013 [2] 112/1 112/2	according [1] 33/16	air [1] 29/3
2014 [4] 1/13 2/1 5/1 140/15	accumulated [1] 133/2	Aker [7] 90/11 90/18 91/23 92/17 92/21 93/4 99/1
21 [1] 21/17	accurate [4] 100/18 105/4 106/2 140/12	
22 [3] 5/25 19/15 26/6	accurately [1] 5/6	
222 [3] 1/25 140/6 140/18	accusation [1] 115/3	
22nd [1] 38/24		
23 [1] 119/19		
239B.030 [1] 141/2		
240 [2] 93/25 94/5		
25 [6] 34/9 81/22 91/15 108/14 121/7 137/21		
250 [1] 124/18		
28 [1] 140/15		
3		
311 [3] 45/1 48/25 49/4		

<p><b>A</b></p> <p>Alane [4] 121/25 122/3 122/22 123/1</p> <p>Alaska [2] 84/20 84/23</p> <p>alcohol [6] 87/6 87/13 87/15 87/18 103/13 103/19</p> <p>alert [2] 104/5 135/18</p> <p>all [58]</p> <p>allowed [1] 22/7</p> <p>almost [5] 26/24 78/2 93/10 93/25 102/14</p> <p>along [4] 5/14 12/22 12/23 133/7</p> <p>already [6] 28/9 29/23 36/11 37/11 59/18 104/7</p> <p>also [45] 2/19 6/4 12/6 14/15 14/16 23/7 24/25 26/19 27/5 27/12 27/18 28/14 30/10 32/21 55/2 62/10 67/4 69/23 70/17 72/4 81/10 81/10 82/14 87/24 89/13 95/16 101/22 102/23 113/22 114/2 121/18 124/22 125/2 126/22 127/13 128/15 128/16 128/17 129/21 132/16 132/18 134/18 135/15 136/22 136/24</p> <p>altercation [11] 113/3 113/4 113/5 113/9 113/16 114/14 114/16 114/24 115/7 115/10 115/17</p> <p>altered [1] 135/16</p> <p>although [1] 101/15</p> <p>always [8] 13/6 31/9 41/15 52/15 61/14 68/15 79/18 79/23</p> <p>am [1] 22/7</p> <p>ambulance [3] 88/9 90/19 118/17</p> <p>amendment [2] 5/25 6/5</p> <p>amount [3] 16/19 16/23 129/21</p> <p>analysis [2] 28/13 33/16</p> <p>analyze [1] 13/7</p> <p>analyzing [1] 25/6</p> <p>and/or [4] 6/6 6/7 6/8 55/6</p> <p>Angeles [1] 111/22</p> <p>anger [2] 82/9 115/8</p> <p>another [19] 7/18 7/21 7/25 8/25 9/11 23/15 24/17 29/12 59/17 61/16 77/17 100/12 113/8 115/3 115/5 124/19 125/1 132/6 136/4</p> <p>answer [5] 49/7 88/2 88/4 88/8 93/16</p> <p>answers [1] 107/6</p> <p>ANTHONY [15] 1/8 5/17 10/20 35/6 37/13 79/13 83/19 92/12 109/16 111/15 111/18 112/24 122/2 122/17 138/20</p> <p>Anthony's [1] 38/7</p> <p>anticipate [1] 121/16</p> <p>Antonacci [7] 1/25 5/4 140/6 140/17 140/18 141/18 141/21</p> <p>any [105]</p> <p>anybody [6] 81/1 85/25 90/10 94/24 96/17 126/1</p> <p>anymore [1] 25/4</p> <p>anyone [8] 34/1 40/2 54/13 81/13 91/6 108/5 120/23 137/13</p> <p>anything [40] 17/24 28/25</p>	<p>34/1 40/12 41/12 48/22 50/18 51/16 54/19 54/23 55/14 58/3 58/25 62/4 65/10 70/24 72/13 72/24 73/12 74/25 75/13 76/13 77/18 81/13 87/16 88/5 91/6 108/5 116/16 118/18 119/24 120/13 120/23 129/18 130/7 130/8 130/11 132/4 135/20 137/13</p> <p>anywhere [2] 63/9 104/16</p> <p>apartment [1] 39/6</p> <p>apparent [1] 137/3</p> <p>appear [3] 96/25 102/19 119/23</p> <p>appearance [1] 118/12</p> <p>appeared [2] 5/11 31/23</p> <p>appears [3] 7/3 105/6 126/23</p> <p>application [1] 141/15</p> <p>applying [1] 7/24</p> <p>appointed [1] 8/12</p> <p>appreciate [1] 81/9</p> <p>apprehended [1] 111/15</p> <p>approach [3] 14/25 51/3 77/25</p> <p>approaching [3] 67/10 99/14 105/1</p> <p>approximately [3] 95/9 124/19 129/3</p> <p>are [105]</p> <p>area [14] 5/10 21/9 22/2 23/3 23/9 23/9 28/14 89/20 89/22 94/12 95/11 116/3 119/1 130/3</p> <p>areas [2] 17/13 136/19</p> <p>aren't [1] 135/23</p> <p>argument [4] 113/1 113/18 115/2 116/11</p> <p>arm [2] 59/21 105/16</p> <p>arms [2] 117/7 117/20</p> <p>around [15] 27/19 59/15 89/19 95/24 96/6 97/11 97/13 101/12 101/14 101/17 102/22 104/8 119/2 124/18 130/25</p> <p>arrest [2] 9/22 111/13</p> <p>arrived [3] 13/19 85/24 129/2</p> <p>arteries [1] 134/16</p> <p>artery [4] 134/12 134/17 134/18 134/19</p> <p>artifact [1] 24/9</p> <p>as [89]</p> <p>ascertain [1] 90/21</p> <p>ascertained [1] 7/6</p> <p>Ashanti [24] 6/1 6/5 6/7 6/8 34/17 35/11 35/12 35/16 35/24 36/11 43/8 45/6 52/12 55/6 55/7 78/23 79/13 80/16 80/23 82/18 82/18 86/3 86/5 86/7</p> <p>Ashanti's [1] 55/3</p> <p>Ashley [10] 38/17 39/5 59/7 59/9 59/10 59/10 60/7 68/24 71/25 75/18</p> <p>aside [3] 77/6 127/19 130/10</p> <p>ask [11] 11/14 23/8 39/13 48/7 87/21 97/2 107/5 115/22 116/18 121/15 129/4</p> <p>asked [20] 12/15 13/7 13/10 17/2 44/14 49/24 50/7 71/24 86/25 87/14 87/22 87/23 87/24 87/25 104/6 111/3 119/7 119/8 125/18 130/15</p> <p>asking [2] 39/11 66/10</p> <p>asleep [2] 107/18 107/20</p>	<p>assault [1] 134/5</p> <p>asserted [3] 55/4 82/17 98/24</p> <p>assign [1] 125/25</p> <p>assigned [9] 14/2 14/11 14/15 20/3 85/8 85/10 98/17 125/21 125/23</p> <p>assist [2] 93/17 95/5</p> <p>Assistant [1] 2/6</p> <p>assisted [2] 30/21 133/13</p> <p>assisting [1] 9/21</p> <p>association [1] 8/22</p> <p>associations [1] 8/19</p> <p>assume [1] 133/3</p> <p>asymmetry [1] 22/11</p> <p>ate [1] 59/7</p> <p>attach [1] 16/6</p> <p>attached [2] 18/14 132/19</p> <p>attempt [3] 9/7 111/17 112/11</p> <p>attempted [3] 115/16 117/6 117/19</p> <p>attempting [1] 116/16</p> <p>attendant [1] 7/9</p> <p>attention [5] 5/24 116/1 116/2 117/3 119/1</p> <p>attorney [4] 9/16 94/14 95/2 138/19</p> <p>attorneys [2] 2/20 81/5</p> <p>attributed [1] 102/3</p> <p>audio [1] 120/6</p> <p>August [26] 38/10 38/20 39/12 39/14 41/17 41/22 42/1 42/3 42/4 42/20 44/5 52/23 53/12 85/13 96/9 97/4 100/19 102/17 105/25 106/3 106/13 106/18 111/4 112/4 112/20 112/24</p> <p>August 10 [6] 42/20 85/13 96/9 97/4 105/25 106/13</p> <p>August 10th [5] 44/5 52/23 100/19 102/17 106/3</p> <p>August 11th [1] 106/18</p> <p>August 2012 [1] 41/17</p> <p>August 8th [1] 53/12</p> <p>auntie [1] 40/3</p> <p>authored [2] 105/3 105/5</p> <p>authorized [1] 94/2</p> <p>autopsies [4] 123/23 124/13 124/19 126/15</p> <p>autopsy [8] 12/6 126/7 126/11 126/14 127/8 127/13 128/10 130/15</p> <p>available [1] 108/25</p> <p>average [1] 124/18</p> <p>awake [2] 107/14 135/17</p> <p>awareness [1] 103/17</p> <p>away [3] 6/25 44/6 127/4</p> <p><b>B</b></p> <p>B-E-N-J-A-M-I-N [1] 109/22</p> <p>B-E-V-E-R-L-Y [1] 6/2</p> <p>B-O-D-N-A-R [1] 111/1</p> <p>B1 [1] 15/24</p> <p>Bachelor's [1] 123/16</p> <p>back [30] 14/9 21/24 21/25 23/23 25/10 25/21 25/23 26/12 30/6 30/19 54/11 62/13 64/18 65/18 66/2 72/3 73/14 73/16 74/25 77/3 106/13 106/17 115/11 115/13 116/13 117/4 118/4 118/13 131/10 131/20</p> <p>backwards [1] 118/4</p>
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<p><b>B</b></p> <p>bad [7] 41/8 46/18 61/10 63/18 64/3 76/9 126/2</p> <p>bags [1] 29/3</p> <p>balance [1] 32/25</p> <p>ball [2] 56/22 102/9</p> <p>balling [1] 66/1</p> <p>bang [3] 65/1 69/18 69/19</p> <p>BARBARA [1] 2/6</p> <p>base [1] 101/17</p> <p>based [7] 28/13 88/6 88/12 90/4 90/6 111/9 133/24</p> <p>basic [3] 87/21 103/16 103/17</p> <p>basically [14] 16/24 18/16 80/24 113/17 114/6 116/11 117/16 118/2 118/10 118/11 118/17 119/14 128/24 134/15</p> <p>basis [1] 124/17</p> <p>basket [1] 56/20</p> <p>bat [14] 61/12 61/12 61/13 61/15 61/18 61/19 61/20 61/22 61/23 64/4 64/14 64/16 64/20 64/20</p> <p>bathe [1] 71/20</p> <p>bathing [1] 71/20</p> <p>bathroom [5] 44/19 71/15 71/16 71/17 71/19</p> <p>battered [3] 97/7 97/9 97/14</p> <p>battery [17] 6/11 7/16 7/17 7/19 8/14 10/17 35/3 83/16 85/5 85/18 92/9 94/1 94/4 94/16 109/12 122/14 138/21</p> <p>battery/domestic [3] 94/1 94/4 94/16</p> <p>be [74]</p> <p>beach [1] 56/22</p> <p>beat [6] 52/18 52/24 53/4 59/23 70/7 118/12</p> <p>became [1] 113/12</p> <p>because [40] 17/3 17/21 21/13 22/22 22/23 26/3 26/20 27/11 27/23 28/4 29/14 32/7 32/17 36/5 42/24 43/1 43/1 43/5 44/22 45/7 45/18 49/23 51/2 55/25 57/1 58/1 59/20 60/18 61/4 64/21 70/5 70/7 71/15 71/25 72/22 76/7 77/3 103/6 103/8 115/7</p> <p>become [1] 113/9</p> <p>becoming [1] 110/17</p> <p>bed [42] 44/17 44/18 44/20 44/25 45/18 45/20 45/21 45/22 45/22 48/18 58/17 58/18 59/15 59/16 59/17 59/22 59/24 60/6 60/8 60/10 60/23 61/9 62/11 62/14 62/16 62/18 62/24 63/15 63/20 63/21 64/6 65/2 65/5 65/12 71/21 71/21 72/1 72/5 72/11 74/23 117/13 117/14</p> <p>bedroom [1] 73/16</p> <p>been [47] 5/5 8/12 11/7 12/15 16/22 19/14 21/11 21/16 24/24 26/17 27/25 28/3 29/9 30/6 31/14 32/14 33/17 35/17 79/23 84/5 92/22 93/11 95/11 97/7 97/9 97/14 97/16 105/10 110/3 110/13 110/14 110/18 112/3 123/2 124/7 124/9 128/14 128/19 130/20</p>	<p>131/2 131/9 131/10 132/15 135/11 135/22 136/1 138/20</p> <p>before [38] 10/10 19/2 21/22 23/24 29/2 30/18 31/11 32/12 34/1 34/21 39/13 39/16 47/2 53/3 53/6 53/8 55/19 62/4 65/3 66/12 67/19 69/21 75/11 81/13 82/6 83/9 84/19 91/7 92/2 108/6 109/4 115/17 116/4 118/13 120/24 122/7 137/13 140/8</p> <p>before-entitled [1] 140/8</p> <p>begin [2] 17/8 126/14</p> <p>beginning [5] 25/12 33/3 33/7 33/10 44/4</p> <p>behalf [1] 9/13</p> <p>behind [4] 21/4 21/5 61/4 132/2</p> <p>being [15] 6/19 25/2 29/25 55/6 80/25 87/1 96/20 98/25 101/16 103/7 104/5 112/9 115/3 130/2 130/4</p> <p>belief [1] 88/18</p> <p>believe [11] 30/5 86/8 86/14 87/17 100/4 111/25 113/6 113/25 115/2 115/13 117/5</p> <p>Benjamin [3] 108/22 109/21 110/2</p> <p>besides [5] 65/23 65/23 89/16 116/17 136/12</p> <p>best [1] 5/7</p> <p>better [5] 31/5 44/3 76/18 76/21 116/18</p> <p>between [6] 8/23 22/11 40/20 52/23 61/24 132/7</p> <p>Beverly [25] 6/2 6/6 6/7 6/8 13/8 38/1 82/15 86/4 86/10 86/12 86/24 89/4 96/21 100/18 100/22 101/3 103/3 107/21 113/2 114/19 117/1 117/6 118/7 125/19 138/5</p> <p>Beverly's [3] 38/7 79/16 117/25</p> <p>big [5] 22/12 22/24 45/18 60/23 131/16</p> <p>bigger [3] 21/13 22/21 32/10</p> <p>bill [1] 138/20</p> <p>birth [1] 87/23</p> <p>birthday [2] 36/12 38/23</p> <p>bit [6] 16/16 43/22 84/22 89/19 102/5 104/14</p> <p>black [7] 40/25 41/2 77/8 77/10 97/10 101/11 118/9</p> <p>bleeding [5] 19/12 19/12 129/20 129/24 136/1</p> <p>blew [1] 117/15</p> <p>block [2] 117/7 117/19</p> <p>blockage [2] 134/17 134/18</p> <p>blocking [2] 7/25 114/3</p> <p>blood [28] 7/24 8/6 19/8 19/13 21/10 26/4 27/20 29/23 29/25 30/4 32/8 32/11 32/13 32/15 32/17 32/21 33/13 33/17 50/11 90/1 102/12 131/13 132/9 132/20 133/2 134/16 134/20 134/23</p> <p>bodies [2] 124/16 135/8</p> <p>bodily [1] 8/1</p> <p>Bodnar [4] 110/25 111/3 111/10 112/10</p> <p>body [15] 47/24 89/10 125/18 126/5 126/13 126/17 126/23</p>	<p>127/7 127/10 127/22 128/12 128/18 128/24 129/13 133/25</p> <p>bone [3] 97/11 101/17 136/5</p> <p>books [1] 13/5</p> <p>born [1] 36/14</p> <p>both [14] 10/24 17/8 35/10 45/19 46/3 57/14 83/23 90/13 92/16 104/22 109/20 113/19 122/21 132/3</p> <p>bottom [6] 20/12 52/4 101/14 104/13 104/14 127/3</p> <p>bought [1] 56/19</p> <p>bounces [1] 24/10</p> <p>bouts [1] 104/3</p> <p>box [2] 16/20 136/4</p> <p>brace [2] 100/5 100/10</p> <p>brain [119]</p> <p>brains [8] 12/6 12/7 12/12 12/16 13/16 27/20 29/6 29/10</p> <p>break [7] 45/6 82/7 82/22 82/24 82/25 83/1 83/2</p> <p>breaks [1] 120/13</p> <p>breath [2] 63/16 64/9</p> <p>breathing [3] 7/23 23/5 128/14</p> <p>briefly [1] 135/7</p> <p>bring [4] 32/18 64/16 75/13 75/25</p> <p>brings [1] 27/20</p> <p>broken [3] 65/15 68/12 136/6</p> <p>brother [2] 38/15 54/15</p> <p>brought [1] 30/19</p> <p>brown [4] 2/20 5/14 24/22 121/21</p> <p>bruise [2] 59/21 101/9</p> <p>bruises [3] 77/13 77/15 77/16</p> <p>bruising [7] 89/12 89/17 97/10 101/11 104/8 104/9 104/12</p> <p>bunch [1] 102/10</p> <p>BUNTJER [1] 2/7</p> <p>bureau [1] 90/12</p> <p>burgers [4] 75/14 75/15 75/23 77/4</p> <p>burglaries [1] 85/6</p> <p>burn [1] 104/20</p> <p>burns [1] 97/12</p> <p>business [1] 8/23</p> <p>buttons [1] 49/2</p>
		<p><b>C</b></p> <p>C-I-A-U-D-I-A [1] 11/1</p> <p>C.C.R [3] 1/25 140/6 140/18</p> <p>C295313 [1] 1/7</p> <p>cable [1] 58/1</p> <p>cage [1] 127/5</p> <p>calculated [1] 7/8</p> <p>California [6] 11/20 11/24 12/1 12/2 111/22 133/22</p> <p>call [12] 15/23 18/12 45/1 61/1 61/10 72/16 72/18 73/1 73/3 79/5 99/9 118/17</p> <p>called [20] 16/10 18/1 27/18 29/14 30/13 32/13 42/24 42/25 43/1 45/3 50/3 53/3 54/21 59/17 76/19 95/11 96/3 96/7 126/16 136/5</p> <p>calling [4] 45/5 56/22 63/17 64/3</p> <p>calls [5] 10/5 91/22 93/16 108/21 122/3</p> <p>calm [1] 104/1</p>

C		
calmness [1] 104/3	138/5 140/1	122/15 138/22
came [29] 13/18 13/22 16/19 29/3 42/2 42/5 44/19 45/4 45/5 48/2 50/2 54/11 54/18 54/19 55/9 56/9 56/17 59/24 60/1 64/23 65/14 65/18 71/11 71/15 71/20 86/4 86/12 97/5 136/10	certification [4] 12/25 95/5 125/12 125/14	cognitive [3] 103/8 103/19 106/23
can [57]	certified [2] 4/12 138/4	coherence [1] 87/22
can't [9] 19/25 23/6 28/11 28/12 32/7 32/15 81/1 118/16 119/13	certify [1] 140/7	coherent [1] 107/13
cannot [2] 28/10 28/11	chance [5] 96/22 127/6 127/12 127/21 128/6	Cold [1] 84/21
canvassed [1] 5/10	change [4] 100/4 100/11 107/10 117/5	COLEMAN [1] 2/8
capable [1] 7/1	changed [2] 107/1 107/2	collar [1] 101/17
capacity [3] 93/18 93/21 93/24	changes [2] 18/4 22/6	collect [1] 127/14
capillaries [1] 102/12	characterized [2] 8/20 29/13	Colleen [2] 2/20 5/14
car [2] 29/2 44/17	characterizing [1] 7/10	color [8] 26/1 77/17 102/10 126/22 126/23 131/15 131/16 132/10
card [1] 119/17	charged [2] 6/10 10/4	comatose [2] 33/7 33/9
cardiac [1] 23/5	charges [1] 111/14	come [19] 23/4 25/12 30/6 30/13 42/20 43/9 47/16 50/4 54/6 54/8 55/16 56/4 56/6 64/18 85/25 86/2 95/22 96/17 96/19
care [2] 53/21 53/23	charging [1] 138/21	comes [3] 14/3 14/9 25/23
careers [1] 123/24	cheating [1] 113/7	coming [4] 23/22 37/6 38/25 87/6
caressing [1] 97/21	check [1] 63/7	commenced [1] 116/10
Carl [1] 36/21	cheek [4] 63/4 97/11 101/10 101/15	commencing [11] 6/13 9/10 9/19 10/1 10/20 35/6 92/12 109/15 122/17 127/2 138/24
carotid [3] 134/12 134/18 134/19	chest [6] 104/15 105/15 127/3 128/25 129/6 129/7	comment [1] 30/8
carpet [1] 104/19	child [4] 8/10 8/11 8/11 8/13	commenting [1] 83/19
carry [1] 9/24	chin [1] 104/13	comments [1] 118/8
cartilage [1] 136/3	choir [2] 36/25 37/1	commission [2] 7/13 94/15
cascade [1] 32/23	choked [1] 59/22	commits [1] 8/4
case [30] 5/15 5/16 6/10 13/4 14/6 14/11 14/15 16/10 16/19 16/24 20/2 20/3 20/25 36/6 45/21 122/1 122/2 125/21 125/22 125/24 125/25 126/9 126/10 126/12 127/16 127/24 135/25 136/6 138/25 141/4	choking [4] 62/25 63/12 63/14 63/14	committed [1] 9/25
cases [6] 12/8 12/10 17/4 85/7 110/22 125/3	circle [2] 26/23 26/24	common [1] 8/10
casual [1] 8/22	circular [1] 23/9	commonly [2] 125/4 130/1
CAT [3] 24/25 25/5 25/13	circulation [1] 7/23	communicate [7] 86/19 103/3 103/9 103/11 106/24 106/25 107/12
CATHY [1] 2/13	circumstances [7] 7/1 7/4 7/7 7/9 7/15 124/24 135/21	communicating [1] 90/7
cause [23] 19/3 27/13 28/20 45/16 54/20 54/21 56/19 61/1 61/14 61/16 64/10 64/19 70/16 72/8 75/14 75/21 76/7 124/14 128/8 133/6 133/13 134/1 134/4	citizens [1] 93/17	communication [1] 107/3
caused [5] 28/16 29/17 90/2 134/7 134/21	city [10] 13/16 39/9 84/13 84/16 84/17 93/7 93/9 93/15 110/11 111/20	compare [1] 131/15
causes [1] 134/24	claimed [1] 114/20	comparison [1] 29/9
Causing [1] 9/22	CLARK [23] 1/2 13/12 14/14 15/2 34/6 34/9 81/19 81/22 85/15 88/15 88/21 91/12 91/15 96/13 108/11 108/14 121/4 121/7 123/10 124/7 137/18 137/21 140/4	compel [1] 8/25
cavities [1] 127/7	class [1] 95/5	Compelling [1] 8/14
cells [2] 32/18 90/1	classes [1] 123/13	complete [6] 93/17 125/10 126/25 128/7 129/14 134/17
center [19] 23/12 23/14 26/11 26/12 32/7 34/7 34/10 81/20 81/23 91/13 91/16 102/24 108/12 108/15 121/5 121/8 127/4 137/19 137/22	classic [2] 18/23 97/19	completed [3] 123/19 123/25 124/5
centered [1] 96/6	Claudia [4] 10/6 10/25 11/6 133/23	comply [6] 34/5 81/18 91/11 108/10 121/3 137/17
centimeters [1] 15/19	Claus [1] 37/6	component [1] 136/4
central [3] 30/14 127/2 129/7	clean [2] 56/21 118/11	compromised [2] 33/13 134/20
cerebral [3] 27/17 29/21 30/17	cleaner [3] 113/23 114/8 114/10	concerned [1] 88/11
cerebrospinal [3] 26/17 27/16 28/10	clear [4] 24/6 25/14 88/14 106/6	concluded [3] 114/14 138/12 139/6
certain [1] 31/7	clearly [1] 28/21	conclusion [1] 128/8
certificate [4] 4/12 94/21	clinical [6] 16/23 23/7 30/10 30/11 30/24 32/20	conditions [3] 134/6 134/9 134/25
	clinicians [1] 30/17	conduct [2] 85/3 85/5
	closed [10] 55/13 65/4 65/7 67/25 68/7 68/11 68/14 68/16 69/12 113/22	conducted [2] 112/13 135/1
	closet [1] 14/1	conformance [1] 139/1
	closing [1] 64/22	confuse [1] 126/1
	clothes [3] 56/20 80/10 100/5	confusion [1] 135/15
	clothing [3] 9/6 100/11 126/20	congruent [1] 14/17
	clues [2] 87/5 87/7	connection [1] 9/22
	coating [1] 132/20	consciousness [2] 107/19 135/16
	coercion [9] 6/12 8/24 10/18 35/4 83/17 92/10 109/14	consider [1] 82/12
		considerable [2] 7/3 129/21
		considered [1] 82/10
		consistently [1] 97/20
		constantly [3] 27/19 107/18 107/20

C	116/4	133/6 133/9 133/14 134/1
<b>constitutes</b> [1] 140/12 <b>constituting</b> [9] 6/11 7/16 10/17 35/3 83/16 92/9 109/13 122/14 138/21 <b>consult</b> [1] 136/11 <b>contact</b> [8] 85/25 86/2 86/13 90/9 96/17 96/19 99/9 111/17 <b>contacted</b> [4] 6/9 90/7 90/11 111/24 <b>contain</b> [1] 141/8 <b>container</b> [1] 15/21 <b>Contains</b> [1] 141/11 <b>contempt</b> [6] 34/8 81/21 91/14 108/13 121/6 137/20 <b>contention</b> [1] 114/1 <b>context</b> [1] 8/23 <b>continue</b> [3] 32/24 33/14 113/15 <b>continued</b> [1] 116/14 <b>continuing</b> [4] 12/20 125/6 125/11 127/2 <b>contributing</b> [2] 134/8 134/25 <b>contributor</b> [1] 28/8 <b>control</b> [1] 29/24 <b>conversation</b> [2] 77/1 87/11 <b>conversational</b> [1] 120/4 <b>cooked</b> [2] 75/16 114/18 <b>cooking</b> [2] 75/14 75/15 <b>copy</b> [7] 5/19 5/20 14/25 105/4 115/24 128/5 138/7 <b>cord</b> [5] 22/23 22/25 23/4 23/10 26/14 <b>corner</b> [1] 72/9 <b>coroner</b> [1] 18/10 <b>coroner's</b> [10] 12/7 13/12 14/9 123/11 124/6 124/10 124/12 124/25 125/23 126/10 <b>correct</b> [20] 24/4 27/9 40/14 40/17 85/16 88/20 90/8 95/19 100/16 100/22 100/25 101/24 102/1 106/8 107/8 112/5 124/11 126/6 131/3 137/6 <b>correctional</b> [1] 9/18 <b>Corrections</b> [1] 9/17 <b>correctly</b> [1] 26/22 <b>correlate</b> [1] 32/20 <b>corroborated</b> [1] 23/7 <b>couch</b> [4] 61/14 61/16 61/16 61/25 <b>could</b> [24] 28/6 28/6 28/14 28/15 28/20 29/17 30/9 30/25 31/15 46/11 55/14 62/19 62/21 65/8 65/10 87/6 87/14 87/15 88/8 89/11 89/18 90/21 103/24 115/1 <b>couldn't</b> [15] 43/2 46/22 48/8 55/25 60/24 61/1 61/3 61/5 63/16 63/18 64/8 64/11 71/2 72/10 72/12 <b>Count</b> [3] 5/24 5/25 6/4 <b>Count 3</b> [2] 5/24 5/25 <b>Count 4</b> [1] 6/4 <b>COUNTY</b> [26] 1/2 12/7 12/9 13/12 14/14 15/2 34/7 34/9 81/20 81/22 85/15 88/15 88/21 91/13 91/15 96/13 108/12 108/14 121/5 121/7 123/10 124/1 124/8 137/19 137/21 140/4 <b>couple</b> [4] 44/13 47/5 87/1	<b>coupled</b> [1] 103/20 <b>course</b> [5] 14/7 18/8 113/18 125/12 127/13 <b>courses</b> [2] 12/21 125/7 <b>court</b> [8] 1/1 34/8 81/21 91/14 108/13 121/6 137/20 141/23 <b>cover</b> [1] 19/8 <b>covering</b> [2] 18/1 18/13 <b>cracked</b> [1] 65/7 <b>creates</b> [1] 8/1 <b>creature</b> [1] 6/25 <b>crime</b> [19] 6/13 7/13 9/10 9/12 9/14 9/14 9/23 10/1 10/19 35/5 83/18 88/18 90/12 92/11 109/15 111/7 111/10 122/16 138/24 <b>crimes</b> [3] 85/4 93/17 138/21 <b>criminal</b> [3] 9/19 85/2 124/21 <b>criteria</b> [1] 29/11 <b>critical</b> [1] 27/21 <b>crux</b> [1] 17/15 <b>crying</b> [1] 97/6 <b>CSF</b> [1] 27/18 <b>cultures</b> [1] 127/15 <b>current</b> [1] 13/5 <b>currently</b> [2] 12/9 110/21 <b>custodian</b> [1] 8/12 <b>cut</b> [8] 15/15 16/5 24/6 24/16 24/17 31/13 127/18 129/5 <b>cuts</b> [1] 25/15 <b>cutting</b> [2] 24/9 24/15	134/4 134/7 135/3 135/5 135/19 137/5 138/5 <b>December</b> [2] 15/8 15/9 <b>decided</b> [1] 90/17 <b>decision</b> [2] 36/9 90/15 <b>decreases</b> [1] 22/25 <b>deduced</b> [1] 7/7 <b>deep</b> [1] 61/24 <b>defendant</b> [6] 1/9 6/10 82/10 112/12 112/23 138/20 <b>defendant's</b> [1] 7/12 <b>defensive</b> [1] 114/7 <b>definitely</b> [2] 14/16 29/19 <b>degrees</b> [2] 123/13 123/15 <b>delays</b> [1] 9/23 <b>deliberate</b> [1] 6/24 <b>deliberations</b> [2] 121/16 138/14 <b>delicious</b> [1] 56/16 <b>delineated</b> [1] 25/2 <b>demeanor</b> [5] 43/23 43/24 96/23 97/1 97/3 <b>denied</b> [2] 114/12 117/16 <b>department</b> [5] 9/17 13/20 93/15 110/12 110/18 <b>depending</b> [3] 104/4 127/16 127/23 <b>depends</b> [1] 135/14 <b>depict</b> [1] 100/22 <b>depicted</b> [8] 27/7 89/1 99/18 99/21 101/5 101/20 105/19 106/9 <b>depiction</b> [2] 106/2 132/6 <b>depictions</b> [1] 100/18 <b>depicts</b> [1] 131/12 <b>Deprive</b> [1] 9/5 <b>deputy</b> [3] 2/4 2/20 121/22 <b>describe</b> [15] 24/20 28/23 29/8 30/7 31/25 39/23 45/14 97/3 102/6 105/23 114/2 126/18 126/22 127/8 127/13 <b>described</b> [2] 117/21 129/16 <b>designated</b> [1] 15/22 <b>desk</b> [3] 13/20 13/21 59/20 <b>destroy</b> [1] 23/5 <b>details</b> [1] 110/20 <b>detective</b> [12] 108/21 108/23 110/10 110/11 110/13 110/14 110/17 110/25 111/2 111/3 111/10 112/10 <b>Detention</b> [12] 34/7 34/10 81/20 81/23 91/13 91/16 108/12 108/15 121/5 121/8 137/19 137/22 <b>determination</b> [2] 82/11 98/9 <b>determine</b> [9] 17/12 28/15 31/21 33/6 87/22 133/6 133/10 133/25 135/3 <b>determining</b> [5] 12/17 12/17 111/12 124/14 133/13 <b>develop</b> [1] 33/14 <b>diabetes</b> [1] 134/13 <b>dialed</b> [3] 48/25 48/25 48/25 <b>dialing</b> [2] 44/25 49/4 <b>dictate</b> [1] 128/5 <b>dictation</b> [1] 128/6 <b>did</b> [241] <b>didn't</b> [17] 18/8 27/13 30/11 30/22 30/23 48/17 54/23 56/20 59/4 68/13 74/10 75/18 75/22 103/13 103/13 118/3
	D	
	<b>dad</b> [88] <b>dad's</b> [7] 65/2 65/11 65/12 65/16 70/19 72/2 73/20 <b>damage</b> [7] 21/14 23/5 24/24 25/24 25/25 28/6 32/17 <b>damaged</b> [2] 26/1 28/9 <b>damages</b> [1] 28/25 <b>Danette</b> [7] 1/25 5/4 140/6 140/17 140/18 141/18 141/21 <b>dark</b> [1] 102/9 <b>darker</b> [1] 132/10 <b>date</b> [15] 15/7 20/8 42/7 42/12 42/17 52/4 52/6 87/23 103/16 106/20 111/23 111/23 112/4 128/9 141/19 <b>Dated</b> [1] 140/14 <b>dates</b> [1] 112/23 <b>dating</b> [2] 8/9 8/18 <b>Davis</b> [2] 12/2 133/23 <b>day</b> [44] 33/1 43/10 43/12 43/15 43/23 44/1 44/5 50/16 52/12 53/1 53/2 53/3 53/6 53/8 53/11 53/25 54/16 55/17 56/5 56/13 66/17 66/20 67/1 68/17 72/16 73/7 73/9 74/1 74/1 74/13 74/21 74/23 75/11 76/3 78/23 79/1 87/13 87/25 89/5 100/12 102/7 102/15 106/18 107/15 <b>days</b> [15] 31/24 31/25 32/2 32/4 33/16 34/9 52/22 53/1 53/1 74/19 81/22 91/15 108/14 121/7 137/21 <b>DC</b> [1] 1/7 <b>death</b> [19] 4/12 6/22 7/8 8/1 29/18 124/15 124/24 128/8	

<p><b>D</b></p> <p>didn't... [1] 118/12</p> <p>die [5] 18/21 18/22 30/16 33/4 125/3</p> <p>died [4] 21/23 32/12 37/22 111/12</p> <p>Diego [2] 11/20 11/23</p> <p>difference [3] 40/19 131/16 132/7</p> <p>different [9] 16/12 26/1 66/18 66/19 70/15 97/2 114/17 117/9 124/23</p> <p>difficulty [1] 95/25</p> <p>Digital [1] 120/6</p> <p>direct [5] 5/23 7/12 116/1 116/2 119/1</p> <p>direction [2] 18/17 140/11</p> <p>directly [1] 132/17</p> <p>dirt [6] 65/15 65/16 69/21 70/18 70/18 70/19</p> <p>dirty [1] 56/20</p> <p>disclosed [1] 7/15</p> <p>disclosing [6] 33/25 81/13 91/6 108/5 120/23 137/12</p> <p>discoloration [9] 18/13 18/15 19/2 19/3 19/4 19/8 21/9 22/4 23/24</p> <p>discolorations [1] 24/22</p> <p>discolored [1] 131/13</p> <p>discoloring [2] 97/13 101/16</p> <p>discuss [2] 118/6 118/14</p> <p>discussed [1] 81/2</p> <p>disease [2] 127/9 129/17</p> <p>disoriented [1] 87/4</p> <p>dispatch [1] 85/23</p> <p>displayed [1] 101/16</p> <p>displaying [1] 87/5</p> <p>disregard [2] 55/2 70/11</p> <p>dissuades [1] 9/12</p> <p>dissuading [10] 6/12 9/9 9/25 10/19 35/5 83/18 92/11 109/14 122/16 138/23</p> <p>distinct [3] 96/2 102/8 102/13</p> <p>distinctly [1] 119/19</p> <p>district [4] 1/1 2/20 81/5 138/18</p> <p>diverse [1] 104/4</p> <p>do [191]</p> <p>doctor [3] 6/16 99/9 108/25</p> <p>document [2] 51/6 98/19</p> <p>documentation [1] 126/11</p> <p>documenting [1] 129/16</p> <p>documents [4] 16/17 16/21 17/6 126/4</p> <p>does [26] 8/21 22/24 41/6 41/7 53/21 53/23 57/10 63/23 64/16 66/14 66/15 68/24 68/25 69/3 69/7 74/19 75/23 80/7 80/14 116/7 116/8 119/3 119/4 134/14 141/4 141/8</p> <p>doing [10] 9/1 9/2 16/16 53/25 54/2 56/17 65/25 71/18 115/10 124/4</p> <p>domestic [18] 6/11 7/16 8/3 10/17 35/3 83/16 85/5 85/18 92/9 93/25 94/1 94/3 94/4 94/16 94/16 109/13 122/14 138/22</p> <p>don't [45] 14/10 22/13 30/16 32/19 33/4 38/15 39/22 40/6</p>	<p>41/15 44/12 47/6 48/1 49/8 49/11 51/14 54/3 54/3 56/15 57/16 64/25 69/16 70/6 70/7 71/22 74/14 75/21 76/15 76/19 77/9 77/19 77/19 77/21 79/20 100/4 100/10 100/11 100/24 106/8 107/18 114/25 115/18 120/10 126/1 126/19 136/15</p> <p>donation [1] 128/16</p> <p>done [9] 14/7 57/21 59/11 71/20 78/2 126/4 128/9 129/6 129/8</p> <p>door [28] 39/25 46/1 46/8 46/9 46/9 46/10 47/16 50/8 50/9 50/10 55/13 55/14 61/4 61/10 64/2 64/23 64/24 65/4 65/6 65/13 65/14 69/12 69/24 70/1 73/20 73/23 86/3 86/4</p> <p>doors [1] 46/3</p> <p>dots [3] 96/4 102/10 102/13</p> <p>down [29] 18/15 20/15 20/16 21/6 22/23 23/2 23/4 23/10 26/14 27/4 45/6 47/17 49/25 59/24 59/25 60/1 60/12 62/24 63/15 63/15 63/19 64/6 102/4 116/12 121/21 127/3 129/5 132/23 140/7</p> <p>downstairs [7] 43/5 50/10 56/21 61/13 61/20 64/13 77/3</p> <p>dozen [1] 95/15</p> <p>Dr [5] 10/6 11/14 31/5 122/3 133/23</p> <p>Dr. [4] 121/25 123/9 125/18 126/13</p> <p>Dr. Alane [1] 121/25</p> <p>Dr. Olson [3] 123/9 125/18 126/13</p> <p>dragging [1] 71/9</p> <p>draw [3] 17/24 22/14 117/3</p> <p>dreads [2] 65/22 65/23</p> <p>dress [3] 40/24 41/2 41/3</p> <p>dresser [1] 65/11</p> <p>drew [1] 22/15</p> <p>drove [1] 44/16</p> <p>drug [1] 103/19</p> <p>drug/alcohol [1] 103/19</p> <p>drugs [1] 32/24</p> <p>drunk [1] 87/9</p> <p>due [4] 21/14 22/5 134/5 134/11</p> <p>duly [7] 5/5 11/7 35/17 84/5 92/22 110/3 123/2</p> <p>dura [3] 18/2 18/7 19/6</p> <p>duration [4] 31/21 33/1 33/8 33/9</p> <p>during [12] 7/13 12/11 55/16 74/13 74/16 87/3 112/15 113/16 113/17 115/10 120/12 127/13</p> <p><b>E</b></p> <p>each [2] 126/7 126/9</p> <p>ear [3] 23/23 127/19 127/19</p> <p>earlier [9] 44/8 46/20 53/11 68/6 70/17 72/4 73/9 78/10 138/6</p> <p>early [1] 30/18</p> <p>easier [1] 30/1</p> <p>eat [4] 56/12 57/25 59/9 60/9</p> <p>eating [5] 57/22 58/9 58/12</p>	<p>58/21 59/4</p> <p>eats [1] 59/10</p> <p>edema [1] 30/17</p> <p>edge [6] 32/9 45/20 58/16 58/17 59/16 71/25</p> <p>edit [1] 128/6</p> <p>education [6] 11/15 12/21 123/19 123/20 125/7 125/11</p> <p>effect [4] 23/4 55/5 82/18 98/25</p> <p>effected [1] 6/21</p> <p>effective [1] 107/3</p> <p>effectively [1] 106/23</p> <p>effort [1] 9/24</p> <p>efforts [1] 111/10</p> <p>eighth [2] 1/1 15/20</p> <p>either [7] 6/20 6/23 102/9 125/1 130/4 130/4 136/3</p> <p>elbow [3] 104/21 105/16 105/22</p> <p>elbows [2] 97/12 104/22</p> <p>elements [3] 6/15 10/4 138/10</p> <p>Eleven [1] 36/17</p> <p>Elmo [1] 20/11</p> <p>else [14] 38/13 39/19 40/2 54/13 58/25 63/9 65/24 75/24 88/11 90/10 104/16 105/12 116/16 130/8</p> <p>emergency [1] 100/8</p> <p>emotions [1] 104/4</p> <p>employed [1] 110/10</p> <p>employee [2] 9/16 9/18</p> <p>encephalopathy [2] 134/11 134/22</p> <p>end [4] 14/8 16/4 115/12 119/10</p> <p>ended [1] 114/16</p> <p>Enforce [1] 85/2</p> <p>enforcement [1] 110/16</p> <p>enlargement [1] 22/12</p> <p>enlarging [1] 32/5</p> <p>enough [3] 18/18 18/19 134/23</p> <p>entire [2] 120/3 133/24</p> <p>entitled [1] 140/8</p> <p>escalate [1] 116/14</p> <p>escalated [1] 113/2</p> <p>essentially [1] 132/2</p> <p>Estella [2] 38/5 125/19</p> <p>even [9] 28/11 30/11 30/18 50/6 63/16 65/6 75/22 116/4 117/14</p> <p>evening [1] 114/20</p> <p>event [7] 34/3 81/15 82/13 91/8 108/7 120/25 137/15</p> <p>events [3] 16/24 112/24 115/1</p> <p>eventually [4] 49/12 49/15 117/18 133/18</p> <p>ever [19] 49/4 68/20 74/19 93/11 95/11 113/4 113/9 114/9 114/10 115/9 115/11 115/11 116/23 117/5 117/9 118/14 119/12 120/12 135/8</p> <p>EVERS [1] 2/9</p> <p>every [5] 13/4 15/25 61/2 66/22 125/22</p> <p>everybody [2] 58/21 58/23</p> <p>everything [9] 14/4 14/17 15/19 30/25 113/14 126/12 126/18 127/6 128/7</p> <p>evidence [19] 7/12 7/15 18/18</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>E</b>	evidence... [16] 24/25 30/12 34/2 81/14 82/12 91/7 98/22 108/6 120/24 128/13 129/17 129/20 136/7 136/14 137/14 138/13 Ex [1] 13/17 exactly [8] 46/16 61/8 114/25 115/18 118/16 119/13 120/10 126/16 exam [1] 129/14 examination [22] 11/11 14/6 16/16 31/16 31/24 35/21 84/9 93/1 98/5 110/7 123/6 126/16 127/1 127/23 128/4 128/16 129/15 129/19 130/9 133/12 133/15 133/16 examinations [4] 124/4 124/14 124/20 126/4 examine [9] 12/5 12/6 13/10 13/25 14/4 17/8 31/7 31/12 135/8 examined [4] 3/2 12/13 15/14 20/8 examiner [2] 123/10 123/12 examiner's [2] 124/2 124/4 examiners [1] 124/5 examining [3] 12/7 12/16 17/11 exception [2] 99/25 100/1 excused [6] 34/14 82/2 91/20 108/19 121/12 138/1 Exhibit [35] 5/19 6/16 20/14 21/17 23/16 24/11 25/8 25/17 26/6 67/11 67/12 78/1 78/4 78/11 78/17 88/25 89/1 100/9 100/13 100/15 101/2 101/6 101/20 101/25 105/18 105/20 106/10 128/20 131/6 131/8 131/22 132/13 132/14 138/4 138/8 Exhibit 10 [1] 67/12 Exhibit 11 [1] 128/20 Exhibit 12 [2] 131/6 131/8 Exhibit 13 [1] 131/22 Exhibit 14 [2] 132/13 132/14 Exhibit 15 [1] 138/4 Exhibit 16 [1] 20/14 Exhibit 17 [1] 23/16 Exhibit 18 [1] 25/17 Exhibit 19 [1] 25/8 Exhibit 2 [2] 6/16 138/8 Exhibit 20 [1] 24/11 Exhibit 21 [1] 21/17 Exhibit 22 [1] 26/6 Exhibit 3 [9] 78/1 78/4 78/11 78/17 88/25 89/1 101/2 101/6 101/25 Exhibit 4 [2] 105/20 106/10 Exhibit 6 [1] 100/15 Exhibit 7 [1] 100/13 Exhibit 8 [1] 100/9 EXHIBITS [11] 4/1 4/3 4/8 19/15 99/15 99/19 99/21 100/17 100/21 121/19 130/21 existed [1] 7/13 existence [1] 7/14 exit [1] 138/16 expectation [1] 8/20 experience [5] 90/4 95/10 110/17 119/20 129/25	expert [2] 27/24 127/25 expertise [1] 28/14 explain [1] 17/23 explained [1] 21/22 exposed [1] 131/11 express [3] 6/20 6/23 6/24 extent [1] 90/21 exterior [1] 102/25 external [5] 7/1 126/16 128/12 129/12 129/14 externally [2] 135/24 136/15 eye [13] 63/4 63/5 96/5 97/10 97/11 101/10 101/11 101/11 101/22 102/4 118/9 118/11 126/23 eyelid [1] 102/4 eyelids [3] 98/6 136/22 136/24 eyes [5] 66/21 76/7 76/8 96/5 136/23	findings [1] 129/22 fine [12] 34/7 34/9 81/20 81/22 91/13 91/15 108/12 108/14 121/5 121/7 137/19 137/21 fingers [1] 47/8 finished [4] 14/1 99/16 105/8 128/4 first [34] 5/5 10/5 10/23 11/7 16/13 20/12 35/9 35/17 37/25 39/13 48/16 48/25 61/11 65/6 74/9 83/22 83/24 84/5 86/3 86/24 92/15 92/22 109/19 109/21 110/3 115/6 115/16 117/11 117/16 118/3 118/10 122/20 122/23 123/2 FISCHER [1] 2/5 fist [1] 113/22 fists [1] 66/2 five [7] 12/8 50/5 50/6 79/6 94/20 123/20 124/7 fixative [1] 31/10 fixed [4] 16/1 16/3 31/16 130/5 fixes [1] 31/11 flipped [1] 65/12 floor [4] 45/20 65/16 69/18 69/19 flow [7] 27/22 28/4 28/10 33/13 33/17 134/20 134/23 flowing [2] 28/7 32/12 flows [1] 27/19 fluid [9] 25/3 26/17 27/14 27/16 27/19 27/21 28/2 28/7 28/10 focus [2] 101/1 112/22 focused [1] 135/24 follow [4] 31/20 71/11 90/19 107/12 follow-up [1] 31/20 following [3] 5/6 8/4 106/18 follows [7] 11/9 14/6 35/19 84/7 92/24 110/5 123/4 food [9] 56/11 57/20 57/21 59/5 59/7 59/8 59/9 60/9 120/13 force [6] 7/18 7/20 8/14 8/15 9/8 29/25 forcefully [1] 113/19 foregoing [1] 140/11 forehead [1] 66/22 forensic [5] 12/9 12/25 13/3 17/1 124/2 forensics [1] 13/2 Foreperson [8] 2/3 2/4 11/7 35/17 84/5 92/22 110/3 123/2 forgot [3] 49/23 61/14 87/24 formal [1] 123/19 formalin [3] 16/2 16/3 31/10 former [1] 8/5 found [4] 16/9 17/2 76/12 98/6 four [9] 12/14 31/24 31/25 32/2 32/3 33/1 33/16 38/19 69/1 Fourth [2] 36/19 96/15 fractures [1] 136/3 Francisco [1] 11/25 frequent [1] 8/19 fresh [1] 31/13 Friday [2] 52/23 74/20 fridge [1] 72/9
<b>F</b>	face [19] 24/2 24/7 59/19 63/11 66/15 70/16 70/22 72/2 77/9 77/23 78/10 88/7 89/9 89/17 97/11 97/12 101/23 113/20 117/25 facility [2] 9/18 14/3 fact [7] 23/5 28/8 28/10 29/22 88/7 90/6 133/7 facts [1] 7/7 FAIBVRE [1] 2/10 Failure [6] 34/5 81/18 91/11 108/10 121/3 137/17 fair [2] 105/4 106/2 faithfully [1] 5/5 fall [3] 45/21 69/19 107/20 familiar [1] 136/16 family [1] 9/4 far [5] 117/25 118/22 120/14 133/5 135/19 fast [2] 79/10 104/19 fatal [1] 23/6 father [3] 55/6 55/9 55/12 favorite [2] 37/3 37/5 February [2] 33/4 33/8 February 14th [1] 33/4 Fed [1] 13/17 federal [2] 141/12 141/15 feel [2] 76/18 76/21 feeling [1] 43/1 feet [1] 72/2 fell [6] 60/6 69/18 72/11 107/18 118/2 118/4 fellow [1] 6/25 fellowship [3] 11/21 124/2 124/6 few [2] 18/24 95/15 field [1] 94/6 fifteen [1] 47/6 fight [4] 70/5 115/11 115/12 116/10 figure [1] 17/21 file [3] 94/24 95/1 126/5 filed [1] 141/4 filled [3] 51/10 51/13 51/14 final [3] 107/23 108/24 121/16 finally [1] 16/4 find [12] 17/16 51/2 60/25 61/1 61/3 61/13 76/22 76/24 129/18 130/7 130/8 133/5		

149

**F**

front [7] 13/20 13/21 24/2  
46/8 127/5 128/24 131/10  
frontal [1] 15/24  
full [2] 107/9 140/12  
fun [1] 36/23  
functioning [1] 134/21  
functions [1] 134/24  
further [9] 25/10 25/21 26/12  
90/23 91/3 98/18 108/1  
133/12 133/15

**G**

G-R-E-C-O [1] 11/1  
game [2] 55/15 55/20  
garage [3] 61/13 64/19 64/22  
GARCIA [1] 2/11  
gave [6] 44/19 48/21 49/6  
50/1 59/7 118/18  
general [4] 12/24 17/1 18/10  
116/3  
General's [2] 94/14 95/3  
generally [1] 126/23  
gentlemen [9] 5/13 5/24 55/1  
70/10 80/19 82/8 98/23  
121/14 138/9  
get [42] 17/15 22/7 22/16  
26/13 28/11 28/11 28/12 30/2  
31/7 32/15 36/7 37/7 39/2  
44/21 44/24 48/12 48/14  
48/18 49/22 49/25 56/10  
59/14 60/8 60/19 60/25 63/23  
65/1 66/22 66/22 68/9 71/23  
72/10 72/12 72/14 74/9 77/4  
77/16 85/8 98/18 107/4  
121/23 128/5  
gets [6] 19/6 25/23 41/8  
69/1 70/5 137/1  
getting [4] 32/9 32/17 59/13  
134/23  
gibberish [1] 107/11  
give [16] 10/10 10/16 12/12  
31/5 34/21 35/2 49/15 83/9  
83/15 92/2 92/8 107/9 109/4  
109/11 122/7 122/13  
given [9] 16/17 36/11 85/22  
99/2 99/2 121/24 125/21  
126/7 126/10  
gives [2] 19/8 104/19  
giving [2] 49/6 118/11  
GJ [1] 1/7  
go [59]  
goal [2] 124/14 127/7  
God [6] 10/12 34/23 83/11  
92/4 109/6 122/9  
goes [8] 12/21 12/23 17/21  
22/25 23/10 64/13 69/21  
133/7  
going [38] 15/16 18/21 18/24  
19/14 20/10 20/11 23/1 27/13  
32/10 44/10 44/11 44/14  
46/17 46/19 51/3 52/19 55/22  
56/2 56/12 56/25 58/7 60/25  
67/7 73/1 73/4 73/8 73/11  
73/25 77/25 82/4 88/12  
106/22 117/1 117/1 117/2  
119/9 128/19 130/20  
gone [1] 13/2  
good [7] 18/2 31/15 35/25  
36/1 41/4 43/8 51/2  
got [21] 13/14 16/15 32/15  
43/5 44/18 44/22 45/24 50/7

59/5 59/18 59/19 61/9 61/11  
64/20 64/23 64/24 69/17  
71/16 72/22 72/23 73/14  
gotten [1] 18/20  
grab [1] 67/16  
grabbed [1] 48/19  
grade [1] 36/18  
grand [84]  
grant [1] 141/16  
granted [1] 111/15  
gray [1] 25/1  
Greco [6] 10/6 10/25 11/6  
11/14 31/5 133/23  
greeted [1] 86/25  
grill [2] 77/4 77/5  
gross [6] 34/6 81/19 91/12  
108/11 121/4 137/18  
ground [3] 117/25 118/2  
118/5  
guardian [1] 8/13  
guess [10] 54/23 61/13 66/23  
66/24 68/14 71/9 76/8 79/9  
79/20 132/21  
GUTHO [1] 2/6  
guy [1] 115/5  
guys [5] 36/7 45/11 58/14  
120/1 121/24

**H**

H-Y-O-I-D [1] 136/5  
had [73]  
hair [4] 65/16 70/20 70/20  
126/22  
half [5] 15/17 15/18 84/18  
110/14 110/19  
hall [1] 45/16  
hand [20] 10/8 14/25 18/4  
20/21 21/7 22/1 24/1 34/19  
59/18 72/12 83/7 91/25  
104/19 113/20 114/1 114/7  
117/22 117/23 119/15 122/5  
handle [1] 12/9  
handled [1] 13/25  
hands [1] 113/19  
handwriting [2] 51/24 52/2  
hangings [1] 136/21  
happen [3] 37/21 58/25 63/25  
happened [10] 21/23 22/21  
37/18 37/19 51/11 52/20  
57/13 59/3 109/2 113/16  
happening [1] 62/8  
happens [7] 13/16 14/2 18/23  
24/8 29/24 32/11 66/25  
happy [1] 17/24  
hard [11] 17/20 17/22 29/24  
43/20 46/23 46/24 48/8 49/3  
52/13 71/2 90/6  
harm [1] 8/2  
has [33] 5/10 5/25 6/4 8/8  
8/10 8/12 8/16 8/17 9/1 9/25  
18/12 21/11 21/16 34/1 43/5  
61/1 61/2 79/23 81/13 91/7  
100/5 101/10 105/10 105/11  
108/6 119/19 120/24 126/12  
130/20 136/1 137/13 138/12  
138/20  
have [101]  
having [14] 5/5 8/9 11/7  
35/17 43/19 52/13 84/5 92/22  
95/23 102/20 103/11 110/3  
113/7 123/2  
he [202]

he's [3] 66/24 73/3 73/8  
head [26] 14/12 14/20 17/22  
18/3 18/11 21/24 23/14 29/2  
42/8 66/21 66/23 76/9 76/20  
76/21 91/23 103/23 114/11  
114/12 118/5 127/24 128/24  
130/4 130/5 130/10 130/13  
132/18  
headache [1] 82/15  
heads [1] 26/14  
healing [1] 19/7  
Health [1] 123/21  
hear [8] 22/9 55/12 55/14  
55/22 55/25 69/14 71/2 74/25  
heard [12] 21/7 46/1 49/7  
56/2 64/10 65/1 69/16 69/17  
69/18 69/19 74/6 82/8  
heart [1] 7/5  
heavily [1] 33/17  
HEDGE [1] 2/12  
heel [1] 113/20  
held [6] 34/8 81/21 91/14  
108/13 121/6 137/20  
help [10] 10/12 34/23 63/16  
63/17 63/17 63/20 83/11 92/4  
109/6 122/9  
helped [1] 71/23  
helpful [1] 107/7  
helps [1] 76/18  
hemisphere [2] 21/8 21/8  
hemorrhage [20] 18/5 19/5  
19/11 19/11 22/6 25/12 25/22  
26/3 29/4 29/7 29/8 29/9  
29/12 29/15 30/2 30/3 32/5  
32/8 98/7 136/19  
hemorrhages [3] 24/19 24/21  
30/1  
hemorrhaging [1] 96/3  
her [238]  
her's [1] 31/14  
here [48]  
hereby [2] 140/7 141/4  
herniate [1] 22/23  
herniating [1] 30/12  
herself [1] 114/3  
hesitated [1] 86/21  
hesitation [1] 97/20  
Hi [1] 35/24  
hid [4] 61/4 61/15 61/20  
61/22  
high [5] 29/23 29/24 30/4  
32/21 50/11  
highlight [1] 16/11  
him [26] 54/22 59/6 63/5  
63/7 63/9 64/16 64/18 111/20  
111/24 112/6 112/14 112/15  
112/19 112/19 113/7 115/11  
115/13 115/14 115/16 116/13  
116/15 118/6 119/16 119/20  
120/2 120/16  
himself [1] 114/19  
hinder [1] 9/6  
hinders [1] 9/23  
his [31] 37/14 37/16 55/13  
55/15 55/19 56/1 59/7 61/13  
66/2 66/15 66/21 66/21 66/22  
66/23 66/23 71/22 72/9 80/10  
80/12 112/16 112/17 113/20  
114/1 114/3 114/15 115/3  
115/7 117/5 119/16 119/21  
119/22  
history [6] 16/24 23/7 28/17

<b>H</b>	129/16	instructions [6] 4/5 5/23 6/16 82/6 82/21 138/7
history... [3] 28/18 30/11 32/20	Idaho [1] 123/17	instructor [1] 94/13
hit [15] 18/3 51/20 51/21 67/2 77/16 114/10 114/12 117/13 117/17 117/22 117/23 117/25 118/4 118/5 119/14	idea [1] 31/5	intact [2] 132/16 132/18
hits [4] 24/10 28/25 29/1 29/2	identified [4] 4/3 20/1 86/25 125/19	intent [2] 5/11 8/25
hitting [8] 56/22 56/23 57/2 57/3 57/16 62/5 62/6 117/12	identify [1] 15/25	intention [2] 6/24 7/6
hoarseness [2] 95/25 97/22	immediately [1] 13/23	intentionally [1] 7/22
hold [6] 54/25 79/12 80/18 82/5 121/15 132/21	impact [1] 29/1	interact [1] 106/19
holding [1] 47/24	impeding [1] 7/23	interaction [2] 87/20 106/21
hole [13] 26/18 26/22 26/24 27/5 27/23 30/14 61/15 61/16 61/24 61/24 61/25 64/21 64/21	implement [1] 9/6	intercourse [1] 114/20
holes [1] 27/7	implied [3] 6/20 6/23 7/2	interest [3] 17/13 129/19 132/4
Hollings [1] 96/21	important [2] 31/6 31/8	interesting [1] 133/5
home [15] 16/25 53/19 54/6 54/8 54/10 54/13 54/18 54/19 55/9 56/4 56/6 56/9 56/18 85/6 98/8	inability [3] 103/9 103/11 106/23	interior [1] 103/1
homicide [3] 111/13 135/6 137/5	inch [3] 15/18 15/19 15/20	internal [7] 126/25 129/15 129/19 130/9 134/12 134/18 134/19
honey [2] 36/4 45/7	inches [1] 15/18	intervenous [1] 128/15
Hopefully [1] 23/15	incident [3] 85/19 87/2 112/4	intervention [3] 30/20 126/21 128/13
hospital [17] 50/12 98/4 98/10 98/12 98/13 98/15 98/17 99/24 100/19 103/4 104/2 106/14 106/17 119/6 119/8 128/14 128/17	incidents [1] 112/20	interview [6] 112/13 112/15 115/19 119/10 120/3 120/8
hour [1] 120/11	incision [3] 127/1 127/18 129/7	intimate [1] 8/19
hours [4] 54/8 93/25 94/5 125/11	include [1] 8/22	intimidate [1] 9/7
house [15] 39/7 39/8 39/12 42/2 42/5 42/21 42/23 42/24 42/25 43/9 44/5 44/16 53/20 68/2 114/17	including [7] 34/1 81/14 91/7 108/6 120/24 126/11 137/13	intimidating [1] 9/11
how [57]	incomplete [1] 107/11	intoxicated [2] 87/5 87/7
huh [46] 33/5 38/25 43/21 47/3 47/20 48/13 52/14 53/5 53/22 56/3 57/9 58/4 58/8 58/10 60/11 61/7 61/21 62/7 62/12 64/15 65/5 65/20 67/6 68/5 68/19 68/23 69/25 70/14 71/5 71/13 72/6 72/15 73/15 73/17 73/22 74/24 75/19 75/24 76/11 77/3 77/24 79/11 79/15 80/11 80/13 80/15	increased [1] 107/2	introduced [1] 86/24
Huh-uh [9] 47/3 53/5 70/14 71/13 72/15 74/24 75/19 75/24 77/3	INDEX [2] 3/1 4/1	invasions [1] 85/6
human [1] 6/19	indicated [5] 20/24 119/20 120/15 132/10 140/9	investigate [4] 93/16 96/7 111/3 111/11
hundreds [1] 29/6	indicating [1] 95/23	investigation [14] 10/10 10/16 34/21 35/2 83/9 83/15 90/12 92/2 92/8 109/4 109/11 111/9 122/7 122/13
hurt [3] 6/7 70/3 77/16	indicative [2] 129/25 130/1	investigations [3] 85/3 85/5 94/2
hurting [1] 76/9	indicators [5] 96/2 97/6 97/9 103/14 103/14	involve [1] 124/25
hyoid [1] 136/5	INDICTMENT [5] 4/4 5/12 5/19 139/1 139/1	involved [1] 85/7
hypertension [1] 134/13	individual [2] 28/20 29/18	involvement [1] 8/21
hypertensive [1] 30/2	individually [1] 127/12	involving [6] 10/20 35/6 83/19 92/12 109/16 122/17
hypoperfusing [1] 32/13	indulgence [3] 79/12 103/25 106/12	irretrievable [1] 18/21
<b>I</b>	infer [1] 7/14	is [241]
I'd [3] 104/21 115/18 115/22	inflict [1] 9/2	ischemic [2] 134/11 134/22
I'll [5] 14/25 54/22 116/1 116/2 119/1	influence [2] 87/17 119/23	isn't [1] 28/7
I'm [56]	information [17] 16/14 34/4 45/7 81/16 82/10 82/16 82/19 85/22 91/10 98/18 99/2 103/16 103/17 108/9 108/23 121/2 137/16	issues [4] 97/25 103/19 103/24 106/23
I've [12] 11/25 12/2 12/4 12/6 16/13 110/14 110/18 124/7 125/15 128/4 128/7	initially [3] 95/22 100/7 117/5	it [279]
	injured [1] 133/8	it's [58]
	injuries [27] 28/5 28/16 28/20 31/21 77/7 88/7 88/13 89/7 89/10 89/16 90/22 98/19 99/25 101/5 102/24 103/20 103/21 104/10 126/21 127/8 128/18 130/10 130/16 134/5 135/24 136/11 136/12	its [5] 7/9 10/5 126/7 134/20 138/12
	injury [12] 9/3 9/5 18/22 33/3 101/19 106/3 106/9 127/24 129/17 130/2 136/7 136/15	itself [5] 17/17 18/7 18/12 18/14 131/5
	inner [2] 132/19 132/20	<b>J</b>
	inside [11] 15/16 17/21 18/1 18/11 24/16 26/24 65/8 65/10 98/6 132/18 132/18	JANE [1] 2/12
	instance [1] 125/24	January [6] 1/13 2/1 5/1 33/4 38/24 140/15
	instances [1] 82/9	January 1st [1] 33/4
	instead [3] 25/1 41/2 45/4	January 22nd [1] 38/24
	institution [1] 9/16	jiggling [1] 66/24
	instruct [2] 94/15 138/25	job [4] 13/3 43/8 54/3 93/14
	instructed [4] 6/18 13/22 55/2 70/11	jobs [1] 54/3
		joined [1] 56/24
		Judge [1] 9/14
		judgments [1] 32/19
		JUDICIAL [1] 1/1
		jumped [5] 59/16 59/22 62/10 62/13 62/16
		jurisdictions [1] 125/3
		jurors [10] 2/1 31/2 33/20 91/1 91/4 120/19 120/21

<b>J</b> jurors... [3] 137/8 138/4 138/19 Jury [69] Jury's [4] 5/24 79/12 103/25 106/12 just [72] juvenile [1] 9/18	lead [1] 103/24 leads [1] 103/18 learned [3] 95/4 123/23 123/23 least [2] 31/17 104/21 leave [8] 57/11 57/18 81/1 99/8 116/12 116/16 116/20 117/1 led [1] 133/8 left [50] leg [1] 71/9 legal [1] 8/13 legalese [1] 17/23 let [15] 5/9 22/16 23/8 23/15 24/11 26/21 40/1 41/11 45/6 45/25 67/7 97/2 99/15 105/7 116/18 let's [7] 33/6 44/4 70/8 101/1 103/10 131/6 136/10 lethargic [2] 87/4 87/9 level [2] 87/22 135/16 licensed [1] 125/9 licensing [3] 12/21 12/23 125/7 licensure [1] 125/15 lids [2] 96/5 102/4 lie [8] 40/11 40/20 40/25 41/6 41/8 41/8 41/16 127/7 lies [2] 127/21 132/17 life [5] 6/25 18/20 30/15 30/21 41/18 like [132]	66/15 66/17 66/18 66/20 67/1 70/2 70/6 70/13 70/15 76/2 95/17 98/21 99/3 99/15 105/7 126/17 127/6 127/12 127/17 127/21 130/21 131/4 132/23 133/1 looked [19] 18/9 20/7 26/10 44/1 57/14 57/15 57/15 65/19 65/23 67/19 68/1 70/3 76/4 76/4 102/7 106/3 129/1 133/3 136/8 looking [22] 12/16 18/1 18/7 18/15 18/17 20/22 21/2 21/6 21/20 21/24 22/10 23/20 23/21 24/13 24/17 25/9 25/10 26/8 28/19 32/8 131/7 132/12 looks [7] 24/5 24/6 26/23 70/6 102/8 102/14 129/5 LORNA [1] 2/3 Los [1] 111/22 losing [1] 87/11 lot [5] 41/9 41/9 45/7 61/2 77/8 lots [1] 23/25 loud [4] 48/9 56/1 63/21 69/5 louder [4] 44/23 44/23 44/24 48/7 lump [1] 22/12 lying [1] 41/10
<b>K</b> KANDICE [1] 2/9 KATHLEEN [2] 2/5 2/14 keep [9] 14/10 14/17 22/8 41/9 56/25 61/14 81/4 132/22 133/1 kept [7] 13/24 44/11 44/25 57/14 64/12 71/9 119/14 key [1] 15/24 kill [1] 7/6 killing [4] 6/19 6/21 7/4 7/7 kind [17] 18/22 24/6 36/24 45/14 61/18 69/5 75/10 81/4 86/21 87/2 87/4 87/10 89/19 94/11 102/13 103/18 115/6 kinds [1] 127/15 kitchen [1] 86/14 knock [2] 73/1 73/4 know [63] knowing [3] 28/17 28/18 133/4 knows [1] 17/3	<b>L</b> LA [2] 112/7 117/2 lab [1] 13/25 label [3] 20/23 132/22 132/22 lack [1] 107/19 LACOUR [1] 2/13 ladies [9] 5/13 5/23 55/1 70/10 80/18 82/8 98/23 121/14 138/9 lady [6] 16/25 18/20 32/12 32/20 39/24 39/24 lady's [1] 19/23 laid [1] 71/21 language [1] 96/1 large [5] 22/22 25/12 29/7 29/8 29/15 larger [1] 27/4 larynx [1] 136/3 Las [14] 1/12 5/1 84/14 84/16 84/17 84/25 85/11 88/15 93/7 93/9 93/15 96/8 110/12 140/14 last [17] 10/24 35/10 37/16 38/2 55/2 65/3 83/23 83/24 83/25 92/16 99/25 100/1 109/20 109/22 119/11 122/21 122/23 lasted [1] 120/9 lastly [3] 26/5 132/12 138/3 later [9] 21/15 24/25 54/9 75/4 75/6 98/4 114/19 118/5 120/6 LAURA [1] 2/8 law [9] 6/14 33/24 81/11 91/5 108/4 110/16 120/22 137/11 141/12 laws [1] 85/2 lay [2] 28/23 134/14 layer [2] 19/9 21/11 laying [3] 21/24 44/17 62/24	<b>M</b> M-A-N-U-E-L [1] 83/25 M-A-Y-O [1] 35/12 M-C-F-A-R-L-A-N-E [1] 6/3 ma'am [34] 85/9 85/14 85/23 86/6 86/11 88/16 88/20 88/22 89/2 89/23 90/14 91/18 92/5 92/14 93/13 94/7 94/20 99/13 99/17 100/2 100/14 100/20 101/7 102/2 103/2 104/25 105/3 105/11 105/21 106/11 106/15 108/17 122/19 137/24 mad [5] 54/23 59/13 66/16 66/22 66/24 Madame [1] 138/18 made [17] 34/3 40/13 55/3 75/16 75/24 81/15 88/12 88/17 90/16 91/9 98/9 108/8 117/2 117/11 118/8 121/1 137/15 mail [3] 43/5 49/18 49/22 maintain [2] 125/7 125/13 maintained [2] 125/15 126/5 major [2] 25/22 134/15 make [21] 20/17 26/21 32/19 33/2 36/9 40/15 42/11 71/22 75/18 75/22 111/17 114/9 114/13 114/23 115/9 116/23 117/9 117/24 118/12 119/11 126/3 makes [2] 51/17 76/21 making [2] 82/11 127/18 malice [4] 6/19 6/23 6/24 7/2 malignant [1] 7/5 man [3] 39/25 41/11 113/8 manifested [1] 7/1 manner [8] 7/9 7/25 124/15 128/8 133/13 135/3 135/5 137/5 Manuel [3] 83/5 83/24 84/4

<b>M</b>		
many [7] 12/12 32/21 52/22 61/1 95/8 95/14 124/16	merely [1] 82/17 messed [3] 21/19 71/16 71/16 met [3] 39/20 40/4 86/3	104/11 136/25 move [5] 52/19 60/2 60/3 127/19 129/15
March [1] 111/25	metal [1] 61/19	moved [8] 11/23 47/11 60/5 123/20 123/25 124/6 127/4 131/9
mark [7] 6/15 89/16 101/9 101/23 105/22 105/24 138/7	methods [1] 129/15 Michael [1] 110/25	movement [2] 95/24 97/20
marked [5] 5/18 19/14 21/16 128/19 130/20	microbiology [1] 123/16 microscope [3] 14/5 16/8 31/23	movie [3] 58/7 58/23 59/1
marks [5] 101/12 104/18 105/14 105/15 126/21	microscopic [2] 16/8 31/24 microscopically [2] 17/8 17/11	movies [2] 58/6 58/8 moving [1] 97/23
marriage [1] 8/6	mid [2] 27/1 27/2	Mr. [4] 17/3 17/22 82/4 138/18
massive [1] 18/18	middle [5] 24/7 37/14 38/4 72/1 129/5	Mr. and [1] 138/18 Mr. Stephens [3] 17/3 17/22 82/4
Matinee [4] 85/11 88/14 96/8 98/9	might [4] 24/6 82/8 102/11 111/6	Mrs. [1] 128/23 Mrs. McFarlane [1] 128/23
matter [8] 25/1 25/2 55/4 82/16 98/24 138/13 138/13 140/8	Milwaukee [2] 123/25 124/1	Ms [1] 121/21
may [26] 6/21 6/22 7/6 7/14 11/3 17/13 31/22 34/8 35/14 80/19 81/21 84/2 91/14 92/19 108/13 109/24 121/6 125/8 127/15 127/23 127/25 134/7 135/13 135/15 135/18 137/20	mind [3] 7/12 7/14 133/1 minimum [1] 31/11 minor [4] 8/10 8/11 8/13 29/7	much [6] 24/13 25/3 104/19 105/16 126/19 135/13
maybe [8] 33/4 50/5 79/6 94/20 95/15 102/9 103/18 116/4	minute [4] 79/9 82/5 83/2 130/8	mucus [1] 96/6
MAYO [24] 1/8 5/17 6/1 6/5 6/7 6/8 10/20 34/17 35/6 35/11 35/12 35/16 37/17 83/19 86/4 86/5 92/12 109/16 111/15 111/18 112/24 122/2 122/17 138/20	minutes [7] 44/13 47/5 47/6 50/6 50/6 79/6 120/11	muffled [1] 87/10
MCDOWELL [1] 2/14	Miranda [2] 112/16 119/16	multiple [1] 95/7
MCEVOY [1] 2/4	misdeemeanor [6] 34/6 81/19 91/12 108/11 121/4 137/18	mumbling [2] 43/18 46/23
McFarlane [35] 6/2 6/6 6/8 6/8 13/8 38/3 55/3 82/15 86/4 86/10 89/4 89/7 90/16 90/18 96/21 98/10 98/18 99/7 99/23 100/18 100/22 101/3 103/4 104/1 106/20 107/22 113/2 118/15 125/19 128/11 128/23 132/2 133/25 136/6 138/5	mispronounce [1] 27/13 Miss [19] 55/3 86/4 89/7 90/16 90/18 96/23 98/10 98/18 99/7 99/23 104/1 106/20 118/15 128/11 130/23 132/2 133/25 136/6 138/5	murder [10] 6/11 6/18 10/17 35/3 83/16 92/9 109/12 111/14 122/14 138/21
McFarlane's [2] 96/23 130/23	Miss Beverly [2] 86/4 138/5	muscle [1] 101/18
me [69]	Miss McFarlane [15] 55/3 89/7 90/16 90/18 98/10 98/18 99/7 99/23 104/1 106/20 118/15 128/11 132/2 133/25 136/6	muscles [1] 136/2
meal [1] 114/18	Miss McFarlane's [2] 96/23 130/23	mutual [2] 115/6 115/12
mean [8] 28/17 32/1 41/7 63/13 86/23 87/8 97/8 134/14	missing [2] 68/14 77/23	my [157]
meaning [3] 128/2 134/23 135/16	mistake [1] 40/13	myself [7] 13/6 16/15 61/4 75/16 86/24 86/25 112/10
means [9] 6/21 7/17 7/22 8/19 28/11 43/24 82/17 134/15 136/18	mistakes [1] 40/15	<b>N</b>
meant [1] 111/7	mobile [1] 31/14	name [25] 5/14 6/1 10/24 35/10 36/12 37/14 37/16 37/25 38/2 38/4 38/16 63/17 83/23 83/24 83/25 83/25 92/16 109/20 109/21 109/22 122/21 122/22 122/23 122/23 141/21
measuring [1] 33/8	mom [100]	names [1] 39/22
mechanisms [1] 23/6	mom's [19] 37/25 43/23 46/9 46/10 46/11 47/15 54/21 57/23 57/25 58/11 58/14 60/15 60/25 62/19 65/17 69/10 70/22 72/22 72/23	NANCY [1] 2/15
medical [17] 11/17 29/16 30/20 90/22 102/23 118/15 123/10 123/12 123/17 123/19 123/19 124/1 124/3 124/5 125/11 126/20 128/13	moment [2] 22/16 117/4	naps [1] 74/14
medically [1] 106/22	momentarily [2] 121/22 121/23	narcotics [1] 103/14
medicine [2] 123/18 125/9	Monday [1] 74/19	narrow [1] 23/3
meet [3] 39/16 39/17 112/6	month [1] 41/18	natural [3] 19/7 127/8 129/16
meetings [1] 13/3	months [1] 112/3	necessary [1] 127/16
members [2] 5/20 138/16	more [20] 13/2 17/3 20/17 25/23 29/25 31/14 44/14 47/7 47/8 47/9 60/24 61/5 71/4 97/19 98/5 98/19 103/8 103/18 104/12 138/19	neck [21] 7/24 89/19 89/21 95/24 95/24 97/13 97/20 97/21 97/21 97/24 100/5 100/10 101/17 102/22 104/8 128/24 135/25 136/2 136/5 136/7 136/12
membrane [1] 132/17	morning [9] 36/25 44/6 44/8 74/2 74/11 79/24 80/2 108/24 114/22	need [13] 16/9 16/10 17/23 23/19 28/1 28/12 39/13 82/22 82/24 120/15 123/12 127/24 133/1
membranes [1] 96/6	Most [3] 124/25 125/4 130/1	needed [1] 98/10
memory [4] 105/10 115/2 119/17 119/20	mostly [10] 54/3 54/8 55/25 66/2 69/8 70/5 76/7 80/5 80/5 80/6	needs [1] 33/22
mentioned [2] 27/12 70/17	motion [1] 114/7	neither [1] 107/15
	motor [1] 125/1	neuro [1] 27/14
	mouth [5] 7/25 101/13 102/24	neuropath [1] 13/3
		neuropathologist [2] 128/1 133/16
		neuropathology [4] 11/21 12/24 128/2 129/23
		NEVADA [19] 1/2 1/5 1/12 5/1 5/16 12/9 85/15 88/15 94/14 94/15 95/2 95/2 96/13 122/2 123/18 125/10 125/16 140/3

<b>N</b>	135/22 136/13 observed [1] 97/18 obtained [6] 34/4 81/16 91/10 108/9 121/2 137/16 obvious [2] 97/14 125/3 obviously [2] 105/21 125/13 Occasionally [1] 136/2 occasioned [1] 6/22 occlusion [1] 134/12 occur [4] 30/4 30/18 136/20 136/22 occurred [13] 18/4 21/11 22/5 31/22 32/2 32/3 33/3 33/11 33/15 87/3 88/18 111/4 112/20 occurring [7] 34/3 81/15 91/9 104/5 108/8 121/1 137/15 occurs [3] 7/19 8/3 19/6 odor [1] 87/6 off [32] 13/21 14/12 14/19 17/25 18/7 19/6 32/24 42/7 44/16 44/18 44/25 45/21 45/22 48/18 50/8 58/1 59/14 59/22 60/6 60/6 60/8 60/10 61/9 65/12 72/11 74/19 74/21 77/4 77/10 121/15 127/5 127/20 offense [1] 9/25 offenses [9] 6/15 10/4 10/17 35/3 83/16 92/9 109/12 122/14 138/11 offered [8] 55/4 55/5 82/16 82/17 98/24 98/25 114/19 118/17 office [16] 12/7 13/12 13/23 14/9 94/14 95/3 123/11 124/2 124/4 124/7 124/10 124/12 124/25 125/23 129/2 137/2 officer [19] 9/15 9/15 83/5 84/13 84/16 84/19 90/5 90/11 90/18 91/22 93/4 93/5 93/6 93/9 93/12 93/20 96/20 96/21 99/1 officers [4] 94/3 94/16 95/6 95/17 Official [1] 141/23 often [2] 96/4 124/25 oh [8] 12/14 15/17 39/4 44/2 56/25 87/25 89/6 99/13 okay [88] old [8] 31/24 31/25 36/16 38/18 38/20 53/24 86/7 86/8 Olson [7] 121/25 122/3 122/22 123/1 123/9 125/18 126/13 once [17] 19/17 30/11 32/24 48/19 72/23 79/4 98/15 123/18 123/24 124/5 126/25 127/10 128/4 128/7 129/14 130/12 133/16 one [45] 5/10 8/4 13/24 15/17 15/18 15/18 15/25 19/25 20/12 20/13 21/25 22/16 30/5 31/13 32/4 44/14 44/23 51/12 51/14 53/1 53/2 53/18 53/19 68/10 68/12 68/13 71/9 75/16 75/16 75/16 75/17 75/17 75/18 75/22 80/18 88/24 100/2 104/21 106/10 121/16 124/1 127/11 127/11 129/4 136/20 ones [1] 97/19	only [11] 13/24 32/6 54/2 55/5 70/8 82/12 82/20 93/11 98/25 119/14 124/21 oo0oo [1] 139/7 open [9] 46/1 46/3 50/9 67/24 68/17 69/24 73/21 73/23 113/20 opened [9] 50/10 56/21 65/14 65/14 70/1 127/10 130/13 131/1 131/2 operate [3] 93/18 93/21 93/24 opinion [6] 27/24 29/5 29/16 29/17 29/20 127/25 opportunity [3] 39/16 42/10 131/4 opposite [1] 132/22 order [4] 19/18 23/16 111/11 125/7 ordinary [1] 8/22 Oregon [2] 123/20 123/21 organ [1] 129/8 organization [1] 129/8 organize [1] 126/3 organs [3] 127/6 127/11 128/16 oriented [1] 133/4 other [54] others [1] 13/2 our [21] 5/22 6/16 13/19 13/20 14/3 27/19 45/18 58/1 59/5 59/15 60/9 61/14 61/16 68/13 71/21 72/3 87/1 108/24 108/24 121/25 130/15 out [37] 9/24 13/16 13/16 15/14 17/21 18/25 29/3 31/17 43/7 47/16 47/19 48/2 51/11 51/13 51/14 59/18 60/19 64/2 64/2 65/14 66/21 66/23 69/20 71/6 71/11 73/1 73/4 76/12 80/5 82/5 95/11 96/7 102/4 111/16 111/18 112/6 120/6 out-of-state [2] 111/16 111/18 outside [3] 32/6 126/24 133/19 over [12] 18/16 20/21 22/13 47/11 63/10 65/12 94/5 113/14 125/11 129/20 131/13 132/9 overall [3] 17/9 17/12 17/16 Owens [5] 108/22 108/24 109/22 110/2 110/10 own [3] 97/21 114/3 126/7 oxygen [1] 28/11
<b>O</b>	<b>P</b>	
o'clock [1] 108/25 O-L-S-O-N [1] 122/24 O-W-E-N-S [1] 109/22 object [2] 130/5 130/6 objects [1] 28/15 observations [1] 88/13 observe [5] 96/22 98/2 102/24	p.m [2] 138/16 138/17 pain [1] 95/24 palm [1] 113/20 paper [3] 51/10 128/5 132/23 papers [1] 12/3 paperwork [1] 16/19 paraffin [1] 16/4 paramedics [3] 50/14 90/7 90/17 parents [1] 45/12 parole [2] 9/15 9/20 part [19] 24/9 25/22 30/18 32/6 47/24 48/24 55/2 58/19 61/6 67/18 68/6 68/11 69/20 101/10 103/6 104/13 114/17 117/13 131/14	

P	99/6 126/11	presented [6]	34/2 81/14 91/8
part's [1]	67/24	108/7 120/25 137/14	
partial [1]	134/18	presenting [1]	5/15
particular [8]	7/14 40/8	preservative [1]	133/17
101/5 125/24 126/12 132/16		president [1]	87/23
135/25 136/6		pressure [5]	7/24 29/23 29/25
particularly [2]	94/12 101/13	30/4 32/21	
partner [3]	110/21 112/10	pretty [4]	41/20 63/21 104/4
119/19		105/16	
partners [1]	96/20	preventing [10]	6/12 9/9 9/25
past [1]	12/1	10/18 35/4 83/17 92/10	
pathologically [1]	30/10	109/14 122/15 138/23	
pathologist [2]	17/2 128/1	prevents [1]	9/12
pathologists [1]	123/24	previously [1]	139/2
pathology [6]	11/19 12/24	primarily [1]	8/20
12/25 29/13 123/22 124/3		Print [1]	141/21
patient [2]	21/4 21/6	prior [11]	5/22 16/16 17/11
patrol [1]	110/20	32/2 32/4 110/16 110/17	
pattern [2]	102/13 102/14	110/19 128/15 129/9 130/7	
peace [1]	9/15	probably [1]	16/15
peeled [1]	77/10	probation [2]	9/15 9/20
pen [1]	102/9	problem [2]	36/5 52/15
pending [6]	10/10 34/21 83/9	problems [5]	32/21 52/17
92/2 109/4 122/7		95/23 134/21 134/24	
Pennsylvania [2]	11/18 11/18	procedures [1]	129/10
people [8]	12/5 20/18 30/15	proceed [5]	11/3 35/14 84/2
53/21 53/23 53/24 125/3		92/19 109/24	
125/4		proceeding [4]	5/22 6/6 9/19
per [1]	124/18	9/21	
perform [3]	8/15 8/17 124/13	proceedings [11]	1/18 5/7
performing [1]	129/9	33/24 81/12 91/5 108/4	
perhaps [1]	114/21	120/22 137/11 139/6 140/8	
period [3]	31/7 33/1 125/12	140/13	
perpetrated [1]	125/1	process [1]	19/7
person [37]	7/18 7/19 7/20	processes [1]	32/16
7/25 8/3 8/5 8/6 8/7 8/7 8/8		processor [1]	16/4
8/8 8/9 8/10 8/12 8/14 8/15		procurement [1]	129/8
8/17 8/24 9/1 9/3 9/5 9/6		produce [1]	7/8
9/8 9/11 9/12 9/13 9/22		program [3]	123/22 124/2
13/21 49/9 49/10 87/5 87/7		141/15	
87/9 125/1 135/12 141/8		prohibited [7]	33/25 81/12
141/11		91/6 106/22 108/5 120/23	
person's [5]	8/5 8/11 8/13	137/12	
9/4 9/4		projector [1]	20/11
personally [2]	106/10 112/6	prolonged [2]	135/14 135/18
personnel [1]	90/22	promise [1]	78/2
persons [3]	8/11 8/23 138/15	prompted [1]	129/22
perspective [1]	24/18	proof [1]	7/1
pertaining [6]	10/16 35/2	proper [1]	28/1
83/15 92/8 109/12 122/13		property [1]	9/4
petechia [12]	89/19 89/24	proposed [5]	4/4 5/19 5/25
96/3 96/5 97/25 98/7 102/1		6/5 139/1	
102/2 102/7 102/12 136/16		prosecuting [1]	9/15
136/19		prosecution [13]	6/14 7/11
petechial [2]	96/3 98/7	9/10 9/19 9/21 10/2 10/20	
phone [27]	43/20 44/20 44/20	35/6 83/19 92/12 109/15	
44/21 44/21 44/21 44/24 45/2		122/17 138/24	
48/12 48/15 48/18 48/19		provide [1]	118/10
48/23 48/24 49/5 49/9 49/10		provided [4]	118/7 118/19
49/13 50/8 54/21 54/21 55/18		118/20 120/16	
59/17 60/25 72/5 72/7 72/14		provocation [1]	7/3
photo [13]	23/12 23/15 24/5	PS3 [1]	80/12
26/23 99/25 100/1 100/3		public [1]	141/15
101/15 128/22 128/23 131/18		pull [1]	102/4
131/25 132/5		pulled [1]	67/4
photograph [17]	4/6 4/9 4/10	punching [8]	62/25 63/2 63/3
24/21 88/25 102/5 130/15		63/5 63/7 63/9 63/10 113/21	
131/8 131/12 131/14 131/19		punishable [12]	34/6 34/8
132/1 132/14 132/16 132/21		81/19 81/21 91/12 91/14	
132/24 132/25		108/11 108/13 121/4 121/6	
photographs [5]	4/7 4/11 4/13	137/18 137/20	
		purple [4]	40/24 41/3 96/4

<b>P</b>	100/11 105/2 128/20 131/23 recollection [6] 14/22 15/4 115/20 116/7 118/23 119/3 record [9] 5/9 5/18 10/24 35/10 83/23 92/16 109/20 122/21 140/12 record's [1] 25/14 recorded [1] 120/5 recorder [1] 120/6 records [3] 17/3 30/10 30/24 red [7] 24/22 26/3 76/7 76/8 96/4 101/9 102/9 redness [2] 104/7 104/12 refer [6] 14/22 104/21 115/1 115/19 115/22 118/24 reference [1] 117/2 references [1] 117/11 referred [1] 104/17 referring [3] 22/2 25/25 30/7 reflect [2] 5/9 5/18 refrain [2] 8/16 8/16 refresh [6] 14/22 115/1 115/20 116/7 118/23 119/3 refreshed [2] 15/4 105/10 refused [1] 119/8 regard [1] 98/3 regarding [6] 82/9 82/14 90/16 117/4 119/5 119/11 regards [3] 6/4 10/3 138/10 region [2] 25/23 26/13 regular [2] 28/24 124/16 relate [1] 94/8 related [1] 8/6 relation [1] 47/13 relationship [5] 8/9 8/19 8/22 113/8 115/4 relax [1] 76/21 relevant [2] 130/9 130/16 remainder [1] 5/22 remember [25] 14/19 26/9 36/2 41/18 41/20 49/8 49/11 50/18 51/20 52/6 52/22 54/1 56/12 56/14 77/19 77/20 77/21 86/15 89/18 104/11 114/25 115/18 118/16 119/13 119/18 remove [1] 127/20 removed [5] 21/11 127/11 127/22 131/11 132/15 removing [1] 6/1 Reno [1] 124/6 repeatedly [1] 113/21 repeating [1] 119/14 replacing [1] 6/1 report [11] 14/7 14/8 14/17 14/23 15/1 16/9 17/1 104/21 105/1 105/3 105/5 reported [2] 1/25 124/24 Reporter [1] 141/23 REPORTER'S [2] 1/18 140/1 reporting [11] 6/13 9/10 9/14 10/1 10/19 35/5 83/18 92/11 109/15 122/16 138/24 reports [3] 32/18 93/17 126/11 representative [1] 99/24 request [3] 2/19 90/20 120/12 requested [2] 88/8 90/18 requesting [1] 118/20 requests [2] 124/21 124/22 require [1] 124/24 required [3] 6/14 7/11 141/11 requires [1] 125/10	research [1] 13/5 residence [4] 114/22 116/16 116/21 116/24 residency [3] 11/19 123/22 123/25 residing [1] 8/8 respond [8] 85/8 85/10 85/17 90/13 95/11 96/11 98/13 99/3 responded [4] 98/8 98/15 100/7 102/23 responding [1] 46/21 response [2] 5/11 76/13 responsibilities [2] 85/1 93/14 restricted [1] 33/17 restroom [1] 120/13 result [4] 87/19 95/10 111/13 135/19 return [1] 138/17 returned [1] 138/20 reverse [1] 23/6 reversed [1] 132/24 review [5] 16/17 17/12 42/10 125/18 133/24 reviewed [4] 19/17 25/6 29/6 29/7 reviewing [3] 17/6 126/13 129/12 revocation [1] 9/20 rib [1] 127/5 ribs [1] 89/13 right [56] rights [5] 112/16 112/17 119/16 119/21 119/22 risk [1] 8/1 Rob [1] 2/20 robberies [1] 85/6 ROBERT [5] 2/7 5/15 91/22 92/17 92/21 ROGELIO [1] 2/11 rolled [4] 45/21 45/22 60/6 60/10 ROMERO [1] 2/15 room [55] Rosa [1] 11/24 rub [3] 76/20 104/18 104/18 rudimentary [1] 118/10 rupture [1] 90/1
<b>Q</b>	qualifications [1] 11/15 quality [1] 101/15 quarter [1] 15/19 question [9] 28/22 31/20 39/13 66/11 82/13 87/25 116/18 116/19 129/4 questioning [1] 87/3 questions [23] 10/3 31/2 33/20 80/19 80/21 80/22 82/23 87/1 87/21 88/2 88/5 88/8 90/24 91/2 91/3 107/5 108/1 108/2 120/18 120/20 137/7 137/9 138/10 quick [2] 20/21 23/8 quiet [3] 64/24 65/1 69/17 quieter [1] 64/5 quite [2] 95/15 135/17	
<b>R</b>	raise [6] 10/7 34/18 83/6 91/24 109/1 122/4 raised [1] 114/6 ran [4] 61/20 62/1 64/21 64/22 range [2] 104/4 135/15 rash [1] 102/14 rashness [1] 96/1 rather [1] 133/2 reached [1] 128/7 reactions [1] 32/16 read [13] 6/5 6/6 13/5 36/25 43/6 43/6 80/23 81/7 81/10 112/15 119/16 119/17 119/17 real [3] 20/21 23/8 79/10 really [15] 17/3 25/2 27/14 30/9 41/21 48/16 49/3 55/13 55/25 56/1 66/24 69/4 75/9 80/3 129/9 reason [3] 31/12 87/1 125/4 reasons [2] 31/12 136/20 recall [15] 13/13 14/12 15/6 16/21 42/7 94/18 106/10 111/23 115/15 117/25 118/22 120/8 120/14 131/17 133/21 recalling [1] 122/1 receive [2] 15/6 94/21 received [4] 15/7 15/13 16/2 17/7 receiving [1] 27/25 recently [1] 37/7 Recess [2] 83/3 121/20 recognize [20] 19/17 19/19 25/18 26/6 50/22 50/25 51/7 51/16 51/19 51/22 51/24 67/8 88/25 99/11 99/18 100/9	<b>S</b> Sacramento [2] 12/2 12/7 said [97] same [16] 14/5 14/8 15/22 16/6 16/19 18/9 18/11 45/11 45/12 66/17 70/13 75/10 100/13 107/1 126/5 126/5 samples [1] 127/14 SAMUEL [1] 2/16 San [3] 11/20 11/22 11/24 Santa [2] 11/24 37/6 sat [1] 133/17 Saturday [2] 74/21 74/22 save [2] 127/25 129/22 saving [1] 30/21 saw [28] 17/20 18/15 18/17 19/1 24/10 29/4 32/19 61/9 62/14 65/3 65/11 65/12 65/13 67/15 70/13 72/12 76/3 88/7 97/4 99/12 100/19 102/3 105/24 107/21 127/4 127/20 128/5 131/11 say [28] 12/14 15/17 15/24

<b>S</b>	<b>sexual</b> [1] 8/21	<b>slap</b> [1] 115/16
<b>say...</b> [25] 19/10 29/1 30/10	<b>shall</b> [7] 7/2 10/11 34/22	<b>slapped</b> [5] 59/18 72/8 115/5
32/19 33/7 40/5 40/24 41/14	83/10 92/3 109/5 122/8	115/14 118/1
48/14 62/5 63/2 70/4 70/24	<b>shaped</b> [1] 127/1	<b>slapping</b> [1] 113/19
72/13 72/24 73/12 74/25 76/6	<b>sharply</b> [1] 25/2	<b>sleep</b> [9] 45/11 45/12 71/24
77/22 89/24 95/8 95/14	<b>shattered</b> [1] 117/14	73/18 74/13 74/15 76/20
113/24 122/1 136/10	<b>she</b> [239]	78/24 78/25
<b>saying</b> [16] 41/2 43/3 44/11	<b>She'd</b> [1] 64/12	<b>slept</b> [3] 45/19 45/19 45/19
46/16 46/18 54/18 55/25	<b>She'll</b> [1] 121/23	<b>slide</b> [3] 15/24 16/6 16/7
63/20 65/6 66/4 66/5 66/7	<b>she's</b> [7] 23/1 53/18 69/1	<b>slides</b> [1] 126/12
71/2 76/10 82/15 117/15	69/4 76/8 100/5 121/22	<b>slight</b> [1] 104/9
<b>says</b> [3] 57/7 80/25 119/7	<b>shipped</b> [1] 13/17	<b>slow</b> [1] 59/10
<b>scalp</b> [4] 127/18 127/19	<b>short</b> [1] 11/23	<b>slurred</b> [1] 87/10
131/1 131/9	<b>shorthand</b> [2] 140/7 140/10	<b>small</b> [9] 14/4 15/16 15/21
<b>scans</b> [3] 24/25 25/5 25/13	<b>should</b> [11] 26/18 26/19 26/22	16/18 16/18 16/23 29/8 96/4
<b>scared</b> [1] 97/5	26/24 27/5 32/14 40/14 74/8	128/18
<b>scars</b> [1] 126/21	102/11 108/25 122/1	<b>smell</b> [4] 87/6 87/14 87/15
<b>scene</b> [1] 90/12	<b>shoulders</b> [1] 127/2	103/13
<b>school</b> [7] 11/17 36/20 36/22	<b>shouldn't</b> [1] 19/13	<b>smiley</b> [1] 24/7
37/10 94/13 123/17 123/18	<b>shoved</b> [2] 113/13 115/5	<b>SMITH</b> [1] 2/16
<b>schooling</b> [1] 11/16	<b>showing</b> [1] 113/18	<b>snaps</b> [1] 47/8
<b>Sciences</b> [1] 123/21	<b>show</b> [15] 7/4 18/24 19/14	<b>so</b> [162]
<b>scratch</b> [2] 70/21 101/23	19/25 20/10 23/15 24/11 26/5	<b>social</b> [3] 8/23 141/8 141/11
<b>scratched</b> [3] 59/19 59/20	26/16 42/14 50/20 50/24 67/7	<b>soft</b> [1] 31/15
59/21	128/19 130/20	<b>softer</b> [1] 63/23
<b>scratches</b> [7] 70/16 89/19	<b>showed</b> [2] 79/8 85/20	<b>softly</b> [1] 71/4
89/21 104/15 104/16 104/17	<b>showing</b> [9] 21/16 25/8 25/17	<b>solemnly</b> [6] 10/9 34/20 83/8
105/15	51/6 67/12 78/4 78/17 105/18	92/1 109/3 122/6
<b>scream</b> [2] 64/12 120/1	131/22	<b>some</b> [36] 11/15 11/16 13/1
<b>screaming</b> [7] 45/23 45/24	<b>shown</b> [1] 24/25	18/25 40/15 51/22 74/3 77/22
46/2 64/11 64/25 69/16 79/2	<b>shows</b> [1] 132/3	78/23 82/9 82/14 87/21 89/12
<b>screeching</b> [1] 46/24	<b>shut</b> [2] 64/24 65/7	90/15 97/13 101/12 101/16
<b>sealed</b> [1] 19/6	<b>sick</b> [5] 76/4 76/5 76/8	102/11 104/9 104/10 104/12
<b>seat</b> [1] 34/25	76/18 77/6	105/14 113/7 114/19 115/4
<b>seated</b> [5] 10/14 83/13 92/6	<b>side</b> [39] 18/4 20/22 21/7	115/4 116/20 117/2 117/13
109/8 122/11	21/9 21/12 21/25 22/1 22/3	118/10 119/9 119/9 128/15
<b>second</b> [7] 18/25 19/16 19/25	22/20 23/21 24/1 25/11 29/5	128/17 130/2 135/10
22/17 47/7 54/25 80/18	65/2 65/5 65/12 65/16 65/17	<b>somebody</b> [7] 29/2 30/17 37/19
<b>secret</b> [7] 33/25 80/25 81/12	70/19 77/9 77/9 89/8 89/9	45/2 49/7 65/12 135/22
91/5 108/4 120/22 137/12	89/12 101/13 101/14 105/15	<b>someone</b> [5] 33/3 102/9 135/10
<b>Secretary</b> [2] 2/5 2/6	105/15 105/16 113/21 131/9	136/1 136/9
<b>section</b> [4] 8/18 15/24 25/10	131/12 131/15 132/7 132/22	<b>someone's</b> [1] 103/15
135/24	132/24 132/25 133/2 133/3	<b>something</b> [21] 25/5 37/19
<b>sections</b> [2] 15/25 24/16	<b>sides</b> [2] 22/11 132/3	40/7 40/24 41/8 49/8 49/9
<b>security</b> [2] 141/8 141/11	<b>sign</b> [1] 128/8	49/11 50/14 56/2 56/15 67/7
<b>see</b> [62]	<b>Signature</b> [1] 141/19	69/18 69/19 71/10 75/24
<b>seeing</b> [1] 106/10	<b>signed</b> [1] 13/21	76/17 76/19 77/22 88/11
<b>seek</b> [2] 5/11 118/15	<b>significant</b> [2] 130/11 134/8	117/11
<b>seeking</b> [1] 9/20	<b>signs</b> [7] 95/17 95/20 97/15	<b>sometime</b> [2] 54/14 75/4
<b>seemed</b> [2] 87/4 113/6	98/21 99/3 135/23 137/2	<b>sometimes</b> [14] 16/9 24/9
<b>seen</b> [6] 16/13 23/24 25/13	<b>similar</b> [1] 117/15	74/14 80/4 135/23 136/1
66/11 68/20 107/23	<b>since</b> [6] 79/20 79/22 88/4	136/5 136/14 136/15 136/21
<b>self</b> [4] 70/7 74/7 97/21	124/8 124/9 126/19	136/23 136/24 137/1 137/2
102/21	<b>sing</b> [3] 37/7 37/9 37/10	<b>somewhere</b> [2] 26/25 70/18
<b>send</b> [3] 127/25 129/23	<b>sir</b> [2] 84/12 105/10	<b>song</b> [1] 37/5
133/18	<b>sis</b> [1] 75/16	<b>soon</b> [2] 13/22 114/21
<b>sending</b> [1] 32/13	<b>sister</b> [15] 38/14 38/16 39/5	<b>soothing</b> [2] 97/21 102/21
<b>senior</b> [1] 93/20	40/3 41/24 45/18 54/14 54/20	<b>sorry</b> [7] 74/1 74/10 106/12
<b>sense</b> [1] 20/17	56/24 57/4 58/13 58/16 58/16	111/6 112/2 112/23 131/3
<b>sent</b> [3] 85/18 120/6 133/21	59/14 72/3	<b>sort</b> [5] 12/25 25/23 69/12
<b>sentences</b> [3] 87/10 107/9	<b>sister's</b> [1] 59/8	87/5 130/2
107/10	<b>sitting</b> [3] 39/25 65/6 86/16	<b>sorts</b> [1] 95/12
<b>September</b> [1] 124/8	<b>situations</b> [1] 95/12	<b>sought</b> [1] 111/13
<b>sequence</b> [1] 114/25	<b>six</b> [1] 94/20	<b>sounds</b> [3] 17/7 56/16 126/17
<b>sergeant</b> [1] 99/9	<b>size</b> [3] 22/25 29/11 29/14	<b>south</b> [2] 45/3 45/3
<b>served</b> [1] 110/19	<b>skin</b> [5] 77/10 77/17 77/22	<b>space</b> [2] 19/12 26/19
<b>service</b> [1] 93/16	127/4 136/2	<b>speak</b> [8] 43/3 44/23 44/23
<b>seven</b> [3] 84/17 110/14 112/3	<b>skull</b> [16] 17/25 18/8 18/8	44/24 48/7 48/9 112/11
<b>several</b> [6] 29/6 31/12 32/4	22/24 24/10 29/1 30/14	112/18
96/20 97/6 97/8	127/20 131/2 131/3 131/10	<b>speaking</b> [4] 96/1 97/23
<b>severity</b> [1] 30/16	132/15 132/16 132/17 132/19	102/20 112/19
	132/25	<b>special</b> [2] 16/11 16/11

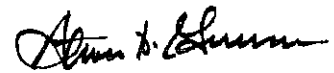
S		
specialist [1]	129/23	still [11]
specialized [2]	94/13 128/2	63/21 65/8 73/21 73/23 75/21
specific [4]	20/8 66/10	100/22 119/21 132/19
128/10 141/12		stop [9]
specifically [8]	70/9 70/12	32/17 45/25 56/25
98/2 98/19 103/22 112/22		57/7 57/11 64/12 64/25 65/6
112/23 136/8		127/18
specimen [1]	26/25	stopped [2]
specimens [1]	12/5	32/23 44/14
speech [1]	87/10	stopping [1]
spell [9]	10/24 35/10 49/23	64/12
49/25 49/25 83/23 92/16		stops [1]
109/20 122/21		32/11
spelled [3]	43/7 122/23	strangled [4]
122/23		97/16 135/11
Spelling [1]	110/25	135/22 136/1
spent [2]	123/20 124/1	strangulation [32]
spinal [8]	22/23 22/25 23/4	6/12 7/17
23/10 26/14 27/14 28/1 28/7		7/19 7/21 7/22 10/18 35/4
spots [1]	58/18	83/17 90/2 92/10 94/4 94/9
spouse [2]	8/5 8/5	94/17 95/12 95/18 95/21 96/8
Ss [1]	140/3	98/21 98/22 99/4 102/3
staff [2]	13/20 13/21	109/13 111/3 111/7 122/15
stain [1]	16/13	135/8 135/12 135/14 135/18
staining [2]	18/12 21/10	136/21 137/2 138/22
stains [2]	16/11 16/11	street [1]
stairs [7]	44/19 47/11 47/13	49/24
64/18 65/18 66/1 116/12		stretchy [1]
stand [2]	23/19 126/19	18/2
standard [2]	13/15 31/9	strike [1]
standing [5]	21/3 21/5 86/16	133/10
86/17 132/2		striking [1]
Stanford [1]	11/25	130/5
start [11]	20/13 20/14 24/15	strong [2]
30/12 44/4 44/9 52/17 59/4		96/2 103/14
59/13 126/15 131/6		struck [7]
started [17]	55/17 57/1 57/2	113/23 113/24
57/16 59/5 60/9 61/10 61/10		113/25 114/8 117/19 119/12
64/3 65/1 87/2 114/24 115/3		130/5
115/7 115/17 116/10 121/23		structure [2]
starting [6]	22/22 22/22 23/2	26/11 26/11
23/2 26/13 116/4		structures [1]
starts [4]	30/13 30/18 32/22	23/3
127/1		studies [1]
state [30]	1/5 5/16 5/25 6/4	12/11
7/12 7/14 10/5 10/23 33/7		study [4]
33/10 35/9 83/22 84/20 91/22		11/21 12/24 17/4
92/15 108/21 109/19 111/16		36/24
111/18 113/12 121/18 122/1		stuff [17]
122/3 122/20 125/10 125/16		41/16 43/4 45/5
138/12 140/3 141/12 141/16		45/21 45/24 46/19 46/24 58/8
State's [2]	34/16 83/4	59/14 61/2 64/4 64/12 66/3
stated [2]	115/16 138/6	74/9 75/15 77/8 80/14
statement [11]	34/3 42/14	subdural [2]
81/8 81/15 91/9 98/23 108/8		19/5 22/5
115/23 118/24 121/1 137/15		subject [2]
statements [20]	34/2 42/11	37/3 137/1
55/3 81/14 88/12 88/17 91/8		subjects [1]
108/7 114/3 114/9 114/13		36/24
114/23 115/9 116/15 116/23		submitted [2]
117/10 117/24 119/11 120/25		138/14 139/2
137/14		submitting [1]
Station [2]	58/2 58/3	138/3
stay [8]	13/3 57/11 57/18	subsequently [1]
60/7 60/15 77/2 107/13 130/8		17/2
stayed [3]	44/16 57/12 57/20	subspecialty [1]
steak [1]	56/14	13/1
Stenotype [1]	140/7	substantial [1]
Stephens [5]	2/20 5/15 17/3	8/1
17/22 82/4		such [6]
		7/8 9/5 9/21 9/23
		12/16 17/21
		sudden [1]
		65/13
		suffered [3]
		16/25 21/14
		29/21
		sugar [1]
		50/11
		suicides [1]
		125/2
		summarize [1]
		11/16
		Sunday [2]
		74/21 74/22
		superintendent [1]
		9/17
		supervision [1]
		140/11
		supervisory [1]
		93/18
		supposed [2]
		36/7 36/9
		sure [9]
		17/4 21/7 26/21
		28/25 33/2 106/6 115/24
		120/10 126/3
		surface [5]
		18/6 131/13
		132/19 132/20 136/23
		surfaces [4]
		126/17 128/18
		129/12 132/9
		surgical [1]
		12/5
		survived [1]
		136/9
		survives [1]
		135/12
		suspect [1]
		111/15
		sustain [1]
		136/13
		sustained [3]
		28/6 28/7 28/20
		swallowing [1]
		95/25
		swaying [1]
		87/16
		swear [6]
		10/9 34/20 83/8
		92/1 109/3 122/6
		swell [2]
		32/22 32/24
		swelling [8]
		18/18 18/19
		21/14 25/1 26/20 89/9 101/22
		129/21
		swing [1]
		115/11
		swinging [2]
		113/22 117/12
		swollen [5]
		26/15 26/16 27/11
		28/9 101/11
		sworn [7]
		5/5 11/7 35/17
		84/5 92/22 110/3 123/2
		swung [2]
		117/6 117/16
		symptoms [8]
		95/17 95/20
		97/15 97/18 99/3 135/10
		135/13 135/15
		T
		take [28]
		6/25 12/12 12/20
		14/4 15/16 17/25 18/7 19/15
		23/24 49/4 53/13 53/21 53/23
		57/21 74/14 74/19 82/7 83/2
		99/15 105/7 119/9 125/6
		127/5 127/20 130/12 130/13
		131/19 134/16
		taken [10]
		1/12 21/23 99/7
		100/24 106/7 130/18 130/25
		131/8 132/1 132/14
		taking [1]
		13/25
		talk [21]
		37/11 39/14 43/12
		43/17 43/22 46/23 46/25
		49/12 53/9 70/8 71/3 73/25
		75/6 75/8 88/24 103/10
		104/15 107/16 112/19 119/21
		135/7
		talked [4]
		43/14 50/15 104/7
		104/10
		talking [15]
		19/3 43/20 48/3
		48/5 52/7 52/13 66/5 71/4
		74/8 78/9 78/15 78/20 87/2
		101/19 102/19
		tall [1]
		126/18
		taped [1]
		112/13
		tattoos [1]
		126/21
		teach [2]
		12/3 94/2
		teaching [2]
		93/21 93/24
		technical [1]
		134/22
		technicians [1]
		16/5
		techs [1]
		130/15
		tell [27]
		18/19 19/11 19/16
		23/19 24/23 36/6 36/7 40/4
		40/7 40/10 40/11 40/12 41/4
		41/12 41/15 60/19 68/10 81/1
		89/11 103/15 112/24 113/4
		116/9 119/5 131/6 132/12
		136/18
		telling [5]
		41/1 41/6 41/12
		86/18 117/1
		tells [2]
		22/20 23/1
		ten [2]
		47/6 83/2
		tendering [1]
		138/8
		TERESA [1]
		2/10
		term [3]
		8/21 27/13 136/16
		terms [8]
		12/24 28/24 28/24
		32/10 107/14 134/14 134/20
		134/22
		testified [8]
		11/9 30/5 35/19
		84/7 92/24 110/5 117/6 123/4
		testifies [1]
		6/17
		testify [6]
		11/8 35/18 84/6
		92/23 110/4 123/3
		testimony [15]
		10/9 10/16

<b>T</b>		
testimony... [13] 34/20 35/2 82/9 82/14 83/8 83/15 92/1 92/8 104/23 109/3 109/11 122/6 122/13	15/21 15/25 16/1 16/5 16/21 19/16 27/7 29/6 29/12 52/17 53/18 53/19 82/20 88/2 88/4 88/8 89/25 95/17 97/18 98/21 102/12 104/20 112/22 124/25 125/4 129/22 130/17 130/22 130/23 130/25 134/10 134/25 137/2 138/8	123/15 123/22 128/2 transcribe [1] 5/6 transcribed [3] 115/23 118/24 140/10 transcript [5] 1/18 115/1 115/19 140/12 141/4 transcription [1] 120/7 translate [1] 15/20 transmit [1] 26/17 transmitted [1] 30/1 transpired [6] 34/1 81/13 91/7 108/6 120/24 137/13 transport [1] 90/17 transported [2] 13/23 16/1 trapezius [1] 101/18 trauma [14] 12/17 16/24 28/21 28/23 29/21 29/22 32/1 32/3 33/10 33/12 33/15 130/1 130/2 135/1 treat [1] 30/17 treated [1] 103/7 treatment [3] 118/6 118/15 118/18 tried [3] 30/25 107/16 118/10 trooper [1] 84/20 trouble [3] 41/9 41/9 102/20 true [2] 138/19 140/12 truth [49] try [9] 48/10 60/25 71/6 72/7 72/16 76/22 87/12 98/17 99/9
testing [2] 127/14 127/15 than [9] 13/2 21/13 26/1 47/7 47/8 103/19 116/18 133/2 138/15 Thank [36] 11/2 11/5 24/13 31/18 33/22 34/13 34/15 35/13 80/16 82/1 82/3 83/2 84/1 90/23 91/19 91/21 92/18 107/25 108/18 108/20 109/9 109/23 110/1 111/2 121/11 121/13 121/19 122/25 125/17 137/10 137/25 138/2 138/14 139/3 139/4 139/5 that [527] that's [58] their [12] 12/8 29/2 39/22 53/19 57/22 58/2 58/18 62/3 71/24 115/12 123/24 136/12 them [25] 16/6 19/17 19/17 19/18 19/25 20/1 20/11 42/24 42/25 43/1 43/3 45/17 49/15 50/1 50/3 50/18 66/5 66/7 112/18 126/20 127/11 127/12 127/13 136/21 136/23 then [121] there [104] there's [22] 12/23 24/23 25/3 26/3 26/22 27/23 28/21 29/1 29/25 31/12 32/4 67/18 95/24 96/1 107/12 126/20 127/24 129/5 131/13 131/16 132/8 136/4 thereafter [1] 140/9 thereof [1] 9/7 these [32] 6/15 6/15 13/18 16/11 17/4 18/4 18/25 19/19 19/22 20/3 20/5 20/10 22/11 24/19 24/22 25/5 25/15 26/15 27/7 27/23 28/16 31/21 33/24 81/11 91/5 99/15 100/7 100/18 108/4 120/22 137/11 138/11 they [54] they're [9] 15/17 16/1 16/3 19/23 26/19 55/5 135/16 135/17 135/17 they've [1] 126/20 thick [1] 15/21 thin [1] 16/5 thing [13] 17/5 18/23 21/12 24/24 32/9 32/11 37/18 78/9 78/10 80/24 82/12 103/20 115/4 things [9] 12/16 28/19 32/4 66/4 113/16 114/18 126/3 126/22 135/21 think [20] 12/12 27/15 38/22 40/6 48/1 50/14 50/24 51/17 56/14 59/6 65/11 77/19 79/6 82/25 103/11 107/23 111/6 114/17 114/18 117/14 third [2] 48/17 87/24 this [168] THOMAS [1] 2/17 thorough [1] 98/5 those [37] 8/11 9/24 12/16	though [4] 21/3 21/23 59/12 69/4 thought [1] 77/22 thoughts [1] 107/11 threat [1] 8/14 threaten [2] 9/5 73/6 threatened [1] 54/20 threatening [2] 6/7 9/11 threats [1] 9/8 three [10] 31/23 31/25 32/2 32/3 33/1 33/16 38/22 53/1 54/8 88/23 throat [4] 7/24 95/25 103/21 103/23 through [16] 14/6 16/3 19/15 24/10 25/15 27/19 30/13 55/14 72/11 72/12 94/18 99/15 99/19 99/22 100/17 130/21 Thursday [7] 1/13 52/25 53/8 74/1 74/20 74/24 78/24 tilted [1] 21/25 time [64] timelines [1] 31/6 times [7] 48/16 88/23 95/7 95/8 95/14 96/4 99/8 tissue [6] 15/17 16/12 22/12 26/13 26/15 27/11 Title [1] 141/23 today [13] 10/15 35/1 35/24 36/2 36/9 40/5 80/25 82/11 83/14 92/7 104/24 109/11 122/12 together [1] 79/18 told [10] 17/22 36/1 43/3 59/14 60/2 73/3 74/8 98/20 114/15 119/5 tones [1] 120/4 too [7] 62/6 63/12 69/19 80/12 104/8 104/19 104/19 took [22] 15/14 18/10 19/22 20/5 26/15 50/11 54/4 60/9 61/3 61/15 61/23 62/2 62/2 66/3 68/4 69/9 75/15 102/9 114/6 119/6 131/17 140/7 tool [1] 9/6 top [11] 14/12 14/19 42/8 58/20 62/25 101/18 127/20 131/10 131/18 132/15 132/17 topics [1] 107/11 torso [1] 105/17 total [1] 110/18 towards [8] 22/23 23/4 23/10 23/23 26/14 101/14 104/12 119/10 town [2] 13/16 37/6 toxicology [1] 127/14 track [1] 87/11 tracked [1] 13/18 tract [1] 26/19 traffic [1] 85/2 trained [1] 95/16 training [10] 90/4 94/1 94/8 94/11 94/19 94/22 95/4	treat [1] 30/17 treated [1] 103/7 treatment [3] 118/6 118/15 118/18 tried [3] 30/25 107/16 118/10 trooper [1] 84/20 trouble [3] 41/9 41/9 102/20 true [2] 138/19 140/12 truth [49] try [9] 48/10 60/25 71/6 72/7 72/16 76/22 87/12 98/17 99/9 trying [11] 15/20 44/23 59/6 60/4 68/12 72/14 72/18 105/22 116/12 118/11 133/6 tube [1] 128/14 Tuesday [1] 74/20 tumors [2] 12/5 12/17 turn [3] 20/17 47/16 76/8 turned [3] 18/16 58/1 71/19 turns [1] 77/17 TV [1] 56/1 TVs [1] 80/14 two [13] 11/22 22/11 31/11 31/17 48/16 53/1 54/8 59/25 82/6 82/20 95/15 125/12 134/15 Tylenol [2] 119/9 119/9 type [18] 28/15 28/16 87/5 87/7 94/1 95/12 97/12 101/9 103/19 104/20 105/22 105/24 113/7 115/4 115/4 117/2 127/16 127/24 types [5] 16/21 19/10 28/19 124/4 124/13 typically [4] 124/5 126/15 131/19 136/22 TYRON [3] 1/8 5/17 37/15 <b>U</b> uh [47] 33/5 39/4 39/21 43/21 47/3 47/20 48/13 52/14 53/5 53/22 56/3 57/9 58/4 58/8 58/10 60/11 61/7 61/21 62/7 62/12 64/15 65/5 65/20 67/6 68/5 68/19 68/23 69/25 70/14 71/5 71/13 72/6 72/15 73/15 73/17 73/22 74/24 75/19 75/24 76/11 77/3 77/24 79/11 79/15 80/11 80/13 80/15 Uh-huh [36] 33/5 43/21 47/20

U	V	
Uh-huh... [33] 48/13 52/14 53/22 56/3 57/9 58/4 58/8 58/10 60/11 61/7 61/21 62/7 62/12 64/15 65/5 65/20 67/6 68/5 68/19 68/23 69/25 71/5 72/6 73/15 73/17 73/22 76/11 77/24 79/11 79/15 80/11 80/13 80/15 Uh-oh [1] 39/4 ultimately [3] 11/23 14/8 133/8 UMC [1] 90/18 uncomfortable [1] 71/25 uncomfortableness [1] 97/23 uncommon [1] 18/22 under [8] 14/5 16/7 19/6 87/17 94/16 119/23 125/4 140/10 undergone [1] 128/16 underneath [4] 19/9 101/13 102/3 136/2 underside [6] 18/3 18/5 21/21 26/10 98/6 102/11 undersigned [1] 141/4 understand [21] 10/21 17/20 17/23 26/21 27/14 34/11 35/7 43/2 44/3 48/14 48/17 81/2 81/24 83/20 91/17 92/13 108/16 109/17 121/9 122/18 137/23 understanding [2] 33/2 85/20 understood [1] 119/21 unique [2] 125/23 126/7 University [9] 11/20 11/24 12/1 13/19 102/23 123/17 123/18 123/21 133/22 unlawful [4] 6/19 6/20 7/17 8/24 unlawfully [2] 6/24 7/20 unless [1] 32/23 until [3] 19/6 33/4 57/20 unusual [1] 129/18 up [58] update [1] 13/6 upon [15] 7/18 7/20 8/4 9/3 9/4 10/10 28/13 34/21 55/5 83/9 92/2 109/4 111/9 122/7 133/24 upper [3] 26/23 105/17 128/24 upset [1] 97/5 upside [2] 20/15 20/16 upstairs [5] 57/21 62/1 64/21 64/22 75/15 Ursula [1] 40/3 us [25] 13/1 13/17 19/11 23/20 34/1 36/11 39/19 54/15 56/19 60/2 71/24 80/9 81/14 87/1 91/7 102/6 108/6 112/18 114/15 119/22 120/24 121/24 136/18 137/13 139/2 use [13] 7/8 7/9 7/18 9/2 9/7 44/18 56/20 68/12 68/20 72/7 103/15 127/4 127/19 used [6] 8/18 68/18 71/19 80/8 95/4 117/14 uses [1] 7/20 usually [5] 74/13 74/16 80/1 90/1 131/20	V-I-T-A-L [1] 83/25 vacuum [31] 61/11 62/2 64/24 65/15 66/3 67/5 67/14 67/15 68/1 68/4 68/13 68/13 68/18 68/20 68/22 68/24 69/1 69/3 69/7 69/9 113/22 114/8 114/10 117/4 117/4 117/6 117/10 117/12 117/13 117/17 119/12 vague [1] 116/19 variety [3] 12/15 124/22 136/20 various [3] 6/21 111/14 114/18 Vegas [14] 1/12 5/1 84/14 84/16 84/17 84/25 85/11 88/15 93/7 93/9 93/15 96/9 110/12 140/14 vehicle [1] 125/2 vein [1] 66/23 verbal [5] 113/1 113/4 113/5 113/9 116/11 verify [1] 16/13 versus [2] 5/16 122/2 vertical [1] 25/15 very [25] 16/5 17/4 18/2 18/2 23/12 24/13 26/14 26/15 27/11 29/23 29/23 31/15 50/11 66/10 76/4 80/23 87/9 96/2 97/5 97/5 102/8 103/5 107/3 107/7 135/7 vessels [2] 27/21 102/12 via [1] 13/17 Vicks [3] 76/14 76/16 76/17 victim [19] 6/13 9/9 9/12 9/13 9/23 10/1 10/19 35/5 83/18 92/11 95/22 95/23 96/21 109/14 111/12 113/2 115/10 122/16 138/23 viewed [1] 19/1 violence [19] 6/11 7/16 7/18 7/20 8/3 9/2 9/5 10/18 35/4 83/17 92/10 94/1 94/4 94/16 109/13 122/15 124/25 125/1 138/22 visit [2] 54/15 106/21 visits [1] 38/15 Vital [4] 83/5 83/25 84/4 96/20 voice [5] 22/9 46/24 64/10 97/22 136/4 vote [1] 138/19	wanted [6] 5/23 63/17 82/25 118/15 119/7 119/21 warden [1] 9/16 warrant [2] 111/13 111/14 was [360] wasn't [10] 28/4 32/13 41/1 43/1 50/6 59/10 59/11 65/6 130/11 134/23 watch [5] 58/3 58/5 58/7 60/24 61/5 watches [1] 54/15 watching [3] 58/8 58/23 59/1 water [2] 71/19 120/13 way [21] 13/15 14/8 16/2 18/4 20/7 20/17 20/19 21/18 22/14 23/17 24/12 24/17 29/12 45/3 65/2 65/7 97/2 107/12 117/21 129/1 135/13 we [111] we'd [1] 121/23 We'll [2] 20/13 83/1 we're [19] 22/10 23/20 24/17 25/10 25/11 26/12 31/16 36/2 36/2 36/5 36/9 41/22 52/7 66/5 78/2 88/14 106/6 106/6 131/7 we've [2] 23/24 127/10 weapon [1] 7/8 wearing [4] 40/24 40/24 41/2 41/3 Wednesday [4] 53/7 53/9 53/12 74/20 week [2] 74/17 88/1 weeks [2] 31/11 31/17 weigh [2] 126/19 127/11 weighed [1] 127/22 welcome [1] 90/25 well [29] 15/13 28/3 28/8 29/11 30/9 31/16 32/14 41/20 43/2 43/20 44/9 50/16 68/25 89/22 90/11 94/4 94/17 95/2 98/18 102/21 103/23 117/21 118/5 126/18 127/8 129/17 131/9 131/19 133/7 went [47] 11/17 11/19 43/4 44/18 44/24 48/17 48/24 49/17 49/25 50/9 55/19 56/10 57/8 57/21 60/2 60/12 60/16 60/21 61/10 61/11 61/12 62/1 64/2 64/2 64/19 64/23 66/2 67/19 69/14 70/12 71/14 71/15 72/3 73/16 77/3 77/4 78/25 94/13 94/18 96/16 98/4 98/12 106/16 114/16 118/13 123/17 133/22 were [97] what [201] what's [21] 15/16 21/7 23/9 24/16 32/13 36/12 37/5 37/14 37/16 37/25 38/2 38/16 43/4 76/16 88/25 96/2 99/18 99/21 105/19 126/15 128/19 whatever [4] 106/22 117/15 118/20 127/15 when [135] whenever [6] 13/19 17/25 29/24 30/2 32/5 32/15 where [45] 7/19 15/24 15/25 16/4 18/20 19/13 20/24 23/9 24/2 36/6 37/9 45/14 45/15 46/4 46/7 47/13 58/14 59/16 59/25 60/5 60/12 60/21 62/16
	W	
	WAGNER [1] 2/17 wait [5] 15/18 44/25 72/25 74/6 75/17 waiting [1] 5/10 waived [2] 112/18 119/22 wake [4] 74/2 74/11 79/24 80/1 walk [3] 71/6 82/5 116/12 walked [1] 59/15 walking [6] 47/19 47/21 52/13 66/1 71/8 71/9 wall [3] 45/19 61/25 72/10 want [20] 11/14 17/15 18/25 22/14 23/16 26/5 31/20 33/2 41/17 43/22 53/9 68/9 88/24 112/22 113/14 117/3 118/9 129/4 130/7 135/7	

<b>W</b>	49/24 117/15
where... [22] 62/23 63/3	wording [1] 51/22
64/20 67/21 69/21 70/18	words [4] 46/18 61/10 64/3
71/14 78/13 79/23 80/4 86/12	87/10
87/11 93/6 102/11 103/16	work [16] 12/12 13/6 44/10
103/18 111/20 113/24 114/7	44/11 44/15 46/17 46/19
123/22 123/23 124/3	53/14 53/15 54/4 68/13 74/16
where's [4] 61/12 61/12 64/4	84/23 110/22 118/9 118/13
76/14	worked [9] 11/22 11/24 11/25
whether [10] 13/13 14/14	12/1 12/6 84/15 93/8 124/3
27/25 114/10 115/15 117/24	124/6
118/14 119/6 119/11 131/17	working [1] 124/9
which [30] 6/22 6/25 8/1	works [1] 53/19
8/15 8/16 9/1 11/21 13/23	worse [3] 32/15 32/15 107/2
16/2 16/10 18/2 19/6 19/23	would [52]
21/14 21/14 22/14 23/24	wouldn't [3] 26/17 28/3 30/6
30/12 31/10 32/5 32/9 68/10	write [2] 16/8 16/8
124/24 125/12 126/16 132/14	writing [1] 50/18
134/22 135/25 136/20 138/4	written [1] 12/3
while [2] 71/8 128/17	wrote [3] 42/18 51/15 51/20
whiplashes [1] 29/2	<b>Y</b>
whispering [3] 48/6 75/9	Y-shaped [1] 127/1
75/10	yeah [33] 15/18 23/18 24/8
white [4] 25/2 32/18 77/10	28/18 31/14 36/10 40/1 45/10
96/4	46/3 46/22 47/9 48/11 48/24
whites [1] 96/5	49/10 50/17 51/23 53/16 56/8
who [33] 8/12 9/11 9/23	57/6 57/24 58/20 60/14 69/2
13/10 16/5 18/10 30/16 37/12	69/8 73/5 78/6 78/19 79/22
37/21 37/23 38/13 39/19	79/22 80/6 80/8 103/8 113/6
39/23 41/22 50/13 57/3 57/3	year [10] 33/3 34/6 36/14
58/11 78/5 78/7 86/2 87/23	81/19 91/12 108/11 121/4
95/1 96/19 110/24 114/23	124/1 124/18 137/18
116/10 119/19 125/3 125/19	years [16] 11/22 12/1 12/8
128/1 133/21 135/10	84/18 84/24 84/25 86/8 90/5
whoever [1] 49/12	93/10 94/20 110/15 110/19
whole [18] 10/11 11/8 17/5	119/19 123/21 124/7 125/12
34/22 35/18 45/7 68/17 83/10	yell [3] 57/1 66/11 120/1
84/6 92/3 92/23 97/22 107/14	yelling [10] 44/9 44/10 44/13
109/5 110/4 122/8 123/3	45/9 46/14 47/1 55/17 55/24
127/7	66/8 66/9
whom [4] 8/6 8/7 8/8 8/10	yells [1] 66/14
whoop [2] 54/22 73/8	Yep [1] 73/24
why [17] 21/23 27/10 36/1	yes [228]
36/2 36/4 42/23 49/22 57/25	yesterday [7] 39/17 39/17
60/17 70/4 75/20 76/6 85/17	40/15 41/12 42/15 42/17
88/10 90/20 103/11 125/25	50/20
will [15] 5/18 6/15 19/15	yet [4] 19/25 56/20 59/4
20/13 20/17 23/3 23/4 32/24	59/11
101/11 108/24 115/25 121/18	YOLANDA [1] 2/4
121/21 121/25 130/21	you [767]
willful [1] 7/17	you'd [2] 50/25 135/21
willfully [1] 7/19	you'll [4] 21/12 21/15 22/10
Wisconsin [1] 123/25	113/15
wit [1] 141/13	you're [36] 17/25 18/7 19/2
withdrawing [1] 121/18	20/16 21/3 21/5 21/6 22/2
WITHDRAWN [1] 4/8	24/9 25/25 28/19 30/2 32/17
within [1] 31/7	34/13 36/7 37/11 39/12 40/23
without [4] 28/17 28/18 86/18	40/23 41/2 41/2 55/7 58/9
133/4	58/11 58/25 76/18 79/21
witness [22] 6/13 9/9 9/13	90/25 91/19 99/16 101/19
9/24 10/1 10/6 10/19 31/2	101/25 105/8 108/18 121/11
34/16 35/5 36/6 67/10 77/25	137/25
83/4 83/18 92/11 108/24	you've [9] 12/12 12/15 19/17
109/14 121/17 121/25 122/16	21/7 29/5 36/11 93/11 117/5
138/23	124/9
WITNESSES [1] 3/1	young [2] 53/23 75/21
WOJCIECHOWSKI [1] 2/3	younger [1] 32/10
woke [12] 44/12 45/8 45/22	your [224]
45/23 74/5 74/6 74/7 74/7	yours [1] 51/17
74/11 74/12 75/3 79/1	yourself [2] 75/25 81/5
word [5] 43/23 46/18 46/18	

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Attorney for Defendant



CLERK OF THE COURT

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

In the Matter of the Application of,

Anthony Tyron Mayo,  
for a Writ of Habeas Corpus.

CASE NO. C-14-295313-1

DEPT. NO. XXV

DATE: March 19, 2014  
TIME: 9:00 a.m.

**PETITION FOR WRIT OF HABEAS CORPUS**

TO: The Honorable Judge of the Eighth Judicial District Court of  
The State of Nevada, in and for the County of Clark

The Petition of Anthony Tyron Mayo submitted by AMY A. FELICIANO, Deputy  
Public Defender, as attorney for the above-captioned individual, respectfully affirms:

1. That she is a duly qualified, practicing and licensed attorney in the City of Las  
Vegas, County of Clark, State of Nevada.

2. That Petitioner makes application for a Writ of Habeas Corpus; that the place  
where the Petitioner is imprisoned actually or constructively imprisoned and restrained of his liberty  
is the Clark County Detention Center; that the officer by whom he is imprisoned and restrained is  
Doug Gillespie, Sheriff.

3. That the imprisonment and restraint of said Petitioner is unlawful in that: (1)  
The State did not present the exculpatory evidence that Mayo asked the State to present under NRS  
172.145(2); (2) The language regarding the use of a vacuum cleaner in the Indictment must be  
stricken; (3) The State did not establish proper chain of custody for its evidence, requiring that the  
Murder charge be dismissed, (4) There was no probable cause to support the charges of Battery.

1 Domestic Violence--Strangulation, Coercion, and Preventing or Dissuading a Witness or Victim  
2 From Reporting Crime of Commencing Prosecution; and (5) The State introduced many prejudicial  
3 and improper bad-acts evidence.

4 4. That Petitioner consents that if Petition is not decided within 15 days before  
5 the date set for trial, the Court may, without notice of hearing, continue the trial indefinitely to a date  
6 designated by the Court.

7 5. That Petitioner personally authorized his aforementioned attorney to  
8 commence this action.

9 WHEREFORE, Petitioner prays that this Honorable Court make an order directing  
10 the County of Clark to issue a Writ of Habeas Corpus directed to the said Doug Gillespie, Sheriff,  
11 commanding him to bring the Petitioner before your Honor, and return the cause of his  
12 imprisonment.

13 DATED this 28 of February, 2014.

14 PHILIP J. KOHN  
15 CLARK COUNTY PUBLIC DEFENDER

16  
17 By:

18 AMY A. FELICIANO, #9596  
19 Deputy Public Defender  
20  
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DECLARATION

AMY A. FELICIANO makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That I am the attorney of record for Petitioner in the above matter; that I have read the foregoing Petition, know the contents thereof, and that the same is true of my own knowledge, except for those matters therein stated on information and belief, and as to those matters, I believe them to be true; that Petitioner, ANTHONY TYRON MAYO, personally authorizes me to commence this Writ of Habeas Corpus action.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 28 day of February, 2014.

  
\_\_\_\_\_  
AMY A. FELICIANO

1                                   **MEMORANDUM OF POINTS AND AUTHORITIES**  
2                                   **IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

3                   COMES NOW the Petitioner, ANTHONY TYRON MAYO, by and through his  
4   counsel, AMY A. FELICIANO, the Clark County Public Defender's Office, and submits the  
5   following Points and Authorities in Support of Defendant's Petition for a pretrial Writ of Habeas  
6   Corpus.

7                                   **STATEMENT OF FACTS**

8           Anthony Mayo is charged by Indictment with Murder; Battery Constituting Domestic  
9   Violence—Strangulation; Coercion; and Preventing or Dissuading Witness or Victim From  
10   Reporting Crime or Commencing Prosecution for alleged acts against his wife, Beverly McFarlane,  
11   alleged to have occurred on August 8 – 10, 2012. EX A.

12                   **Procedural History**

13           For its probable cause determination, the State presented this case to the grand jury on  
14   January 16, 2014. The State served Mayo with notice of its intent to present the case to the grand  
15   jury, and in response, Mayo sent the State a certified letter on December 18, 2013. EX B. In  
16   Mayo's certified letter, Mayo informed the State that, based on the discovery he had at that time, he  
17   asked for the following exculpatory evidence to be presented to the grand jury:

18  
19           [A]fter the alleged incident, Beverly McFarlane was in UMC Hospital for  
20   approximately fifteen (15) days, and spent the last few of those days on life support.  
21   She was pronounced brain dead on August 23, 2013 [sic], but still alive and on life  
22   support. On August 23, 2013 [sic], McFarlane's sister elected to remove McFarlane  
23   from life support and stop any measures to prolong her life. McFarlane was an organ  
24   donor, and as such, her organs were harvested while she was still alive and on life  
25   support. The transplant coordinator for UMC, Rudy Murray, informed the NLVPD  
26   that '[a]fter [Beverly's] organs are donated, she will cease to live. Thus, her death  
27   occurred after her vital organs were removed. Additionally, one of the pathologic  
28   findings on the autopsy report is that McFarlane was '[s]tatus post organ donation  
29   (heart valves, kidneys, spleen, left adrenal gland).

30                   **Grand Jury Testimony**

31           At the Grand Jury, the State called the following witnesses: Ashanti Mayo (Mayo's  
32   biological daughter); Manuel Vital (North Las Vegas police officer); Robert Aker (North Las  
33   Vegas police officer); Benjamin Owens (North Las Vegas detective); Claudia Greco

1 (forensic neuropathologist); and Alane Olson (Clark County Coroner's Office medical  
2 examiner). The following testimony was given by these witnesses.

3 Ashanti Mayo

4 Ashanti is Mayo's eleven (11)-year-old biological daughter. PHT 36-37. At the time  
5 of the alleged incident, she was nine (9) years old. PHT 36. McFarlane is Ashanti's  
6 biological mother. PHT 38. In August 2012, she was living with McFarlane, Mayo, and her  
7 sister, Ashley Mayo. PHT 38. Ashley is currently four (4) years old. PHT 38.

8 Ashanti testified that, on August 8, 2012, McFarlane was at work, and she and Ashley  
9 were home with Mayo. PHT 54. He threatened Ashanti and Ashley because of an accident  
10 involving a cellular phone and told them to "go in your room or I'll whoop you." PHT 54.  
11 At this point, the State admonished the grand jury to disregard "that last part," as well as any  
12 statements made by McFarlane. PHT 55.

13 Later that night, McFarlane came home and prepared dinner. PHT 56. During this  
14 time, Ashanti, Ashley and Mayo were playing with a ball. PHT 56. McFarlane told them to  
15 stop, but Mayo told them to continue playing, and so Ashanti continued playing because  
16 Mayo "started to yell at [Ashanti]." PHT 56-57. Once dinner was prepared, Ashanti,  
17 McFarlane, Ashley, and Mayo went upstairs and ate dinner in McFarlane and Mayo's  
18 bedroom. PHT 58.

19 During dinner, Mayo said that he thought McFarlane was trying to poison him. PHT  
20 59. Mayo became upset, and McFarlane called 911. PHT 59. Mayo "slapped" the cellular  
21 phone out of McFarlane's hand. PHT 59. Mayo then "jumped" off of the bed and choked  
22 McFarlane and "beat her up." PHT 59.

23 At this time, Ashanti obtained McFarlane's purse to find her cellular telephone, but  
24 was unable to locate it because McFarlane's purse had a lot of pockets and "a lot of stuff in  
25 every pocket." PHT 61.

26 Ashanti witnessed Mayo punch McFarlane in the cheek and eye area. PHT 63. After  
27 that, Mayo got their vacuum cleaner, and shut he and McFarlane's bedroom door. PHT 64.  
28 Ashanti testified that the vacuum cleaner was broken prior to Mayo bringing it into the

1 bedroom. PHT 68.

2 Ashanti testified that Mayo had yelled before. PHT 66. And when he gets mad, a  
3 vein on his forehead appears. Ashanti speculated that the vein's appearance meant that  
4 Mayo was really mad. PHT 66. She said that she saw the vein on that day. PHT 66.

5 McFarlane soon opened their bedroom door. PHT 70. She looked hurt. PHT 70.  
6 Ashanti testified that "mostly when she gets in a fight" she did not look like she did that day,  
7 "because my dad don't actually beat her . . . ." PHT 70. At this point, the State said, "Let's  
8 talk only about this time specifically. . . . And ladies and gentlemen, you are instructed to  
9 disregard that." PHT 70.

10 McFarlane had scratches on her face and dirt in her hair. PHT 70. McFarlane was  
11 limping while she was walking and one leg was dragging. PHT 71. McFarlane then took a  
12 shower and went to bed in she and Mayo's bedroom. PHT 71-72.

13 McFarlane's cellular telephone had dropped behind a little refrigerator in  
14 McFarlane's bedroom, where Ashanti was unable to reach it. PHT 72. When Ashanti was  
15 trying to get McFarlane's cellular telephone, Mayo did not say anything to her. PHT 72.  
16 Mayo knew that Ashanti was trying to call the police because Ashanti got McFarlane's  
17 purse. PHT 72.

18 Ashanti then changed her testimony and said that Mayo told her "go ahead" and call  
19 the police, and then changed her testimony again and said that he told her that if she called  
20 the police, he would "knock out [her] mom." PHT 72-73.

21 Ashanti then testified again that earlier in the day and unrelated to this incident, Mayo  
22 had threatened to "whoop" her. PHT 73.

23 The next day, Ashanti heard Mayo tell McFarlane that he was sorry and that  
24 McFarlane "should have just told [him] the truth from the first get go. . . ." PHT 74. Later  
25 that day, McFarlane looked "sick." PHT 76. Her eyes were red, and normally when she is  
26 sick, her eyes turn red. PHT 76. Ashanti did not notice any bruising on McFarlane's face.  
27 PHT 77. That next day was otherwise uneventful. PHT 78-79.

28 //

1 Ashanti also testified that Mayo was usually gone from the house in the mornings and  
2 only McFarlane was there with her. PHT 80.

3 Then, on Friday, August 10, 2012, the police came to her house. PHT 42. They  
4 came to the house because Ashanti called them. PHT 42. She called the police because  
5 McFarlane was not feeling well. PHT 43. Ashanti spoke to the police, and McFarlane  
6 "mumble[ed]" to the police. PHT 43.

7 Earlier that morning, Mayo had been yelling at McFarlane about going to work. PHT  
8 44. Mayo then left the house, and McFarlane and Ashanti remained. PHT 44. McFarlane  
9 was lying in bed and then came downstairs and handed Ashanti her telephone. PHT 44.  
10 McFarlane was limping when she left her room. PHT 47. When the paramedics arrived,  
11 they said that McFarlane's blood sugar was very high, so they took her to the hospital. PHT  
12 50.

13 At the end of Ashanti's testimony, the State said, "Ladies and gentlemen, you might  
14 have heard about some testimony regarding other instances of anger by the defendant. That  
15 information is not to be considered by you in making your determination here today. The  
16 only thing you are to consider is the evidence from the event in question." PHT 82.

17 Mannuel Vital

18 Manuel Vital is a North Las Vegas police officer. PHT 84. He was dispatched to  
19 McFarlane's and Mayo's home on August 10, 2012, in reference to a domestic battery  
20 incident. PHT 85. When Vital arrived, Ashanti and McFarlane greeted him. PHT 86. He  
21 was able to communicate with McFarlane, but she appeared disoriented. PHT 86-87. He  
22 then requested for an ambulance. PHT 88. Vital noticed abrasions and swelling on the left  
23 side of her face, as well bruising on her ribs. PHT 89.

24 He also testified that he witnessed petechia, which he stated was a "rupture of the  
25 blood cells usually caused by strangulation." PHT 90. He said that he knew this "based on  
26 [his] training and experience" as a police officer. PHT 90.

27 McFarlane was then transported to University Medical Center. PHT 90.

28 //

1 Robert Aker

2 Robert Aker is a North Las Vegas police officer. PHT 93. He has attended instructor  
3 schools regarding battery domestic violence and strangulation through the Nevada Attorney  
4 General's Office and the Nevada POST (Peace Officers' Standards and Training)  
5 commission. PHT 93-94.

6 Aker then improperly testified as a medical expert regarding the signs and symptoms  
7 of strangulation. PHT 95. He testified that the signs and symptoms of strangulation initially  
8 come from the victim, who typically describes pain around the neck or difficulty swallowing  
9 or breathing. PHT 95. He then generally described petechial hemorrhaging in the eye lids.  
10 PHT 96.

11 Aker described McFarlane as having a black eye, bruising around her left eye and  
12 cheek. She had abrasions on her face and elbows, as well as discoloration around her neck.  
13 PHT 97. The symptoms he described as being consistent with strangulation were that she  
14 had hesitation with her neck movement, self-soothing of her neck, and hoarseness in her  
15 voice. PHT 97. He had never previously met McFarlane. See 93-108. He said that the  
16 hospital conducted a more thorough examination and there was petechia present. PHT 98.  
17 But when he reviewed photographs of McFarlane's injuries, he was unable to identify the  
18 petechia. PHT 102.

19 He, however, again described petechia, in general, to the jury as if he was a medical  
20 expert. PHT 102.

21 The State then improperly asked Aker whether he was able to communicate with  
22 McFarlane at the hospital and asked him why "[he] thought that" she was having difficulty  
23 communicating. PHT 103. He speculated and testified that it was because of a cognitive  
24 brain issue coupled with her injuries. PHT 103. He speculated and again testified  
25 improperly as a medical expert that it was the injuries to her throat and her head that could  
26 lead to brain issues and an inability to communicate. PHT 103.

27 He then testified that she had only slight bruising around her neck. PHT 104. His  
28 last interaction with McFarlane was the following day. PHT 107.

1 Benjamin Owens

2 Benjamin Owens is a North Las Vegas Police detective. PHT 110. Owens was  
3 involved in investigating the incident after McFarlane passed away. PHT 111. He obtained  
4 an arrest warrant and arrested Mayo in Los Angeles, California, in March, 2013. PHT 111-  
5 12. He interrogated Mayo in Los Angeles, California, after arresting him. PHT 112-13.  
6 Mayo admitted to having a verbal altercation with McFarlane because Mayo believed that  
7 she was cheating on Mayo with another man. PHT 113, 115. Mayo admitted that he shoved  
8 McFarlane, slapped her on the face, and punched her. PHT 113. He admitted to swinging a  
9 vacuum cleaner at her, which struck McFarlane in the hand. PHT 113-14. Mayo denied that  
10 the vacuum cleaner ever hit McFarlane in the head. PHT 114.

11 Mayo said that during the physical altercation, McFarlane pushed Mayo and slapped  
12 him. PHT 115. Mayo stated that the argument was verbal at first, and as he was walking  
13 down the stairs, McFarlane pushed him and he pushed her back, and the fight escalated from  
14 there. PHT 116. Mayo also stated that, at some point, McFarlane fell backward and hit her  
15 head on the ground. PHT 118.

16 After the incident, Mayo administered first aid to McFarlane, assisting her with her  
17 black eye and helping to clean her up. PHT 118. Mayo stated that he asked McFarlane if  
18 she wanted to go to the hospital, but she refused and just asked to take Tylenol. PHT 119.

19 Mayo stated that after the incident, he left the house the next morning. PHT 114.

20 Claudia Greco

21 Claudia Greco is a forensic medical examiner and neuropathologist who currently  
22 handles the Placer Nevada County forensic cases. PHT 11-12. The Clark County Coroner's  
23 Office asked her to analyze McFarlane's brain. PHT 13. McFarlane's brain was shipped to  
24 Greco via Federal Express, accepted by the front desk staff of her office, and then provided  
25 to Greco. PHT 13. Greco did not remember exactly when she received McFarlane's brain,  
26 but she believed it was in December 2012. PHT 15. After examining McFarlane's brain,  
27 Greco prepared a report with her findings. PHT 14.

28 //

1 In examining McFarlane's brain, Greco found a hemorrhage on the left side of the  
2 brain. PHT 18. She also saw evidence of massive swelling and abnormalities, which led her  
3 to conclude that McFarlane's life was irretrievable. PHT 18. She testified that this type of  
4 injury was not uncommon and a "classic thing that happens." PHT 18. In reviewing the  
5 photographs of the brain during her testimony, she indicated that certain injuries were "why  
6 [McFarlane] died." PHT 21.

7 The State then asked Greco to speculate as to what type of objects could cause the  
8 injuries present in McFarlane. PHT 28. Greco responded that it was clearly trauma, which  
9 meant anything that damages or hits the brain or skull. PHT 29. She gave an example of a  
10 person who is in a car accident who suffers from whiplash before the airbags deploy. PHT  
11 29.

12 Greco testified that McFarlane suffered cerebral trauma, which was aggravated by the  
13 fact that she already had high blood pressure which the high blood pressure "was very, very  
14 hard to control." PHT 29. When a person has high blood pressure, there is more force being  
15 transmitted and it is easier to get a hemorrhage on the brain. PHT 29-30. She also testified  
16 that it was possible to treat this condition early on, but in this case, the medical intervention  
17 did not save her life. PHT 30. She testified that, because McFarlane had so many problems  
18 with her high blood pressure, it was impossible to stop the brain swelling. PHT 32.

#### 19 Alane Olson

20 Alane Olson is a medical examiner with the Clark County Coroner's Office. PHT  
21 123. She was the medical examiner assigned to McFarlane. PHT 125. She described the  
22 general autopsy procedure, and then explained that, in this case, because of the brain injury,  
23 she needed an expert opinion and so she would send the brain to a neuropathologist. PHT  
24 128.

25 Olson described McFarlane as having evidence of medical intervention. PHT 128.  
26 McFarlane had been in a hospital and had a breathing tube. PHT 128. McFarlane had also  
27 undergone organ donation while at the hospital, and she had some small injuries on her body  
28 surfaces. PHT 128. The organs had been removed prior to Olson receiving McFarlane's

1 body. PHT 129.

2 McFarlane had evidence of brain bleeding and swelling. PHT 129. Aside from the  
3 injuries inside McFarlane's head, she found no other significant injuries. PHT 130. Olson  
4 testified that the brain was sent to Greco at the University of California, Davis, for  
5 examination. PHT 133.

6 Olson concluded that the cause of death was brain injuries due to assault, as well as  
7 the contributing conditions of ischemic encephalopathy due to occlusion of the left internal  
8 carotid artery, hypertension, and diabetes. PHT 134. Ischemic encephalopathy occurs when  
9 there are blockages in the arteries and the brain is not getting enough blood flow. PHT 134.

10 Olson testified that, with strangulation, there are often not external signs of injury.  
11 PHT 135. Therefore, Olson did a focused internal examination of McFarlane's neck to  
12 determine whether there was evidence of strangulation. PHT 136-35. McFarlane had no  
13 injuries to her neck when Olson specifically examined it. PHT 136.

14 Olson was questioned whether she was familiar with the term "petechia," which she  
15 described, but she did not testify that McFarlane had petechia or petechial hemorrhaging.  
16 PHT 136-37. Olson also did not testify that there was any evidence of strangulation in a  
17 manner that created a risk of death or substantial bodily harm.

#### 18 PRESNT PROCEDURAL POSTURE

19 Following the conclusion of the testimony, the grand jury returned a true bill and  
20 Mayo was charged by indictment. He has pleaded not guilty, and his trial is currently set for  
21 February 9, 2015.

#### 22 ARGUMENT

23 Numerous errors occurred during the State's grand jury presentation that denied Mayo due  
24 process and a fundamentally fair proceeding, which requires that the Indictment against him be  
25 dismissed. The arguments include: (1) The State did not present the exculpatory evidence that Mayo  
26 asked the State to present under NRS 172.145(2); (2) The language regarding the use of a vacuum  
27 cleaner in the Indictment must be stricken; (3) The State did not establish proper chain of custody  
28

1 for its evidence, requiring that the Murder charge be dismissed; (4) There was no probable cause to  
2 support the charges of Battery Domestic Violence—Strangulation, Coercion, and Preventing or  
3 Dissuading a Witness or Victim From Reporting Crime of Commencing Prosecution; and (5) The  
4 State introduced many prejudicial and improper bad-acts evidence. He will address each argument  
5 in turn.

6 However, applicable to all arguments below is that it is axiomatic that at the grand jury the  
7 only evidence that is received must be legal evidence. See Goldsmith v. Sheriff, 85 Nev. 295, 454  
8 P.2d 86 (1969).

9  
10 1. THE STATE DID NOT PRESENT THE EXCULPATORY EVIDENCE THAT  
11 MAYO REQUESTED BE PRESENTED TO THE GRAND JURY, IN  
12 VIOLATION OF HIS DUE PROCESS RIGHTS AND NRS 172.145(2), AND,  
13 THEREFORE, THE INDICTMENT MUST BE DISMISSED

14 The Indictment must be dismissed because the State failed to comply with its obligation to  
15 present exculpatory evidence to the grand jury. NRS 172.145(2) states “[i]f the district attorney is  
16 aware of any evidence which will explain away the charge, the district attorney shall submit it to the  
17 grand jury.” The State violates NRS 172.145(2) when the State fails to present evidence to the  
18 grand jury which has a tendency to explain away the charge. Sheriff v. Frank, 103 Nev. 160, 165,  
19 734 P.2d 1241, 1244 (1987); Ostman v. Dist. Ct., 107 Nev. 563 (1991).

20 The grand jury’s function is “to clear the innocent, no less than to bring to trial those who  
21 may be guilty.” U.S. v. Dionisio, 410 U.S. 1, 16-17 (1973). When the State “refuses to present  
22 exculpatory evidence, [the State], in effect destroys the existence of an independent and informed  
23 grand jury.” U.S. v. Gold, 470 F. Supp. 1336, 1353 (N.D. Ill. 1979); Johnson v. Superior Court, 539  
24 P.2d 792 (Cal. 1975).

25 Under Nevada law, the State has an absolute duty to present to the grand jury any evidence  
26 which tends to explain away the charges. NRS 172.145(2). Failure to do so renders the resulting  
27 Indictment invalid and denies the defendant due process, and requires dismissal. Sheriff v. Frank,  
28

1 103 Nev. 160 (1987); Ostman v. Dist. Ct., 107 Nev. 563 (1991).

2 The determination of whether or not certain evidence is exculpatory within the meaning of  
3 NRS 172.175(2), thereby triggering the State's duty to present it to the grand jury, is generally left to  
4 the District Court's discretion. Ostman at 564. However, under certain circumstances, evidence  
5 may be deemed exculpatory as a matter of law. Id. at 564-65. Fairness is a bedrock legal duty  
6 required of the State that chooses to present its probable cause determination to a grand jury.  
7

8 Grand jury proceedings must be done fairly and in compliance with due process. The  
9 fundamental principle behind this premise is the fact that neither the defendant nor his counsel are  
10 present to be able to challenge evidence or examine witnesses. There is no Court present to ensure  
11 that due process is complied with and the process is fair and that the evidence is presented in a way  
12 that protects a defendant's constitutional rights. This is why NRS 172.145(2) requires the State to  
13 present exculpatory evidence.  
14

15 In the instant case, Mayo specifically requested that the State present exculpatory evidence.  
16 Mayo outlined the exculpatory evidence to be presented and asked that the State present to the grand  
17 jury the following:

18 [A]fter the alleged incident, Beverly McFarlane was in UMC Hospital for  
19 approximately fifteen (15) days, and spent the last few of those days on life support.  
20 She was pronounced brain dead on August 23, 2013 [sic], but still alive and on life  
21 support. On August 25, 2013 [sic], McFarlane's sister elected to remove McFarlane  
22 from life support and stop any measures to prolong her life. McFarlane was an organ  
23 donor, and as such, her organs were harvested while she was still alive and on life  
24 support. The transplant coordinator for UMC, Rudy Murray, informed the NLVPD  
25 that '[a]fter [Beverly's] organs are donated, she will cease to live. Thus, her death  
26 occurred after her vital organs were removed. Additionally, one of the pathologic  
27 findings on the autopsy report is that McFarlane was '[s]tatus post organ donation  
28 (heart valves, kidneys, spleen, left adrenal gland).

25 However, the State did not present any of this exculpatory evidence, except for the fact that  
26 McFarlane's organs had been donated. However, the State did not present that the organs were  
27 donate while McFarlane was still alive. This evidence is clearly exculpatory and tends to explain  
28

1 away the charges in that, Rudy Murray, the transplant coordinator for UMC, informed the NLVPD  
2 that after McFarlane's organs were donated, she would cease to live. Further, McFarlane was still  
3 alive at the time the organs were donated, and it was her sister who elected to remove her from life  
4 support. The harvesting of her organs, while she was still alive, is what ultimately resulted in her  
5 death. This clearly would tend to explain away the charges.

6 Accordingly, the State's failure to present this exculpatory evidence requires that the  
7 Indictment be dismissed.  
8

9 II. THE VACUUM-CLEANER LANGUAGE INCLUDED IN THE INDICTMENT  
10 MUST BE STRICKEN AS MAYO IS NOT CHARGED WITH COMMITTING  
11 A CRIME WITH USE OF A DEADLY WEAPON

12 Mayo is charged in Count 1 with Murder. He is not charged with use of a deadly weapon.  
13 However, the Indictment alleges that he murdered McFarlane by striking McFarlane on the head  
14 and/or body with a "closed fist and/or a vacuum cleaner." The State is not alleging that Mayo used  
15 the vacuum cleaner as a deadly weapon, and therefore, it is overly prejudicial to include this  
16 language in the Indictment. Further, because he is not being charged with use of a deadly weapon,  
17 the inclusion of the vacuum-cleaner language does not provide Mayo with sufficient constitutional  
18 notice of the State's theory in order for him to be able to effectively defend the very serious Murder  
19 charge.

20 Further, there was no indication from the testimony presented at the grand jury that Mayo  
21 struck McFarlane in the head with the vacuum cleaner. The testimony presented at the grand jury  
22 was that Mayo obtained a vacuum cleaner, and he admitted to hitting McFarlane in the hand with the  
23 vacuum cleaner. Although this would be hitting her "about the body," as charged in the Indictment,  
24 this action did not contribute in any way to her death. There was no medical evidence presented to  
25 support that the vacuum cleaner in any way contributed to her death.  
26

27 //

1 Because the use of the vacuum cleaner was not a contributing factor to McFarlane's death,  
2 and Mayo is not charged with use of a deadly weapon in commission of the act, it is overly  
3 inflammatory to include this language, as well as constitutionally deficient in providing Mayo with  
4 notice of the State's prosecutorial theory. Therefore, the language in the Indictment regarding the  
5 vacuum cleaner must be stricken from the Indictment.

6  
7 **III. THE STATE DID NOT MEET ITS BURDEN IN ESTABLISHING CHAIN OF**  
8 **CUSTODY ON MCFARLANE'S BRAIN, AND ACCORDINGLY, ALL**  
9 **TESTIMONY REGARDING HER BRAIN INJURIES MUST BE STRICKEN,**  
10 **AND BECAUSE THE STATE IS RELYING SOLELY ON THE BRAIN**  
11 **INJURIES TO ESTABLISH MURDER, THE MURDER CHARGE MUST BE**  
12 **DISMISSED.**

13 The State failed to establish the proper foundation for the chain of custody regarding  
14 McFarlane's brain, and accordingly, all testimony from Greco and Olson concerning the condition  
15 of McFarlane's brain is inadmissible, should be stricken, and, based on the improper, prejudicial,  
16 and unconstitutionally-admitted evidence, the Murder charge must be dismissed. Further, because  
17 the State relies solely on the brain injuries as establishing McFarlane's cause of death, the Murder  
18 charge must be dismissed.

19 The State is responsible for establishing a proper chain of custody for admission of evidence.  
20 See Burns v. Sheriff, 92 Nev 533, 554 P.2d 257 (1976). To establish chain of custody, the State  
21 must show that "substitution, alteration or tampering of the evidence did not occur; and (2) the  
22 offered evidence is the same, or reasonably similar to the substance seized." Id. at 534-35, 554 P.2d  
23 258.

24 Here, the only testimony regarding the chain of custody of McFarlane's brain was that Greco  
25 testified that she received the brain via Federal Express from the Clark County Coroner's Office,  
26 sometime in December 2012, which was accepted by her from office and then provided to her. The  
27 incident is alleged to have occurred in August 2012, and there was no testimony as to who handled  
28 the brain or where the brain was in the four months in between the alleged incident and Greco's

1 receipt of the brain. Additionally, after conducting her autopsy, Olson did not testify that she herself  
2 sent McFarlane's brain to Greco, but testified only that it was sent to Greco. There was no  
3 testimony establishing the chain of custody or who or how many people were involved in handling  
4 and preparing the brain. Additionally, when Olson described McFarlane's autopsy and examination,  
5 she constantly referred to the word "we," indicating that there was a team of people examining  
6 McFarlane, and Olson admitted to the presence and participation of autopsy technicians. PHT 130.  
7

8 The State has the burden to establish a proper chain of custody for admission of evidence. In  
9 this case, the State did not establish that there was no substitution, alteration, or tampering of the  
10 evidence or that it was in the same condition as when seized, especially in light of the four-month  
11 gap in between the autopsy and when Greco received McFarlane's brain and the unknown persons  
12 present and participating in the autopsy, examination, preparation, and handling of McFarlane's  
13 brain.  
14

15 Accordingly, all testimony regarding McFarlane's brain and brain injuries must be excluded,  
16 and because of the prejudicial nature of the improper and unconstitutional admission of this evidence  
17 and the State's reliance on McFarlane's brain injuries as her cause of death, the Indictment must be  
18 dismissed.  
19

20 **IV. THERE IS NO PROBABLE CAUSE TO SUPPORT THE CHARGES OF**  
21 **BATTERY DOMESTIC VIOLENCE, STRANGULATION, COERCION, AND**  
22 **PREVENTING OR DISSUADING A WITNESS OR VICTIM FROM**  
23 **REPORTING A CRIME OR COMMENCING PROSECUTION**

24 There was insufficient evidence presented at the grand jury to support probable cause on the  
25 charges of Battery Domestic Violence—Strangulation, Coercion, and Preventing or Dissuading  
26 Witness or Victim From Reporting Crime or Commencing Prosecution. Mayo will address each  
27 charge in turn below.  
28

1       A. There was no probable cause presented to support the charge of Battery Domestic  
2       Violence—Strangulation, as well as inadmissible testimony presented regarding this  
3       charge, and therefore, this Count must be dismissed.

4       Mayo is charged with Battery Domestic Violence—Strangulation. "Strangulation" is defined  
5       as "intentionally impeding the normal breathing or circulation of the blood by applying pressure on  
6       the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk  
7       of death or substantial bodily harm." NRS 200.481(1)(h). Here, there was no probable cause to  
8       support that strangulation created a risk of death or substantial bodily harm, and additionally,  
9       inadmissible evidence was improperly admitted to support this charge. Accordingly, this Count  
10      must be dismissed.

11      First, Ashanti testified that Mayo choked McFarlane. Aker testified that he saw slight  
12      bruising and/or discoloration around McFarlane's neck. However, Olson, the medical expert,  
13      testified that McFarlane had no significant injuries other than the injuries inside of her head. Olson  
14      also testified that, with strangulation, there are often no external signs of injury. Therefore, Olson  
15      conducts an internal medical examination to determine whether strangulation occurred. Olson  
16      testified that the internal examination showed that McFarlane had no injuries to her neck. She also  
17      did not note any injuries to McFarlane's neck in her autopsy report and no injuries to her neck as  
18      contributing factors to her death. Olson did not describe any pathologic findings with regard to  
19      strangulation and did not cite it as a contributing factor to McFarlane's brain injuries. And, Olson  
20      did not testify that McFarlane had petechia or petechial hemorrhaging.

21      Based on the medical testimony presented, there is not probable cause to show that Mayo  
22      strangled McFarlane in a manner that created a risk of death or substantial bodily harm. Therefore,  
23      this Count must be dismissed.

24      Second, inadmissible and improper testimony was admitted by the State in support of this  
25      charge, which requires dismissal of this Count. Although the State had two medical experts testify  
26      27  
28

1 at the grand jury presentment, rather than question the medical experts about the presence of  
2 petechia and strangulation, the State instead elicited unqualified expert testimony and speculation  
3 from both Vital and Aker regarding whether Mayo committed strangulation that created a risk of  
4 death or substantial bodily harm. Further, the State failed to present evidence that the presence of  
5 petechia means that strangulation occurred in a manner that created a risk of death or substantial  
6 bodily harm.

7 "A witness is acting as an expert witness . . . when he does more than merely relate the facts  
8 and instead analyzes the facts and/or . . ." makes conclusions regarding those facts. Abbott v. State,  
9 122 Nev. 715, 728, 138 P.3d 462, 471 (2006). Here, Vital and Aker testified extensively to the  
10 presence of petechia. However, no testimony was ever given that the presence of petechia means  
11 that strangulation occurred in a manner that created a risk of death or serious bodily harm.

12  
13 Additionally, Vital said that he witnessed petechia on McFarlane, which he stated was  
14 caused by strangulation. Vital said that he knew this based on his training and experience as a police  
15 officer. However, Vital did not conduct a medical examination of McFarlane's eye lids to determine  
16 the presence of petechia, and when Aker testified about a photograph of McFarlane, he could not  
17 identify any petechia present. Further, Vital is not trained as a medical expert, is not a doctor, and is  
18 not in a position to say whether petechia is caused by strangulation or by other causes. It is improper  
19 for him to testify as a medical expert and say that petechia is caused by strangulation. And, the State  
20 did not present the exculpatory evidence that petechia can be caused by conditions other than  
21 strangulation. Further, there was no testimony presented that the fact that petechia may or may not  
22 be present means that strangulation occurred in a manner that created a risk of death or substantial  
23 bodily harm.

24  
25  
26 Next, and more egregiously, Aker testified improperly as a medical expert regarding the  
27 petechia. He first testified that he had attended training through the Nevada Attorney General's  
28

1 Office and Nevada POST. Both trainings only involve police officers' standards and training  
2 regarding battery domestic violence investigations. This does not make Aker qualified to testify as a  
3 medical expert, nor did he conduct a medical examination of McFarlane.

4 In fact, Aker's lack of medical expertise regarding strangulation was evidenced by him  
5 testifying that the signs and symptoms of strangulation usually come to him from the victim, who  
6 describes pain in the neck or difficulty swallowing or breathing. He then proceeded to talk about  
7 petechial hemorrhaging in the eye lids as being another sign of strangulation.  
8

9 He said that he believed McFarlane's symptoms of strangulation were hesitation with neck  
10 movement, self-soothing of her neck, and hoarseness in her voice. He had never met McFarlane  
11 before, and therefore, it was pure speculation for him to determine that any of those actions were  
12 inconsistent with McFarlane's normal behavior. Second, none of those factors indicate that  
13 strangulation occurred that created a risk of death of substantial bodily harm.  
14

15 Aker then testified that a medical examination was conducted of McFarlane at the hospital  
16 and petechia was present. This testimony is inadmissible as Aker did not conduct the medical  
17 examination, and his statement is based on inadmissible hearsay from the hospital examiner to Aker.  
18 And when shown a picture of McFarlane, he was unable to identify the presence of petechia.  
19 Additionally, the State did not present, through Aker, the exculpatory evidence that petechia can be  
20 caused by other causes than strangulation.  
21

22 Finally, Aker speculated and said that his difficulty communicating with McFarlane was  
23 because her injuries to her throat lead to brain issues and an inability to communicate. Not only is  
24 this testimony pure speculation and inadmissible, Aker is not qualified to render this conclusion and  
25 these statements should not have been presented to the grand jury. And, his testimony is patently  
26 incorrect and directly contradicted by the medical expert testimony presented, Aker's total lack of  
27 expertise and improper testimony is well-demonstrated by the fact that the medical examiner's  
28

1 testimony directly contradicted his pure, unqualified speculation.

2 The absolutely improper police-officer testimony coupled with the medical expert's  
3 testimony that there were no external or internal injuries consistent with strangulation and  
4 strangulation was not a contributing factor to McFarlane's death requires that this Count be  
5 dismissed. The State wholly failed to establish probable cause that Mayo strangled McFarlane "in a  
6 manner that creates a risk of death or substantial bodily harm."  
7

8 **B. There was no probable cause to support the charge of Coercion, and therefore, this**  
9 **Count must be dismissed.**

10 Mayo is charged with Coercion for using physical force or the threat of force against  
11 McFarlane by not allowing her to call the police. However, there was no probable cause to support  
12 that McFarlane was not allowed to call the police. At the grand jury, Ashanti testified that, during  
13 the beginning of the physical altercation, McFarlane called 911, and Mayo then slapped the  
14 telephone out of her hand. However, Ashanti also testified that Ashanti tried to locate McFarlane's  
15 telephone in order to contact the police. She could not find it because McFarlane had too many  
16 possessions in the pockets of her purse. Ashanti also testified that the telephone was in McFarlane's  
17 bedroom, and that after the physical altercation, McFarlane took a shower and then laid down in her  
18 bedroom. There was no testimony whatsoever that Mayo used force or the threat of force to coerce  
19 McFarlane into not calling the police.  
20

21 There was no testimony that Mayo threatened McFarlane in any way not to call the police.  
22 McFarlane was in her bedroom with access to her telephone. In fact, the police were not contacted  
23 until Friday, when Ashanti called the police because McFarlane was not feeling well. Accordingly,  
24 because there was no testimony that Mayo used physical force or the threat of force to prevent  
25 McFarlane from contacting the police, this Count must be dismissed.  
26

27 //

28 //

1 C. There was no probable cause to support the charge of Preventing or Dissuading  
2 Witness or Victim From Reporting Crime or Commencing Prosecution, and therefore,  
3 this Count must be dismissed.

4 Mayo is charged with Preventing of Dissuading Witness or Victim From Reporting Crime or  
5 Commencing Prosecution by intimidating or threatening Ashanti and McFarlane from commencing  
6 a criminal prosecution or proceeding by threatening to hurt Ashanti and/or McFarlane if Ashanti  
7 and/or McFarlane contacted the police. There was no probable cause presented to the grand jury to  
8 support this charge, and therefore, it must be dismissed.

9 Regarding McFarlane, as discussed above, there was no testimony that Mayo intimidated or  
10 threatened McFarlane in any way regarding contacting the police or commencing prosecution or  
11 seeking assistance with such. Ashanti testified that she contacted the police only because McFarlane  
12 was not feeling well—not because of the domestic incident. There was no probable cause that Mayo  
13 intimidated or threatened McFarlane from commencing a criminal prosecution.  
14

15 Regarding Ashanti, Ashanti testified that Mayo knew that she was trying to locate  
16 McFarlane's telephone to call the police. She testified first that he said nothing to her about this.  
17 She then changed her testimony and said that he told her to "go ahead" and call the police, and then  
18 changed her testimony again to say that he told her that if she called the police, he would "knock out  
19 her mom." Ashanti's first two testimonial statements do not support that Mayo dissuaded her from  
20 commencing a criminal prosecution. And further, she testified that the day after the physical  
21 altercation was uneventful, demonstrating that she was under no threat of fear not to commence a  
22 criminal prosecution. Finally, when Ashanti did call the police on Friday, she did not call them to  
23 commence prosecution—she called them because McFarlane was not feeling well. Thus, her  
24 intention in calling the police was because McFarlane was not feeling well and her intention was not  
25 to commence a criminal prosecution or gain assistance. And, Ashanti did call the police when  
26 McFarlane was not feeling well, demonstrating that she did not believe she was under intimidation  
27  
28

1 or threats from Mayo. Because Ashanti did not intend to commence a prosecution or seek assistance  
2 with a prosecution, Mayo cannot be charged with dissuading her from seeking assistance with a  
3 prosecution or commencing a criminal prosecution. Accordingly, this charge must be dismissed.

4 V. MANY HIGHLY PREJUDICIAL UNCHARGED BAD ACTS WERE  
5 TESTIFIED TO BEFORE THE GRAND JURY IN VIOLATION OF MAYO'S  
6 DUE PROCESS AND FUNDAMENTAL FAIRNESS CONSTITUTIONAL  
7 RIGHTS AND, AS SUCH, THE INDICTMENT AGAINST HIM MUST BE  
8 DISMISSED.

9 During the State's presentment to the grand jury, numerous uncharged bad acts were testified  
10 to, completely prejudicing the proceeding and denying Mayo due process and a fundamentally fair  
11 proceeding.

12 As outlined above, only legal evidence is admissible at the grand jury proceeding. See  
13 Goldsmith v. Sheriff, 85 Nev. 295, 454 P.2d 86 (1969). Uncharged bad acts may only be introduced  
14 after the Court has conducted a hearing and found by "plain, clear and convincing evidence that the  
15 defendant committed the offense." Petrocelli v. State, 101 Nev. 46, 52, 692 P.2d 503, 507-08  
16 (1985), superseded by statute on other grounds by NRS 213.085 (1995). Additionally, the Court  
17 must also find that the probative value outweighs the prejudicial effect. Id.

18 Here, numerous bad-acts evidence was admitted. The State itself recognized that the bad-  
19 acts evidence was improperly admitted and occasionally admonished the grand jury not to consider  
20 the bad-act evidence. The bad-act evidence admitted included: Ashanti testifying many times that  
21 Mayo had threatened to "whoop" her earlier in the day regarding a completely unrelated and  
22 irrelevant incident; Ashanti testifying that Mayo yelled at her while playing with a ball before  
23 dinner, again, a completely irrelevant and unrelated incident; Ashanti testifying that Mayo had  
24 yelled and been angry before, which caused a vein to pop out of his head, which Ashanti speculated  
25 meant that he was very angry; and Ashanti testifying that Mayo had previously fought with  
26 McFarlane but "don't actually beat her."  
27  
28

1 The State admonished the grand jury three times during this testimony—once after Ashanti  
2 first testified that Mayo threatened to “whoop” her earlier in the day, once after Ashanti described  
3 that Mayo had previously fought with McFarlane, and once at the conclusion of Ashanti’s testimony.

4 None of the bad-act evidence was admissible. And here, the overwhelming amount of bad-  
5 act evidence was overly prejudicial. Although the State admonished the grand jury, the  
6 admonishments were unclear and could not cure the prejudicial effect.

7 The State’s first admonishment following Ashanti’s testimony that Mayo threatened to  
8 “whoop” her, came after a long statement by Ashanti, and the State simply said that the grand jury  
9 was to “disregard that last part” as well as any statements made by McFarlane. This admonishment  
10 was unclear as to what the “last part” the State was referring to, as well as being included in an  
11 admonishment regarding hearsay. The second admonishment came after Ashanti discussed Mayo  
12 previously fighting with McFarlane, again, a long statement from Ashanti, and the State said “Let’s  
13 talk only about this time specifically. . . . And ladies and gentlemen, you are instructed to disregard  
14 that.” Again, this admonishment was wholly unclear as to what the grand jury was supposed to  
15 disregard and insufficient to cure the prejudicial effect of the testimony. Finally, the last  
16 admonishment from the State was at the end of Ashanti’s testimony. The State said “Ladies and  
17 gentlemen, you might have heard about some testimony regarding other instances of anger by the  
18 [D]efendant. That information is not to be considered by you in making your determination here  
19 today. The only thing you are to consider is the evidence from the event in question.”  
20  
21

22 Although the State admonished the jury three times, there was such overwhelming bad-act  
23 evidence introduced that the admonishments could not cure the prejudicial effect on the grand jury.  
24 Their introduction denied Mayo due process and a fundamentally fair proceeding, and accordingly,  
25 the indictment must be dismissed.  
26  
27  
28

CONCLUSION

Based on the above, Mayo respectfully requests that this Court grant his Petition for Writ of Habeas Corpus and dismiss the indictment against him.

DATED this 28 of February, 2014.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By:

  
AMY A. FELICIANO, #9596  
Deputy Public Defender

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NOTICE

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff

YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT OF  
HABEAS CORPUS will be heard on the 19th day of March, ~~2014~~, at 9:00 a.m. in Department No.  
XXV District Court. 2014

DATED this 28th day of February, 2014.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Amy A. Feliciano  
AMY A. FELICIANO, #9596  
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

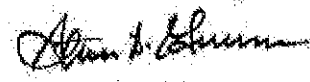
I hereby certify that service of PETITION FOR WRIT OF HABEAS CORPUS, was  
made this 28th day of February, 2014 to:

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE  
Motions@clarkcountydade.com

By: /s/ Sara Ruano  
Secretary for the Public Defender's Office

## **EXHIBIT "A"**

1 IND  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ROBERT STEPHENS  
6 Deputy District Attorney  
7 Nevada Bar #011286  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -VS-

15 ANTHONY TYRON MAYO,  
16 #2581304

17 Defendant.

CASE NO: C-14-295313-1

DEPT NO: XXV

INDICTMENT

18 STATE OF NEVADA }  
19 COUNTY OF CLARK } ss.

20 The Defendant above named, ANTHONY TYRON MAYO, accused by the Clark  
21 County Grand Jury of the crime(s) of MURDER (Category A Felony - NRS 200.010,  
22 200.030); BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION  
23 (Category C Felony - NRS 200.481; 200.485; 33.018); COERCION (Category B Felony -  
24 NRS 207.190) and PREVENTING OR DISSUADING WITNESS OR VICTIM FROM  
25 REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS  
26 199.305), committed at and within the County of Clark, State of Nevada, on or between  
27 August 8, 2012 and August 10, 2012, as follows:

28 ///

///

1 COUNT 1 - MURDER

2 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
3 feloniously, without authority of law, and with premeditation and deliberation, and with  
4 malice aforethought, kill BEVERLY MCFARLANE, a human being, by striking BEVERLY  
5 MCFARLANE about the head and/or body with a closed fist and/or a vacuum cleaner, said  
6 killing: (1) having been willful, deliberate, and premeditated; and/or (2) having occurred in  
7 the commission of an unlawful act, which in its consequence, naturally tends to destroy the  
8 life of a human being, which acts results in the death of BEVERLY MCFARLANE on or  
9 about August 23, 2012.

10 COUNT 2 - BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION

11 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
12 unlawfully, and feloniously use force or violence upon the person of the defendant's spouse,  
13 former spouse, or any other person to whom the defendant is related by blood or marriage, a  
14 person with whom the defendant is or was actually residing, a person with whom the  
15 defendant is having a dating relationship, a person with whom the defendant has a child in  
16 common, the minor child of any of those persons or the defendant's minor child, to-wit:  
17 BEVERLY MCFARLANE, by strangulation.

18 COUNT 3 - COERCION

19 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
20 unlawfully, and feloniously use physical force, or the immediate threat of such force, against  
21 BEVERLY MCFARLANE, with intent to compel her to do, or abstain from doing, an act  
22 which she had a right to do, or abstain from doing, by not allowing the said BEVERLY  
23 MCFARLANE to call the police.

24 ///

25 ///

26 ///

27 ///

28 ///

1 COUNT 4 -- PREVENTING OR DISSUADING WITNESS OR VICTIM FROM  
2 REPORTING CRIME OR COMMENCING PROSECUTION

3 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
4 unlawfully, and feloniously, by intimidation or threats, prevent or dissuade or hinder or delay  
5 ASHANTI MAYO and/or BEVERLY MCFARLANE from commencing a criminal  
6 prosecution or a proceeding for the revocation of a parole or probation, or seeking or  
7 assisting in such a prosecution or proceeding, by threatening to hurt Ashanti Mayo and/or  
8 BEVERLY MCFARLANE if Ashanti Mayo and/or BEVERLY MCFARLANE contacted  
9 the police.

10 DATED this 11<sup>th</sup> day of January, 2014.

11  
12 STEVEN B. WOLESON  
13 Clark County District Attorney  
14 Nevada Bar #001565

15 BY

16 ROBERT STEPHENS  
17 Deputy District Attorney  
18 Nevada Bar #011286

19 ENDORSEMENT: A True Bill

20  
21   
22 Foreperson, Clark County Grand Jury  
23  
24  
25  
26  
27  
28

Names of witnesses testifying before the Grand Jury:

AKER, ROBERT, NLVPD P#1053

GRECO, CLAUDIA, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

MAYO, ASHANTI, C/O CPS AND/OR B. MCFARLAND

OLSON, DR. ALANE, CCME, 1704 PINTO LN., LVN

OWENS, BENJAMIN, NLVPD P#1173

VITAL, MANUEL, NLVPD

Additional witnesses known to the District Attorney at time of filing the Indictment:

BODNAR, MICHAEL, NLVPD P#724

CUSTODIAN OF RECORDS, CCDC

CUSTODIAN OF RECORDS, CITY OF LAS VEGAS DETENTION CENTER

CUSTODIAN OF RECORDS, LVMPD DISPATCH

CUSTODIAN OF RECORDS, LVMPD RECORDS

CUSTODIAN OF RECORDS, NLVPD DISPATCH

CUSTODIAN OF RECORDS, NLVPD RECORDS

FISCHER, PATRICK, NLVPD P#1647

GADAM, FNU, UMC, 1800 W. CHARLESTON BLVD., LVN

GASTON, LEE, NLVPD P#2035

HALVERSON, ERIC, NLVPD P#1943

HOLLINGS, LARRY, NLVPD P#1594

LEE, KANOWELL, NLVPD P#2288

MARKS, DANA, NLVPD P#1726

MCFARLAND, BERNICE, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

///

///

///

///

1 PARENT/GUARDIAN OF ASHANTI MAYO, c/o CCD/VWAC, 200 LEWIS AVE., LVN  
2 PEPITO, FNU, UMC, 1800 W. CHARLESTON BLVD., LVN  
3 SEARCY, STEVIE, 43169 MATINEE AVE., NLV, NV  
4 SWIFT, SHELDON, 326 STURGEON LN., LVN  
5 VIGAL, MANUEL, NLVPD P#1923  
6 VILLANUEVA, ALAIN, NLVPD P#1869  
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27 13BGJ036X/12FN1733X/dd-GJ  
28 NLVPD EV# 1214352  
(TK1/11)



## Office of the Public Defender

309 So. Third St. • Second Floor • PO Box 552610 • Las Vegas NV 89155-2610

(702) 455-4665 • Fax (702) 455-5112

Philip J. Kohn, Public Defender • Debra R. Richards, Assistant Public Defender

10/11/2013 10:00:00 AM 10/11/2013 10:00:00 AM 10/11/2013 10:00:00 AM 10/11/2013 10:00:00 AM

December 18, 2013

### VIA CERTIFIED MAIL

91 7199 9991 7032 7358 6867

Clark County District Attorney  
200 Lewis Avenue, 3rd Floor, Rm. 3418 • Grand Jury  
Las Vegas, NV 89155-2212

RE: State of Nevada v. Anthony Tryon Mayo  
Case No. 12FN1733X

To Deputy District Attorneys Jeffrey Rogan and Colleen Brower

On December 12, 2013, I was served with a copy of the District Attorney's Notice of Intent to Seek Indictment in Justice Court Case Number 12FN1733X. As counsel of record, I would like to request notice of the time, date, and place of the grand jury hearing in accordance with NRS 172.241, and *Sheriff v. Marcum*, 105 Nev. 824 (1989), so that Mr. Mayo can testify at this hearing, if he so elects. Pursuant to Chapter 172, this letter is to serve as notice of our request to review the instructions of the law to be given to the grand jury for accuracy and completeness, so as to avoid an improperly instructed grand jury. You may send all of this information by email at: Amy.Feliciano@clarkcountynv.gov or by United States Mail or hand delivery at: Amy A. Feliciano, Clark County Public Defender's Office, 309 Third St. #226, P.O. Box 552610, Las Vegas, Nevada, 89155-2610.

Additionally, please be reminded of the grand jury's obligation to receive none but legal evidence to the best evidence in degree in accordance with NRS 172.135(2). Furthermore, Mr. Mayo formally requests that any and all information that will explain away the potential charges be submitted to the grand jury. NRS 172.145(2).

At this point, Mr. Mayo has not received complete discovery in this case. If the State is aware of exculpatory evidence, NRS 172.145(2), confers a duty to present such evidence to the grand jury. In the discovery that Mr. Mayo has received, the exculpatory evidence that he requests be presented to the grand jury, in addition to the State's obligation outlined above, includes that the grand jury be informed that, after the alleged incident, Beverly McFarlane was in UMC hospital for approximately fifteen (15) days, and spent the last few of those days on life support. She was pronounced brain dead on August 23, 2013, but still alive and on life support. On August 25, 2013, McFarlane's sister elected to remove McFarlane from life support and stop

any measures to prolong her life. McFarlane was an organ donor, and as such, her organs were harvested while she was still alive and on life support. The transplant coordinator for UMC, Rudy Murray, informed the NLVPD that "[a]fter [Beverly's] organs are donated, she will cease to live. Thus, her death occurred after her vital organs were removed. Additionally, one of the pathologic findings on the autopsy report is that McFarlane was "[s]tatus post organ donation (heart valves, kidneys, spleen, left adrenal gland).

In the event that the grand jury returns a true bill, I would appreciate your notifying me directly, as I wish to be present at Mr. Mayo's initial appearance in the Eighth Judicial District Court on the indictment.

If you have any questions or need additional information, please contact me at (702) 455-5733.

Very truly yours,

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

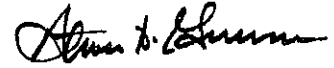
  
Amy A. Feliciano  
Deputy Public Defender

/s/af

1 **RET**

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ROBERT STEPHENS  
6 Deputy District Attorney  
7 Nevada Bar #011286  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 State of Nevada

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CLERK OF THE COURT

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10 In the Matter of Application,

11 of

12 ANTHONY TYRON MAYO,  
13 #2581304

14 for a Writ of Habeas Corpus.  
15  
16

Case No. C-14-295313-1

Dept No. XXV

17 **RETURN TO WRIT OF HABEAS CORPUS AND MOTION TO DISMISS**

18 DATE OF HEARING: April 21, 2014

19 TIME OF HEARING: 9:00 A.M.

20 COMES NOW, DOUGLAS C. GILLESPIE, Sheriff of Clark County, Nevada,  
21 Respondent, through his counsel, STEVEN B. WOLFSON, District Attorney, through  
22 ROBERT STEPHENS, Deputy District Attorney, in obedience to a writ of habeas corpus  
23 issued out of and under the seal of the above-entitled Court on the 28th day of February, 2014,  
24 and made returnable on the 19th day of March, 2014, at the hour of 9:00 A.M., before the  
25 above-entitled Court, and states as follows:

26 1. Respondent admits the allegations of Paragraphs 1 and 2 of the Petitioner's Petition  
27 for Writ of Habeas Corpus and Motion to Dismiss.  
28

1           2. Respondent denies the allegations of Paragraph 3 of the Petitioner's Petition for Writ  
2 of Habeas Corpus.

3           3. Paragraphs 4 and 5 do not require admission or denial.

4           4. The Petitioner is in the actual custody of DOUGLAS C. GILLESPIE, Clark County  
5 Sheriff, Respondent herein, pursuant to a Criminal Indictment, a copy of which is attached  
6 hereto as Exhibit 1 and incorporated by reference herein.

7           Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged and the  
8 Petition be dismissed.

9           DATED this 4th day of April, 2014.

10                               Respectfully submitted,  
11                               STEVEN B. WOLFSON  
12                               Clark County District Attorney  
13                               Nevada Bar #001565

14                               BY 

15                               ROBERT STEPHENS  
16                               Deputy District Attorney  
17                               Nevada Bar #011286

18                               **PROCEDURAL SUMMARY**

19           On January 17, 2014, an Indictment was filed against Anthony Mayo (Defendant)  
20 charging him with Murder. Trial is currently set for February 9, 2015. On February 28, 2014,  
21 Defendant filed the instant Petition for Writ of Habeas Corpus. The State's Return follows.

22                               **FACTUAL SUMMARY**

23           On or about August 8, 2012, Beverly McFarlane (Beverly) was living with her husband,  
24 Anthony Mayo (Defendant) and their two children, Ashanti and Ashley. Grand Jury  
25 Transcript (GJT) 41. Defendant became upset when Beverly accidentally called Defendant.  
26 GJT 54. Defendant was so irritated and annoyed by the phone call that he ordered Ashanti  
27 and Ashley to their room. GJT 54. When Beverly arrived home from work, Defendant was  
28 playing with the children in the living room. GJT 56. Beverly asked that they stop playing  
while she began cooking dinner. GJT 56. This caused a verbal argument between Beverly

1 and Defendant. GJT 56. Once dinner was finished they all went upstairs to the master  
2 bedroom. GJT 58.

3 Another argument arose about the cooking. GJT 59. Defendant ordered Ashanti and  
4 Ashley to their room. GJT 59. Defendant was so mad that his eyes were "popping out of his  
5 head" and his vein was popping out of his forehead. GJT 66. Beverly tried to call 911 but  
6 Defendant slapped the phone out of Beverly's hand. GJT 59. The phone slid under the fridge  
7 in the room. GJT 72. Ashanti tried to retrieve the phone, but Defendant stopped her. GJT 72.

8 Defendant then mounted Beverly and began choking her. GJT 59. Out of fear, Ashanti  
9 and Ashley went to their room which is directly across from the master bedroom. GJT 60. As  
10 Ashanti watched, Defendant punched Beverly numerous times in the face and body. GJT 63.  
11 Beverly kept screaming for help. GJT 63. Defendant then began to choke her. GJT 63.  
12 Ashanti saw Defendant pushing Beverly down into the bed. GJT 63. She knew Beverly was  
13 being choked because she could hear it in Beverly's voice. GJT 64. Beverly would scream  
14 and then she would just stop. GJT 64.

15 Ashanti eventually turned away from the beating and went downstairs in an attempt to  
16 find her mom's phone in her purse. GJT 60. Ashanti was unable to find the phone in the  
17 purse. GJT 61. Defendant observed Ashanti searching for the phone. GJT 72. He told  
18 Ashanti that if she called the police, he would knock Beverly out. GJT 73. He also threatened  
19 to "whoop" Ashanti. GJT 73. She then hid behind the door so she could not see what  
20 Defendant was doing to Beverly. GJT 61.

21 At some point, Defendant left the room where he was attacking Beverly and went  
22 downstairs looking for his bat. GJT 61. Defendant looked for it downstairs and then went  
23 into the garage to look for it. GJT 61. Knowing where the bat was located, Ashanti rushed  
24 downstairs and hid the metal bat. GJT 61. Ashanti then returned to her room. GJT 62. After  
25 being unable to locate the bat, and while still upset, Defendant returned to the master bedroom  
26 grabbing a vacuum cleaner on the way in. GJT 62. Defendant attempted to close the door  
27 behind him but left it open just a little bit. GJT 64. Ashanti could hear her mother screaming  
28 to "stop" and "not do that." GJT 64. She then heard a loud bang. GJT 65.

1       Some time passed and Beverly exited the bedroom with a limp. GJT 65. She was  
2 severely beaten, with scratches on her face. GJT 70. Dust was in her hair and on her person.  
3 GJT 65. There was also dust on one side of the bed. GJT 65. The vacuum was broken. GJT  
4 68. Ashanti attempted to communicate with Beverly but Beverly was having a hard time  
5 speaking. GJT 71.

6       Beverly attempted to wash some of the dust off of herself but had a hard time. Ashanti  
7 tried to help her mother as best she could. Beverly then followed Ashanti into her room and  
8 tried to sleep in Ashanti's room, however, Defendant demanded that she sleep in the master  
9 bedroom. GJT 71.

10       The next morning, August 9, 2012, Ashanti heard Defendant apologizing to Beverly.  
11 GJT 74. Beverly slept almost all day. GJT 74. Beverly woke up at around dinner time. GJT  
12 74. She could only whisper. GJT 75. Ashanti brought some food to Beverly. GJT 75. It  
13 appeared to Ashanti that her mom was "very sick." GJT 76. Beverly's eyes were red and her  
14 skin was peeled off on one side of her face. GJT 76-77.

15       On August 10, 2012, Ashanti was woken up by Defendant yelling and cursing at  
16 Beverly to go to work. GJT 44, 46. After Beverly informed Defendant that she would not be  
17 going to work, the Defendant left the residence. GJT 44. At this time, Beverly got out of bed  
18 and tried to call the police. GJT 42-44. Beverly limped to the stairs. GJT 47. Beverly could  
19 only whisper, even though she was trying to talk louder. GJT 48. Initially Beverly called 411.  
20 GJT 49. Then she called 311. GJT 44-45. Because Beverly was having a difficult time  
21 talking, Ashanti eventually took over the 911 call. GJT 43, 45.

22       Officer Vital and other police officers eventually arrived at the residence and tried to  
23 speak to Beverly, however, again Beverly had difficulty communicating with them. GJT 43,  
24 86. Initially Officer Vital spoke to Ashanti who pointed him towards Beverly. GJT 87.  
25 Officer Vital described Beverly as "a little lethargic, disoriented, kind of displaying sort of  
26 intoxicated type of person clues, but I could not smell any odor of alcohol coming from her."  
27 GJT 87. She had slurred speech and muffled sentences. GJT 87. She would get lost in the  
28 conversation. GJT 87. Beverly was unable to give her date of birth, name the President or

1 identify the day of the week. GJT 87-88. Officer Vital also noticed that she had abrasions on  
2 the side of her face and her face was swollen. GJT 88-89. Beverly had pettechia and  
3 scratching on her neck. GJT 89. Ashanti testified that Beverly did not have a limp or difficulty  
4 communicating until right after Defendant beat Beverly. GJT 52. Beverly was taken to the  
5 hospital. GJT 91.

6 Officer Aker followed Beverly to the hospital. GJT 93. Officer Aker has taken almost  
7 240 hours in domestic violence training courses and is permitted to teach other cadets about  
8 domestic violence and strangulation. GJT 94. Specific to strangulation, Officer Aker attended  
9 a course on strangulation. GJT 94. This training has assisted other officers in the field on  
10 numerous occasions. GJT 95.

11 Officer Aker testified that Beverly was very scared and upset. GJT 97. He noticed a  
12 black eye and an abrasion and bruising to her face. GJT 97. Beverly hesitated to move her  
13 neck. GJT 97. She continued to sooth her neck. GJT 97. Her voice was very hoarse. GJT  
14 97. At the hospital, Officer Aker noticed petechial hemorrhaging under her eyelids. GJT 98.  
15 Beverly still had great difficulty in communicating due to her cognitive abilities being  
16 diminished. GJT 102-03.

17 On August 11, 2012, Officer Aker again returned to the hospital to check up on Beverly.  
18 GJT 106. His interaction with Beverly was somewhat limited due to the several medical  
19 procedures that were being performed. GJT 106. However, Officer Aker noticed that her  
20 cognitive abilities had worsened. GJT 107. Beverly had virtually no ability to communicate.  
21 GJT 107. Her answers were just gibberish. GJT 107.

22 Eventually Beverly died and her body was examined by Dr. Olson. GJT 125. Dr.  
23 Olson assigned the autopsy case number 12-7691. GJT 125. Each autopsy is given a unique  
24 case number. GJT 126. An external review of her body showed that Beverly had intravenous  
25 lines on her body. GJT 128. Prior to the autopsy, Dr. Olson noted that Beverly's organs were  
26 donated. GJT 128. In fact, there was a significant cut down the middle of her body which Dr.  
27 Olson said was from the organ procurement procedure. GJT 129. Dr. Olson also identified  
28 other "small injuries" on the surface. GJT 128.

1 The internal examination showed that Beverly sustained a "considerable amount of  
2 swelling in her brain." GJT 129. Dr. Olson preserved the brain and sent it to Dr. Greco. GJT  
3 129, 133. She testified that the bleeding on the brain would be indicative of trauma to the  
4 head. GJT 130. Dr. Olson noticed the stark contrast in the coloration of the brain, which is  
5 indicative of one side sustaining more injury than the other. GJT 131. She concluded that her  
6 brain suffered trauma which "ultimately" led to her death. GJT 133-34. Other contributing  
7 factors included the blockage of arteries which interfered with the blood flow to the brain.  
8 GJT 134. This case was determined to be a homicide. GJT 15.

9 Dr. Claudia Greco has examined 400-500 brains for various reasons in her medical  
10 practice. GJT 12. The Clark County Coroner's Officer contacted her to examine Beverly's  
11 brain. GJT 13. In December 2012, Dr. Greco received the brain from FedEx and kept it in a  
12 locked area. GJT 13. From that point forward she was the only person who handled the brain.  
13 GJT 13. She personally assigned a number to the brain which correlated with the number  
14 assigned by the Clark County Coroner's Office; 12-7691. GJT 14. In her review of the brain,  
15 she noted significant injuries to the left side of the brain. GJT 18. Specifically, she noted a  
16 hemorrhage on the underside of the brain. GJT 18. There was massive swelling on the brain  
17 which would have "gotten to the point where her life was irretrievable." GJT 18. The brain  
18 began to herniate or go down the spinal cord. GJT 22. Dr. Greco explained that this injury is  
19 fatal because it will pinch the spinal cord and "destroy the cardiac breathing mechanisms."  
20 GJT 23. She testified that the brain tissue toward the spinal cord is "very swollen." GJT 25.  
21 In fact it was so swollen that there was no opening for the cerebrospinal fluid to transmit to  
22 the brain. GJT 26-27. This fluid is important because it brings nutrients and oxygen to the  
23 brain. GJT 27-28. The swelling was so severe that Beverly's brain would not have allowed  
24 for cerebrospinal fluid to transmit. GJT 28. Additionally, the swelling prevented blood from  
25 transmitting to the brain. GJT 32. The left side of the brain was noticeably more swollen.  
26 GJT 21. She also noted other hemorrhages in the brain. GJT 24.

27 Dr. Greco testified that the types of injuries Beverly sustained were absolutely the result  
28 of trauma. GJT 28. The hemorrhage was large and caused the death of Beverly. GJT 29. Dr.

1 Greco concluded Beverly "suffered cerebral trauma, brain trauma, and it was aggravated by  
2 the fact that she already had high blood pressure and it was very, very hard to control." GJT  
3 29. Beverly's brain was so significantly damaged that medical intervention could not have  
4 saved her life. GJT 30.

5 Dr. Greco believed the injuries to Beverly's brain were three to four days old. GJT 31.  
6 She further explained that after Beverly sustained this trauma to the head, three to four days  
7 later, the brain had swelled to the point where the necessary nutrients, including oxygen and  
8 blood would not have been transmitting to the brain. GJT 33.

9 Detectives Owens and Bodnar investigated the case once it was determined that  
10 Beverly died. GJT 111. In March 2013, Detectives Owens and Bodnar met with Defendant  
11 in Los Angeles, California. GJT 111-12. After reading Defendant his Miranda rights,  
12 Defendant admitted that a verbal argument escalated into a physical altercation. GJT 113. He  
13 admitted to shoving her with both hands, slapping her in the face, punching her repeatedly,  
14 and striking her with a vacuum. GJT 113. Initially Defendant said that he swung the vacuum  
15 at her, but missed. GJT 117. When he missed the vacuum struck the bedpost and the vacuum  
16 broke. GJT 117. Later, Defendant said that the vacuum hit Beverly in the hand as she tried  
17 to block the vacuum from hitting her. GJT 114. Defendant claimed that Beverly pushed and  
18 slapped him as he was trying to leave the residence. GJT 115-16. Defendant said he and  
19 Beverly had intercourse and then the next morning he left the residence. GJT 114. When he  
20 left he told Beverly that he was going to Los Angeles. GJT 117.

21 Defendant said he gave her some treatment for her black eye to make it appear that she  
22 was not beat up. GJT 118. Defendant asserted that he asked Beverly if she wanted to go to  
23 the hospital, but she refused and just asked for a Tylenol. GJT 119.

## 24 ARGUMENT

### 25 I. THE STATE PRESENTED THE PROPER AND NECESSARY 26 EVIDENCE

27 NRS 172.145 requires the State to present evidence that "will explain away the charge."  
28 Possibly exculpatory evidence should not be examined piece by piece but as a whole in context

1 of all the facts. Mazzan v. Warden, Ely State Prison, 116 Nev. 48, 71, 993 P.2d 25, 39 (2000).  
2 "Undisclosed evidence must be considered collectively, not item by item." Id.

3 The State presented all the evidence that would "explain away the charge" and thus the  
4 Indictment should remain. Defendant complains that the State failed to present evidence that  
5 Beverly was still alive at the time her organs were donated. Defendant also complains that  
6 Rudy Murray, the transplant coordinator for UMC, did not testify that he informed the North  
7 Las Vegas Police Department (NLVPD) that once her organs were donated, she would cease  
8 to live. Furthermore, Defendant alleges that the State should have presented evidence that it  
9 was Beverly's sister who elected to remove her from life support which "ultimately resulted  
10 in her death." The State complied with the statutory requirements and thus the Indictment  
11 should not be dismissed.

12 The State presented abundant evidence that Defendant caused Beverly's death. To  
13 suggest that the cause of Beverly's death was her sister's decision to remove her from life  
14 support is disingenuous. Dr. Greco testified that the injuries Beverly sustained were  
15 "irretrievable." GJT 18. She also testified that the injuries were fatal because they would have  
16 destroyed her "cardiac breathing mechanisms." GJT 23. Furthermore, Dr. Greco indicated  
17 that the injuries Beverly sustained were absolutely caused by trauma. GJT 28. Medical  
18 intervention could not have saved her life. GJT 30. If Defendant not had struck Beverly with  
19 a vacuum and pummeled her numerous times, Beverly would never have been in a situation  
20 where there was a decision to be made about her life support.

21 The State presented evidence that she donated her organs. GJT 128. Common sense  
22 informed the jury that she could no longer live without her organs. The State need not present  
23 specifically that Rudy Murray specifically informed the NLVPD that she would cease to live  
24 after her organs were donated because common sense would indicate that she could no longer  
25 live when her organs were donated.

26 The State also notes that Beverly was declared dead on August 23, 2012. See Grand  
27 Jury Exhibit 15 (Death Certificate). This information was presented to the Grand Jury.  
28 Although the State did not specifically inform the Grand Jury that Rudy Murray, the transplant

1 coordinator, did not contact NLVPD until August 25, 2012, to inform them that Beverly had  
2 been pronounced brain-dead and that she would cease to live after her organs were donated,  
3 the information regarding Beverly donating her organs was presented. These facts clearly  
4 show that Rudy Murray's information to NLVPD is not exculpatory. She was already  
5 pronounced dead before Rudy Murray contacted NLVPD. Beverly was not going to regain  
6 her life after August 23, 2012. She was only being kept on life support in order to preserve  
7 the organs for harvesting. Beverly's sister's decision to remove her from life support was not  
8 the cause of death. These facts do not explain away the charges and thus there is no obligation  
9 to present them.

10 It was the Defendant's violent actions that caused Beverly's death. Defendant  
11 murdered Beverly. Had he not punched her with his fists and struck Beverly with the vacuum,  
12 she would not be dead. The fact that the transplant coordinator called NLVPD two days after  
13 Beverly was pronounced dead to inform them that she would cease to live after the organs  
14 were harvested is not exculpatory. The decision of Beverly's sister to remove her from life  
15 support is also not exculpatory. None of this evidence explains away the charges and thus  
16 there was no obligation for the State to admit this evidence.

## 17 II. "VACUUM" SHOULD REMAIN IN THE INDICTMENT

18 Defendant claims that the "vacuum cleaner" language needs to be removed from the  
19 Indictment because it is overly prejudicial and does not put him on notice of the State's theory.  
20 Both of these claims lack support.

21 Including "vacuum" in the indictment is not overly prejudicial. The fact that the State  
22 did not allege the vacuum as a deadly weapon in this case does not by itself justify its removal  
23 from the Indictment. The State is under obligations of due process and notice to inform  
24 Defendant what crimes the State will prove against him.

25 The purpose of the Indictment is to put Defendant on notice of the crimes for which the  
26 State is prosecuting him. In fact, had the State not alleged that Beverly was murdered by  
27 closed fists and/or vacuum cleaner, the State is confident Defendant would have argued at  
28 length that the State cannot in closing arguments assert that Defendant killed Beverly by

1 striking her with the vacuum based upon notions of due process and notice. The State supplied  
2 proper and necessary notice that it intends to prove that Defendant killed Beverly by striking  
3 her with his fists, striking her with the vacuum or striking her with both. Defendant fails to  
4 cite any authority requiring the removal of "vacuum" from the Indictment.

5 The State need not allege that a vacuum is a deadly weapon to include it in the  
6 Indictment. Just as Defendant used his fists, the State is also alleging that Defendant struck  
7 Beverly with a vacuum which caused her death. It is necessary to include in the Indictment.  
8 Including vacuum in the Indictment is not overly prejudicial. Defendant fails to state with  
9 specificity how the word "vacuum" is prejudicial. The State emphasizes that the Indictment  
10 is not evidence, it is only a charging document.

### 11 **III. THE STATE ESTABLISHED CHAIN OF CUSTODY OF THE BRAIN**

12 "It is not necessary to negate all possibilities of substitution or tampering with an  
13 exhibit, nor to trace its custody by placing each custodian upon the stand; it is sufficient to  
14 establish only that it is reasonably certain that no tampering or substitution took place, and the  
15 doubt, if any, goes to the weight of the evidence." Sorce v. State, 88 Nev. 350, 352-53, 497  
16 P.2d 902 (1972). Any breaks in the chain of custody goes to the weight of the evidence rather  
17 than admissibility.

18 Defendant asserts that the State failed to establish a proper chain of custody of the brain  
19 because there was no testimony as to where the brain was secured until it was sent to Dr.  
20 Greco. Defendant also complains that Dr. Olson did not testify that she sent the brain to Dr.  
21 Greco, which creates another break in the chain. However, the State established a proper chain  
22 of custody and the testimony of Dr. Greco and Dr. Olson proved that Defendant murdered  
23 Beverly.

24 Dr. Olson, of the Clark County Coroner's office testified that she was assigned to  
25 examine Beverly. GJT 125. She assigned the autopsy a unique case number; 12-7691. Dr.  
26 Olson testified that she sent the brain to Dr. Greco. GJT 133. Dr. Greco testified that the brain  
27 was shipped to her via FedEx on a tracking system. GJT 13. The front desk immediately  
28 transported the brain to Dr. Greco upon receipt. GJT 13. Once she received the brain she was

1 the only one to handle it. GJT 13. She kept the brain in a locked closet. GJT 13. She assigned  
2 the brain a unique number and tracked it with the Clark County Coroner unique number; 12-  
3 7691. GJT 14.

4 The State established chain of custody of the brain. The State proved that Dr. Olson  
5 examined the brain and then sent it to Dr. Greco. Dr. Greco received that brain and examined  
6 it. The State need not have each person who ever handled the vessel the brain was transported  
7 in testify to establish chain of custody. And the State need not remove all possibilities of  
8 potential tampering. See Id. The brain was initially retrieved by the Clark County Coroner's  
9 office, a respected government agency with no interest in the case. It was sent via FedEx on  
10 a tracking system and received by Dr. Greco who stated that she was the only person to  
11 examine the brain. Additionally she testified that she kept it in a locked closet. Obviously,  
12 the vessel the brain was secured in was not tampered with prior to Dr. Greco removing the  
13 brain. Any minimal gap in the chain of custody of the vessel the brain was carried in goes to  
14 the weight of the evidence rather than the admissibility of the evidence. Because the State  
15 sufficiently established chain of custody, the testimony of both Dr. Olson and Greco were  
16 appropriate.

17 **IV. THE STATE SUFFICIENTLY PROVED THAT DEFENDANT**  
18 **COMMITTED THE CRIMES OF BATTERY CONSTITUTING**  
19 **DOMESTIC VIOLENCE-STRANGULATION, COERCION, AND**  
20 **PREVENTING OR DISSUADING A WITNESS OR VICTIM FROM**  
21 **REPORTING A CRIME OR COMMENCING PROSECUTION**

22 At a preliminary hearing, and similarly before a Grand Jury, the State need only show  
23 that a crime has been committed and that the accused probably committed it. The finding of  
24 probable cause to support a criminal charge may be based on "slight, even 'marginal' evidence  
25 because it does not involve a determination of the guilt or innocence of an accused." Sheriff  
26 v. Hodges, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980); Sheriff v. Potter, 99 Nev. 389, 391,  
27 663, P.2d 350, 352 (1983).

28 Moreover, to commit an accused for trial, the State is not required to negate all

1 inferences which might explain his conduct, but only to present enough evidence to support a  
2 reasonable inference that the accused committed the offense. Kinsey v. Sheriff, 87 Nev. 361,  
3 363, 487 P.2d 340, 341 (1971) (emphasis added). The Court need not consider whether the  
4 evidence presented in the record may, by itself, could sustain a conviction, since the State at a  
5 preliminary hearing need not produce the quantum of proof required to establish guilt of the  
6 accused beyond a reasonable doubt. Sheriff v. Hodges, supra; Miller v. Sheriff, 95 Nev. 255,  
7 592 P.2d 952 (1979). The State need not present all its evidence at a preliminary hearing.

8 Neither the preliminary hearing nor a hearing on a Petition for Writ of Habeas Corpus  
9 is designed to resolve factual disputes or matters of defense which are functions of the trier of  
10 fact at trial. Brymer v. Sheriff, 92 Nev. 598, 555 P.2d 844 (1976); Wrenn v. Sheriff, 87 Nev.  
11 85, 482 P.2d 289 (1971). Likewise, it is not incumbent upon the state to negate all other  
12 inferences at the preliminary hearing. Graves v. Sheriff, 88 Nev. 436, 498 P.2d 1324 (1972).

13 Defendant challenges the sufficiency of the evidence presented to the grand jury. The  
14 State will discuss each challenge below, showing that sufficient evidence was presented before  
15 the grand jury.

16 **a. The State Presented Sufficient Evidence that Defendant Committed**  
17 **Battery Constituting Domestic Violence – Strangulation.**

18 To prove Battery Constituting Domestic Violence - Strangulation, the State must prove  
19 that Defendant intentionally impeded the normal breathing of a person in a manner that creates  
20 a risk of death or substantial bodily harm. NRS 200.481. The State presented proper and  
21 sufficient evidence to prove this offense before the grand jury.

22 Ashanti testified that she watched Defendant mounted Beverly and begin choking her.  
23 GJT 59. Beverly was screaming and crying for help. GJT 63. Ashanti saw Defendant pushing  
24 Beverly down into the bed. GJT 63. She knew Beverly was being choked because she could  
25 hear it in Beverly's voice. GJT 64. Beverly would scream and then she would just stop. GJT  
26 64.

27 Furthermore, Officer Vital testified that he noticed scratches on the side of the neck and  
28 petechial hemorrhaging in her eyelids. GJT 88-89. He stated in his training and experience,

1     petechial hemorrhaging is usually caused by strangulation. GJT 90.

2             Officer Aker noticed that Beverly's voice was very hoarse when he arrived at the  
3     hospital with Beverly. GJT 97. He also identified petechial hemorrhaging under her eyelids.  
4     GJT 98. Both of these are signs of strangulation. GJT 95-96. Officer Aker heard that her  
5     voice was very hoarse. GJT 97. At the hospital, Officer Aker noticed petechial hemorrhaging  
6     under her eyelids. GJT 98.

7             Officer Aker testified that he has been thoroughly trained to determine whether  
8     strangulation occurred. GJT 93-95. He has responded to numerous crime scenes for his  
9     expertise in this area. GJT 95-96.

10            Defendant alleges that Officers Vital and Aker improperly testified as experts.  
11     Defendant questions such testimony because they are not medically trained. These allegations  
12     have no legal basis. NRS 50.275 states that a witness maybe qualified as an expert by "special  
13     knowledge, skill, experience, training or education."

14            Officer Aker testified at length about his specialized knowledge, training, experience  
15     and education in the area of strangulation. GJT 93-96. He qualifies to testify as an expert.  
16     While Defendant may believe that someone more qualified, such as a doctor, should have been  
17     called, that is not a basis to exclude the evidence. Officer Aker properly testified based upon  
18     his training and experience in the area of strangulation.

19            His testimony was not based upon the hearsay of someone else's medical examination,  
20     but based upon his observations of the victim. Officer Aker testified that "we (obviously  
21     including himself) did a more thorough examination" at the hospital. GJT 98. He testified to  
22     his own observations.

23            As for any allegations that the State did not present evidence that petechia can be caused  
24     by something other than strangulation, the State notes that Officer Vital testified that petechia  
25     is usually caused by strangulation. GJT 90. The Grand Jurors were well aware that the  
26     petechia witnessed by the officers was not proof positive that she was strangled. However,  
27     with the other injuries and signs of strangulation, the State sufficiently proved that she was  
28     strangled.

1 Moreover, Defendant asserts that there was no evidence that the strangulation caused a  
2 risk of death or substantial bodily harm is belied by the record. Ashanti testified that she  
3 watched Defendant push Beverly by her neck into the bed: That is significant force. GJT 63.  
4 Ashanti heard her mom's screams simply cease at times when Defendant was pushing Beverly  
5 into the bed. GJT 63-64. The grand jurors used their common sense to conclude that the  
6 strangulation was significant enough to impede her normal breathing creating a risk of death  
7 or substantial bodily harm.

8 Finally, Defendant alleges that Officer Aker was unqualified to opine that the injuries  
9 to her throat led to brain injuries and an inability to communicate. This allegation is belied by  
10 the record. The State is not sure from which portion of the testimony this allegation is made.  
11 The State believes this allegation stems from the questioning on page 103 of the Grand Jury  
12 Transcript. The State asked a question about her cognitive inability to communicate. Officer  
13 Aker explained that he believed her inability to communicate was more likely due to injury  
14 than intoxication based upon how she was able to answer and what she was answering.  
15 Beverly could not even provide basic information. He also mentioned that he was aware of  
16 her injuries to her neck and head which led him to believe that the difficulty in communicating  
17 was cognitive. Officer Aker never stated that the injuries to her throat led to brain injuries and  
18 an inability to communicate. Instead, he testified that the injury to her neck and head, along  
19 with the answers she was providing to basic questions led him to believe that she was having  
20 cognitive problems. GJT 103.

21 As Defendant states, the State presented evidence that the medical doctors did not  
22 notate any external signs of strangulation. Even with that information, the Grand Jury  
23 determined that Defendant strangled Beverly. The evidence sufficiently demonstrated that  
24 Defendant's criminal actions strangled Beverly creating a risk of death or substantial bodily  
25 harm.

26 **b. The State Presented Sufficient Evidence that Defendant Committed**  
27 **Coercion.**

28 A person commits Coercion when they force or prevent another from doing something

1 they have a right to do or not do. NRS 207.190. The State presented proper and sufficient  
2 evidence that Defendant committed Coercion.

3 Here, the State sufficiently proved that Defendant prevented Beverly from calling the  
4 police. Defendant became so upset that his eyes were "popping out of his head" and his vein  
5 was popping out of his forehead. GJT 66. Beverly became scared and tried to call 911. GJT  
6 59. However, Defendant slapped the phone out of her hand before she was able to complete  
7 that call. GJT 59. The phone flew out of her hand and slid under the fridge. GJT 72.  
8 Defendant threatened Ashanti when she tried to retrieve the phone. GJT 72.

9 These acts constitute Coercion. Defendant prevented Beverly from calling the police.  
10 Beverly had every right to call the police. Defendant's actions prevented Beverly from  
11 completing her call to the police.

12 Defendant also argues that he did not prevent Beverly from calling the police because  
13 there were other phones in the house. Defendant seems to suggest that it was an overly  
14 crowded purse that inhibited Ashanti from finding another phone in Beverly's purse.  
15 Defendant's flawed conclusion is that overly stuffed purse prevented Beverly from calling the  
16 police. Defendant further argues that she could have called the police when she took a shower  
17 and laid down in bed after the argument. Again this argument is flawed.

18 The State notes, that Defendant forced Beverly to sleep with him that night. GJT 71.  
19 Defendant had his eyes on her to ensure she was not going to call the police. Beverly was in  
20 such fear of Defendant that she did not even try to call the police again until he left the  
21 residence. GJT 42-47. This conclusion is supported by the fact that as soon as Defendant left  
22 the residence, Beverly sought out a telephone to contact the police.

23 The fact that other phones may have been in the house or that she waited so long to  
24 contact the police again are not defenses to coercion. Defendant prevented Beverly from  
25 calling 911 when he smacked the phone out of her hand. The State has demonstrated sufficient  
26 probable for the Coercion charge.

27 ///

28 ///

1                   c. **The State Presented Sufficient Evidence that Defendant Committed**  
2                   **Dissuading a Witness or Victim from Reporting a Crime or**  
3                   **Commencing Prosecution**

4           NRS 199.305 reads in relevant part, "A person who, by intimidating or threatening  
5 another person, prevents or dissuades a victim . . . from reporting a crime to a peace officer  
6 or who hinders or delay such a victim or witness" is guilty of Dissuading a Witness. NRS  
7 199.305. Defendant also committed this offense.

8           As Ashanti was searching through Beverly's phone in attempt to retrieve another phone  
9 and contact the police, Defendant told Ashanti that he would knock out Beverly if she called  
10 the police. GJT 73. Defendant threatened and intimidated Ashanti and/or Beverly from  
11 reporting these crimes. This is sufficient evidence to prove Defendant Committed Dissuading  
12 a Witness.

13           Any allegations by defense that later Beverly and Ashanti were able to contact the  
14 police and therefore he did not commit this crime are inaccurate. The statute states that even  
15 hindering or delaying the reporting is a crime. Defendant's threat stopped Ashanti from  
16 searching for the phone to call the police. In fact, Defendant's threats effectively stopped  
17 Beverly and Ashanti from contacting the police until Defendant removed himself from the  
18 residence.

19           Because Defendant prevented or hindered Beverly and/or Ashanti from calling the  
20 police for two days, Beverly went two full days without any medical treatment. She eventually  
21 succumbed to the injuries inflicted by Defendant. Defendant killed Beverly.

22           **V. THE STATE DID NOT PRESENT BAD ACTS REQUIRING DISMISSAL**  
23           **OF THE INDICTMENT**

24           NRS 48.035(3) permits the admission of facts closely related to the charged crimes.  
25 Many people refer to this as the complete story doctrine. In Brackeen v. State, the Nevada  
26 Supreme Court held that "the State is entitled to present a full and accurate account of the  
27 circumstances surrounding the commission of a crime, and such evidence is admissible even  
28 if it implicates the accused in the commission of other crimes for which he has not been

1 charged." 104 Nev. 547, 553, 763 P.2d 59, 63 (1988). The Court has further admonished the  
2 courts that the crimes must be closely interconnected. See Powell v. State, 108 Nev. 700,  
3 707-08, 838 P.2d 921, 926 (1992).

4 Defendant alleges that the State admitted impermissible bad act evidence. However,  
5 the State did not admit bad act evidence. The State presented some evidence under the  
6 complete story doctrine and admonished the jury as to its proper use. This is exactly what the  
7 rules of evidence require.

8 Defendant claims the State admitted several bad acts. The State will address each claim  
9 and show that none of these admissions require the dismissal of the Indictment.

10 (1) Ashanti testified that Defendant returned home from work upset that Beverly  
11 accidentally called him. GJT 54. In his frustration, he threatened to "whoop"  
12 Ashanti. GJT 54. The State immediately interrupted Ashanti and admonished the  
13 Jurors to ignore that testimony. GJT 55. The Jurors were instructed to ignore that  
14 testimony and there is no evidence that the Jurors relied upon that testimony to  
15 return a True Bill. Jurors are presumed to follow their instructions. McConnell v.  
16 State, 120 Nev. 1043, 1062, 102 P.3d 606, 619 (2004). Accordingly, Defendant  
17 fails to demonstrate that the jury relied upon this information in returning a True  
18 Bill.

19 The State would further note that this evidence is likely admissible to show the  
20 Defendant's state of mind. The State must prove Defendant's intent in this case.  
21 This testimony shows the Defendant's anger and frustration with Beverly only a  
22 few hours before he beats Beverly. This evidence is likely admissible even without,  
23 but the Jurors were admonished out of an abundance of caution.

24 (2) Ashanti testified that Defendant and Beverly argued about whether Ashanti and  
25 Ashley should be playing with a beach ball before dinner. GJT 56. Defendant  
26 yelled at Ashanti to keep playing with the ball. GJT 57. For similar reasoning  
27 above, this is not bad act evidence. This incident occurred only a few minutes  
28 before Defendant began beating Beverly. This evidence shows Defendant's

1 demeanor and state of mind. Furthermore, this evidence is not overly prejudicial.  
2 Defendant yelled at Ashanti to keep playing with a ball. He was not yelling at her  
3 to do something bad and the yelling was not associated with any threat.

4 (3) Ashanti testified that "every time when he get mad his like forehead get this, like I  
5 guess it's his vein popping out of his head and it's jiggling. So I guess when he's  
6 really mad that happens." GJT 66. This again is not bad act evidence. Ashanti was  
7 describing how Defendant looked when he grabbed the vacuum. This is closely  
8 related to the actual crime. The story cannot be told without referencing  
9 Defendant's demeanor and anger only moments before he struck Beverly with the  
10 vacuum. Furthermore, the State admonished the Jurors to not consider any  
11 testimony referencing Defendant's prior anger. GJT 82. Jurors are presumed to  
12 follow their instructions. McConnell, 120 Nev. at 1062, 102 P.3d at 619.

13 (4) Ashanti testified that Defendant and Beverly fought, but he did not actually beat  
14 her. GJT 70. Again the State immediately interrupted Ashanti and admonished the  
15 Jurors to ignore that statement. GJT 70.

16 The State did not present any bad act evidence. The evidence presented falls under the  
17 complete story doctrine. However, out of an abundance of caution, the State on numerous  
18 occasions admonished the Jurors to ignore certain aspects of Ashanti's testimony. Even at the  
19 conclusion of Ashanti's testimony, the State again admonished the Jurors to ignore any  
20 instances of Defendant's prior anger. GJT 82. The State did not present any, let alone an  
21 overwhelming amount of, bad act evidence. The State cautiously admonished the Jurors on  
22 several occasions. Accordingly, Defendant's claim should be denied.

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DATED this 4th day of April, 2014.

BY

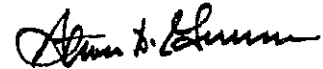
CERTIFICATE OF MAILING

Amy Feliciano, Deputy Public Defender  
Public Defender's Office  
309 South Third Street, Suite #226  
Las Vegas, NV 89155

BY:

RS/td/dvu

# EXHIBIT 1



CLERK OF THE COURT

1 IND  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ROBERT STEPHENS  
6 Deputy District Attorney  
7 Nevada Bar #011286  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 ANTHONY TYRON MAYO,  
16 #2581304

17 Defendant.

CASE NO: C-14-295313-1

DEPT NO: XXV

INDICTMENT

18 STATE OF NEVADA }  
19 COUNTY OF CLARK } ss.

20 The Defendant above named, ANTHONY TYRON MAYO, accused by the Clark  
21 County Grand Jury of the crime(s) of MURDER (Category A Felony - NRS 200.010,  
22 200.030); BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION  
23 (Category C Felony - NRS 200.481; 200.485; 33.018); COERCION (Category B Felony -  
24 NRS 207.190) and PREVENTING OR DISSUADING WITNESS OR VICTIM FROM  
25 REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS  
26 199.305), committed at and within the County of Clark, State of Nevada, on or between  
27 August 8, 2012 and August 10, 2012, as follows:

28 ///

///

1 COUNT 1 - MURDER

2 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
3 feloniously, without authority of law, and with premeditation and deliberation, and with  
4 malice aforethought, kill BEVERLY MCFARLANE, a human being, by striking BEVERLY  
5 MCFARLANE about the head and/or body with a closed fist and/or a vacuum cleaner, said  
6 killing: (1) having been willful, deliberate, and premeditated; and/or (2) having occurred in  
7 the commission of an unlawful act, which in its consequence, naturally tends to destroy the  
8 life of a human being, which acts results in the death of BEVERLY MCFARLANE on or  
9 about August 23, 2012.

10 COUNT 2 - BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION

11 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
12 unlawfully, and feloniously use force or violence upon the person of the defendant's spouse,  
13 former spouse, or any other person to whom the defendant is related by blood or marriage, a  
14 person with whom the defendant is or was actually residing, a person with whom the  
15 defendant is having a dating relationship, a person with whom the defendant has a child in  
16 common, the minor child of any of those persons or the defendant's minor child, to-wit:  
17 BEVERLY MCFARLANE, by strangulation.

18 COUNT 3 - COERCION

19 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
20 unlawfully, and feloniously use physical force, or the immediate threat of such force, against  
21 BEVERLY MCFARLANE, with intent to compel her to do, or abstain from doing, an act  
22 which she had a right to do, or abstain from doing, by not allowing the said BEVERLY  
23 MCFARLANE to call the police.

24 ///

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28 ///

1 COUNT 4 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM  
2 REPORTING CRIME OR COMMENCING PROSECUTION

3 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
4 unlawfully, and feloniously, by intimidation or threats, prevent or dissuade or hinder or delay  
5 ASHANTI MAYO and/or BEVERLY MCFARLANE from commencing a criminal  
6 prosecution or a proceeding for the revocation of a parole or probation, or seeking or  
7 assisting in such a prosecution or proceeding, by threatening to hurt Ashanti Mayo and/or  
8 BEVERLY MCFARLANE if Ashanti Mayo and/or BEVERLY MCFARLANE contacted  
9 the police.

10 DATED this 11<sup>th</sup> day of January, 2014.

11  
12 STEVEN B. WOLESON  
13 Clark County District Attorney  
14 Nevada Bar #001565

15 BY

16 ROBERT STEPHENS  
17 Deputy District Attorney  
18 Nevada Bar #011286

19 ENDORSEMENT: A True Bill

20  
21   
22 Foreperson, Clark County Grand Jury  
23  
24  
25  
26  
27  
28

1 Names of witnesses testifying before the Grand Jury:

2 AKER, ROBERT, NLVPD P#1053

3 GRECO, CLAUDIA, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

4 MAYO, ASHANTI, C/O CPS AND/OR B. MCFARLAND

5 OLSON, DR. ALANE, CCME, 1704 PINTO LN., LVN

6 OWENS, BENJAMIN, NLVPD P#1173

7 VITAL, MANUEL, NLVPD

8

9 Additional witnesses known to the District Attorney at time of filing the Indictment:

10 BODNAR, MICHAEL, NLVPD P#724

11 CUSTODIAN OF RECORDS, CCDC

12 CUSTODIAN OF RECORDS, CITY OF LAS VEGAS DETENTION CENTER

13 CUSTODIAN OF RECORDS, LVMPD DISPATCH

14 CUSTODIAN OF RECORDS, LVMPD RECORDS

15 CUSTODIAN OF RECORDS, NLVPD DISPATCH

16 CUSTODIAN OF RECORDS, NLVPD RECORDS

17 FISCHER, PATRICK, NLVPD P#1647

18 GADAM, FNU, UMC, 1800 W. CHARLESTON BLVD., LVN

19 GASTON, LEE, NLVPD P#2035

20 HALVERSON, ERIC, NLVPD P#1943

21 HOLLINGS, LARRY, NLVPD P#1594

22 LEE, KANOWELL, NLVPD P#2288

23 MARKS, DANA, NLVPD P#1726

24 MCFARLAND, BERNICE, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

25 ///

26 ///

27 ///

28 ///

1 PARENT/GUARDIAN OF ASHANTI MAYO, c/o CCDA/VWAC, 200 LEWIS AVE., LVN  
2 PEPITO, FNU, UMC, 1800 W. CHARLESTON BLVD., LVN  
3 SEARCY, STEVIE, 43169 MATINEE AVE., NLV, NV  
4 SWIFT, SHELDON, 326 STURGEON LN., LVN  
5 VIGAL, MANUEL, NLVPD P#1923  
6 VILLANUEVA, ALAIN, NLVPD P#1869  
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28 NLVPD EV# 1214352  
(TK1/11)

1 PHILIP J. KOHN, PUBLIC DEFENDER  
2 NEVADA BAR NO. 0556  
3 309 South Third Street, Suite 226  
4 Las Vegas, Nevada 89155  
(702) 453-4685  
Attorney for Defendant

  
CLERK OF THE COURT

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 v.

10 ANTHONY TYRON MAYO,

11 Defendant.

CASE NO. C-14-295313-1

DEPT. NO. XXV

DATE: April 21, 2014

TIME: 9:00 a.m.

12  
13 DEFENDANT MAYO'S REPLY TO THE STATE'S RETURN TO MAYO'S PETITION  
FOR WRIT OF HABEAS CORPUS

14 COMES NOW, the Defendant, ANTHONY TYRON MAYO, by and through  
15 AMY A. FELICIANO, Deputy Public Defender and hereby files this Reply to the State's Return  
16 to Mayo's Petition for Writ of Habeas Corpus.

17 This Reply is made and based upon all the papers and pleadings on file herein, the  
18 attached Declaration of Counsel, and oral argument at the time set for hearing on Mayo's Petition  
19 for Writ of Habeas Corpus.

20 DATED this 18 day of April, 2014.

21 PHILIP J. KOHN  
22 CLARK COUNTY PUBLIC DEFENDER

23  
24 By:   
25 AMY A. FELICIANO, #9596  
26 Deputy Public Defender  
27  
28

## ARGUMENT

### I. THE STATE'S RESPONSE THAT MAYO'S REQUESTED EXCULPATORY EVIDENCE DID NOT HAVE TO BE PRESENTED IS INCORRECT AND THE FAILURE TO INTRODUCE THIS EVIDENCE VIOLATED MAYO'S DUE PROCESS RIGHTS

In responding to Mayo's argument that the State did not present exculpatory evidence, the State fails completely to address the most important fact—Mayo sent the State a certified letter specifically requesting that it present particular exculpatory evidence as required by NRS 172.145(2). However, in replying to Mayo's argument, the State never acknowledges that Mayo made this specific request. Instead, the State focuses solely on whether, in its belief, the evidence Mayo requested should have been presented. The State's argument is akin to the fox guarding the hen house—the State would never concede that Mayo's requested evidence would tend to explain away the charges.

And importantly, when arguing that it did not have to present Mayo's requested evidence, the State relies on "facts" regarding McFarlane's organ harvestation and removal from life support that were not testified to at the grand jury presentment and are not contained in the discovery the State has provided to Mayo. Additionally, in arguing that it did not have to present the requested evidence, the State presents as "fact" its pure opinion that McFarlane remained on life support "in order to preserve the organs for harvesting." State's Return 9. It again violates Mayo's due process rights to allow the State to rely on "facts" outside of the grand jury transcript and its own opinion to argue that it did not have to present Mayo's requested evidence.

The information that Mayo requested the State present was taken directly from the discovery the State provided to Mayo. Mayo did not finesse or otherwise favorably word the information he asked to be presented—he informed the State of the evidence exactly as it was contained in the discovery. Mayo provided the State with Murray's quote from the police report,

1 that, "[a]fter [Beverly's] organs are donated, she will cease to live." Mayo also included the  
2 information that McFarlane had been pronounced brain dead, but asked the State to also present  
3 the grand jury with the information that McFarlane's sister elected to remove her from life support.  
4 And further, that McFarlane's organs were harvested while she was still on life support, and it was  
5 the organ harvestation that caused her death.

6  
7 The State's argument lacks a fundamental respect for Mayo's due process and fundamental  
8 fairness rights at the grand jury proceedings. The State does not respond to the fact that Mayo had  
9 requested that specific information be presented. Further, the State never informed Mayo that it  
10 would not be presenting his requested information. To allow the State to control the evidence it  
11 presents, especially when Mayo has asked for certain evidence to be presented, denies Mayo due  
12 process.  
13

14 A grand jury presentment must comply with due process. There are both constitutional and  
15 statutory protections in place governing grand jury proceedings. These are in place to protect  
16 against the instant situation—where there is evidence that could tend to explain away the charges  
17 and it is not presented. Here, the situation is far more egregious in that Mayo specifically  
18 requested that this evidence be presented. The State chose not to present the evidence and did not  
19 tell Mayo that it would not be presenting this evidence. Therefore, the State should be foreclosed  
20 from arguing, in hindsight and after indictment, that Mayo's requested evidence does not tend to  
21 explain away the charges. At issue is the State's violation of due process with respect to Mayo's  
22 grand jury proceedings. Because this evidence was never presented, the State cannot argue that  
23 the requested evidence would not have tended to explain away the charges. The charge at issue is  
24 murder—whether Mayo caused McFarlane's death. Mayo requested the State present the grand  
25 jury with the evidence that McFarlane ceased to live only after her organs were harvested while  
26 she was alive. This evidence tends to explain away the charges.  
27  
28

1 Based on the State's violation of due process in its grand jury presentment and its disregard  
2 for Mayo's requested evidence and failure to notify Mayo it would not present that evidence, the  
3 grand jury presentment violated Mayo's due process rights and renders the indictment invalid.

4 **II. THE STATE'S RESPONSE THAT THE VACUUM-CLEANER**  
5 **LANGUAGE IS APPROPRIATE LACKS MERIT**

6 In responding to Mayo's argument that the vacuum-cleaner language be stricken from the  
7 Indictment, the State again fails to address Mayo's critical argument that no testimony was  
8 presented to the grand jury to support that Mayo struck McFarlane with a vacuum cleaner in a  
9 manner which caused her death. Although there was testimony regarding the vacuum cleaner,  
10 there was no testimony that supported that Mayo actually used the vacuum cleaner in the manner  
11 charged in the indictment or that his use of the vacuum cleaner in any way contributed to  
12 McFarlane's death. Further, the State's inclusion of this language, without probable cause to  
13 support it, deprives Mayo of any notice of the State's prosecutorial theory regarding murder. No  
14 facts were testified to before the grand jury to support that the vacuum cleaner caused McFarlane's  
15 death. The vacuum-cleaner language is superfluous and overly prejudicial. Further, Mayo is left  
16 without knowledge of what prosecutorial theory he must defend at trial—whether McFarlane's  
17 death caused by his fists or by the vacuum cleaner. And, because no evidence was presented to  
18 support that McFarlane's death was caused by Mayo's use of the vacuum cleaner, the vacuum-  
19 cleaner language must be stricken. The failure to do so denies Mayo due process and notice of the  
20 State's prosecutorial theory.  
21  
22

23 **III. THE STATE'S ARGUMENT REGARDING CHAIN OF CUSTODY**  
24 **LACKS MERIT**

25 The State acknowledges that there was a "minimal gap" in the chain of custody regarding  
26 the brain. State's Return 11. However, in contending that it provided sufficient evidence of chain  
27 of custody, the State relied, again, on information not testified to at the grand jury presentment.  
28

1 The State argues that no tampering could have occurred because the "Clark County Coroner's  
2 [Office] [is] a respected government agency with no interest in the case." State's Return 11.  
3 This was never testified to at the grand jury presentment. Further, the State does not also provide  
4 this Court with the information that the Clark County Coroner's Office works with law  
5 enforcement in preparing information for a subsequent prosecution, or that one or more law  
6 enforcement personnel (i.e. the lead homicide detective) are typically present at the autopsy.  
7 Those law enforcement personnel speak with the medical examiner regarding the alleged facts of  
8 the case prior to the medical examiner conducting the autopsy. Further, law enforcement is  
9 dependent on the medical examiner's findings that the death occurred by homicide in order to  
10 obtain an arrest warrant for murder. Mayo is not contending that the coroner's office is not a  
11 respected agency, but is providing this Court with a complete picture of the Clark County  
12 Coroner's Office's involvement and intertwinement with law enforcement in obtaining an arrest.  
13 Thus, the State's argument on this point should not be considered by this Court.  
14

15  
16 The State also argues that the gap in the chain of custody goes to the weight and not the  
17 admissibility of the evidence. However, the State did not instruct the grand jury regarding this  
18 standard. Further, as this was a grand jury presentment, the chain of custody of McFarlane's brain  
19 was not subject to cross-examination nor was Mayo present to challenge the chain of custody and  
20 demonstrate its weakness and gap. Thus, the State itself is sitting as sole determiner of the  
21 admissibility and weight of its own evidence. This does not comport with due process and a fair  
22 proceeding.  
23

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1 IV. THE STATE'S ARGUMENTS REGARDING PROBABLE CAUSE  
2 FOR BATTERY DOMESTIC VIOLENCE-STRANGULATION,  
3 COERCION, AND PREVENTING OR DISSUADING A WITNESS  
4 OR VICTIM FROM REPORTING CRIME OR COMMENCING  
5 PROSECUTION LACK MERIT

6 A. Battery Domestic Violence—Strangulation

7 Again, in responding to Mayo's argument regarding lack of probable cause for the charge  
8 of Battery Domestic Violence—Strangulation, the State fails to address Mayo's main argument  
9 that the State did not meet probable cause the legal standard to establish that Mayo strangled  
10 McFarlane in a manner that created risk of death or substantial bodily harm. The State relies on  
11 Officer Vital's and Aker's unqualified testimony regarding their observations to reach the  
12 conclusion that Mayo strangled McFarlane in a manner that created risk of death or substantial  
13 bodily harm. Although the State contends that Officer Aker is qualified as an expert in this area,  
14 Aker has merely attended trainings concerning police officers' standards and training regarding  
15 battery domestic violence investigations. This does not render Aker a qualified expert to make the  
16 conclusion that the strangulation rose to the level that created a risk of death or substantial bodily  
17 harm. This merely demonstrates that Aker has training regarding what police officers should look  
18 for when investigating cases. And, Aker's testimony regarding the strangulation focused on the  
19 presence of petechia, but Aker never testified that the presence of petechia meant that McFarlane  
20 was strangled in a manner that caused substantial bodily harm or death. He merely testified to the  
21 presence of petechia. And, because he is not a qualified expert, and has only obtained training on  
22 police officers' standards for investigation, he did not testify what the significance of petechia is,  
23 as would be required (because the State relies on this for probable cause) to establish probable  
24 cause for the legal standard for strangulation. He also did not testify how petechia occurs or  
25 whether petechia can be caused by something other than strangulation. Additionally, when shown  
26 a photograph of McFarlane, Aker was unable to identify the presence of petechia on McFarlane.  
27  
28

1 The State also argues that it "is not sure which portion of the testimony" Mayo refers to  
2 regarding Aker's improper and unqualified opinion that McFarlane's throat injuries led to her  
3 brain issues and inability to communicate. Mayo cited to the appropriate portion of the record,  
4 which is contained at GJT 103. Aker testified that McFarlane was having difficulty  
5 communicating because of McFarlane's "cognitive[] . . . inability to communicate." GJT 103.  
6 The State then improperly asked Aker to speculate and asked him why he thought McFarlane had  
7 difficulty communicating. GJT 103. He responded that, because there were no indicators of  
8 substance abuse or substance-induced impairment, it generally caused him to believe that the  
9 person was having cognitive brain issues along with the other injuries rather than substance-related  
10 communicative issues. GJT 103. The State then followed this with the leading question of "The  
11 injuries that you noticed to her throat specifically?" GJT 103. Aker responded, "The throat as  
12 well as to her head, that could lead to brain issues." GJT 103.  
13  
14

15 This entire line of testimony and questioning was improper. The State elicited improper  
16 speculation and unqualified testimony. The State asked Aker to do more than merely recite  
17 facts—it asked him to make a conclusion based on those facts and lead Aker directly to testimony  
18 about how the injuries to McFarlane's throat could lead to brain issues. Aker's testimony was pure  
19 speculation, was belied by all other medical expert testimony presented, and was improper.  
20 Therefore, it cannot be considered as providing probable cause regarding the strangulation charge.  
21  
22

23 Most compellingly, the State's qualified medical expert, Olson, testified that McFarlane did  
24 not have any significant injuries other than those inside of her head. Olson did not testify that  
25 strangulation was a contributing factor to McFarlane's death or that petechia or any associated  
26 injuries were findings in the autopsy. In fact, Olson testified contrarily to Aker and Vital and  
27 testified that, with strangulation, there are often no external signs of injury. Therefore, she  
28 conducted an internal medical examination to determine whether strangulation occurred. Olson

1 testified that McFarlane's internal examination showed no injuries to her neck. Olson did not  
2 testify that any strangulation occurred in a manner that caused McFarlane substantial bodily harm  
3 or death.

4 In its argument, the State is asking this Court to disregard the medical evidence regarding  
5 the strangulation and only consider Aker's and Vital's testimony that they saw petechia as  
6 dispositive that Mayo strangled McFarlane in a manner that created a risk of death or substantial  
7 bodily harm. The State's argument is flawed because, while it asks this Court to consider Olson's  
8 testimony regarding every other pathological finding and cause of death to establish probable  
9 cause for the murder charge, the State simultaneously asks this Court to disregard Olson's  
10 testimony regarding the medical evidence of strangulation. Further, the State's reliance on Aker's  
11 testimony is also flawed in that Aker never testified to the significance of petechia regarding a  
12 strangulation allegation—he merely testified to his observance of petechia's presence.  
13 Accordingly, the State has not established slight or marginal evidence that Mayo strangled  
14 McFarlane in a manner that created a risk of death or substantial bodily harm.  
15  
16

17 **B. Coercion and Preventing or Dissuading a Witness or Victim from Reporting a Crime**  
18 **or Commencing Prosecution**

19 The State's reply to Mayo's argument on these points is essentially just a contradictory  
20 opinion from Mayo's regarding the significance of the facts testified to at the grand jury  
21 proceeding. Accordingly, rather than repeating his original argument that there was no probable  
22 cause to support these charges, Mayo incorporates by reference his argument on this issue as  
23 contained in his Petition for Writ of Habeas Corpus.  
24  
25 //  
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28

V. THE STATE'S JUSTIFICATION THAT THE BAD-ACTS EVIDENCE WAS ADMISSIBLE UNDER THE COMPLETE STORY DOCTRINE IS IMPROPER AND CONTRARY TO THE LAW REGARDING THE COMPLETE STORY DOCTRINE, AS WELL AS BEING CONTRARY TO THE STATE'S OWN POSITION REGARDING THIS EVIDENCE AT THE GRAND JURY PRESENTMENT

To justify the introducing of improper bad acts evidence, the State relies on the complete story doctrine as allowing it to present this evidence. However, the evidence in question is inadmissible. The complete story doctrine is to be construed in the narrowest terms and the evidence must be such that it is impossible for the State's witnesses to tell the story of the crime without referring to the evidence. As the court stated in *Bellon v. State*, 121 Nev. 436, 444 (2005):

The State may present a full and accurate account of the crime, and such evidence is admissible even if it implicates the defendant in the commission of other uncharged acts. However, the "complete story of the crime" doctrine must be construed narrowly. Accordingly, we have stated that "the crime must be so interconnected to the act in question that a witness cannot describe the act in controversy without referring to the other crime." We now reiterate that admission of evidence under NRS 48.035(3) is limited to the statute's express provisions. Under the statute, a witness may only testify to another uncharged act or crime if it is so closely related to the act in controversy that the witness cannot describe the act without referring to the other uncharged act or crime. (footnotes omitted).

Here, none of the bad-acts evidence admitted to the grand jury was so closely related to the act in controversy that the witnesses could not have described the act without referring to the uncharged bad acts.

Further, the State admonished the grand jury at certain points not to consider the evidence that was testified to. The State now contends that the admonishments were given out of an abundance of caution, but that the evidence was admissible. If the State believed the evidence to be admissible and necessary as required under the complete story doctrine, as it now contends, the State would not have admonished the grand jury to disregard the testimony. It is disingenuous and contradictory to admonish the grand jury to not consider the bad-act testimony, but later, contend that the bad-act testimony was absolutely critical to the telling of the complete story. The State

1 contends that this evidence was critical to establishing certain elements of the crime and showing  
2 Mayo's state of mind to the grand jury. This is an attempt at misdirection from the issue, as well  
3 as an improper justification of bad character evidence. The law requires that the bad-act evidence  
4 be so closely related to the crime that the story cannot be told without it, but the State contends that  
5 this evidence is necessary to prove Mayo's state of mind. That is pure, impermissible bad  
6 character evidence—to establish probable cause for the charges by introducing bad character  
7 evidence and arguing that Mayo acted in conformity with this evidence. This is absolutely  
8 impermissible under the law. NRS 48.045. And, at the time the State presented the case, it  
9 instructed the grand jury not to consider the evidence. The State cannot have it both ways, and  
10 should be estopped from trying to justify its actions by taking contrary positions on its evidence.  
11

#### 12 CONCLUSION

13 Based on the above, Mayo respectfully requests that this Court grant his Petition for Writ  
14 of Habeas Corpus and dismiss the Indictment against him.  
15

16  
17 DATED this 18 day of April, 2014.

18 PHILIP J. KOHN  
19 CLARK COUNTY PUBLIC DEFENDER

20  
21 By:   
22 AMY A. FELICIANO, #9596  
23 Deputy Public Defender  
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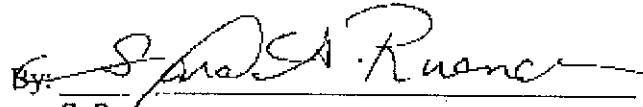
**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that service of DEFENDANT MAYO'S REPLY TO THE  
STATE'S RETURN TO MAYO'S PETITION FOR WRIT OF HABEAS CORPUS, was made  
this 18th day of April, 2014, by Electronic Filing to:

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE  
Motions@clarkcountyda.com

ROBERT STEPHENS, Deputy District Attorney  
E-Mail: Robert.Stephens@clarkcountyda.com

COLLEEN BROWN, Deputy District Attorney  
E-Mail: Colleen.Brown@clarkcountyda.com

By:   
S. Ruano  
Secretary for the Public Defender's Office

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**APPENDIX TO PETITION FOR WRIT OF PROHIBITION MANDAMUS**

STEVEN B. WOLFSON  
Clark County District Attorney  
200 Lewis Avenue, 3<sup>rd</sup> Fl.  
Las Vegas, Nevada 89155

ADAM LAXALT  
Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717  
(702) 687-3538

18 CERTIFICATE OF SERVICE

ADAM LAXALT  
STEVEN S. OWENS

DAN A. SILVERSTEIN  
HOWARD S. BROOKS

27

BY /s/ Carrie M. Connolly  
Employee, Clark County Public Defender's Office

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2  
3 ANTHONY MAYO,

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No.

(District Ct. No. 6291818)

Electronically Filed  
Jan 13 2016 09:15 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

THE EIGHTH JUDICIAL DISTRICT COURT )  
OF THE STATE OF NEVADA, COUNTY OF )  
CLARK, THE HONORABLE KATHLEEN )  
DELANEY, DISTRICT COURT JUDGE, )

Respondent.

**APPENDIX TO PETITION FOR WRIT OF PROHIBITION MANDAMUS**

PHILIP J. KOHN  
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Las Vegas, Nevada 89155-2610

Attorney for Petitioner

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Clark County District Attorney  
200 Lewis Avenue, 3<sup>rd</sup> Fl.  
Las Vegas, Nevada 89155

ADAM LAXALT  
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Counsel for Respondent

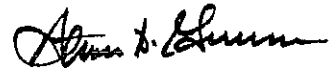
**INDEX**  
**ANTHONY TYRON MAYO**

	<u>PAGE NO.</u>
Addendum to Petition for Writ of Habeas Corpus filed 02/02/15.....	236-275
Defendant's Motion to Stay Proceedings filed 12/08/15.....	411-414
Defendant's Reply in Support of Motion to Stay Proceedings filed 12/28/15.....	424-433
Indictment filed 01/17/14 .....	001-005
Motion to Reconsider Denial of Petition for Writ of Habeas Corpus Filed 06/29/15.....	364-372
Order Denying Defendant's Petition for Writ of Habeas Corpus Filed 07/06/15 .....	360-363
Petition for Writ of Habeas Corpus filed 02/28/14.....	166-199
Reply in Support of Addendum to Petition for Writ of Habeas Corpus Filed 03/12/15.....	295-317
Reply in Support of Motion to Reconsider Denial of Petition for Writ of Habeas Corpus Filed 07/21/15.....	390-400
Reply to Petition for Writ of Habeas Corpus Filed 04/18/14.....	225-235
Return to Addendum to Petition for Writ of Habeas Corpus Filed 03/05/15.....	276-294
Return to Writ of Habeas Corpus and Motion to Dismiss filed 04/04/14.....	200-224
State's Opposition to Defendant's Motion to Reconsider Denial of Petition for Writ of Habeas Corpus Filed 07/10/15.....	373-389
State's Opposition to Defendant's Motion to Stay Proceedings Filed 12/23/15.....	415-423
 <b><u>TRANSCRIPTS</u></b>  	
Grand Jury Transcript, Date of Hrg: 01/16/14 .....	006-165
Reporter's Transcript, Defendant's Motion for OR Release Petition for Writ of Habeas Corpus Date of Hrg: 03/30/15.....	329-359

1  
2  
3  
4  
5  
6  
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24  
25  
26  
27  
28

Reporter's Transcript,  
Defendant's Motion for Own Recognizance Release;  
Petition for Writ of Habeas Corpus  
Date of Hrg: 03/23/15 ..... 318-328

Reporter's Transcript,  
Defendant's Motion to Reconsider Denial of  
Petition for Writ of Habeas Corpus  
Date of Hrg: 07/29/15 ..... 401-410



CLERK OF THE COURT

1 **IND**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ROBERT STEPHENS  
6 Deputy District Attorney  
7 Nevada Bar #011286  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 ANTHONY TYRON MAYO,  
16 #2581304

17 Defendant.

CASE NO: C-14-295313-1

DEPT NO: XXV

INDICTMENT

18 STATE OF NEVADA }  
19 COUNTY OF CLARK } ss.

20 The Defendant above named, ANTHONY TYRON MAYO, accused by the Clark  
21 County Grand Jury of the crime(s) of MURDER (Category A Felony - NRS 200.010,  
22 200.030); BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION  
23 (Category C Felony - NRS 200.481; 200.485; 33.018); COERCION (Category B Felony -  
24 NRS 207.190) and PREVENTING OR DISSUADING WITNESS OR VICTIM FROM  
25 REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS  
26 199.305), committed at and within the County of Clark, State of Nevada, on or between  
27 August 8, 2012 and August 10, 2012, as follows:

28 ///

///

1 COUNT 1 - MURDER

2 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
3 feloniously, without authority of law, and with premeditation and deliberation, and with  
4 malice aforethought, kill BEVERLY MCFARLANE, a human being, by striking BEVERLY  
5 MCFARLANE about the head and/or body with a closed fist and/or a vacuum cleaner, said  
6 killing: (1) having been willful, deliberate, and premeditated; and/or (2) having occurred in  
7 the commission of an unlawful act, which in its consequence, naturally tends to destroy the  
8 life of a human being, which acts results in the death of BEVERLY MCFARLANE on or  
9 about August 23, 2012.

10 COUNT 2 - BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION

11 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
12 unlawfully, and feloniously use force or violence upon the person of the defendant's spouse,  
13 former spouse, or any other person to whom the defendant is related by blood or marriage, a  
14 person with whom the defendant is or was actually residing, a person with whom the  
15 defendant is having a dating relationship, a person with whom the defendant has a child in  
16 common, the minor child of any of those persons or the defendant's minor child, to-wit:  
17 BEVERLY MCFARLANE, by strangulation.

18 COUNT 3 - COERCION

19 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
20 unlawfully, and feloniously use physical force, or the immediate threat of such force, against  
21 BEVERLY MCFARLANE, with intent to compel her to do, or abstain from doing, an act  
22 which she had a right to do, or abstain from doing, by not allowing the said BEVERLY  
23 MCFARLANE to call the police.

24 ///

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1 COUNT 4 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM  
2 REPORTING CRIME OR COMMENCING PROSECUTION

3 did on or between August 8, 2012 to August 10, 2012, then and there wilfully,  
4 unlawfully, and feloniously, by intimidation or threats, prevent or dissuade or hinder or delay  
5 ASHANTI MAYO and/or BEVERLY MCFARLANE from commencing a criminal  
6 prosecution or a proceeding for the revocation of a parole or probation, or seeking or  
7 assisting in such a prosecution or proceeding, by threatening to hurt Ashanti Mayo and/or  
8 BEVERLY MCFARLANE if Ashanti Mayo and/or BEVERLY MCFARLANE contacted  
9 the police.

10 DATED this 11<sup>th</sup> day of January, 2014.

11  
12 STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

13  
14 BY

15 ROBERT STEPHENS  
Deputy District Attorney  
Nevada Bar #011286

16 ENDORSEMENT: A True Bill

17  
18   
19 Foreperson, Clark County Grand Jury  
20  
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1 Names of witnesses testifying before the Grand Jury:

2 AKER, ROBERT, NLVPD P#1053

3 GRECO, CLAUDIA, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

4 MAYO, ASHANTI, C/O CPS AND/OR B. MCFARLAND

5 OLSON, DR. ALANE, CCME, 1704 PINTO LN., LVN

6 OWENS, BENJAMIN, NLVPD P#1173

7 VITAL, MANUEL, NLVPD

8

9 Additional witnesses known to the District Attorney at time of filing the Indictment:

10 BODNAR, MICHAEL, NLVPD P#724

11 CUSTODIAN OF RECORDS, CCDC

12 CUSTODIAN OF RECORDS, CITY OF LAS VEGAS DETENTION CENTER

13 CUSTODIAN OF RECORDS, LVMPD DISPATCH

14 CUSTODIAN OF RECORDS, LVMPD RECORDS

15 CUSTODIAN OF RECORDS, NLVPD DISPATCH

16 CUSTODIAN OF RECORDS, NLVPD RECORDS

17 FISCHER, PATRICK, NLVPD P#1647

18 GADAM, FNU, UMC, 1800 W. CHARLESTON BLVD., LVN

19 GASTON, LEE, NLVPD P#2035

20 HALVERSON, ERIC, NLVPD P#1943

21 HOLLINGS, LARRY, NLVPD P#1594

22 LEE, KANOWELL, NLVPD P#2288

23 MARKS, DANA, NLVPD P#1726

24 MCFARLAND, BERNICE, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

25 ///

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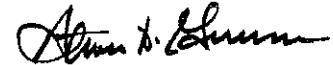
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1 PARENT/GUARDIAN OF ASHANTI MAYO, c/o CCDA/VWAC, 200 LEWIS AVE., LVN  
2 PEPITO, FNU, UMC, 1800 W. CHARLESTON BLVD., LVN  
3 SEARCY, STEVIE, 43169 MATINEE AVE., NLV, NV  
4 SWIFT, SHELDON, 326 STURGEON LN., LVN  
5 VIGAL, MANUEL, NLVPD P#1923  
6 VILLANUEVA, ALAIN, NLVPD P#1869  
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28 NLVPD EV# 1214352  
(TK1/11)

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

Electronically Filed  
01/30/2014 05:23:14 AM



CLERK OF THE COURT

THE STATE OF NEVADA,

Plaintiff,

vs.

ANTHONY TYRON MAYO,

Defendant.

GJ No. 13BGJ036X

DC No. C295313

Taken at Las Vegas, Nevada

Thursday, January 16, 2014

8:46 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danette L. Antonacci, C.C.R. No. 222

1 GRAND JURORS PRESENT ON JANUARY 16, 2014

2

3 LORNA WOJCIECHOWSKI, Foreperson

4 YOLANDA MCEVOY, Deputy Foreperson

5 KATHLEEN FISCHER, Secretary

6 BARBARA GUTHO, Assistant Secretary

7 ROBERT BUNTJER

8 LAURA COLEMAN

9 KANDICE EVERS

10 TERESA FAIBVRE

11 ROGELIO GARCIA

12 JANE HEDGE

13 CATHY LACOUR

14 KATHLEEN MCDOWELL

15 NANCY ROMERO

16 SAMUEL SMITH

17 THOMAS WAGNER

18

19 Also present at the request of the Grand Jury:

20 Colleen Brown & Rob Stephens,  
21 Deputy District Attorneys

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INDEX OF WITNESSES

Examined

CLAUDIA GRECO	11
ASHANTI MAYO	35
MANUEL VITAL	84
ROBERT AKER	92
BENJAMIN OWENS	110
ALANE OLSON	123

INDEX OF EXHIBITS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
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23  
24  
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Grand Jury ExhibitsIdentified

1 - PROPOSED INDICTMENT	5
2 - INSTRUCTIONS	6
3 - PHOTOGRAPH	78
4 - 9 - PHOTOGRAPHS	99
5, 6, 8, 9 - EXHIBITS WITHDRAWN	121
10 - PHOTOGRAPH	67
11 - PHOTOGRAPH	128
12, 13, 14 - PHOTOGRAPHS	130
15 - CERTIFIED CERTIFICATE OF DEATH	138
16 - 22 - PHOTOGRAPHS	19

1 LAS VEGAS, NEVADA, JANUARY 16, 2014

2 \* \* \* \* \*

3  
4 DANETTE L. ANTONACCI,

5 having been first duly sworn to faithfully  
6 and accurately transcribe the following  
7 proceedings to the best of her ability.  
8

9 THE FOREPERSON: Let the record reflect  
10 that I have canvassed the waiting area and no one has  
11 appeared in response to Notice of Intent to Seek  
12 Indictment.

13 MS. BROWN: Ladies and gentlemen of the  
14 grand, my name is Colleen Brown. Along with me is  
15 Robert Stephens. We are presenting the case of Grand  
16 Jury Case Number 13BGJ036X, State of Nevada versus  
17 Anthony Tyron Mayo.

18 The record will reflect that we have marked  
19 a copy of the proposed Indictment as Exhibit Number 1  
20 and that all members of the Grand Jury have a copy of  
21 it.

22 Prior to proceeding to the remainder of our  
23 instructions, I wanted to direct the ladies and  
24 gentlemen of the Grand Jury's attention to Count 3. The  
25 State has a proposed amendment to Count 3 on line 22,

1 removing the name of Ashanti Mayo and replacing it with  
2 Beverly McFarlane. And that is B-E-V-E-R-L-Y,  
3 M-C-F-A-R-L-A-N-E.

4 Also with regards to Count 4, the State has  
5 a proposed amendment to line 5 to read Ashanti Mayo  
6 and/or Beverly McFarlane. And line 7 to read proceeding  
7 "by threatening to hurt Ashanti Mayo and/or Beverly  
8 McFarlane if Ashanti Mayo and/or Beverly McFarlane  
9 contacted the police."

10 The defendant in this case is charged with  
11 murder, battery constituting domestic violence -  
12 strangulation, coercion, and preventing or dissuading  
13 witness or victim from reporting crime or commencing  
14 prosecution. We are required by law to advise you of  
15 the elements of these offenses. We will mark these  
16 instructions as Exhibit 2 this afternoon when our doctor  
17 testifies.

18 For now you are instructed that murder is  
19 the unlawful killing of a human being with malice  
20 aforethought, either express or implied. The unlawful  
21 killing may be effected by any of the various means by  
22 which death may be occasioned.

23 Malice can be either express or implied.  
24 Express malice is that deliberate intention unlawfully  
25 to take away the life of a fellow creature, which is

1 manifested by external circumstances capable of proof.

2 Malice shall be implied when no  
3 considerable provocation appears, or when all the  
4 circumstances of the killing show an abandoned and  
5 malignant heart.

6 The intention to kill may be ascertained or  
7 deduced from the facts and circumstances of the killing,  
8 such as the use of a weapon calculated to produce death,  
9 the manner of its use, and the attendant circumstances  
10 characterizing the act.

11 The prosecution is not required to present  
12 direct evidence of the defendant's state of mind as it  
13 existed during the commission of the crime. The Grand  
14 Jury may infer existence of particular state of mind  
15 from the circumstances disclosed by evidence.

16 Battery constituting domestic violence -  
17 strangulation. Battery means any willful and unlawful  
18 use of force or violence upon the person of another. A  
19 battery by strangulation occurs where a person willfully  
20 and unlawfully uses force or violence upon the person of  
21 another by strangulation.

22 "Strangulation" means intentionally  
23 impeding the normal breathing or circulation of the  
24 blood by applying pressure on the throat or neck or by  
25 blocking the nose or mouth of another person in a manner

1 which creates a risk of death or substantial bodily  
2 harm.

3 Domestic violence occurs when a person  
4 commits one of the following acts against or upon the  
5 person's spouse or former spouse, any other person to  
6 whom the person is related by blood or marriage, any  
7 other person with whom the person is or was actually  
8 residing, any other person with whom the person has had  
9 or is having a dating relationship, any other person  
10 with whom the person has a child in common, the minor  
11 child of any of those persons, the person's minor child  
12 or any other person who has been appointed the custodian  
13 or legal guardian for the person's minor child: A  
14 battery. Compelling the other person by force or threat  
15 of force to perform an act from which the other person  
16 has the right to refrain or to refrain from an act which  
17 the other person has the right to perform.

18 As used in this section, "dating  
19 relationship" means frequent, intimate associations  
20 primarily characterized by the expectation of  
21 affectional or sexual involvement. The term does not  
22 include a casual relationship or an ordinary association  
23 between persons in a business or social context.

24 A. Coercion. It is unlawful for a person,  
25 with the intent to compel another to do or abstain from

1 doing an act which the other person has a right to do or  
2 abstain from doing, to: (a) Use violence or inflict  
3 injury upon the other person or any of the other  
4 person's family, or upon the other person's property, or  
5 threaten such violence or injury; (b) Deprive the person  
6 of any tool, implement or clothing, or hinder the person  
7 in the use thereof; or (c) Attempt to intimidate the  
8 person by threats of force.

9 Preventing or dissuading witness or victim  
10 from reporting crime or commencing prosecution. A  
11 person who, by intimidating or threatening another  
12 person, prevents or dissuades a victim of a crime, a  
13 person acting on behalf of the victim or a witness from:  
14 (a) Reporting a crime or possible crime to a: Judge;  
15 peace officer; parole or probation officer; prosecuting  
16 attorney; warden or other employee at an institution of  
17 the Department of Corrections; or superintendent or  
18 other employee at a juvenile correctional facility; (b)  
19 Commencing a criminal prosecution or a proceeding for  
20 the revocation of a parole or probation, or seeking or  
21 assisting in such a prosecution or proceeding; or (c)  
22 Causing the arrest of a person in connection with a  
23 crime, or who hinders or delays such a victim, agent or  
24 witness in an effort to carry out any of those actions  
25 has committed the offense of preventing or dissuading

1 witness or victim from reporting crime or commencing  
2 prosecution.

3 Are there any questions with regards to the  
4 elements of the charged offenses?

5 With that the State calls its first  
6 witness. Dr. Claudia Greco.

7 THE FOREPERSON: Please raise your right  
8 hand.

9 You do solemnly swear the testimony you are  
10 about to give upon the investigation now pending before  
11 this Grand Jury shall be the truth, the whole truth, and  
12 nothing but the truth, so help you God?

13 THE WITNESS: Yes.

14 THE FOREPERSON: Please be seated.

15 You are advised that you are here today to  
16 give testimony in the investigation pertaining to the  
17 offenses of murder, battery constituting domestic  
18 violence - strangulation, coercion, and preventing or  
19 dissuading witness or victim from reporting crime or  
20 commencing prosecution, involving Anthony Mayo.

21 Do you understand this advisement?

22 THE WITNESS: Yes.

23 THE FOREPERSON: Please state your first  
24 and last name and spell both for the record.

25 THE WITNESS: It's Claudia Greco.

1 C-L-A-U-D-I-A, G-R-E-C-O.

2 THE FOREPERSON: Thank you.

3 MR. STEPHENS: May I proceed?

4 THE FOREPERSON: Yes.

5 MR. STEPHENS: Thank you.

6 CLAUDIA GRECO,

7 having been first duly sworn by the Foreperson of the  
8 Grand Jury to testify to the truth, the whole truth,  
9 and nothing but the truth, testified as follows:

10

11 EXAMINATION

12

13 BY MR. STEPHENS:

14 Q. Dr. Greco, I want to ask you about your  
15 qualifications and some of your education. Can you  
16 summarize some of your schooling?

17 A. Yes. I went to medical school in  
18 Pennsylvania and I'm from Pennsylvania. And I, after  
19 that I went and I did my residency in pathology at  
20 University of California in San Diego. And I then did a  
21 neuropathology fellowship which is the study of the  
22 brain for two years after that. And I worked at, in San  
23 Diego for a short time and then ultimately moved to  
24 Santa Rosa. I worked at University of California, San  
25 Francisco. I've worked at Stanford. And then for the

1 past 13 years I have worked at University of California  
2 in Davis and that's in Sacramento, California. And I've  
3 written numerous papers and literature and I teach.  
4 I've limited my practice to the brain and in that I  
5 examine surgical specimens from people with brain tumors  
6 and I also examine autopsy brains. I've worked at the  
7 Sacramento County Coroner's Office examining brains. I  
8 did that for about five years, did all their cases. And  
9 I currently handle the Placer Nevada County forensic  
10 cases.

11 Q. Okay. So during your studies and your  
12 work, how many brains give or take do you think you've  
13 examined?

14 A. Oh, I would say four to 500.

15 Q. And you've been asked to do a variety of  
16 things in examining those brains such as looking for  
17 tumors or determining trauma or determining  
18 abnormalities?

19 A. Yes.

20 Q. Do you have to take any continuing  
21 education courses or is there any licensing that goes  
22 along with what you do?

23 A. There's licensing that goes along with my  
24 general study of pathology and neuropathology. In terms  
25 of forensic pathology there is no sort of certification

1 of that. It's a subspecialty that some of us pursue  
2 more than others in forensics. And so I have gone to  
3 meetings in forensic neuropath and it's my job to stay  
4 abreast of literature. Every time I have a case I  
5 research the literature, I read my current books and I  
6 always update myself on my work.

7 Q. Okay. Were you asked to analyze a brain  
8 from Beverly McFarlane?

9 A. Yes.

10 Q. Who was it that asked you to examine that  
11 brain?

12 A. The Clark County Coroner's Office.

13 Q. And do you recall whether or not the, how  
14 the brain got to you?

15 A. Yes, I do. The standard way that this  
16 happens with out of town or out of city brains is that  
17 they are shipped to us via Fed Ex and that's how this  
18 brain came. And as you know these are all tracked.  
19 Whenever the brain arrived at the University to our  
20 department, it was accepted by our front desk staff,  
21 person signed off on that, and the front desk staff was  
22 instructed that as soon as this brain came that it was  
23 to be immediately transported to my office, which is  
24 kept locked. And after that I was the only one that  
25 handled the brain, taking it to the lab to examine it,

1 and after I finished, put it in a locked closet. And  
2 what happens is is the brain is assigned a number when  
3 it comes into our facility and that number, on  
4 everything that I examine, and when I take small pieces  
5 to look at under the microscope, that same number  
6 follows the case through all my examination and then  
7 when my report is done it's, of course it's numbered all  
8 the same way, and then ultimately end up with a report  
9 and then the brain comes back to the coroner's office  
10 for, they keep it for, I don't know how long.

11 Q. The number or case number that you assigned  
12 it, do you recall that off the top of your head?

13 A. It was 120S1468.

14 Q. And do you know whether or not Clark County  
15 assigned a number to that case also?

16 A. Definitely. And that number also is on my  
17 report so we just keep everything congruent all the  
18 time.

19 Q. Do you remember that number off the top of  
20 your head?

21 A. No.

22 Q. Would it refresh your recollection to refer  
23 to your report?

24 A. Yes.

25 Q. I'll approach and hand you a copy of your

1 report here.

2 A. Okay. So the Clark County number is  
3 12-7691.

4 Q. And that refreshed your recollection?

5 A. Yes.

6 Q. Okay. When you receive, do you recall what  
7 date it was that you received this brain?

8 A. No, but I know it was in December of 2012.

9 Q. And in December of 2012 what did you do  
10 with that?

11 A. With the brain?

12 Q. Yes.

13 A. Well, that's when, when I received it I  
14 examined it and then took out of the brain, after I  
15 actually look at the brain and I cut it so that I can  
16 see what's going on inside, I take small pieces of  
17 tissue, they're about one and a half by, oh say -- no  
18 wait -- yeah, one and a half inches by one inch and  
19 about a quarter inch. We do everything in centimeters  
20 so I'm trying to translate. About an eighth of an inch  
21 thick. And I put those in a small plastic container and  
22 with that same number on it and designated by A, B, C,  
23 D, E, F, G or 1, 2, 3, 4, 5, 6, 7. I have what we call  
24 a slide key where I say section B1 is from frontal lobe  
25 and I identify where every one of those sections is

1 from. And then those are transported, they're fixed in  
2 formalin, which by the way is how the brain is received.  
3 They're fixed in formalin and they go through a  
4 processor where they finally end up in paraffin and then  
5 we have technicians who cut those very thin and then  
6 attach them to a slide that's numbered with the same  
7 number and then that slide is, I look at that under the  
8 microscope and then I write what, I write a microscopic  
9 report of what I found. And sometimes what we need and  
10 which I did in this case is we need what are called  
11 special stains and so these special stains highlight  
12 different abnormalities that are in the tissue and  
13 verify what I've seen on the first stain or add  
14 additional information to that.

15 Q. Okay. And I probably got ahead of myself a  
16 little bit. But prior to doing any examination of the  
17 brain, were you given any documents to review?

18 A. Yes, I had a small number of, a small  
19 amount of paperwork that came with the case in the same  
20 box.

21 Q. Do you recall what types of documents those  
22 would have been?

23 A. There was a small amount of clinical  
24 history on the case. Basically the events of the trauma  
25 that the lady suffered in her home. And I had a

1 preliminary report of what the general forensic  
2 pathologist had found. And subsequently I asked for  
3 more records because as Mr. Stephens knows I really  
4 study these cases and I like to be very sure of the  
5 whole thing.

6 Q. Okay. So after reviewing the documents  
7 that you received then it sounds like what you do is you  
8 begin to examine the brain both microscopically and  
9 overall?

10 A. Yes.

11 Q. Now prior to examining it microscopically  
12 do you do an overall review of the brain to determine  
13 what areas of interest you may have?

14 A. Yes.

15 Q. I want to get right to the crux of this.  
16 Did you find any abnormalities on the overall brain  
17 itself?

18 A. Yes.

19 Q. What abnormalities did you see?

20 A. I saw -- and I understand this is hard to  
21 figure out because it's such, it's what goes on inside  
22 the head. As I told Mr. Stephens it would be hard for  
23 me to understand legalese so if you need me to explain  
24 anything or draw you a picture I'm happy to do that.  
25 But whenever you take the skull off the brain, you're

1 looking inside at a covering on the brain that's called  
2 the dura. It's very, very stretchy which is good if you  
3 hit your head. On the underside of that -- and by the  
4 way all these changes occurred on the left hand side of  
5 the brain. On the underside of that was hemorrhage.  
6 And then the surface of the -- and so then after you  
7 take off the dura, you're looking at the brain itself in  
8 the skull. And of course I didn't have the skull, I  
9 just had the brain, but the same pictures that I looked  
10 at from the general coroner who took pictures of the  
11 brain inside the head were the same. So you look at the  
12 brain itself and it has what we call staining or  
13 discoloration of the next covering of the brain that is  
14 right attached to the brain itself. So there was  
15 discoloration looking down at the brain that I saw.  
16 Then when I turned the brain over, so I'm basically  
17 looking at it from this direction, what I saw was  
18 evidence of massive swelling of the brain and enough  
19 swelling and enough abnormalities to tell me that this  
20 lady had gotten to the point where her life was  
21 irretrievable, that she was going to die and she did  
22 die. And this kind of injury is not uncommon, it's the  
23 classic thing that happens.

24 Q. Okay. I'm going to show you a few photos  
25 in a second and I want you to point out some of these

1 abnormalities that you viewed, you saw on the brain.  
2 Before I do that, what is discoloration? When you're  
3 talking about this discoloration, what would cause this  
4 discoloration?

5 A. When the subdural, when the hemorrhage  
6 occurs under the dura, until it gets sealed off, which  
7 is a natural healing process of the brain, it's liquid,  
8 it's blood, and it gives discoloration to the cover, the  
9 next layer right underneath it.

10 Q. Okay. And what types of, when you say  
11 hemorrhage, can you tell us what a hemorrhage is?

12 A. It's bleeding. It's bleeding in a space  
13 where there shouldn't be blood.

14 Q. I'm going to show you what have been marked  
15 as Grand Jury Exhibits 16 through 22. Will you take a  
16 look at those for a second and then tell me if you  
17 recognize them once you've reviewed them.

18 A. I'm just putting them in order.

19 Q. Do you recognize these?

20 A. Yes.

21 Q. What are they?

22 A. They are pictures, I took these pictures  
23 and I, they're pictures of this lady's brain which you  
24 can see --

25 Q. You can't show them yet. Just one second.

1           A.     I identified all of them with her number.

2           Q.     So you put your case number that you  
3 assigned to this case in these photos?

4           A.     Yes.

5           Q.     These are all photos that you took?

6           A.     Yes.

7           Q.     And this is the way you looked when you  
8 examined the brain on that specific date?

9           A.     Yes.

10          Q.     Okay. I'm going to show you these, I'm  
11 going to put them up here on the Elmo projector.

12          A.     The first one is on the bottom.

13          Q.     Okay. We'll start with that one. We will  
14 start with Exhibit 16.

15                 That's upside down.

16          A.     Yes, you're right, it's upside down. Can  
17 you turn it the next way and it will make more sense to  
18 people.

19          Q.     This way?

20          A.     Yes.

21          Q.     Just real quick over here on the left hand  
22 side, what are we looking at?

23          A.     The label for the brain.

24          Q.     And this is where you would have indicated  
25 the case number?

1 A. Yes.

2 Q. What are we looking at here?

3 A. This is the brain as though you're standing  
4 behind the patient so that the left is on the left and  
5 the right is on the right. So you're standing behind  
6 the patient and you're looking down. So on the left  
7 hand side is what's, and I'm sure you've heard this, the  
8 left hemisphere and the right hemisphere, and you can  
9 see on the left side the area of discoloration and  
10 that's just the staining from the blood that would have  
11 occurred from the layer that has been removed above it.  
12 The other thing you'll note is that the left side of the  
13 brain is bigger than the right and that's because of  
14 swelling which is due to the damage she suffered which  
15 you'll see later.

16 Q. I'm showing you what has been marked as  
17 Exhibit 21.

18 A. The other way.

19 Q. Messed it up again.

20 What are we looking at here?

21 A. Okay. So this is the underside of the  
22 brain and this is what I said to you before explained  
23 what happened and why she died. Is taken as though we  
24 were looking at you laying on your back and your head up  
25 tilted back. So on this one the left side is actually

1 on the right hand side.

2 Q. Okay. So you're referring to this area is  
3 actually the left side of the brain?

4 A. Yes. And so you can see the discoloration  
5 again that occurred there again due to the subdural  
6 hemorrhage. And the other changes that are there  
7 that -- am I allowed to get up and point?

8 Q. Yes, absolutely. You just have to keep  
9 your voice up so they can hear you.

10 A. Okay. So we're looking, and if you'll  
11 notice there is asymmetry between these two sides. So  
12 you see this big lump or enlargement of this tissue and  
13 you don't see it over here. And what that, and so the  
14 way that the brain is which -- do you want me to draw a  
15 picture like I drew for you?

16 Q. In a moment. Let me get there in one  
17 second.

18 A. Okay.

19 Q. Go ahead.

20 A. So what this tells me is that this side is  
21 bigger and what happened here is that the brain is  
22 starting, because it's so large it's starting to  
23 herniate or go down towards the spinal cord. Because  
24 that's what the skull does. It's big and then it  
25 decreases in size and goes to the spinal cord. And so

1 this tells me that what was going on here is she's  
2 starting, her brain is starting to go down and what it  
3 will do to the structures that are in the narrow area  
4 that come down towards the spinal cord is it will effect  
5 and damage and in fact destroy the cardiac and breathing  
6 mechanisms and that's fatal. You can't reverse that.  
7 And that's also corroborated in the clinical history.

8 Q. Okay. Let me ask you real quick. This  
9 circular area here, what's this area? Is this where it  
10 goes down towards the spinal cord?

11 A. Yes.

12 Q. And that's in the very center of the photo  
13 there?

14 A. That's right, in the center of the head.

15 Q. Let me show you another photo. Hopefully  
16 I'm still in order. This is Exhibit 17. Do you want it  
17 this way?

18 A. Yeah.

19 Q. You can stand up again if you need to tell  
20 us what we're looking at here.

21 A. Okay. That's looking at the left side of  
22 the brain. The nose is up here. And so this is coming  
23 back towards your ear. And you can see the  
24 discoloration here which we've seen before. I just take  
25 lots of photos.

1           Q.     So on the left hand side of the picture  
2     that would be where the nose and the front of the face  
3     would be?

4           A.     That's correct.

5           Q.     It looks like on this photo, just so I'm  
6     clear, it looks like there might be like a cut kind of  
7     in the middle of the picture, like a smiley face.

8           A.     Yeah. That is what happens, that's an  
9     artifact, that's part of sometimes when you're cutting  
10    through the skull the saw bounces in and hits the brain.

11          Q.     Okay. And let me show you Exhibit 20.

12          A.     The other way. There you go.

13          Q.     Thank you very much. What are we looking  
14    at here?

15          A.     Okay. So this is when I start cutting the  
16    brain to see what's inside and I cut sections that are  
17    cut this way. So now we're looking at another  
18    perspective. And what you can see here, again left and  
19    right, are these hemorrhages in the brain.

20          Q.     And can you describe what they look like on  
21    the photograph, what hemorrhages look like?

22          A.     That's these red brown discolorations in  
23    the brain that you can see that tell you that there's  
24    been damage. And the other thing that's here that's  
25    also shown in the CAT scans later and is evidence of

1 swelling of the brain is that instead of the gray matter  
2 being really sharply delineated from the white matter,  
3 there's so much fluid in the brain that it's not  
4 anymore.

5 Q. And these CAT scans are something that you  
6 reviewed in analyzing the brain?

7 A. Yes.

8 Q. I'm showing you Exhibit 19. What are we  
9 looking at here?

10 A. We're looking at a further back section of  
11 the brain. And this is the left side and here we're  
12 just beginning to come into the large hemorrhage that  
13 was seen on her CAT scans.

14 Q. Okay. And just so the record's clear,  
15 these are vertical cuts through the brain?

16 A. That's right.

17 Q. I'm showing you Exhibit 18. Do you  
18 recognize this?

19 A. Yes.

20 Q. What is that?

21 A. This is again further back. And you can  
22 see this is the major part of the hemorrhage and as it  
23 comes back it gets more into this region. So it's sort  
24 of a longitudinal damage.

25 Q. Okay. You're referring to this damage. Is

1 it any different color than the non-damaged portions of  
2 the brain?

3 A. Yes, it's red because there's hemorrhage or  
4 blood in it.

5 Q. And then lastly I want to show you  
6 Exhibit 22. Do you recognize this?

7 A. Yes.

8 Q. What are we looking at here?

9 A. So if you remember the picture that we  
10 looked at the underside of the brain and there was a  
11 structure in the center. This is the structure in the  
12 center and then this is further back, so now we're  
13 starting to get into the region of the brain tissue that  
14 heads down towards the spinal cord and this is very,  
15 this tissue is all very swollen. And I took these  
16 pictures to show that her brain was so swollen that she  
17 wouldn't have been able to transmit cerebrospinal fluid  
18 into the brain. So there should be a hole right there,  
19 a tract, and this should be a space also and they're  
20 just not there because of all the swelling.

21 Q. Okay. So let me make sure I understand you  
22 correctly then. There should be a hole in the, there's  
23 an upper portion of this photo, it looks like a circle  
24 almost, and there should be a circle or a hole inside  
25 this specimen somewhere?

1 A. That's the mid brain, yes.

2 Q. The mid brain.

3 A. Yes.

4 Q. Down here in the larger portion of the  
5 picture, there should also be a hole?

6 A. Yes.

7 Q. And those holes are not depicted in these  
8 photos?

9 A. That's correct.

10 Q. Why would that be?

11 A. Because the brain tissue is very swollen.

12 Q. And you also mentioned, and there was a  
13 term that I'm going to mispronounce cause I didn't  
14 really understand it. It was a neuro spinal fluid I  
15 think.

16 A. Cerebrospinal fluid.

17 Q. Cerebral. What is that?

18 A. That is, it's also called CSF. It's the  
19 fluid that flows constantly around and through our  
20 brains that brings nutrients into the brain. Blood  
21 vessels are in there. So it's critical that this fluid  
22 flow.

23 Q. And because there's no hole in these  
24 portions of the brain, do you have any expert opinion as  
25 to whether or not she would have been receiving the

1 proper nutrients that she would need from that spinal  
2 fluid?

3 A. Well, she wouldn't have been able to  
4 because it wasn't able to flow.

5 Q. And what would be the possible injuries  
6 that could be sustained or the damage that could be  
7 sustained if there isn't that spinal fluid flowing?

8 A. Well, it is just a contributor to the fact  
9 that this brain is already swollen and damaged. And you  
10 know the fact that the cerebrospinal fluid cannot flow  
11 means you cannot even get, you can't get oxygen, you  
12 can't get the nutrients to the brain that you need.

13 Q. Okay. Based upon your analysis of the  
14 brain and also your expertise in this area, could you  
15 determine potentially what type of objects could have  
16 caused these type of injuries?

17 A. You mean without knowing the history?

18 Q. Yeah. Without knowing the history, if  
19 you're just looking at the brain, what types of things  
20 could cause the injuries that this individual sustained?

21 A. It's clearly trauma. There's absolutely no  
22 question about that.

23 Q. And trauma is, can you describe that in lay  
24 terms and regular terms?

25 A. Sure. Anything that damages, hits the

1 brain or hits the skull or if there's impact. So say  
2 somebody in a car whiplashes and hits their head before  
3 air bags came out.

4 Q. And you saw photos of the hemorrhage on the  
5 left side of that brain. In your opinion in what you've  
6 reviewed in those several hundreds of brains you  
7 reviewed, was that a large hemorrhage, a minor  
8 hemorrhage? Can you just describe how large or small  
9 that hemorrhage would have been in comparison to other  
10 brains?

11 A. The criteria -- well, you can have any size  
12 of hemorrhage in another brain, but the way that those  
13 are characterized in the pathology literature is that  
14 that would be called, because of the size, would be a  
15 large hemorrhage.

16 Q. In your medical opinion as to, do you have  
17 any opinion as to what could have potentially caused the  
18 death of this individual?

19 A. Yes, definitely.

20 Q. What opinion is that?

21 A. It is she suffered cerebral trauma, brain  
22 trauma, and it was aggravated by the fact that she  
23 already had high blood pressure and it was very, very  
24 hard to control. So what happens whenever you have high  
25 blood pressure is that there's more force being

1 transmitted into the brain, and hemorrhages, it's easier  
2 to get a hemorrhage whenever you're hypertensive. But  
3 that is not the location of a hemorrhage that would  
4 occur just with high blood pressure.

5 Q. Okay. I believe at one point you testified  
6 that she wouldn't have been able to come back from this.  
7 Can you describe what you were referring to with that  
8 comment?

9 A. Well, it's really, I could do that from the  
10 clinical records and I can also just say pathologically,  
11 even if I didn't know the clinical history, is that once  
12 you start to see evidence of the brain herniating, which  
13 is what it's called when it starts to come through the  
14 central hole in the skull, is that that, that's  
15 inconsistent with life. That's what we see in people  
16 who die. If you don't have that severity you can, if  
17 the clinicians can treat somebody with cerebral edema  
18 before that starts to occur or even in the early part of  
19 it, they can be brought back.

20 Q. So would any medical intervention, would  
21 that have assisted in potentially saving her life?

22 A. It didn't.

23 Q. It didn't.

24 A. If you look at the clinical records, they  
25 tried everything they could.

1 MR. STEPHENS: Okay. Are there any  
2 questions by the grand jurors for this witness?

3 THE WITNESS: Yes.

4 BY A JUROR:

5 Q. Dr. Greco, can you give me a better idea of  
6 the timelines of when and how important is it that you  
7 get the brain to examine within a certain period of  
8 time? Is it important?

9 A. What we always do, what is the standard is  
10 that the brain is put into formalin which is a fixative  
11 and it fixes for a minimum of two weeks before we  
12 examine it. And the reason, there's several reasons for  
13 that and one is that when you cut the brain fresh you  
14 can, it's more mobile, yeah, and her's would have been,  
15 you know, very soft, and I could not do a good  
16 examination as well as I can if it's fixed. So we're  
17 out at least two weeks.

18 Q. Thank you.

19 BY MR. STEPHENS:

20 Q. I want to follow-up on that question. Were  
21 you able to determine a duration of when these injuries  
22 may have occurred?

23 A. By microscope, they appeared to be three to  
24 four days old by the microscopic examination.

25 Q. Three to four days old, can you describe

1 what you mean by that; as in the trauma would have  
2 occurred three or four days prior to, to what?

3 A. Not that the trauma occurred three to four  
4 days prior, but -- there's several things. One is that  
5 whenever I look at the hemorrhage which was enlarging, I  
6 only look at the outside part of it. So that, you know  
7 I can't look at the center because of all the  
8 hemorrhage, it would just be blood. And so I'm looking  
9 at the edge which we know is this thing is getting  
10 bigger, so it's going to be younger. And in terms, and  
11 the other thing that happens is when the blood stops  
12 flowing, and we know this lady, before she died, she was  
13 what's called hypoperfusing, so she wasn't sending blood  
14 to the brain as well as what she should have been and it  
15 got worse and worse. So whenever you can't get blood to  
16 the brain all the processes, the reactions to brain  
17 damage stop because you're not getting blood there to  
18 bring the white cells. So it's, when I do my reports I  
19 say what I saw, I don't make judgments. And so then I  
20 correlate with the clinical history. And then this lady  
21 also had so many problems with her high blood pressure,  
22 with the -- and when the brain starts to swell it's a  
23 cascade, it can just, unless it can be stopped with  
24 drugs it will just continue to swell once it's off  
25 balance.

1           Q.     So this three to four day duration period,  
2 I just want to make sure I'm understanding it, if  
3 someone occurred an injury at the beginning of the year,  
4 January 1st, maybe they don't die until February 14th --

5           A.     Uh-huh.

6           Q.     -- would you be able to determine, let's  
7 say they go into a comatose state at the beginning of  
8 February, what is this duration measuring? Is this  
9 duration from the time that they go into like a comatose  
10 state or from the beginning of when the trauma actually  
11 occurred?

12          A.     It would go from the time of trauma to the  
13 point when blood flow was so compromised that it can no  
14 longer continue to develop.

15          Q.     I see. So the trauma would have occurred  
16 and then according to your analysis three to four days  
17 the blood flow would have been restricted heavily?

18          A.     Yes.

19               MR. STEPHENS: Okay. Are there any other  
20 questions by the grand jurors?

21               THE FOREPERSON: No.

22               MR. STEPHENS: Thank you. She needs to  
23 admonish you.

24               THE FOREPERSON: By law, these proceedings  
25 are secret and you are prohibited from disclosing to

1 anyone anything that has transpired before us, including  
2 evidence and statements presented to the Grand Jury, any  
3 event occurring or statement made in the presence of the  
4 Grand Jury, and information obtained by the Grand Jury.

5 Failure to comply with this admonition is a  
6 gross misdemeanor punishable by a year in the Clark  
7 County Detention Center and a \$2,000 fine. In addition,  
8 you may be held in contempt of court punishable by an  
9 additional \$500 fine and 25 days in the Clark County  
10 Detention Center.

11 Do you understand this admonition?

12 THE WITNESS: Yes.

13 THE FOREPERSON: Thank you. You're  
14 excused.

15 THE WITNESS: Thank you.

16 MS. BROWN: The State's next witness is  
17 Ashanti Mayo.

18 THE FOREPERSON: Please raise your right  
19 hand.

20 You do solemnly swear the testimony you are  
21 about to give upon the investigation now pending before  
22 this Grand Jury shall be the truth, the whole truth, and  
23 nothing but the truth, so help you God?

24 THE WITNESS: Yes.

25 THE FOREPERSON: Go ahead and have a seat.

1           You are advised that you are here today to  
2 give testimony in the investigation pertaining to the  
3 offenses of murder, battery constituting domestic  
4 violence - strangulation, coercion, and preventing or  
5 dissuading witness or victim from reporting crime or  
6 commencing prosecution, involving Anthony Mayo.

7           Do you understand this advisement?

8           THE WITNESS: Yes.

9           THE FOREPERSON: Please state your first  
10 and last name and spell both for the record.

11           THE WITNESS: Ashanti Mayo. A-S-H-A-N-T-I,  
12 Ashanti, Mayo, M-A-Y-O.

13           THE FOREPERSON: Thank you.

14           MS. BROWN: May I proceed?

15           THE FOREPERSON: Yes.

16                     ASHANTI MAYO,  
17 having been first duly sworn by the Foreperson of the  
18 Grand Jury to testify to the truth, the whole truth,  
19 and nothing but the truth, testified as follows:

20

21                     EXAMINATION

22

23 BY MS. BROWN:

24           Q.     Hi Ashanti. How are you today?

25           A.     Good.

1 Q. Good. So you know you were just told why  
2 we're here. Do you remember why we're here today?

3 A. Yes.

4 Q. Why are we here, honey?

5 A. We're here because for the problem, for the  
6 case where my dad and I'm the witness so I have to tell,  
7 like tell you guys and you're supposed to get like  
8 the --

9 Q. We're supposed to make a decision today?

10 A. Yeah.

11 Q. Okay. Now Ashanti, you've already given us  
12 your name. What's your birthday?

13 A. November 6.

14 Q. What year were you born?

15 A. 2002.

16 Q. So how old are you right now?

17 A. Eleven.

18 Q. What grade are you in?

19 A. Fourth.

20 Q. Do you know what school you go to?

21 A. K. Carl.

22 Q. How do you like that school?

23 A. It's fun.

24 Q. What kind of subjects do you study?

25 A. I read. I go to this morning choir.

- 1 Q. Do you like choir?
- 2 A. Yes.
- 3 Q. Is that your favorite subject?
- 4 A. Yes.
- 5 Q. What's your favorite song?
- 6 A. Santa Claus is Coming to Town.
- 7 Q. Did you get to sing that recently?
- 8 A. Yes.
- 9 Q. Where did you sing it?
- 10 A. We sing it at school.
- 11 Q. You already said you're here to talk about
- 12 your dad. Who is your dad?
- 13 A. Anthony.
- 14 Q. What's his middle name?
- 15 A. Tyron.
- 16 Q. And what's his last name?
- 17 A. Mayo.
- 18 Q. And you said the thing that happened. Do
- 19 you know if something happened to somebody?
- 20 A. Yes.
- 21 Q. And who did that happen to?
- 22 A. She died.
- 23 Q. Who is she?
- 24 A. My mom.
- 25 Q. What's your mom's first name?

1 A. Beverly.

2 Q. What's her last name?

3 A. McFarlane.

4 Q. And do you know her middle name?

5 A. Estella.

6 Q. Now you said that your mom, that that was  
7 your mom and your dad. Anthony's your dad and Beverly's  
8 your mom?

9 A. Yes.

10 Q. Were they living with you in August of  
11 2012?

12 A. Yes.

13 Q. And who else were you living with?

14 A. It was just me, my sister, my mom and dad.  
15 My brother, he visits, but he don't live there.

16 Q. And your sister, what's her name?

17 A. Ashley.

18 Q. And how old is she now?

19 A. Four.

20 Q. Do you now how old she was in August of  
21 2012?

22 A. I think she was three.

23 Q. Okay. Do you know her birthday?

24 A. January 22nd.

25 Q. Coming up huh?

1 A. Yes.

2 Q. Did you get her a present?

3 A. No.

4 Q. Uh-oh.

5 So you, your sister Ashley, your mom and  
6 your dad were all living, was it an apartment or a  
7 house?

8 A. A house.

9 Q. Do you know in what city that was?

10 A. No.

11 Q. That's okay. I'm just asking.

12 So you're living in a house in August of  
13 2012. I need to ask you this question first before we  
14 talk about August of 2012. Okay?

15 A. Okay.

16 Q. Did we have the opportunity to meet before,  
17 me and you? Yesterday, did we meet yesterday?

18 A. Yes.

19 Q. Do you know who else was with us when we  
20 met?

21 A. Uh --

22 Q. If you don't know their names you can just  
23 describe who they are.

24 A. There was a lady, it was a lady that was  
25 sitting like by the door and then there was a man that

1 just let me in, yeah.

2 Q. And then was anyone else there with you?

3 A. It was me, my auntie Ursula and my sister.

4 Q. And when we met with you did we tell you  
5 what to say today?

6 A. I don't think so.

7 Q. Okay. But did I tell you something in  
8 particular?

9 A. Yes.

10 Q. What did I tell you?

11 A. You said not to lie and tell the truth.

12 Q. Okay. And did I tell you anything about if  
13 I made a mistake?

14 A. I should correct you.

15 Q. Did I make some mistakes yesterday?

16 A. Yes.

17 Q. Did you correct me?

18 A. Yes.

19 Q. Okay. Do you know then what the difference  
20 is between the truth and a lie?

21 A. Yes.

22 Q. What is the truth?

23 A. The truth is when you're like, like you're  
24 wearing something, say that I'm wearing a purple dress  
25 and then it's actually black and so that's a lie and

1 then you wasn't telling the truth and the truth is that  
2 you're wearing a black dress instead of saying you're  
3 wearing a purple dress.

4 Q. So is it good to tell the truth?

5 A. Yes.

6 Q. And does telling -- what about a lie, what  
7 does that mean to you?

8 A. A lie is something, a lie is bad. It gets  
9 you in trouble, a lot, a lot of trouble if you keep  
10 lying. And that's it.

11 Q. Did me and that man that just let you in  
12 tell you anything about telling the truth yesterday?

13 A. Yes.

14 Q. What did we say?

15 A. You said to always tell the truth, don't  
16 lie and stuff.

17 Q. Okay. Now I want to go to August 2012. Do  
18 you remember that month of your life?

19 A. Yes.

20 Q. Do you remember it pretty well?

21 A. Not really.

22 Q. Okay. But we're in August of 2012. Who  
23 were you living with at the time?

24 A. I was living with my mom, my sister and my  
25 dad.

1           Q.     Was there a time in August of 2012 when the  
2 police came to your house?

3           A.     August what?

4           Q.     Was there a time in August when the police  
5 came to your house?

6           A.     Yes.

7           Q.     And do you recall what date that was off  
8 the top of your head?

9           A.     The 10th.

10          Q.     Did you have the opportunity to review  
11 your -- did you make any statements to the police on  
12 that date?

13          A.     Yes.

14          Q.     And did we show you your statement  
15 yesterday?

16          A.     Yes.

17          Q.     Were you able to look at the date yesterday  
18 and see when you wrote that?

19          A.     Yes.

20          Q.     So August 10, 2012 the police come to your  
21 house; right?

22          A.     Yes.

23          Q.     And why were they at your house?

24          A.     They were at my house because I called them  
25 right when my dad left the house. I called them

1 because, I called them because my mom wasn't feeling  
2 that well and they couldn't understand what my mom was  
3 saying so I had to speak for her and then we told them  
4 that, like what's the address and stuff. So I went  
5 downstairs and I got the, like the mail because it has  
6 the address on it and I read it, I like read it and  
7 spelled it out.

8 Q. Okay. Good job Ashanti.

9 So do the police come to your house at any  
10 point in time that day?

11 A. Yes.

12 Q. And did you talk to the police that day?

13 A. Yes.

14 Q. Did you see if your mom talked to the  
15 police that day?

16 A. Yes.

17 Q. Was she able to talk to the police?

18 A. No, she was mumbling.

19 Q. Now you said that your mom was having a  
20 hard time talking on the phone as well?

21 A. Uh-huh.

22 Q. I want to talk to you a little bit about  
23 your mom's demeanor that day. Do you know what the word  
24 demeanor means?

25 A. No.

1 Q. Okay. What your mom looked like that day.

2 A. Oh.

3 Q. Do you understand that better?

4 Okay. Let's start at the beginning of that  
5 day, August 10th. Were the police at your house right  
6 away in the morning?

7 A. No.

8 Q. So what did you do earlier that morning?

9 A. So I start -- well, my dad was yelling, he  
10 was yelling at my mom when are you going to go to work,  
11 are you going to go to work, and my mom kept saying I  
12 don't know. And so then like my dad woke me up from  
13 yelling at her and after like a couple minutes after he  
14 stopped and asked her one more time are you going to go  
15 to work and then my mom said, she said no. So we just  
16 stayed in the house and my dad left, he drove off with  
17 the car. And so like my mom she was just laying in bed  
18 and then she got off the bed, she went to go use the  
19 bathroom, then she came by the stairs and she gave me  
20 her phone, her phone was on her bed and she, she said  
21 get the phone like, she said the phone, the phone, and I  
22 was like what and so then I got -- because she was  
23 trying to speak louder and she speak louder one time,  
24 speak louder, and then, then I went to go get the phone  
25 off the bed and so we, my mom kept dialing. Wait. It

1 was 311 and then I, and then we actually did call  
2 somebody so and she said the phone number and we were  
3 all the way at the south, we like, we called the south  
4 instead of 911 and then the police came, like we were  
5 calling and then the police came and stuff.

6 Q. Okay. Ashanti, let me break that down  
7 because that's a whole lot of information. Okay, honey?

8 You said you were woke up by your dad  
9 yelling?

10 A. Yeah.

11 Q. Do you guys sleep in the same room, did you  
12 sleep in the same room as your parents?

13 A. No.

14 Q. Can you kind of describe where you were and  
15 where your dad was at the time?

16 A. Okay. I was across the hall, cause my room  
17 is like right across from them, and so, and so me and my  
18 sister, because we have this big bed in our room, we  
19 both slept on it, she slept by the wall and I slept by  
20 the edge, and we had this other bed on the floor just in  
21 case we rolled off the bed and stuff, we fall. So I  
22 rolled off the bed and I woke up and I'm on that bed and  
23 I'm like what, and then my dad, he woke me up screaming,  
24 he was screaming and stuff and I got --

25 Q. Let me stop you there.

1                   Was your door open when you heard the  
2 screaming?

3           A.     Yeah, both of the doors be open.

4           Q.     And can you see into where your dad was at  
5 the time?

6           A.     Yes.

7           Q.     Where was your dad?

8           A.     He was like right in front of the door.

9           Q.     To your door or to your mom's door?

10          A.     My mom's door.

11          Q.     Could you see in your mom's room at the  
12 time?

13          A.     Yes.

14          Q.     And you said your dad was yelling?

15          A.     Yes.

16          Q.     Do you know exactly what he was saying?

17          A.     He said are you going to go to work, and he  
18 was saying bad words, like the B word, the F word, are  
19 you going to go to work and stuff.

20          Q.     And earlier you said your mom was  
21 responding to this?

22          A.     Yeah, my mom, she couldn't like, she was,  
23 it was hard for her to talk. She was like mumbling and  
24 her voice was screeching and stuff so it was hard for  
25 her to talk.

1 Q. So how long was your dad yelling at your  
2 mom before he left, do you know?

3 A. Huh-uh.

4 Q. Was it a long time?

5 A. Yes, it was like about a couple minutes.  
6 Ten or fifteen minutes. I don't know.

7 Q. Okay. But it was more than a second? Was  
8 it more than like (snaps fingers) that?

9 A. Yeah, it was more.

10 Q. When your dad left you said that your mom  
11 moved over by the stairs.

12 A. Yes.

13 Q. Where were the stairs in relation to your  
14 room?

15 A. Right next to my mom's room. So if you  
16 come right out the door you just have to turn and it was  
17 right there and go down.

18 Q. And were you able to see your mom when she  
19 was walking out of her room?

20 A. Uh-huh.

21 Q. And do you now how she was walking at the  
22 time?

23 A. She was limping.

24 Q. Was she holding any part of her body when  
25 she was limping?

1           A.     I don't think so.

2           Q.     When she came out of the room was she  
3 talking to you?

4           A.     Yes.

5           Q.     And how was she talking to you?

6           A.     She was whispering.

7           Q.     Did you ask her to speak louder?

8           A.     Yes. But it was hard, she couldn't like  
9 speak that loud.

10          Q.     Did she try?

11          A.     Yeah.

12          Q.     And you said that she said get the phone?

13          A.     Uh-huh.

14          Q.     Did you understand her to say get the  
15 phone?

16          A.     Not really. Like the first two times I  
17 didn't understand but the third time I did and I went to  
18 go get the phone off the bed.

19          Q.     And once you grabbed that phone what did  
20 you do with it?

21          A.     I gave it to her.

22          Q.     To your mom? And did your mom do anything  
23 with the phone?

24          A.     Yeah, she went to the phone part and she  
25 dialed, first she dialed 411, then she dialed 311.

1 Q. Did it look like she was okay with pushing  
2 the buttons?

3 A. Not really, it was hard for her.

4 Q. When she was dialing 311 did you ever take  
5 the phone from her?

6 A. She gave it to me. She be giving it to me.  
7 And then I heard somebody answer and then she said like  
8 something, I don't remember.

9 Q. The person on the phone said something?

10 A. Yeah, the person on the phone said  
11 something but I don't remember what she said.

12 Q. Did you eventually talk to whoever was on  
13 the phone?

14 A. Yes.

15 Q. Did you eventually give them your address?

16 A. Yes.

17 Q. And that's after you went to look at the  
18 mail?

19 A. Yes.

20 Q. Did you know your address at the time?

21 A. No.

22 Q. Okay. So why did you go get the mail?

23 A. Because they said can I spell, I forgot  
24 what it was, the word, the street was, but they asked me  
25 to spell it so I went down there to go get it and spell

1 it. So I did and then I gave them the address and they  
2 came.

3 Q. Okay. About how long after you called them  
4 did they come?

5 A. Yes. It was like, it was like maybe five  
6 minutes. It wasn't even five minutes. It was like they  
7 were right there. They just asked, right when we got  
8 off the phone they were right at the door. So they just  
9 said can you go open the door and then my mom went  
10 downstairs and opened the door and then they said that  
11 her blood sugar was very high so they took her to the  
12 hospital.

13 Q. Who said that?

14 A. I think it was the paramedics or something.

15 Q. Now you said you talked to the police that  
16 day as well?

17 A. Yeah.

18 Q. Do you remember writing anything for them?

19 A. Yes.

20 Q. Did we show this to you yesterday?

21 A. Yes.

22 Q. Were you able to recognize it?

23 A. Yes.

24 Q. If I show it to you again do you think  
25 you'd be able to recognize it?

1 A. Yes.

2 Q. That's good because I have to find it.

3 Okay. I'm going to approach you now.

4 Okay?

5 A. Okay.

6 Q. I'm showing you a document. Do you  
7 recognize this?

8 A. Yes.

9 Q. And what is that?

10 A. That's the, that's the paper that I filled  
11 out what happened to my mom.

12 Q. And how do you know that this is the one  
13 that you filled out?

14 A. I don't know if it's the one I filled out  
15 but I know that I wrote, I did that.

16 Q. Do you recognize anything on here that  
17 makes you think this was yours?

18 A. Yes.

19 Q. What do you recognize?

20 A. I remember that I wrote my dad, my dad hit  
21 my, my dad hit her and --

22 Q. So you recognize some of the wording?

23 A. Yeah.

24 Q. Do you recognize any of your handwriting on  
25 there?

1 A. Yes.

2 Q. Is this your handwriting?

3 A. Yes.

4 Q. And is there a date at the bottom here?

5 A. Yes.

6 Q. Is that how you remember the date that  
7 we're talking about now?

8 A. Yes.

9 Q. Okay.

10 A. The 10th.

11 Q. The 10th.

12 Ashanti, you said that your mom that day  
13 was, she was having a hard time talking and walking?

14 A. Uh-huh.

15 Q. Did your mom always have that problem?

16 A. No.

17 Q. And when did those problems start?

18 A. Right after when my dad beat her up.

19 Q. So I'm going to move now to when that  
20 happened. Okay?

21 A. Okay.

22 Q. Do you remember how many days there were  
23 between that 10th, Friday, August 10th, and when your  
24 dad beat your mom up?

25 A. It was Thursday.

1 Q. Was it one day or two days, three days?

2 A. One day.

3 Q. All right. So the day before you called  
4 the police, is that when you dad beat your mom up?

5 A. Huh-uh.

6 Q. Was it the day before that?

7 A. It was on Wednesday.

8 Q. Okay. So it was the day before Thursday.

9 Okay. So I want to talk to you about Wednesday then.

10 A. Okay.

11 Q. Were you with your dad earlier that day on  
12 Wednesday, August 8th?

13 A. No, my dad, he left to go take my mom to  
14 work.

15 Q. Your mom was at work?

16 A. Yeah.

17 Q. What did your mom do?

18 A. She is one of those nursing, she's a nurse  
19 but she works at one of those home, like go to their  
20 house.

21 Q. Does she take care of people?

22 A. Uh-huh.

23 Q. And does she take care of young people?

24 A. Old people.

25 Q. Was your mom doing that on that day do you

1 remember?

2 A. Yes. She was doing, she only have that  
3 job. She don't mostly don't have other jobs.

4 Q. So your dad took your mom to work?

5 A. Yes.

6 Q. Did your dad come home at any point in  
7 time?

8 A. He come home mostly three or two hours  
9 later.

10 Q. Were you home at the time when your dad  
11 came back?

12 A. Yes.

13 Q. Was anyone else home with you then?

14 A. Just me and my sister. But sometime when  
15 my brother visit he watches us.

16 Q. Was he there on that day?

17 A. No.

18 Q. So your dad came home. Was he saying  
19 anything when he came home?

20 A. He threatened me and my sister cause he was  
21 on the phone, cause my mom's phone accidentally called  
22 him and then he said that go in your room or I'll whoop  
23 you and I didn't do anything and I guess he was mad  
24 so --

25 Q. Hold on a second.

1 Ladies and gentlemen of the Grand Jury, you  
2 are instructed to disregard that last part. And also  
3 any statements made by Miss McFarlane, Ashanti's mom, is  
4 not offered for the truth of the matter asserted,  
5 they're only offered for the effect upon the listener  
6 being Ashanti and/or her father.

7 You're okay Ashanti.

8 A. Okay.

9 Q. Your father came home. Did you go to your  
10 room?

11 A. Yes.

12 Q. Were you able to hear your father still?

13 A. Yes. Not really. He closed his room door.

14 Q. Could you hear anything through the door?

15 A. He was playing his game.

16 Q. Did there come a point in time during that  
17 day when he started yelling at your mom?

18 A. On the phone.

19 Q. Is that before or after he went in his room  
20 to play the game?

21 A. After.

22 Q. And were you able to hear what was going on  
23 in there?

24 A. No. He said, he was just yelling. I  
25 couldn't really hear what he was saying because mostly

1 he had his TV up really loud.

2 Q. But you heard something going on in there?

3 A. Uh-huh.

4 Q. At any point in time did you mom come home  
5 that day?

6 A. She come home at night.

7 Q. Nighttime?

8 A. Yeah.

9 Q. When your mom came home what did she do?

10 A. She went to go prepare, get, like prepare  
11 food.

12 Q. Do you remember what you were going to eat  
13 that day?

14 A. I remember I think it was steak or  
15 something. I don't know.

16 Q. Sounds delicious.

17 What were you doing when your mom came  
18 home.

19 A. I was, cause my mom, she bought us like  
20 this dirty clothes basket, but we didn't use it yet but  
21 it was all clean, and we opened it, we were downstairs  
22 hitting it like a beach ball and we were calling it,  
23 like we were playing, we were hitting it, me and my  
24 sister, and then my dad, he joined in, and my mom said  
25 stop but my dad said keep going and I was like oh and I

1 just listened to my dad because he started to yell at me  
2 so I just started hitting it again.

3 Q. Who is we, who was hitting it?

4 A. Me and my sister.

5 Q. And your dad?

6 A. Yeah.

7 Q. So your mom said stop, your dad says go, so  
8 you went?

9 A. Uh-huh.

10 Q. At any point in time does your mom, did  
11 your mom leave or did she stay there when she said stop?

12 A. She stayed there.

13 Q. What did she do when this happened?

14 A. She just like, she kept, we both, I looked  
15 at her, my dad looked at me and my mom looked at me and  
16 I was like I don't know so I just started hitting it  
17 again.

18 Q. Did your mom leave then or did she stay  
19 there?

20 A. She stayed there and then, until the food  
21 was done and then we went to go take the food upstairs  
22 and we were eating in their room.

23 Q. In your mom's room?

24 A. Yeah.

25 Q. Why did you go eat in your mom's room?

1           A.     Because our cable was turned off. We had a  
2 Play Station was in their room.

3           Q.     Can you watch anything on the Play Station?

4           A.     Uh-huh.

5           Q.     What can you watch?

6           A.     Movies.

7           Q.     Were you going to watch a movie then?

8           A.     Uh-huh. We were watching movies and stuff.

9           Q.     And you're eating?

10          A.     Uh-huh.

11          Q.     Who was in your mom's room then when you're  
12 eating?

13          A.     Me, my sister, my dad and mom.

14          Q.     Where were you guys located in your mom's  
15 room?

16          A.     My sister was at the edge, me and my sister  
17 was at the edge of the bed. My mom and dad was like  
18 their spots on the bed.

19          Q.     In the other part?

20          A.     Yeah, the top.

21          Q.     Is everybody eating?

22          A.     Yes.

23          Q.     And was everybody watching the movie?

24          A.     Yes.

25          Q.     Did anything else happen when you're all

1 watching the movie?

2 A. Yes.

3 Q. What happened?

4 A. My dad said, we didn't start eating yet, we  
5 started to, like we got our food and my dad said, he  
6 said that he think that my mom was trying to poison him  
7 so my dad gave his food to Ashley and my dad ate my  
8 sister's food.

9 Q. And did Ashley eat the other food then?

10 A. No, Ashley wasn't, Ashley eats slow so she  
11 wasn't done yet.

12 Q. Go ahead though.

13 A. And then like my dad start getting mad and  
14 stuff and then he told me and my sister to get off the  
15 bed and go in our room and then he walked around to the  
16 edge of the bed where we were and then he jumped onto  
17 the bed, and my mom had another phone, she called 911  
18 already but my dad slapped it out her hand, and I got  
19 scratched on my face like right here and then, and I got  
20 scratched from the desk because it was pointing and it  
21 scratched me on my arm but it was just a bruise, but my  
22 dad, he jumped off the bed and on my mom and choked her  
23 and beat her up.

24 Q. Now you said your dad came down to the bed  
25 where you two were. Were you down there at the time he

1 came down there?

2 A. He went right there and he told us to move.

3 Q. Did you move?

4 A. Yes, I was trying.

5 Q. Where did you go when you moved?

6 A. I fell off. I rolled off the bed.

7 Q. What about Ashley, did she stay there?

8 A. No, she actually did get off the bed and

9 took her food into our room and started to eat it.

10 Q. You said you rolled off the bed?

11 A. Uh-huh.

12 Q. When your dad went down to where you were,

13 were you still in the room at the time?

14 A. Yeah, I was.

15 Q. Did you stay in your mom's room?

16 A. No, I went into my room.

17 Q. And why did you go in your room?

18 A. Because I was afraid.

19 Q. Did your dad tell you to get out?

20 A. Yes.

21 Q. When you went to your room, where were you

22 in your room?

23 A. I was on the big bed and then I was like,

24 and I was like, I couldn't watch this no more so I was

25 going to get my mom's purse to try to find her phone to

1 call 911 but I couldn't find it cause she has so many  
2 pockets and she has a lot of stuff in every pocket so I  
3 couldn't find it. And then I just took her purse right  
4 next to me and I hid myself behind the door because I  
5 just couldn't watch it no more.

6 Q. There was a part that you did see?

7 A. Uh-huh.

8 Q. What exactly did you see?

9 A. I saw when he like, he got off the bed, he  
10 started, he went by the door, started call her bad words  
11 again and then he went to go, he got the vacuum. First  
12 he said where's my bat, where's my bat. He went  
13 downstairs to go find his bat in the garage but I guess  
14 he forgot, cause we always keep it on our couch, so I  
15 took the bat and I hid it in a hole in like this little  
16 hole by the couch cause we have another couch in our  
17 living room.

18 Q. What kind of bat was it?

19 A. A metal bat.

20 Q. You ran downstairs and you hid that bat?

21 A. Uh-huh.

22 Q. When you hid the bat what did you do?

23 A. I took the bat and I put it in the, it was  
24 like a long deep hole, so I put it in the hole between  
25 the couch and the wall. So I put it in the hole, then I

1 ran upstairs and went in the room and then my dad just  
2 picked up the vacuum and took it in the room, took it in  
3 their room.

4 Q. Did you see anything, you said before that  
5 your dad was hitting -- did you say that your dad was  
6 hitting your mom too?

7 A. Uh-huh.

8 Q. Did you see this actually happening?

9 A. Yes.

10 Q. And you said your dad also jumped on the  
11 bed?

12 A. Uh-huh.

13 Q. Can we go back to when your dad jumped on  
14 the bed and what you saw then?

15 A. Okay.

16 Q. When your dad jumped on the bed, where were  
17 you?

18 A. I was in my room on my bed.

19 Q. And could you see into your mom's room?

20 A. Yes.

21 Q. Could you see your mom and your dad?

22 A. Yes.

23 Q. And where was your mom at the time?

24 A. My mom was on, like laying down on the bed  
25 and my dad was just on top of her, punching her, choking

1 her.

2 Q. Now you say punching her. Did you see  
3 where your dad was punching her?

4 A. Like in the eye, the cheek right here.

5 Q. Did you see him punching her in the eye?

6 A. Yes.

7 Q. Did you see him punching her in the cheek?

8 A. Yes.

9 Q. Did you see him punching her anywhere else?

10 A. Yes, he was just punching her all over her  
11 face.

12 Q. You said he was choking her too. What do  
13 you mean by that?

14 A. Like choking, actually choking her.  
15 Pushing her down on the bed, like pushing her down, and  
16 she couldn't even breath. She was like help me. She  
17 was calling my name to help her. I wanted to help her  
18 so bad but I just couldn't.

19 Q. Now you said that he was pushing her down  
20 into the bed but she was saying help me. When he would  
21 push her into the bed was she still pretty loud?

22 A. Yes.

23 Q. At any point in time does she get softer?

24 A. Yes.

25 Q. When did that happen?

1           A.     Like right when my dad, right when my dad  
2     went out the room, went out the room by the door and  
3     started like calling her bad words again and said  
4     where's my bat and stuff.

5           Q.     Was she quieter at all when he was pushing  
6     her down into the bed?

7           A.     No.

8           Q.     How do you know then that she couldn't  
9     breath?

10          A.     Cause I heard it in her voice. She was  
11     like, she couldn't like, she was screaming and then she  
12     kept stopping. She'd stop and scream and stuff.

13          Q.     So your dad goes downstairs to look for the  
14     bat.

15          A.     Uh-huh.

16          Q.     Does he bring the bat up with him?

17          A.     No.

18          Q.     Do you see him come back up stairs?

19          A.     Yes, cause he went into the garage to go  
20     see where the bat is. Then I got the bat and I put it  
21     in this hole, in the hole. Then I ran upstairs because  
22     he was closing the garage so I ran right upstairs and I  
23     went in my room. And then he came by the door, got the  
24     vacuum and he shut the door, then it got all quiet. My  
25     mom was screaming stop, please don't do that, and then

1 my dad, it started to get quiet then I heard a bang and  
2 then my mom was all the way at my dad's side of the bed.

3 Q. Was that the last place you saw her before  
4 the door closed?

5 A. Uh-huh. She was on her side of the bed  
6 first sitting saying stop. And the door wasn't even all  
7 the way closed. It was shut like, it was cracked.

8 Q. So could you still see inside?

9 A. A little.

10 Q. And what could you see if anything inside?

11 A. I saw my dad's dresser and my mom, I think  
12 I saw somebody flipped over off the bed on my dad's side  
13 and then I saw, and then all of a sudden when the door  
14 opened, it was my mom that opened the door, she came out  
15 the room, the vacuum was broken and my mom had dirt in  
16 her hair, dirt on the floor. All on my dad's side, none  
17 on my mom's side at all.

18 Q. So when your dad came back up stairs, were  
19 you able to see what he looked like at the time?

20 A. Uh-huh.

21 Q. What did he look like at the time?

22 A. He had dreads.

23 Q. Besides the dreads, besides what he looked  
24 like physically, were you able to see what else he was  
25 doing at the time?

1           A.     He was just walking up the stairs balling  
2 his fists and that was mostly it. And he went back in  
3 the room and took the vacuum and stuff.

4           Q.     You said he was saying things to your mom.  
5 Was he saying them nice like we're talking now?

6           A.     No.

7           Q.     How was he saying them?

8           A.     He was like yelling it at her, like  
9 yelling.

10          Q.     And I'm asking you very specific, so this  
11 is a yes or no question. Have you seen your dad yell  
12 before?

13          A.     Yes.

14          Q.     And when he yells does he look like, what  
15 does his face look like at the time?

16          A.     Like mad.

17          Q.     Did he look the same on that day or did he  
18 look different?

19          A.     Different.

20          Q.     How did he look on this day?

21          A.     Like his eyes was popping out of his head.  
22 Every time when he get mad his like forehead get this,  
23 like I guess it's his vein popping out of his head and  
24 it's jigglng. So I guess when he's really mad that  
25 happens.

1 Q. Did he look like that on this day when he  
2 hit your mom?

3 A. Yes.

4 Q. Now you also said that your dad pulled a  
5 vacuum into the room?

6 A. Uh-huh.

7 Q. I'm going to show you something and let me  
8 know if you recognize it. Okay?

9 A. Okay.

10 Q. I'm approaching the witness with Grand Jury  
11 Exhibit Number 10.

12 I'm showing you Grand Jury Exhibit 10. Do  
13 you know what this is?

14 A. The vacuum.

15 Q. Is that the vacuum that you saw your dad  
16 grab?

17 A. Yes.

18 Q. I see that there's a little part on here.  
19 Is that what it looked like before your dad went in the  
20 room?

21 A. Where?

22 Q. Here.

23 A. Yes.

24 Q. Okay. This part's open here?

25 A. No, it was closed.

1           Q.     But this is what that vacuum looked like in  
2 your house?

3           A.     Yes.

4           Q.     And this is the vacuum he took in the room?

5           A.     Uh-huh.

6           Q.     And you said earlier that there was a part  
7 that was closed?

8           A.     Yes.

9           Q.     Do you want to get up here and point and  
10 tell me which one?

11          A.     It was this part that was closed. So it's  
12 broken. So one time when I was trying to use it to  
13 vacuum one time, to vacuum up our room, it didn't work,  
14 it closed. I guess there was a piece missing.

15          Q.     So was it always like this?

16          A.     No. It was closed and then right after  
17 that day it was open the whole time.

18          Q.     You said you used this vacuum?

19          A.     Uh-huh.

20          Q.     Have you ever seen your dad use the vacuum?

21          A.     No.

22          Q.     You vacuum?

23          A.     Uh-huh.

24          Q.     Does Ashley vacuum?

25          A.     No. Well now she does.

1 Q. She's four so now she gets to vacuum?  
2 A. Yeah.  
3 Q. Does she like to vacuum?  
4 A. Not really. She's afraid of it though.  
5 Q. It's kind of loud?  
6 A. Yes.  
7 Q. Does your mom vacuum?  
8 A. Yeah, me and my mom mostly.  
9 Q. You said that your dad took that vacuum  
10 into your mom's room?  
11 A. Yes.  
12 Q. And he closed the door sort of?  
13 A. Yes.  
14 Q. And then what did you hear when he went in  
15 there?  
16 A. I heard my mom screaming please don't do  
17 that, and then after it got a little quiet, then I heard  
18 a bang and then I heard like something fell on the floor  
19 too. I heard a bang and something fall on the floor.  
20 Q. And that little part that you pointed out  
21 before, is that where all the dirt goes?  
22 A. Yes.  
23 Q. Now you also said that your mom was able to  
24 open the door.  
25 A. Uh-huh.

1           Q.     When your mom opened the door, what did she  
2 look like to you at the time?

3           A.     She looked hurt.

4           Q.     And why do you say that?

5           A.     Because mostly when she gets in a fight she  
6 don't actually look like that, she looks her normal  
7 self, because my dad don't actually beat her --

8           Q.     Let's talk about only this time  
9 specifically.

10                   And ladies and gentlemen, you are  
11 instructed to disregard that.

12                   This time specifically when she went in the  
13 room, did she look the same when you saw her again?

14           A.     Huh-uh.

15           Q.     No? How did she look different this time?

16           A.     Cause she had like scratches on her face.

17           Q.     And you also mentioned earlier there was  
18 dirt somewhere. Where was the dirt?

19           A.     On my dad's side and my mom had dirt all in  
20 her hair, like right all in her hair.

21           Q.     And you said there was a scratch on your  
22 mom's face?

23           A.     Yes.

24           Q.     Did you say anything to your mom at this  
25 point?

1           A.     I said are you okay and then she, I  
2 couldn't hear what she was saying. It was hard for her  
3 to talk.

4           Q.     So she was talking more softly then?

5           A.     Uh-huh.

6           Q.     How about did she try to walk out of her  
7 room?

8           A.     She was limping while she was walking.  
9 Like she kept walking and I guess one leg was dragging  
10 or something.

11          Q.     Did you follow your mom when she came out  
12 of the room?

13          A.     Huh-uh.

14          Q.     Do you know where she went?

15          A.     She went, she came into my bathroom because  
16 her bathroom was messed up, got messed up then.

17          Q.     And when she was in your bathroom what was  
18 she doing?

19          A.     She used the bathroom, turned on the water  
20 to go bathe and then when she was done bathing she came  
21 and laid in my bed, in our bed, and my dad said go in  
22 his room, go in that room. But my dad said don't make  
23 me get up. So I helped my mom into her room and she  
24 asked us can we sleep in their room but I was  
25 uncomfortable because Ashley was like at the edge of the

1 bed and I was like in the middle next to my mom and then  
2 my dad's feet was all up in my face so I was like no, so  
3 me and my sister went back in our room.

4 Q. Now earlier you also said that your mom had  
5 a phone with her on that bed.

6 A. Uh-huh.

7 Q. Did you try to use that phone?

8 A. No, cause my dad slapped it and it was  
9 like, he had his fridge and it was a little corner next  
10 to the, it was next to the wall and I couldn't get  
11 through there. I was like, when I fell off the bed I  
12 saw it but I couldn't get my hand through.

13 Q. Did your dad say anything to you when were  
14 you trying to get the phone?

15 A. Huh-uh.

16 Q. Did you try to call the police that day?

17 A. Yes.

18 Q. Did your dad know you were trying to call  
19 the police?

20 A. Yes.

21 Q. How did he know that?

22 A. Because I got my mom's purse.

23 Q. Once you got your mom's purse did your dad  
24 say anything to you?

25 A. He said go ahead or, go ahead -- wait. No,

1 he said if you call the police I'm going to knock out  
2 your mom.

3 Q. So he told you if you call the police he's  
4 going to knock out your mom?

5 A. Yeah.

6 Q. Did he threaten you at any point in time  
7 that day?

8 A. Yes, he said that he's going to whoop me.

9 Q. Was that earlier in the day?

10 A. Yes.

11 Q. What about when this was all going on with  
12 your mom, did he say anything to you at that point?

13 A. No.

14 Q. So you got your mom back in her room?

15 A. Uh-huh.

16 Q. And you went back to your bedroom?

17 A. Uh-huh.

18 Q. Did you go to sleep?

19 A. Yes.

20 Q. Was your dad, was your mom and dad's door  
21 still open?

22 A. Uh-huh.

23 Q. Was your door still open?

24 A. Yep.

25 Q. I'm going to talk to you now about the next

1 day, that next day, the 11th, Thursday. I'm sorry, the  
2 9th. Were you able to -- did you wake up that morning  
3 at some point?

4 A. Yes.

5 Q. And when you woke up what did you do?

6 A. I heard my -- wait. I woke up and I, I  
7 woke up, I just woke up my normal self, then my dad, my  
8 dad was talking to her, you should have just told me the  
9 truth from the first get go and stuff and then he said  
10 I'm sorry and then that was it. And then my mom didn't  
11 wake up at all. That was the morning she woke up and  
12 then she woke up at night.

13 Q. Did your mom usually sleep during the day?

14 A. No. She take naps sometimes but she don't  
15 sleep like that long.

16 Q. Did your mom usually go to work during the  
17 week?

18 A. Yes.

19 Q. Does she ever take days off like Monday,  
20 Tuesday, Wednesday, Thursday, Friday?

21 A. Her day off is on Sunday and Saturday.

22 Q. Was this a Sunday or a Saturday when your  
23 mom was in the bed all day?

24 A. Huh-uh, it was on Thursday.

25 Q. Did you hear your mom say anything back to

1 your dad?

2 A. No.

3 Q. And you said your mom woke up again  
4 sometime later that night?

5 A. Yes.

6 Q. Did you talk to your mom later that night?

7 A. Yes.

8 Q. And was she able to talk to you?

9 A. Not really. She was whispering.

10 Q. Was it the same kind of whispering that she  
11 did the day before?

12 A. Yes.

13 Q. Did you bring your mom anything?

14 A. Yes. Cause I was cooking burgers. I was  
15 cooking burgers and stuff so I took it upstairs, I  
16 cooked me one, I made one for myself, one for my sis --  
17 wait, one for my dad and one for my mom.

18 Q. You didn't make one for Ashley?

19 A. Huh-uh.

20 Q. Why not?

21 A. Cause she was still young. She -- I don't  
22 even know -- no, I didn't make her one.

23 Q. Does she like burgers?

24 A. Huh-uh. I made her something else.

25 Q. Did you bring that up to your mom yourself?

1 A. Yes.

2 Q. What did your mom look like to you when you  
3 saw her that day?

4 A. She looked sick. She just looked very  
5 sick.

6 Q. Why do you say that?

7 A. Because her eyes was all red, cause mostly  
8 when she's sick her eyes turn red, and she, and I guess,  
9 and then she said that her head was hurting so bad.

10 Q. She was saying that to you?

11 A. Uh-huh.

12 Q. When you found out that your mom said that  
13 to you did you do anything in response to that?

14 A. I said where's the Vicks and she said she  
15 don't know.

16 Q. What's the Vicks?

17 A. The Vicks is like, it's something for when  
18 you're sick. It helps for you to feel better. It's  
19 like, I don't know what it's called but it's something  
20 that you rub on your head and you just sleep for a  
21 little, relax, and it makes your head feel better.

22 Q. Did you try to find that for your mom?

23 A. Yes.

24 Q. Were you able to find it?

25 A. No.

1           Q.     After you had a conversation with your mom,  
2 did you stay in there with her?

3           A.     Huh-uh. I went back downstairs because I  
4 had burgers on the grill so I went to go get it off the  
5 grill.

6           Q.     And aside from sick, did you see any other  
7 injuries to your mom?

8           A.     She had a lot of black stuff on her. I  
9 don't know what side but it was on the side of her face.  
10 It was black and white, like her skin was peeled off  
11 then.

12          Q.     Did she have any -- do you know what  
13 bruises are?

14          A.     Yes.

15          Q.     What are bruises?

16          A.     Bruises are when you get hit or hurt and  
17 like it turns your skin another color.

18          Q.     Did you see anything like that on your mom?

19          A.     I don't remember. I think so. I don't  
20 remember.

21          Q.     It's okay if you don't remember. But you  
22 did say that there was something, you thought some skin  
23 was missing from her face?

24          A.     Uh-huh.

25          Q.     I'm going to approach the witness with

1 Grand Jury Exhibit 3.

2 We're almost done, I promise.

3 A. Okay.

4 Q. I'm showing you Grand Jury Exhibit 3. Do  
5 you know who this is?

6 A. Yeah.

7 Q. Who is that?

8 A. My mom.

9 Q. And that thing you were talking about  
10 earlier with the thing on her face, do you see that in  
11 Grand Jury Exhibit 3?

12 A. Yes.

13 Q. Where is it?

14 A. Right there.

15 Q. Is that what you were talking about?

16 A. Yes.

17 Q. I'm showing Grand Jury Exhibit 3 now.

18 This is your mom?

19 A. Yeah.

20 Q. And this is what you were talking about  
21 right here?

22 A. Yes.

23 Q. Now Ashanti, at some point that day did you  
24 go to sleep again that Thursday?

25 A. I went to sleep at night.

1 Q. And the next day you said you woke up and  
2 your dad was screaming?

3 A. Yes.

4 Q. Once your dad left, how long after your dad  
5 left did your mom call the police?

6 A. I think it was maybe five minutes.

7 Q. Okay. And then do you know about how long  
8 after that they showed up?

9 A. It was I guess a minute.

10 Q. It was real fast?

11 A. Uh-huh.

12 Q. Hold on. Grand Jury's indulgence.

13 Now Ashanti, you said that Anthony is your  
14 dad?

15 A. Uh-huh.

16 Q. Beverly's your mom?

17 A. Yes.

18 Q. Have they always lived together that you  
19 know?

20 A. Since I know. I guess. I don't know.

21 Q. You're 11?

22 A. Yeah. Since -- yeah.

23 Q. Has your dad always been at the place where  
24 you wake up in the morning?

25 A. Yes.

1 Q. Is he usually there when you wake up in the  
2 morning?

3 A. Not really.

4 Q. Where is he sometimes?

5 A. He mostly be out. My mom mostly be there  
6 for me. But like, yeah, she mostly be there for me.

7 Q. But does he live there do you know?

8 A. Yeah, my dad, he used to live there with  
9 us.

10 Q. Are all of his clothes there?

11 A. Uh-huh.

12 Q. And you said his PS3 was there too?

13 A. Uh-huh.

14 Q. Does he have TVs and stuff there?

15 A. Uh-huh.

16 Q. All right. Thank you, Ashanti.

17 A. Okay.

18 MS. BROWN: Hold on one second. The ladies  
19 and gentlemen of the Grand Jury may have questions for  
20 you.

21 THE FOREPERSON: Any questions?

22 No questions.

23 Ashanti, normally I would read this very  
24 long thing to you for the adults. But basically what it  
25 says is that this is a secret, you being here today. So

1 when you leave you can't tell anybody that you were here  
2 and what we discussed. Do you understand that?

3 THE WITNESS: Yes.

4 MR. STEPHENS: You just kind of keep it to  
5 yourself and with the district attorneys. Okay?

6 THE WITNESS: Yes.

7 THE FOREPERSON: Do you prefer that I read  
8 her the actual statement?

9 MR. STEPHENS: I appreciate that, but if  
10 you would also read that to her also.

11 THE FOREPERSON: Okay. By law, these  
12 proceedings are secret and you are prohibited from  
13 disclosing to anyone anything that has transpired before  
14 us, including evidence and statements presented to the  
15 Grand Jury, any event occurring or statement made in the  
16 presence of the Grand Jury, and information obtained by  
17 the Grand Jury.

18 Failure to comply with this admonition is a  
19 gross misdemeanor punishable by a year in the Clark  
20 County Detention Center and a \$2,000 fine. In addition,  
21 you may be held in contempt of court punishable by an  
22 additional \$500 fine and 25 days in the Clark County  
23 Detention Center.

24 Do you understand this admonition?

25 THE WITNESS: Yes.

1 THE FOREPERSON: Thank you. You are  
2 excused.

3 THE WITNESS: Thank you.

4 MS. BROWN: And Mr. Stephens is going to  
5 walk you out. Okay? So just hold on a minute.

6 I just have two instructions for you before  
7 you take a break if that's okay.

8 Ladies and gentlemen, you might have heard  
9 some testimony regarding other instances of anger about  
10 the defendant. That information is not to be considered  
11 by you in making your determination here today. The  
12 only thing you are to consider is the evidence from the  
13 event in question.

14 Also there was some testimony regarding  
15 Beverly McFarlane saying she had a headache. That  
16 information is not offered for the truth of the matter  
17 asserted. That merely means it was offered for the  
18 effect on Ashanti and what Ashanti did with that  
19 information.

20 And with that those are my only two  
21 instructions for you at this point.

22 Do you need a break?

23 THE FOREPERSON: Any questions?

24 A JUROR: I need a break.

25 MS. BROWN: I think she wanted a break.

1 THE FOREPERSON: A break? Okay. We'll  
2 take a ten minute break. Thank you.

3 (Recess.)

4 MS. BROWN: The State's next witness is  
5 Officer Manuel Vital.

6 THE FOREPERSON: Please raise your right  
7 hand.

8 You do solemnly swear the testimony you are  
9 about to give upon the investigation now pending before  
10 this Grand Jury shall be the truth, the whole truth, and  
11 nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE FOREPERSON: Please be seated.

14 You are advised that you are here today to  
15 give testimony in the investigation pertaining to the  
16 offenses of murder, battery constituting domestic  
17 violence - strangulation, coercion, and preventing or  
18 dissuading victim or witness from reporting crime or  
19 commenting prosecution, involving Anthony Mayo.

20 Do you understand this advisement?

21 THE WITNESS: I do.

22 THE FOREPERSON: Please state your first  
23 and last name and spell both for the record.

24 THE WITNESS: First name is Manuel, last  
25 name is Vital. M-A-N-U-E-L, last name is V-I-T-A-L.

1 THE FOREPERSON: Thank you.

2 MS. BROWN: May I proceed?

3 THE FOREPERSON: Yes.

4 MANUEL VITAL,

5 having been first duly sworn by the Foreperson of the  
6 Grand Jury to testify to the truth, the whole truth,  
7 and nothing but the truth, testified as follows:

8

9 EXAMINATION

10

11 BY MS. BROWN:

12 Q. Sir, what do you do for a living?

13 A. I'm a police officer with the City of North  
14 Las Vegas.

15 Q. How long have you worked as a police  
16 officer for the City of North Las Vegas?

17 A. With the City of North Las Vegas for seven  
18 and a half years.

19 Q. And were you an officer before then?

20 A. Alaska State trooper.

21 Q. Cold there?

22 A. A little bit.

23 Q. How long did you work in Alaska?

24 A. Nine years.

25 Q. Nine years. In North Las Vegas what are

1 your responsibilities?

2 A. Enforce criminal and traffic laws.

3 Q. Do you conduct any other investigations  
4 into crimes?

5 A. Conduct domestic battery investigations,  
6 robberies, burglaries, home invasions.

7 Q. Are you involved in any of the cases that  
8 you just get assigned to respond to?

9 A. Yes, ma'am.

10 Q. Were you assigned to respond to 4333  
11 Matinee in North Las Vegas?

12 A. I was.

13 Q. And that was on August 10, 2012?

14 A. Yes, ma'am.

15 Q. And that is here in Clark County, Nevada?

16 A. Correct.

17 Q. Why did you respond to that location?

18 A. We were sent there for a domestic battery  
19 incident.

20 Q. That was your understanding when you showed  
21 up?

22 A. That was the information that was given by  
23 dispatch, yes, ma'am.

24 Q. And when you arrived at that location did  
25 you come into contact with anybody?

1 A. Yes.

2 Q. Who did you come into contact with?

3 A. We were first met at the door by Ashanti  
4 Mayo and Miss Beverly McFarlane then came to the door.

5 Q. You said Ashanti Mayo?

6 A. Yes, ma'am.

7 Q. How old was Ashanti at the time?

8 A. She was nine years old I believe at the  
9 time.

10 Q. You said Beverly McFarlane?

11 A. Yes, ma'am.

12 Q. Where was Beverly located when you came  
13 into contact with her?

14 A. She was in the kitchen I believe. If I can  
15 remember.

16 Q. Was she standing or sitting?

17 A. She was standing.

18 Q. And was she, without telling me what she  
19 said, was she able to communicate with you?

20 A. She was.

21 Q. You kind of hesitated there.

22 A. She was to a point.

23 Q. What do you mean by that?

24 A. When I first introduced myself to Beverly,  
25 she greeted me, I identified myself to her, asked her a

1 couple questions about our reason for us being there.  
2 We kind of started talking about the incident that had  
3 occurred and during my questioning I noticed that she  
4 seemed a little lethargic, disoriented, kind of  
5 displaying sort of intoxicated type of person clues but  
6 I could not smell any odor of alcohol coming from her.

7 Q. You said intoxicated type of person clues.  
8 What do you mean by that?

9 A. Person that's drunk. Very lethargic with  
10 her words, slurred speech, muffled sentences, kind of  
11 losing track of where she was at in the conversation.

12 Q. And did you try and see if she had any  
13 alcohol that day?

14 A. I did. I asked her, I could not smell --  
15 she said no, I could not smell any alcohol on her. I  
16 did not see her swaying or anything like that on her so  
17 I did not believe she was under the influence of any  
18 alcohol.

19 Q. So what did you do as a result of that  
20 interaction?

21 A. What I did was ask some basic questions to  
22 determine her level of coherence. I asked her for her  
23 date of birth, I asked her who was the president at the  
24 time and I also asked her, I forgot what was the third  
25 question that I asked her. Oh, what was the day of the

1 week.

2 Q. Was she able to answer those questions?

3 A. No.

4 Q. And since she was not able to answer those  
5 questions what did you do, if anything?

6 A. What I did at that time, based on the  
7 injuries that I saw on her face and the fact that she  
8 could not answer those questions, I requested for an  
9 ambulance.

10 Q. Why did you do that?

11 A. I was concerned that it was something else  
12 going on based on the statements that she made to me,  
13 her injuries and my observations.

14 Q. Just so we're all clear, 4333 Matinee,  
15 North Las Vegas, is that in Clark County, Nevada?

16 A. Yes, ma'am.

17 Q. And the statements that were made to you,  
18 was it your belief that the crime occurred at that  
19 address?

20 A. Correct, ma'am.

21 Q. And again that's in Clark County?

22 A. Yes, ma'am.

23 Q. That's three times.

24 I just want to talk to you about one  
25 photograph. Exhibit 3. Do you recognize what's

1 depicted in Exhibit 3?

2 A. Yes, ma'am.

3 Q. What is that?

4 A. It's Beverly McFarlane, the abrasions that  
5 I noticed on that day.

6 Q. Oh, okay. Did you notice any other  
7 injuries on Miss McFarlane?

8 A. I noticed the abrasions on the left side  
9 and the swelling on the left side of her face.

10 Q. Was there any other injuries to her body  
11 that you could tell?

12 A. She had some bruising on the left side of  
13 her ribs also.

14 Q. Did you see all of that?

15 A. Yes.

16 Q. Any other injuries besides the mark on her  
17 face and the bruising?

18 A. From what I could remember she had a little  
19 bit of petechia and kind of scratches around her neck  
20 area.

21 Q. Okay. So she had scratches on her neck  
22 area as well?

23 A. Yes, ma'am.

24 Q. When you say petechia, do you know what  
25 those are?

1           A.     That's rupture of the blood cells usually  
2 caused by strangulation.

3           Q.     How do you know that?

4           A.     Based on my training and experience in my  
5 years as a police officer.

6           Q.     Based on the fact that she had a hard time  
7 communicating with you, you contacted the paramedics?

8           A.     That's correct.

9           Q.     At any point in time did you contact  
10 anybody else?

11          A.     I contacted Officer Aker as well as the  
12 crime scene investigation bureau.

13          Q.     And did they both respond?

14          A.     Yes, ma'am.

15          Q.     And at some point in time was a decision  
16 made regarding what you would do with Miss McFarlane?

17          A.     Yes. The paramedics decided to transport  
18 Miss McFarlane to UMC and I requested Officer Aker to  
19 follow the ambulance.

20          Q.     Why did you request that?

21          A.     So he could ascertain as to the extent of  
22 the injuries with the medical personnel.

23                 MS. BROWN: Okay. Thank you. No further  
24 questions.

25                 THE WITNESS: You're welcome.

1 MR. STEPHENS: Do the grand jurors have any  
2 questions?

3 THE FOREPERSON: No further questions from  
4 the grand jurors.

5 By law, these proceedings are secret and  
6 you are prohibited from disclosing to anyone anything  
7 that has transpired before us, including evidence and  
8 statements presented to the Grand Jury, any event  
9 occurring or statement made in the presence of the Grand  
10 Jury, and information obtained by the Grand Jury.

11 Failure to comply with this admonition is a  
12 gross misdemeanor punishable by a year in the Clark  
13 County Detention Center and a \$2,000 fine. In addition,  
14 you may be held in contempt of court punishable by an  
15 additional \$500 fine and 25 days in the Clark County  
16 Detention Center.

17 Do you understand this admonition?

18 THE WITNESS: I do, ma'am.

19 THE FOREPERSON: Thank you. You're  
20 excused.

21 THE WITNESS: Thank you.

22 MS. BROWN: The State calls Officer Robert  
23 Aker.

24 THE FOREPERSON: Please raise your right  
25 hand.

1           You do solemnly swear the testimony you are  
2 about to give upon the investigation now pending before  
3 this Grand Jury shall be the truth, the whole truth, and  
4 nothing but the truth, so help you God?

5           THE WITNESS: Yes, ma'am.

6           THE FOREPERSON: Please be seated.

7           You are advised that you are here today to  
8 give testimony in the investigation pertaining to the  
9 offenses of murder, battery constituting domestic  
10 violence - strangulation, coercion, preventing or  
11 dissuading witness or victim from reporting crime or  
12 commencing prosecution, involving Anthony Mayo.

13           Do you understand this advisement?

14           THE WITNESS: Yes, ma'am, I do.

15           THE FOREPERSON: Please state your first  
16 and last name and spell both for the record.

17           THE WITNESS: Robert Aker. A-K-E-R.

18           THE FOREPERSON: Thank you.

19           MS. BROWN: May I proceed?

20           THE FOREPERSON: Yes.

21                     ROBERT AKER,  
22 having been first duly sworn by the Foreperson of the  
23 Grand Jury to testify to the truth, the whole truth,  
24 and nothing but the truth, testified as follows:  
25

EXAMINATION

1

2

3 BY MS. BROWN:

4

Q. Officer Aker, what do you do for a living?

5

A. I'm a police officer.

6

Q. Where are you a police officer?

7

A. In the City of North Las Vegas.

8

Q. How long have you worked as a police

9

officer in the City of North Las Vegas?

10

A. Almost 18 years.

11

Q. Is that the only place you've ever been a

12

police officer?

13

A. Yes, ma'am.

14

Q. What are your job responsibilities with the

15

City of North Las Vegas Police Department?

16

A. Answer calls for service, investigate

17

crimes, complete police reports, assist citizens.

18

Q. Do you operate in a supervisory capacity at

19

all?

20

A. Just as a senior police officer.

21

Q. Do you operate in a teaching capacity at

22

all?

23

A. I do.

24

Q. How do you operate in a teaching capacity?

25

A. I have almost 240 hours in domestic

1 battery/domestic violence type training and  
2 investigations and I'm authorized to teach other police  
3 officers in the police academy for domestic  
4 battery/domestic violence as well as strangulation.

5 Q. You said you had over 240 hours in that  
6 field?

7 A. Yes, ma'am.

8 Q. Did any of that training relate to  
9 strangulation at all?

10 A. It did.

11 Q. And what kind of training did you have in  
12 that area particularly?

13 A. I went to a specialized instructor school  
14 put on by Nevada Attorney General's Office and the  
15 Nevada POST commission. It was to instruct other  
16 officers under the domestic battery/domestic violence as  
17 well as strangulation.

18 Q. Do you recall when you went through that  
19 training?

20 A. Five or six years ago maybe, ma'am.

21 Q. Did you receive a certificate from that  
22 training?

23 A. Yes, I did.

24 Q. And is that on file with anybody?

25 A. It is.

1 Q. Who is it on file with?

2 A. Nevada POST as well as Nevada Attorney  
3 General's Office.

4 Q. Have you used the training that you learned  
5 in that class, that certification, to assist any other  
6 officers?

7 A. I have, multiple times.

8 Q. About how many times would you say?

9 A. Approximately 12.

10 Q. And as a result of your experience in that  
11 area have you ever been called out to respond to any  
12 sorts of strangulation type situations?

13 A. I have.

14 Q. About how many times would you say?

15 A. Quite a few. Maybe two dozen.

16 Q. Okay. And you said you also trained the  
17 other officers to look for those signs or symptoms of  
18 strangulation?

19 A. Correct.

20 Q. What are the signs and symptoms of  
21 strangulation?

22 A. Initially it would come from the victim,  
23 that the victim is having problems indicating that  
24 there's pain around the neck or movement in the neck,  
25 the throat, difficulty swallowing, hoarseness or

1 rashness in the language, the speaking. Then there's  
2 very distinct, strong physical indicators like what's  
3 called petechial hemorrhaging, petechia. Normally it's  
4 small little red or purple dots often times in the white  
5 whites of the eyes, the eye lids. Normally petechia is  
6 centered around like mucus membranes.

7 Q. Were you called out to investigate a  
8 potential strangulation at 4333 Matinee in North Las  
9 Vegas on August 10, 2012?

10 A. Yes, I was.

11 Q. And did you respond to that location?

12 A. I did.

13 Q. And that's here in Clark County, Nevada?

14 A. It is.

15 Q. Okay. Fourth time.

16 Now when you went to that location did you  
17 come into contact with anybody?

18 A. I did.

19 Q. Who did you come into contact with?

20 A. Several of my partners being Officer Vital,  
21 officer Hollings and then the victim Beverly McFarlane.

22 Q. Did you have a chance to observe  
23 Miss McFarlane's demeanor at that time?

24 A. I did.

25 Q. And what did she appear to, how was her

1 demeanor to you?

2 Let me ask that a different way.

3 Can you describe what her demeanor was like  
4 on August 10, 2012 when you saw her?

5 A. She came across very scared, very upset,  
6 she was crying and she had several indicators that she  
7 had been battered.

8 Q. What do you mean by that; several  
9 indicators that she had been battered?

10 A. She had a black eye. She had bruising  
11 around her face, her left eye, her left cheek bone. She  
12 had like abrasion type burns on her face, on her elbows.  
13 She had some discoloring around her neck. You know, it  
14 was obvious that she had been battered.

15 Q. Did you see any signs or symptoms that she  
16 had been strangled?

17 A. I did.

18 Q. What were those symptoms that you observed?

19 A. More the classic ones, you know, the  
20 hesitation with the neck movement, the consistently  
21 caressing her own neck, the self soothing of the neck,  
22 the hoarseness in her voice. It's just a whole  
23 uncomfortableness of her speaking and moving her head or  
24 neck.

25 Q. Were there any issues with petechia?

1 A. Yes.

2 Q. What did you observe specifically with  
3 regard to that?

4 A. Later I went to the hospital and that's  
5 when we did a more thorough examination and that's when  
6 I found on the inside, on the underside of her eyelids  
7 the petechial hemorrhage, the petechia.

8 Q. Okay. So when you responded to her home at  
9 4333 Matinee, was there a determination made that  
10 Miss McFarlane needed to go to the hospital?

11 A. Yes.

12 Q. And after she went to the hospital did you  
13 respond to the hospital?

14 A. I did.

15 Q. Once you responded to the hospital what did  
16 you do?

17 A. I was assigned to go to the hospital to try  
18 to get further information from Miss McFarlane as well  
19 as to document her injuries a little more specifically.  
20 And with that I was told that there was a possible  
21 strangulation and to look for those signs and the  
22 evidence of that strangulation.

23 Q. And ladies and gentlemen, that statement  
24 was not offered for the truth of the matter asserted, it  
25 was only offered for the effect on the listener being

1 Officer Aker.

2           Given that information that you were given,  
3 did you respond to look for signs and symptoms of  
4 strangulation?

5           A.     I did.

6           Q.     Were you present when photographs were  
7 taken of Miss McFarlane?

8           A.     I was. But at times I had to leave to go  
9 try to contact the doctor or call my sergeant or what  
10 have you, but yes.

11          Q.     Would you be able to recognize her if you  
12 saw her again?

13          A.     Oh yes, ma'am.

14          Q.     I'm approaching you with Grand Jury  
15 Exhibits 3 through 9. Take a look at these and let me  
16 know when you're finished.

17          A.     Yes, ma'am.

18          Q.     Okay. Do you recognize what's depicted in  
19 Grand Jury Exhibits 3 through 9?

20          A.     Yes, I do.

21          Q.     What's depicted in Grand Jury Exhibits 3  
22 through 9?

23          A.     That's Miss McFarlane and it's  
24 representative of when I was at the hospital with her,  
25 with the exception of the last photo, and her injuries.

1 Q. You said the exception of the last photo?

2 A. Yes, ma'am, that one right there.

3 Q. You were not present with this photo?

4 A. I don't believe I was. There is a change  
5 of clothes, she has a neck brace on and she's actually  
6 in a room.

7 These were when I initially responded to  
8 the emergency room.

9 Q. Do you recognize Grand Jury Exhibit 8 then?

10 A. There again the neck brace is what I don't  
11 recognize and the change of clothing. I don't know if  
12 this is after I left or another day.

13 Q. Same with Grand Jury Exhibit 7?

14 A. Yes, ma'am.

15 Q. And Grand Jury Exhibit 6?

16 A. Correct.

17 Q. So Grand Jury Exhibits 3 through 5, are  
18 these accurate depictions of Beverly McFarlane as you  
19 saw her at the hospital on August 10th?

20 A. Yes, ma'am.

21 Q. And Grand Jury Exhibits 6, 7, 8, and 9,  
22 they still depict Beverly McFarlane; correct?

23 A. They do.

24 Q. But you don't know when they were taken?

25 A. Correct.

1 Q. Okay. So let's focus then on Grand Jury  
2 Exhibit 3. I'm putting it up here so you can see. Is  
3 this Beverly McFarlane?

4 A. It is.

5 Q. Is there any particular injuries depicted  
6 in Grand Jury Exhibit 3 that you noticed?

7 A. Yes, ma'am.

8 Q. What are they?

9 A. The abrasion type bruise red mark on her  
10 left cheek, to the left part of her eye. She has a  
11 swollen bruising black eye if you will, left eye, and  
12 you can see some of the other marks around her,  
13 particularly the left side of her mouth underneath  
14 towards her bottom lip, around the side of her left  
15 cheek, and although the photo is a little poor quality  
16 or being displayed poorly, there is some discoloring  
17 around the base of her neck there, her collar bone and  
18 the top of her trapezius muscle.

19 Q. Is that injury that you're talking about  
20 now depicted in Grand Jury Exhibit Number 7?

21 A. Yes.

22 Q. The swelling to the eye and also the  
23 scratch mark to her face?

24 A. Correct.

25 Q. Now in Grand Jury Exhibit 3, you're not

1 able to see the petechia; correct?

2 A. No, ma'am. The petechia would be, that I  
3 saw and attributed to her strangulation is underneath  
4 the eye lids. You have to pull the eyelid down, out a  
5 little bit to be able to see and photograph that.

6 Q. So can you describe to us then what it  
7 actually looked like on that day, the petechia?

8 A. Again it's very distinct. It looks like  
9 someone took maybe a ball point pen, either dark red or  
10 purple color, and did just a bunch of dots on the  
11 underside. Where it should be pink you might see some  
12 blood vessels and capillaries but the petechia are those  
13 distinct dots. And it's not a pattern but it kind of  
14 looks like a pattern, like a rash almost.

15 Q. Did she have that that day?

16 A. She did.

17 Q. On August 10th?

18 A. She did.

19 Q. When you were talking to her did it appear  
20 she was having trouble speaking with you?

21 A. She did, as well as the self soothing  
22 around her neck.

23 Q. You also responded to University Medical  
24 Center. Did you observe any injuries to her mouth?

25 A. Just to the exterior.

1 Q. Not the interior?

2 A. No, ma'am.

3 Q. Were you able to communicate with Beverly  
4 McFarlane at the hospital?

5 A. Very limited.

6 Q. And was part of that because she was  
7 actually being treated at the time?

8 A. Yeah. More so because of her cognitive,  
9 her inability to communicate.

10 Q. Let's talk about that. You said she was  
11 having an inability to communicate. Why did you think  
12 that?

13 A. I didn't smell any alcohol, I didn't see  
14 any strong indicators or indicators at all of narcotics  
15 use or abuse, and when someone's not able to tell you  
16 basic information like where they are or the date or,  
17 you know, just basic information as to awareness of  
18 where they are, it kind of leads maybe this is more  
19 cognitive brain issues than it is a drug/alcohol type  
20 thing and then coupled that with the injuries.

21 Q. The injuries that you noticed to her throat  
22 specifically?

23 A. The throat as well as to her head, that  
24 could lead to brain issues.

25 Q. Okay. Grand Jury's indulgence.

1                   Was Miss McFarlane calm when she was in the  
2 hospital?

3           A.     There was bouts of calmness but her  
4 emotions were pretty diverse in range depending on what  
5 was occurring, how alert she was or what was being  
6 asked.

7           Q.     You already talked about the redness and  
8 the -- did she have bruising around her neck too?

9           A.     Yes, some slight bruising.

10          Q.     You talked about some injuries to her  
11 mouth. Do you remember what they were?

12          A.     Some bruising or redness more towards the  
13 bottom part of her lip, like above her chin and a little  
14 bit to her bottom lip.

15          Q.     When you talk about scratches to her chest,  
16 did she have scratches anywhere else?

17          A.     The scratches I referred to were like the  
18 abrasion marks, like you know when you rub or, rub your  
19 hand on the carpet too much too fast and it gives you  
20 that abrasion type burn, and she did have those on at  
21 least one elbow. I'd have to refer to my report if it's  
22 both elbows.

23          Q.     Okay. Would that aid in your testimony  
24 today?

25          A.     Yes, ma'am.

1 Q. I'm approaching you with your report.

2 Do you recognize this?

3 A. Yes, ma'am. This is a report I authored.

4 Q. Is it a fair and accurate copy of the  
5 report you authored?

6 A. It appears to be, yes.

7 Q. Take a look at that and let me know when  
8 you're finished.

9 A. Okay.

10 Q. Has your memory been refreshed, sir?

11 A. Yes, ma'am, it has.

12 Q. What else did you see then that we were  
13 just --

14 A. Some of the abrasion marks were on her  
15 side. She had scratches, marks on chest, her left side,  
16 left arm, left elbow. Pretty much the left side of her  
17 upper torso.

18 Q. Showing you Grand Jury Exhibit Number 4  
19 now. Do you know what's depicted in Grand Jury  
20 Exhibit 4?

21 A. Yes, ma'am. That's obviously her left  
22 elbow with the abrasion type mark I was trying to  
23 describe.

24 Q. Is that the abrasion type mark you saw on  
25 August 10, 2012?

1 A. Yes, it is.

2 Q. Is this a fair and accurate depiction of  
3 what that injury looked like to you on August 10th,  
4 2012?

5 A. It is.

6 Q. Just so we're clear, we're not sure when  
7 that picture was taken?

8 A. That's correct, I don't know.

9 Q. But that injury that is depicted in Grand  
10 Jury Exhibit 4 is one that you recall seeing personally?

11 A. Yes, ma'am.

12 Q. Grand Jury's indulgence. Sorry.

13 After August 10, 2012, did you go back to  
14 the hospital?

15 A. Yes, ma'am, I did.

16 Q. And when was the next time that you went  
17 back to the hospital?

18 A. The following day, August 11th.

19 Q. Were you able to interact with  
20 Miss McFarlane on that date?

21 A. I did visit her. The interaction there  
22 again was prohibited by whatever was going on medically  
23 with her cognitive issues and inability to effectively  
24 communicate.

25 Q. Was her ability to communicate with you the

1 same or had it changed?

2 A. It had changed for the worse. It increased  
3 to very little to no effective communication.

4 Q. Were you able to get any, were you able to  
5 ask her any questions at all?

6 A. I was but the answers were what they were.

7 Q. Not very helpful?

8 A. Correct.

9 Q. Was she able to give you full sentences?

10 A. No. No. And the sentences would change  
11 from topics to gibberish to incomplete thoughts.

12 There's just no way to follow or communicate.

13 Q. Was she able to stay coherent with you the  
14 whole time in terms of awake?

15 A. No, neither day.

16 Q. What did she do when you tried to talk to  
17 her?

18 A. She constantly fell asleep. I don't know  
19 if that was lack of consciousness or not but she would  
20 constantly fall asleep.

21 Q. When is the next time you saw Beverly  
22 McFarlane?

23 A. I think that was the final time I had seen  
24 her.

25 MS. BROWN: All right. Thank you. No

1 further questions.

2 THE FOREPERSON: Any questions from the  
3 Grand Jury?

4 By law, these proceedings are secret and  
5 you are prohibited from disclosing to anyone anything  
6 that has transpired before us, including evidence and  
7 statements presented to the Grand Jury, any event  
8 occurring or statement made in the presence of the Grand  
9 Jury, and information obtained by the Grand Jury.

10 Failure to comply with this admonition is a  
11 gross misdemeanor punishable by a year in the Clark  
12 County Detention Center and a \$2,000 fine. In addition,  
13 you may be held in contempt of court punishable by an  
14 additional \$500 fine and 25 days in the Clark County  
15 Detention Center.

16 Do you understand this admonition?

17 THE WITNESS: Yes, ma'am, I do.

18 THE FOREPERSON: Thank you. You're  
19 excused.

20 MS. BROWN: Thank you.

21 MR. STEPHENS: The State calls Detective  
22 Benjamin Owens.

23 MS. BROWN: For your information, Detective  
24 Owens will be our final witness this morning. Our  
25 doctor should be available at 1 o'clock this afternoon.

1 THE FOREPERSON: Please raise your right  
2 happened.

3 You do solemnly swear the testimony you are  
4 about to give upon the investigation now pending before  
5 this Grand Jury shall be the truth, the whole truth, and  
6 nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE FOREPERSON: Please be seated.

9 THE WITNESS: Thank you.

10 THE FOREPERSON: You are advised that you  
11 are here today to give testimony in the investigation  
12 pertaining to the offenses of murder, battery  
13 constituting domestic violence - strangulation,  
14 coercion, and preventing or dissuading witness or victim  
15 from reporting crime or commencing prosecution,  
16 involving Anthony Mayo.

17 Do you understand this advisement?

18 THE WITNESS: Yes, I do.

19 THE FOREPERSON: Please state your first  
20 and last name and spell both for the record.

21 THE WITNESS: My first name is Benjamin,  
22 B-E-N-J-A-M-I-N, my last name is Owens, O-W-E-N-S.

23 THE FOREPERSON: Thank you.

24 MR. STEPHENS: May I proceed?

25 THE FOREPERSON: Yes.

1 MR. STEPHENS: Thank you.

2 BENJAMIN OWENS,

3 having been first duly sworn by the Foreperson of the  
4 Grand Jury to testify to the truth, the whole truth,  
5 and nothing but the truth, testified as follows:

6

7 EXAMINATION

8

9 BY MR. STEPHENS:

10 Q. Detective Owens, how are you employed?

11 A. I'm a police detective for the City of  
12 North Las Vegas Police Department.

13 Q. And how long have you been a detective?

14 A. I've been a detective for seven and a half  
15 years.

16 Q. Do you have any prior law enforcement  
17 experience prior to becoming a detective?

18 A. Yes. I've been with the department a total  
19 of 16 and a half years. Prior to that I served in  
20 patrol and other details.

21 Q. Do you currently have a partner that you  
22 work cases up with?

23 A. Yes, I do.

24 Q. Who is that?

25 A. Detective Michael Bodnar. Spelling

1 B-O-D-N-A-R.

2 Q. Thank you, Detective. Were you and  
3 Detective Bodnar asked to investigate a strangulation  
4 that occurred in August of 2012?

5 A. Yes, we were.

6 Q. And sorry, I think I might have said  
7 strangulation. I meant a crime.

8 A. Yes.

9 Q. And based upon your investigation of the  
10 crime, what efforts did you and Detective Bodnar do in  
11 order to investigate it?

12 A. We, after determining that the victim died  
13 as the result of a homicide, we sought an arrest warrant  
14 for murder and other various charges. The warrant was  
15 granted and the suspect Anthony Mayo was apprehended  
16 out-of-state.

17 Q. Did you attempt to make contact with  
18 Anthony Mayo out-of-state?

19 A. Yes, we did.

20 Q. Where did you, what city did you locate him  
21 in?

22 A. Los Angeles, California.

23 Q. Do you recall what date and time, or date  
24 it was that you contacted him?

25 A. I believe it was in March of 2012.

1 Q. Of 2012 or 2013?

2 A. I'm sorry. 2013, yes.

3 Q. So that would have been about seven months  
4 from the August incident date?

5 A. Yes, that's correct.

6 Q. Did you personally go out and meet him in  
7 LA?

8 A. Yes, we did. I did.

9 Q. We being?

10 A. Myself and Detective Bodnar, my partner.

11 Q. At that time did you attempt to speak with  
12 the defendant?

13 A. Yes, we conducted a taped interview with  
14 him.

15 Q. And during that interview did you read him  
16 his Miranda rights?

17 A. Yes, he was advised of his rights and he  
18 waived them and agreed to speak with us.

19 Q. In speaking with him did you talk to him  
20 about the incidents that occurred in August of 2012?

21 A. Yes, we did.

22 Q. And I want to focus specifically on those  
23 dates specifically. What did the defendant, I'm sorry,  
24 Anthony Mayo, tell you about the events of August of  
25 2012?