

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN SCOTT ANDREWS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal from a Judgment of Conviction in Case Number CR16-0323
The Second Judicial District Court of the State of Nevada
Honorable Janet J. Berry, District Judge

JOINT APPENDIX VOLUME THREE

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8 HONORABLE JANET J. BERRY, DISTRICT JUDGE

9 -oOo-

10 THE STATE OF NEVADA,

Case No. CR16-9323

11 Plaintiff,

Dept. 1

12 vs.

13 RYAN SCOTT ANDREWS,

14 Defendant.
15 _____/

16
17 TRANSCRIPT OF PROCEEDINGS

18 JURY TRIAL - DAY 2

19 June 14, 2016

20 Reno, Nevada
21
22

23 REPORTED BY: CONSTANCE S. EISENBERG, CCR #142, RMR, CRR

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1 TUESDAY, JUNE 14, 2016, RENO, NEVADA, 10:46 A.M.

2 -o0o-

3 THE COURT: The record should reflect we are outside the
4 presence of the jury.

5 Mr. White wanted a little hearing. Is that correct?

6 MR. WHITE: I did, Your Honor.

7 First of all, I want to apologize for being just a few
8 minutes late.

9 What happened was that Ms. Cameron sent me -- which was
10 nice, actually, sent me a new little bit of something in the case.
11 And what it was, was a jail phone call from Mr. Andrews to
12 Ms. Christine Sambrano.

13 THE COURT: Uh-huh.

14 MR. WHITE: So I had to listen to that, try and get it
15 copied and everything. So that was that.

16 I don't believe Ms. Cameron has any intention of
17 admitting it, but there may be some -- I needed to go through it
18 very carefully because there may be some things in there that she
19 could use possibly if Mr. Andrews decides to take the witness
20 stand, obviously.

21 So it was very important I went through that. So I
22 apologize.

23 And the other thing is, I did just now get an email -- I
24 sent off an email this morning to Mr. Picker, Mr. Marc Picker, and
25 Ms. Krista Meier at the APD's office regarding whether

1 Ms. Sambrano can make it in today, even just to say that she's
2 invoking out of the presence of the jury so that we can make a
3 record.

4 And I just got an email back, stating that her phone is
5 going to voicemail.

6 THE COURT: I thought you subpoenaed her.

7 MR. WHITE: We did subpoena her, Your Honor. And I
8 don't know -- I don't know if my investigator at this point --
9 I'll text him as we're sitting here -- if he's been able to get
10 ahold of her.

11 She -- I don't think -- I think she's going to refuse to
12 show up.

13 THE COURT: Okay. Just get your investigator on it. If
14 you want her -- is it somebody you want here?

15 MR. WHITE: I at least want her here just, as I said, to
16 invoke -- out of the presence to make a record that she's going to
17 invoke under advisement of her attorneys.

18 THE COURT: Well, Mr. White, I think the State is going
19 to be resting relatively soon.

20 MR. WHITE: Right.

21 THE COURT: So what's your plan?

22 MR. WHITE: My plan is to get her here by noon. I told
23 my investigator that this morning.

24 THE COURT: Okay. So your investigator is on it.

25 MR. WHITE: Yes.

1 THE COURT: All right. And Mr. Picker didn't -- he
2 can't get ahold of her?

3 MR. WHITE: The email is actually from Krista, coming
4 back from Krista Meier, and says the -- yeah, that her calls to
5 her are going to going to voicemail, and that they are short on
6 coverage today, so try and let them know the time so they can be
7 here, obviously.

8 MS. CAMERON: I would just like to let the Court know
9 that part of what was discussed on that jail call I provided
10 Mr. White was her discussion with the defendant on the advice of
11 counsel and her not testifying.

12 MR. WHITE: Uh-huh.

13 MS. CAMERON: So that was my understanding.

14 THE COURT: So somehow -- was this from last night?

15 MS. CAMERON: Yes.

16 MR. WHITE: Yes.

17 THE COURT: So somehow, the defendant is able to get a
18 hold of her, but nobody else?

19 MS. CAMERON: He spoke with her for about 15 minutes
20 yesterday.

21 THE COURT: Okay. So on the jail call --

22 MR. WHITE: So actually, it would be 10. That is the
23 maximum on those calls.

24 MS. CAMERON: It says 15 by the end of it.

25 MR. WHITE: It does? Okay.

1 THE COURT: So she advised him that she would be
2 invoking and she's not going to testify as he thought she might
3 testify?

4 MR. WHITE: Well, Your Honor, there are some parts where
5 she gets a little upset, too, and says "Fine, I'll just come down
6 and testify." It's emotions flying around, and that's how that
7 goes sometime.

8 THE COURT: Okay. Well, you just need to have your
9 investigator here. I think his brother is here. Maybe he can go
10 get her. If she wants to be here, she can -- you know, she's
11 under subpoena, right?

12 MR. WHITE: Yes.

13 THE COURT: So she knows she's supposed to be here.

14 MR. WHITE: Yes.

15 THE COURT: Okay. That's fine.

16 MR. WHITE: Everyone -- I can show -- I think I have the
17 subpoena right here, if anyone would like to see it.

18 THE COURT: That's fine. I'm sure you placed her under
19 subpoena. And, obviously, she's communicating with the defendant.
20 She's in town. She knows she's got a subpoena. So we'll go from
21 there. Okay?

22 So have your witnesses ready.

23 Anything else we need to take up? Did you meet on the
24 jury instructions?

25 MR. WHITE: We did not meet, but I don't have any

1 objections to them.

2 MS. CAMERON: He hasn't indicated any objections, and I
3 don't believe he's offering any additional ones. So we're kind
4 of --

5 THE COURT: We're ready to go on that?

6 MS. CAMERON: The only additional thing was if Mr. Maki
7 was going to testify, and I would renew my objection to untimely
8 notice and irrelevant testimony.

9 THE COURT: Okay. Thank you. Let's get the jury in.

10 MR. WHITE: What was your ruling on that, Your Honor?
11 Is that your ruling? What is your ruling to Ms. Cameron's
12 objection? Should I not call him at all?

13 THE COURT: I have no idea what you are going to call
14 him for.

15 MR. WHITE: It would be the same thing I proffered
16 yesterday, which is to --

17 THE COURT: You can call him. We'll take his testimony
18 outside the presence of the jury, if you would like. But --

19 MR. WHITE: Okay.

20 THE COURT: But I'm not understanding any relevance to
21 his testimony, other than more of a character type of testimony.

22 I don't -- so I'll let you call him, and I'll take it
23 outside the presence of the jury. I'll hear argument, and then I
24 can determine -- because I can't tell from your proffer whether
25 it's anything that would be admissible.

1 I mean, it's --

2 MR. WHITE: I'll let the Court know, Your Honor. I'll
3 think more about what I heard yesterday from Mr. Daughtery.

4 THE COURT: Mr. Daughtery.

5 MR. WHITE: Yeah.

6 THE COURT: He admits that he sold the van.

7 MR. WHITE: Admits that he didn't deliver it.

8 THE COURT: That he didn't deliver it, that it was not
9 operational, that it was contingent upon being operational.

10 And so what you want is you want Mr. Maki to come in and
11 talk about a business that the two of them were going to start at
12 the Alamo Truck Stop --

13 MR. WHITE: That would be about the only addition, yes,
14 in addition to why the van was even part of this trial.

15 THE COURT: Right. And so -- but Mr. Daughtery
16 didn't -- you said previously, if he denied it or if he denied why
17 it was there.

18 The officer testified, yeah, he said he owed him a debt.
19 He gave him the buy money for that.

20 So, again, Mr. Maki's testimony, what does it add to
21 this case?

22 MR. WHITE: That's probably it, Your Honor, just that
23 there was a business arrangement that I don't even think that
24 Mr. Daughtery would have maybe even known about. I'm not sure.

25 But it doesn't matter. That's about the only thing he

1 could add.

2 THE COURT: I'm just not sure -- I could see your point
3 if Mr. Daughtery claimed they didn't have any of this, that --

4 MR. WHITE: Sure. I see yours, too.

5 THE COURT: -- all the money was for drugs.

6 Okay. But if you want him here and you want it part of
7 the record and you want to haul him in here to do that outside the
8 presence, my intuition, based on your proffer, is it's not
9 relevant to this case.

10 It may be important to Mr. Andrews because he was going
11 to do business with him, but that's not anything the State needs
12 to prove. It doesn't -- so it's up to you.

13 MR. WHITE: Okay.

14 THE COURT: Okay. Let's get the jury in.

15 (The jury entered the courtroom.)

16 THE COURT: Please be seated.

17 Good morning, ladies and gentlemen. The record should
18 reflect we are all present and accounted for. I have lemon
19 poppyseed cake for you this morning. Thumbs up?

20 A JUROR: It's delicious. Thumbs up.

21 THE COURT: It's my new recipe.

22 A JUROR: Very good.

23 THE COURT: You like it?

24 A JUROR: Last time was delicious, too, the chocolate.

25 THE COURT: You like that one? Which better?

1 A JUROR: Chocolate.

2 THE COURT: That always wins in the contest of cakes,
3 the chocolate over that.

4 Okay. All right. So we are going to continue the
5 State's case.

6 Well, come on up here.

7 MS. CAMERON: Hold on, Your Honor. I'm going to
8 actually call a different witness out of order.

9 THE COURT: Okay. So -- well, you are just too eager to
10 testify.

11 The State, you may call your next witness.

12 MS. CAMERON: Brad Taylor, Your Honor.

13 THE CLERK: Please raise your right hand.

14

15 BRAD TAYLOR

16 called as a witness, having been duly sworn,

17 testified as follows:

18

19 DIRECT EXAMINATION

20 BY MS. CAMERON:

21 Q Mr. Taylor, once you are all seated and comfortable,
22 please state your name and spell your last name for me.

23 A My name is Brad Taylor, T-a-y-l-o-r.

24 Q And are you employed, sir?

25 A I am.

1 Q Who do you work for?

2 A I work for the Washoe County Sheriff's Office at the
3 crime lab.

4 Q And what is your position up at the crime lab?

5 A I'm a criminalist in the controlled substance section.

6 Q How long have you been a criminalist up at the
7 Washoe County Crime Lab?

8 A I've been at Washoe for the last three years.

9 Q Did you work in a similar capacity elsewhere?

10 A I did.

11 Q Where?

12 A At the Canton-Stark County Crime Lab at Canton, Ohio,
13 and also in the Allegheny Crime Lab in Pittsburgh, Pennsylvania.

14 Q What's your total experience in the same capacity as you
15 are currently employed?

16 A About 19 years.

17 Q What are your primary responsibilities as a criminalist
18 in the controlled substances section?

19 A To analyze submitted substances to determine if there's
20 controlled substances that I can identify.

21 Q And what kind of education, training and experience do
22 you have that qualifies you to test controlled substances?

23 A I have a bachelor's of science with a major in chemistry
24 and a minor in biology from Mount Union College. That's in
25 Alliance, Ohio.

1 While I was at Mount Union, I completed an internship at
2 the Canton-Stark County Crime Lab in Canton, Ohio, close by.

3 I worked as a forensic chemist, substantially the same
4 job, different title, in the Allegheny County Crime Lab in
5 Pittsburgh, Pennsylvania, for a year before accepting a position
6 at the Canton-Stark County Crime Lab where I did the same job,
7 analyzing controlled substances, for 15 years before I accepted a
8 position in Reno here at Washoe.

9 While having in-service training in all of those
10 agencies, I also received the specialized training from agencies
11 such as the United States Drug Enforcement Administration, the
12 FBI, Midwestern Association of Forensic Scientists.

13 Q Perfect. And specifically, are you qualified, then, to
14 detect the presence of and identify controlled substances?

15 A Yes.

16 Q And have you ever testified as an expert witness in that
17 area previously?

18 A Yes, I have.

19 Q And in this court district, Second Judicial District?

20 A Yes. Yes.

21 Q If you could please describe to the jury the process IN
22 which you use -- in which a substance that's booked into evidence
23 by a police officer gets to you for testing.

24 A When evidence is submitted to our -- to the laboratory,
25 it goes to our evidence technicians in the evidence room. They

1 receive it, ensure that it's been sealed, and other -- and the
2 paperwork is proper to be submitted.

3 Then it's assigned a barcode on the evidence that we can
4 track it within our own system. And then that evidence will stay
5 locked in the evidence room that the evidence technicians have
6 access to until I need to analyze it.

7 I get a sheet of paper that says that there is evidence
8 there to analyze. And I take that down to them and request that
9 evidence to be given to me, and then we transfer it -- the chain
10 of custody to me, I take it back to the lab to analyze.

11 Q Sounds like initially, when it's taken in by the
12 evidence technicians, they review it for possible tampering; is
13 that correct?

14 A Yes. Evidence is supposed to be sealed and labeled when
15 it comes to the lab.

16 Q If there is any evidence of contamination, tampering of
17 that kind of sort, would that be noted in any of the paperwork?

18 A Yes. And if it wasn't sealed, it would not be accepted.
19 They usually would have to come back in and fix the problem.

20 Q Okay. Would you ever be made aware -- well, would a
21 sample ever get to you for testing if there is such evidence of
22 tampering?

23 A I would say if it was tampering, no. If it was an
24 oversight of label or something, then once that problem was fixed,
25 it would, then, still be able to come to me.

1 Q Okay. And then do you review what you received to make
2 sure you are testing the right stuff, right numbers are there, and
3 it's labeled properly?

4 A Yes. When I receive it, I double-check the information
5 on the envelopes and seals, on paperwork to ensure that what I am
6 starting to analyze is what I am analyzing intentionally.

7 Q Perfect. If you can now describe for the jury those
8 methods and/or instruments that you use to examine and analyze the
9 substances that are submitted to you for testing.

10 A So I have several options available to me for analyzing
11 controlled substances. I won't go into big detail at this point.

12 But all substances, prior to actually being sampled out
13 and tests run on them, are weighed first with -- dependent on the
14 situation, with or without the packaging.

15 If I'm going to identify a drug, then I'll remove it
16 from the packaging and get a net weight of it so that I know what
17 it weighed before I start taking samples out.

18 And then I have the option of doing several preliminary
19 tests. Generally, I run color tests, which are very similar to
20 the field tests officers run in the field where you apply chemical
21 to a drug and there's a color reaction that can give you a sense
22 of what type of drug it may be.

23 I generally, then, move on and choose one of several
24 instruments that I have available to me that can confirm the
25 structural information of the substances that are in there. And

1 therefore, I can identify it, based on its structural information.

2 Q These types of methods and procedures, instruments that
3 you used, are they reliable?

4 A Yes.

5 Q Okay. And these methods, instruments are generally
6 accepted in the scientific community as being reliable and
7 accurate?

8 A Yes, they are.

9 Q Now, if you could describe to the jury the process,
10 then, after testing, of how those results are then completed and
11 documented once the test is completed.

12 A Throughout my analysis, I'm taking notes on the
13 evidence, on the weight, description, and then the results of each
14 test that I would run, my observations.

15 After all of that has been compiled, I then would seal
16 up the evidence and return it back to the evidence room.

17 And then from the data I have obtained from the
18 analysis, I then generate a forensic report that can be submitted
19 to back to the agencies for use in court.

20 Q That report and your data, is it ultimately reviewed by
21 a supervisor?

22 A Yes, it's actually reviewed twice. It's technically
23 reviewed by a peer that knows the science behind the
24 identification and to make sure that my conclusions are reached --
25 could be reached by the same -- by someone else that does that

1 information.

2 And then after it has been technically reviewed, it then
3 is administratively reviewed to make sure that typos and other
4 things like that are caught before the report is released.

5 Q And so then that report is not released back to the
6 agency for use unless those reviews take place; is that correct?

7 A That is correct.

8 Q I'm going to draw your attention, Mr. Taylor, back to
9 February of this year.

10 Did you have an opportunity to examine and analyze five
11 separate items or substances that had been collected and booked
12 into evidence by Reno Police Department? And it was case number
13 1514576. It involved an individual named Ryan Andrews.

14 A I did.

15 Q And what method or instrument did you utilize in
16 examining and analyzing those five substances that you submitted
17 in that case?

18 A So I used the same instrument for the analysis and
19 confirmation of the substances. I used a gas chromatograph with a
20 mass selective detector. We call it a GC/MS for short.

21 Q And when you obtained those different items, any
22 evidence that you saw of any sort of tampering or contamination?

23 A No, nothing that was noted.

24 Q All the appropriate identifying information contained on
25 all of those items?

1 A Yes.

2 Q And ultimately, were you able to identify what each of
3 those substances submitted to you were?

4 A Yes, I was.

5 Q And did you generate a report of those results?

6 A I did.

7 Q Reviewed and approved and signed by yourself?

8 A I signed it, and then it also went through the reviews
9 as described earlier.

10 Q Okay. All right, Mr. Taylor, I'm going to show you
11 Exhibit 28. If you could take a look at this exhibit for me.

12 Do you recognize what that is?

13 A I do.

14 Q What is it?

15 A It is a -- it is the report generated from my analysis
16 on this case.

17 Q And did you sign that report? Is your signature on that
18 page?

19 A It is, and it is on page 2.

20 Q Since you signed it, does it appear to be altered in any
21 way?

22 A Nothing obvious, no.

23 MS. CAMERON: Your Honor, I move to admit and permission
24 to publish.

25 MR. WHITE: No objection, Your Honor.

1 THE COURT: That will be marked and admitted.
2 You may publish.

3 (Exhibit 28 marked for identification
4 and admitted into evidence.)

5 BY MS. CAMERON:

6 Q So we'll start at the top. The laboratory number is
7 something assigned to the case by the crime lab; is that correct?

8 A Yes. After the paperwork goes from the evidence
9 technicians up to our front office, it's then assigned a
10 laboratory number, which is our identifier for the evidence.

11 Q And I'll go down a little bit here. And then you had
12 previously described the process in which you used to weigh.

13 Were these items weighed with or without packaging?

14 A So all the weights that are listed there are net
15 weights. So they were all -- each item was removed from its
16 packaging before -- while it was analyzed.

17 Q I'm just going to underline. So these weights that we
18 see here would be the substance only?

19 A That's correct.

20 Q Turning to page 2, Item 5, same thing for that item as
21 well?

22 A Yes, it's a net weight.

23 Q What were each of the items submitted to you identified
24 as?

25 A Well, Item 1 and 3 -- and this is summarized here in the

1 lower section of that page 2 that's up there.

2 Item 1 and 3 was identified as having heroin in there.
3 And then Items 2, 4 and 5 were identified as containing
4 methamphetamine.

5 Q And are both methamphetamine and heroin controlled
6 substances?

7 A Yes, they are.

8 Q What schedule are they?

9 A They are Schedule I in this form in Nevada.

10 MS. CAMERON: No further questions.

11 THE COURT: Cross-exam.

12 MR. WHITE: Thank you, Your Honor.

13

14 CROSS-EXAMINATION

15 BY MR. WHITE:

16 Q Mr. Taylor, as you have just testified, that's your
17 signature there at the bottom?

18 A It is.

19 Q And that's also the date in which you finished testing
20 it?

21 A That is the date that I typed my report.

22 Q Okay. When did you test it?

23 A So I tested it -- and that's also in the body of this
24 report. I tested it on February 12th.

25 Q Okay. Do you have any explanation for why it took from

1 June 19th of 2015 until February of 2016 to test it?

2 A If you look at the front of the first page of the
3 report, it was not submitted to the laboratory until February 3rd
4 of 2016. Prior to that, I have no knowledge of it.

5 Q You had no knowledge of it. Okay.

6 So do you have any idea where it was before then?

7 A I do not have any knowledge of that.

8 Q Okay. All right. And it just comes to -- how does it
9 come to you when you get it at the lab, packagewise?

10 A Well, it's -- in this evidence here, I receive it from
11 our evidence tech. So I see it from that stage.

12 So I don't know if it's packaged in -- Reno submits it
13 in person versus it being mailed from, like I say, some of the
14 farther agencies. So I always assume it comes in the same way I
15 received it, which is sealed envelopes.

16 Q And you are just assuming?

17 A Well, I can only talk to from the point I see it.

18 Q Okay. And in these tests you ran -- and you separate
19 them by items.

20 A Uh-huh.

21 Q You can see it goes from 1 through 5.

22 In any of these, is there a mixture of heroin and
23 methamphetamine in a bag?

24 A No. If I would have had a substance that was a mixture
25 within, say, a single item, I would have reported that one of the

1 items had heroin and methamphetamine identified.

2 Q Okay. And because that wasn't reported in here, it is
3 safe to say there's no mixture in those bags because your report
4 does not state that?

5 A That is correct.

6 MR. WHITE: Nothing further.

7 THE COURT: Redirect?

8

9 REDIRECT EXAMINATION

10 BY MS. CAMERON:

11 Q Mr. Taylor, I'm approaching with you Exhibits 1
12 through 5.

13 When you received them, is this the packaging that you
14 receive it and it's still sealed? Do you get the whole envelope
15 or just the contents?

16 A No, I get the whole envelope. I actually acknowledge --
17 whenever I have an envelope on the original seal, I put an "OK"
18 and my initial beside it.

19 And then I reseal it whenever I finish my analysis and
20 reseal everything up. I reseal the envelope, which is -- this is
21 my tape and initials and date.

22 Q So what we're looking at, just to make it clear, then,
23 at the bottom of this exhibit, it has your initials. Is that
24 correct?

25 A That is correct.

1 Q Okay. And then up on the upper evidence seal, that is
2 you saying okay?

3 A Yeah, in pen on the --

4 Q Oh, I see it. Okay. Small little pen. Okay.

5 A Yeah, any other markings on the seals were done prior to
6 me -- myself receiving it.

7 Q And then you also fill out -- and I can display this up
8 here -- the chain of custody on the actual package itself. Is
9 that you right there?

10 A That is me, but I received it on the line above, where
11 it says "From Evidence" --

12 Q Oh, to you.

13 A -- to me. That is my signature. And then the line
14 below is me returning it to the evidence technician.

15 Q I'll just go through -- so, for the record, that's
16 Exhibit 2. And then the same, then, on all of these exhibits.
17 Here is Exhibit 3, Exhibit 4, Exhibit 5, and Exhibit 1.

18 Looking at these exhibits, Mr. Taylor, are these the
19 five that we have just been discussing, based upon the information
20 that you see on here?

21 A Yes.

22 MS. CAMERON: No further questions.

23 THE COURT: Thank you.

24 Anything?

25 MR. WHITE: I have nothing, Your Honor.

1 THE COURT: May we thank and excuse this witness?

2 MS. CAMERON: Yes, Your Honor.

3 THE COURT: Thank you, sir. You may stand down. You
4 are excused.

5 Call your next witness.

6 MS. CAMERON: Detective Jones.

7 THE CLERK: Please raise your right hand.

8

9 DEREK JONES

10 called as a witness, having been duly sworn,
11 testified as follows:

12

13

14 DIRECT EXAMINATION

15 BY MS. CAMERON:

16 Q Good morning, Detective. Once you get comfortable -- do
17 you fit?

18 A About as good as it is going to get, I guess.

19 Q Okay. Don't break the chair.

20 Please state your name for the record. And I need you
21 to spell both your first and last name.

22 A Derek Jones, D-e-r-e-k, J-o-n-e-s.

23 Q Are you employed, sir?

24 A Yes.

25 Q Who do you work for?

1 A The Reno Police Department.

2 Q In what capacity?

3 A I'm assigned to the Street Enforcement Team.

4 Q As a police officer?

5 A Detective.

6 Q How long have you been a detective with -- it goes by

7 "SET"; is that correct?

8 A Yes.

9 Q How long have you been with SET?

10 A Just over four years.

11 Q What's your total law enforcement experience?

12 A Just about 10 years total.

13 Q All with Reno Police Department?

14 A Nine with Reno, one with Washoe County Sheriff's Office.

15 Q Drawing your attention to June of last year, 2015, were

16 you involved in an investigation targeting an individual named

17 Ryan Andrews regarding possible sales of narcotics?

18 A Yes.

19 Q Is that individual or target of the investigation in the

20 courtroom today?

21 A Yes.

22 Q Will you please describe what that individual is wearing

23 and where they are seated.

24 A He's seated at the table. He's wearing a blue shirt and

25 a cross yellow and green tie.

1 Q With glasses?

2 A Yes.

3 MS. CAMERON: May the record reflect the identification
4 of the defendant?

5 THE COURT: So noted.

6 BY MS. CAMERON:

7 Q Specifically, then, on June 19th, last year, 2015, were
8 you involved in a controlled narcotics purchase, again, targeting
9 the defendant?

10 A Yes, I was.

11 Q What was your involvement or role in that particular
12 operation?

13 A I was assigned as the wire officer.

14 Q What are your duties as a wire officer?

15 A Typically, those duties include searching the
16 confidential informant before and after the deal, and then
17 outfitting them with the wire device so we can monitor what's
18 going on during the controlled operation for their safety.

19 Q And was Nick Daughtery the confidential informant used
20 in this case?

21 A Yes.

22 Q Where did you first meet up with him on that date,
23 June 19th?

24 A In our office.

25 Q At the station?

1 A Yes.

2 Q Do you know how he got there?

3 A I don't.

4 Q Did you go get him?

5 A I did not.

6 Q So the first time you see him that day, he's at the
7 station?

8 A Yes.

9 Q Do you recall what time it was?

10 A I don't recall exactly what time it was.

11 Q Evening?

12 A I would assume so, yeah, because the deal was in the
13 evening.

14 Q Okay. You didn't, like, hang out for hours?

15 A No.

16 Q Okay. What was the plan for this particular operation?

17 A The plan, as far as I knew, was to outfit the CI with
18 the wire, have him go over to Mr. Andrews' place, purchase
19 narcotics, and then come back to the station.

20 Q What kind of drugs was it anticipating he was going to
21 be purchasing?

22 A I believe we were anticipating meth and possibly heroin.

23 Q And before going to the defendant's apartment, did you
24 search him?

25 A The confidential informant?

1 Q Yes.

2 A I did.

3 Q Unclothed strip search?

4 A Yes.

5 Q And did you find any drugs or cash on his person during

6 that search?

7 A No, I did not.

8 Q Did you fit him, then, with the audio recording device

9 or wire?

10 A Yes, I did.

11 Q Did you provide him with the money to be utilized during

12 the purchase or "the buy money"?

13 A Eventually, yes, I did.

14 Q How much was he provided?

15 A I don't recall off the top of my head.

16 Q Okay. Where was it, then, that you gave him that money?

17 A In my car as we pulled up to the outside of the

18 defendant's apartment.

19 Q Once you are outside of the apartment, so not at the

20 station?

21 A Correct, not at the station.

22 Q And what was the address of the apartment?

23 A I believe it was 900 I Street, Number 218.

24 Q And you were the detective that transported Nick to that

25 location?

1 A Yes.

2 Q In a marked patrol vehicle or undercover unmarked?

3 A Undercover unmarked vehicle.

4 Q What kind of vehicle, truck or sedan?

5 A At that time, I think I was driving a truck. We switch

6 cars we use.

7 Q I'm showing you a map. It's marked as Exhibit 25. If

8 you could, on that screen ahead of you -- it will make a green

9 mark -- where did you park when you got to the apartment?

10 A Right there.

11 Q Oh, okay. So right on -- I'll make it a little bigger.

12 Can everybody --

13 A Yeah, kind of right at the top of the I.

14 Q Okay. On I Street. So you had no direct view of the

15 apartment?

16 A I did not.

17 Q What did you do once you parked?

18 A Made sure that the CI had the money and that the wire

19 was functioning properly and waited for Detective Rasmussen to say

20 it was okay to let him go.

21 Q Once you got that confirmation from Detective Rasmussen,

22 you direct the CI to get out of the car, is that kind of how it

23 goes?

24 A Yes, just sent him on his way towards the target

25 apartment.

1 Q Do you see him, then, walk from your car around the
2 corner?

3 A Yes. He walked to the east and then started to walk
4 around the building, and I lost him just as he rounded the corner.

5 Q But other detectives were in the parking lot, correct?

6 A Yes.

7 MR. WHITE: Objection, leading, Your Honor.

8 THE COURT: Sustained.

9 BY MS. CAMERON:

10 Q Were there other detectives in the parking lot?

11 A Yes, there were.

12 Q Okay. Once you lose sight of Nick, are you actively
13 monitoring that wire, the audio recording?

14 A Yes.

15 Q Could you hear, then, on your end, him get to the
16 apartment?

17 A There was a lot of rustling during most of the wire, so
18 it was hard to make out exactly what was what. I could tell he
19 had contact with somebody eventually that I assumed was the
20 defendant.

21 Q Okay. Where was the wire placed?

22 A To be honest with you, I don't recall.

23 Q If Mr. Daughtery remembered it being in a cigarette
24 pack, would that make sense? Do you guys do that, like in his
25 pocket?

1 A We do do that, yes.

2 Q Okay. So it's not like we see on the movies where it's
3 taped to the chest or --

4 A Sometimes.

5 Q Sometimes, like that?

6 A Sometimes.

7 Q Okay. This particular one, not like that?

8 A If he says so, then I -- I would go with that.

9 Q Okay. Not unusual though.

10 While you are monitoring -- well, let me ask you this.

11 Well, while you are monitoring, do you hear -- how many
12 different voices do you hear during the entire time Nick is gone
13 from your vehicle?

14 A I believe it's just two.

15 Q Do you recognize Nick's voice as one of them as you are
16 monitoring it?

17 A Yes.

18 Q Okay. The other voice, then, that you hear, male or
19 female?

20 A It sounded male.

21 Q While you are monitoring it, the wire, the male voice,
22 does it appear to be the same or different male voice the entire
23 time?

24 A The two male voices appear to be the same.

25 Q How long was he gone, Nick?

1 A I think it was somewhere around 40 minutes.

2 Q While you are listening, again, do you hear a dog or a
3 dog barking or anything like that?

4 A I don't recall hearing that.

5 Q Do you ever hear anything that indicates to you that
6 Nick and whoever he is with is possibly using drugs?

7 A There's so many different noises on that wire, I can
8 only speculate as to what those noises were.

9 Q So let me ask you this.

10 If you had -- if you had heard what you believed to be
11 drug usage occurring, what would you have done?

12 A I would have notified Detective Rasmussen.

13 Q Has that ever happened to you before?

14 A It's happened once that I can remember.

15 Q And what did the detectives do? What did you do?

16 A Notified the case detective. He then called the CI and
17 told him to get out and leave right away, which they did.

18 Q So you kind of call off the deal?

19 A It stopped the deal, yes.

20 Q While you are, again, monitoring this audio recording
21 the wire, are you taking notes?

22 A Yes.

23 Q What are you taking notes of?

24 A Just kind of the general tone of the conversation,
25 nothing specific, just general notes.

1 Q What do you recall the general conversation being? What
2 do you recall hearing them talk about?

3 A They talked about numerous things. At one point, there
4 was talk of money. They talked about Suboxone. They talked about
5 using that.

6 They talked about somebody's rent on someone's apartment
7 at one point. They kind of just -- their conversation was kind of
8 just all over the place.

9 Q Okay. Do you recall hearing -- you could hear some of
10 what they were talking about?

11 A Some of it, yeah. It was quite a bit -- it was muffled
12 and scratchy.

13 Q What time was it, then, that you saw Nick again?

14 A I have it written down in my notes. I don't recall
15 exactly what time it was, but I have it written down what time he
16 came back.

17 Q Okay. 6:31, I think, is what we kind of have in your
18 report. Does that sound familiar?

19 A If that's what it says, yeah.

20 Q Okay. And was that when -- when you saw him again,
21 where do you see him walking from? Where do you see him coming?

22 A He comes around the same corner that I last saw him
23 leave previously.

24 Q So I'm just going to mark -- and correct me if I am
25 wrong, but this corner right here on I Street?

1 A Yes.

2 Q From when you see him, does he walk directly from that
3 corner to your vehicle?

4 A Yes, he does.

5 Q What does he do at that point?

6 A He gets in my vehicle, and I take possession of the wire
7 and take possession of the narcotics.

8 Q He hands the drugs directly to you?

9 A Yes.

10 Q What do you do with those drugs once he gave them to
11 you?

12 A Hang on to them until we get back to the station.

13 Q Did you package and seal them?

14 A Once we're back at the station, yes.

15 Q Displaying Exhibit 1, is that your handwriting?

16 A Yes, on the top, yes.

17 Q And Exhibit 2, also your handwriting?

18 A Yes.

19 Q What do you do once you get in the car? You just drive
20 back to the station?

21 A Yes.

22 Q You talk to Nick during that time to find out how
23 everything went?

24 A Yes.

25 Q Does he provide you any additional information about

1 possible additional narcotics in the apartment?

2 A At that time, yes, he said that he believed there was
3 more narcotics in there.

4 Q Did he give you a specific location as to where you
5 might find those?

6 A He said in the kitchen.

7 Q Did you provide that information to the case detective,
8 Rasmussen?

9 A Yes, I did.

10 Q What do you do when you get back to the station?

11 A Again, search the CI and then presumptive test the
12 narcotics and then package it for evidence booking.

13 Q During the search of Mr. Daughtery -- again, another
14 unclothed strip search, correct?

15 A Yes.

16 Q Did you locate any additional narcotics or money on his
17 person?

18 A Did not.

19 Q After the search and the packaging of the evidence, what
20 do you do at that point?

21 A At that point, I leave the station and go back to the
22 scene to help the other officers.

23 Q Okay. And did you participate, then, in the search of
24 the apartment?

25 A Yes, I did.

1 Q I'll show you a couple more exhibits.

2 5, it appears that this is your handwriting as well; is
3 that correct?

4 A Yes, it is.

5 Q And you would have packaged and sealed this exhibit?

6 A Yes.

7 Q And Exhibit 4, same for this one?

8 A Yes.

9 Q Exhibit 6, did you package and seal this?

10 A Yes, I did.

11 Q And Exhibit 7, same question.

12 A Yes.

13 MS. CAMERON: No further questions.

14 THE COURT: Can I see counsel at sidebar, please.

15 (A conference was held at the bench.)

16 THE COURT: The record should reflect the Court met with
17 counsel at sidebar.

18 Ladies and gentlemen, we're going to take just a
19 two-minute recess, so don't dive into the cake quite yet. I have
20 a quick matter I have to take up with the lawyers outside your
21 presence.

22 You are instructed not to discuss the case among
23 yourselves or with anyone else, or form any ultimate conclusions
24 regarding the case and, again, no social media.

25 Two minutes. Okay?

1 THE BAILIFF: All rise for the jury.
2 (The jury exited the courtroom.)
3 THE COURT: Please be seated.
4 Record should reflect we're outside the presence of the
5 jury.
6 The record should further reflect that one of the jurors
7 has sent a note which indicated "How did Nicholas start being a
8 CI? Was he in trouble for something?"
9 The prosecutor indicates, Officer, that you could answer
10 this question.
11 How would you answer that?
12 THE WITNESS: I don't know.
13 MS. CAMERON: You have no understanding of how Nick ever
14 became a CI?
15 THE WITNESS: He was working for Detective Rasmussen.
16 So I don't know any of his -- I don't know what his deal was.
17 MS. CAMERON: Oh. Okay. You came in --
18 Detective Rasmussen was the case agent, and just brought you on
19 it?
20 THE WITNESS: Yes.
21 MS. CAMERON: Okay. I apologize, I thought that he had
22 knowledge. It was Detective Rasmussen.
23 THE COURT: Okay. So either we have to recall
24 Detective Rasmussen -- and then the question is, does the defense
25 object to this, because it's the understanding of the prosecutor

1 there were no charges pending against Mr. Daughtery and he wasn't
2 in a substantial assistance program.

3 MR. WHITE: Your Honor, my answer is, I have no
4 objection if we do it just like this, if we can do it outside the
5 presence of the jury for Mr. Rasmussen -- for Detective Rasmussen,
6 so we know ahead of time.

7 I don't know the answer. It's hard to object to
8 something whether -- because I don't know the answer to that.

9 MS. CAMERON: At this point -- because I've already kind
10 of excused Detective Rasmussen, the question, unfortunately, came
11 late, and the two last two officers that I have will not know the
12 answer. I thought that he would.

13 But we could -- it would be my request to let the jury
14 know at this point that that -- that information cannot be
15 provided to them, because, otherwise, I'll have to recall a
16 witness that has already been excused.

17 THE COURT: Okay. Any objection?

18 MR. WHITE: No, Your Honor.

19 THE COURT: Okay. Then we'll mark this note.

20 And I will remind the jury that they are to wait until
21 all the testimony is in.

22 And so that what I would propose is, ladies and
23 gentlemen, I've received a question from one of our jurors. I
24 have conferred with counsel and the remaining witnesses, and you
25 are instructed that the information you seek is not relevant to

1 these proceedings and this witness does not have any information
2 related to the question. And you are to rely upon all the
3 testimony and all of the evidence that is presented throughout the
4 trial.

5 Any objection?

6 MS. CAMERON: No. That sounds great, Your Honor.

7 MR. WHITE: Not from the defense, Your Honor, no.

8 THE COURT: Okay. So let's get the jury back in.

9 (The jury entered the courtroom.)

10 THE COURT: Please be seated.

11 The record should reflect the jurors are present and
12 accounted for.

13 The record should further reflect that I have conferred
14 with counsel.

15 I did receive a question from one of our jurors.

16 You are instructed that the question that has been posed
17 is not relevant to these proceedings and that this witness has no
18 information regarding that question.

19 You are instructed to disregard -- you are instructed to
20 rely upon all of the testimony and all of the evidence that is
21 introduced throughout the course of trial.

22 And further, I remind the jurors that pursuant to the
23 Martinez decision, you are to listen to the direct examination,
24 the cross-examination, and the redirect examination before
25 providing questions.

1 Have you concluded with your direct examination?

2 MS. CAMERON: Yes, I have.

3 THE COURT: Cross-exam?

4 MR. WHITE: Yes, Your Honor.

5

6

CROSS-EXAMINATION

7 BY MR. WHITE:

8 Q Detective Jones, you had stated just now that you -- you
9 took the drugs from Mr. Daughtery right at the scene.

10 Didn't you testify to that?

11 A Yes.

12 Q Okay. And you did write a report in this -- in this
13 case?

14 A Yes, I did.

15 MR. WHITE: Okay. I'm going to -- may I approach the
16 witness, Your Honor?

17 THE COURT: You may.

18 BY MR. WHITE:

19 Q Detective Jones, I'm going to show you your report. I
20 just want you to read it to yourself, and I'll point out -- and
21 just look up at me when you are done.

22 A Just this paragraph here?

23 Q Just that paragraph starting there.

24 Does that refresh your recollection?

25 A Yeah.

1 Q What does it say -- where does it say that you took
2 control of narcotic evidence?

3 A It says at the station.

4 Q At the station.

5 Earlier, actually, near the beginning of your direct
6 examination from counsel, you ID'd Mr. Andrews as somebody that
7 you've seen.

8 When did you see him before this?

9 A The day that we took him into custody.

10 Q Okay. So you were able to drive back to the station
11 from Sparks and get to -- drive him back to the station, take
12 control of the narcotics, search him, take off the wire, all of
13 that stuff that you do that you testified to, and then get back in
14 time for the arrest of Mr. Andrews?

15 A I don't believe I was present when he was actually taken
16 into custody, but I did see him on the scene when he was already
17 in custody.

18 Q Okay. How long did he remain on the scene, do you know?

19 A I don't recall that.

20 Q Because, if you recall, it's been testified to that
21 the -- that Mr. Andrews exits the apartment around 1836.

22 Do you recall what time you left with Mr. Daughtery to
23 go back?

24 A It should be in my notes what time I searched him back
25 at the station.

1 Q Those would be in your wire notes?
2 A Yes.
3 Q Okay. Do you remember what time you searched him?
4 Would it help to refresh your recollection with your wire notes?
5 A I would like to look at that.
6 MR. WHITE: Okay. May I approach the witness, Your
7 Honor?
8 THE COURT: You may.
9 BY MR. WHITE:
10 Q Do you recognize what I just showed you?
11 A Yes, those are the wire notes I took.
12 Q That's your handwriting?
13 A Yes, it is.
14 Q Okay. What time did you search Mr. Daughtery?
15 A 1855.
16 Q Okay. Do you know how long that search took? Because
17 the wire notes end there.
18 A Only a few minutes. It doesn't take very long.
19 Q How many is "a few"?
20 A Two to three, five at the most.
21 Q Okay. So just to be kind of conservative, you could
22 have finished it about 7 -- or, 1900 hours, your search?
23 A Yes.
24 Q And then you say at that point, you drove back to the
25 scene?

1 A Yes.

2 Q And it's your testimony that Mr. Andrews was still --
3 where was he?

4 A He was with one of the other detectives.

5 Q Was he standing up, talking?

6 A I don't believe so.

7 Q So you were assigned to -- your main objective that day,
8 as part of the team that was targeting Mr. Andrews, is as the
9 wire -- the wire detective?

10 A Yes.

11 Q Is that what you call it?

12 A Yes, sir.

13 Q Okay. So when you say "wire detective," you were kind
14 of in charge of everything involving the wire, including the
15 confidential informant?

16 A Not in charge of him, per se. I'm in charge of
17 monitoring the wire, yes.

18 Q Okay. Are you in charge of making sure the confidential
19 informant gets to the target area?

20 A In this case, I was, yes, because I was assigned to
21 drive him there.

22 Q And you are in charge of searching him before and after?

23 A In this case, yes.

24 Q Okay. And you are also in charge of -- in this case
25 anyway, you were in charge of giving him money to buy drugs with?

1 A Yes.

2 Q Okay. I think you said you couldn't remember, but just
3 to make sure, do you know how much money you gave to
4 Mr. Daughtery?

5 A I don't recall.

6 Q Okay. Do you remember any talk of a debt being owed?

7 A I know that there's mention of it made in my notes, so
8 there must have been some sort of talk of that over the wire.

9 Q And so you had no view of the apartment, is what you
10 stated on direct examination, correct?

11 A Correct, I did have no view of it.

12 Q You were parked around on I Street, according to that
13 map?

14 A Yes.

15 Q So you lost -- you lost view of Mr. Daughtery as soon as
16 he walked around the corner to go to the apartment?

17 A Yes.

18 Q And you didn't see him again until maybe 40 minutes
19 later when he came back around that corner, same corner?

20 A Yes.

21 Q Is that -- you've done a lot of these cases, correct?

22 A Yes.

23 Q Okay. Where there's a setup, kind of?

24 A Yes.

25 Q Okay. Now, did you -- do you typically lose sight of

1 the confidential informant?

2 A Just depends on where we're at, geographywise.

3 Q You had also mentioned that there were other detectives
4 in the parking lot. You testified to that?

5 A Yes.

6 Q Could you see them?

7 A I could not.

8 Q So as you sit here, really, you can't testify that you
9 knew there were other detectives in the parking lot, can you?

10 A I saw them pull into the parking lot, yes.

11 Q Did you see them park?

12 A I did not see where they parked, no.

13 Q So they could have kept going. You don't know, right?

14 A I guess, no.

15 Q I'm just asking what you saw, your personal knowledge of
16 this.

17 And you probably have no personal knowledge of whether
18 they could see -- of what they could see, right?

19 A I do know that when I lost sight of the CI, that another
20 detective called out that they had sight of him walking through
21 the parking lot.

22 Q Okay. And is that through a radio of some sort?

23 A Yes.

24 Q And you did testify also that you really don't remember
25 where the wire was placed?

1 A I don't, honestly.

2 Q Okay. Even though you are the one that -- you were in
3 charge of that that day, right?

4 A Yes.

5 Q You had also said that one time, you were involved in a
6 case, where it was called off because you had knowledge that the CI
7 was ingesting drugs; is that correct?

8 A That I can recall, yes.

9 Q Okay. Do you recall who the case detective was on that?

10 A I don't. That was several years ago.

11 Q In that instance, was there just very -- did you have
12 definitive knowledge that there was drug use going on in that
13 case?

14 A I don't recall the exact specifics. I just recall that
15 there was a concern of drug use, so the deal was stopped.

16 Q Okay. Why would that be? Why would the deal be
17 stopped?

18 A Because the CI was feared to be using drugs during that
19 deal.

20 Q Does it do something, though? Does it make the case not
21 something you can use?

22 A It's something that -- when we sign up confidential
23 informants, it's something that they sign, that they agree they
24 won't use.

25 Q Do you -- they sign something. So do you have that in

1 your records that you keep?

2 A Have what?

3 Q That signature of that -- from the confidential
4 informant.

5 A I wouldn't. I would assume that the detective who
6 signed up the CI in this case would have that.

7 Q And that, in this case, would be Detective Rasmussen?

8 A I believe so, yes. That's who the CI was working for.

9 Q And I'm just trying to get kind of a picture of it. So
10 you don't have him sign that right before they go out on an
11 alleged buy.

12 Like, you were assigned to him, to set the wire up and
13 all of that stuff. They don't sign it right then and there right
14 before they go; is that correct?

15 A Sometimes they do, but that would not be with me because
16 he's not signing up with me. He's signing up with whichever
17 detective he's signing up with.

18 Q Do you know if that -- have you ever been a case
19 detective for somebody who signed that document in your presence?

20 A Yes.

21 Q Is that something you would provide to the District
22 Attorney's Office?

23 A The confidential informant packet? No, I don't believe
24 it is.

25 Q No? Okay.

1 Did you drug test Mr. Daughtery before going out to
2 the -- this buy?

3 A No, I did not.

4 Q Okay. And did you do it afterward?

5 A No, I did not.

6 Q Have you ever before, in your experience?

7 A No, I've not.

8 Q You have not drug tested people?

9 A No.

10 Q Okay. So you are just taking their word for it when
11 they sign that document that they are -- that they are going to do
12 what they say?

13 A Yes.

14 MR. WHITE: Court's indulgence a moment.

15 BY MR. WHITE:

16 Q You also -- did you participate in searching the
17 apartment? I think you did, right?

18 A Yes, I did.

19 Q Did you -- were you the detective that found the
20 alleged -- or, methamphetamine underneath a jewelry box?

21 A I recall finding drugs in a kitchen drawer. I don't
22 recall if it was in a jewelry box, underneath a jewelry box.

23 Q Do you recall how you got into the apartment?

24 A Actually, no, I don't recall.

25 Q Now, you -- did you go straight to that kitchen drawer

1 because of what you heard from Mr. Daughtery?

2 A No. We broke off once we started searching, and I
3 started searching the kitchen based on the information from the
4 CI, yes.

5 Q Okay. But based on that?

6 A Yes.

7 Q So you didn't go directly to it, but you had been told
8 by him that that there were drugs in that drawer?

9 A He believed that there were more in the kitchen, yes.

10 Q All right. And were you the main officer that searched
11 that drawer?

12 A Yes, I searched it, yes.

13 Q Excuse me, "detective." Okay.

14 You also mentioned that you found a Wells Fargo
15 checkbook --

16 A Yes.

17 Q -- in there?

18 And was that important?

19 A It just showed that -- it had the defendant's name on
20 it. We used it for indicia of occupancy.

21 Q Indicia of -- okay.

22 So showing that there's a connection between the drugs
23 in the drawer and that there are other belongings in there, is
24 that what we mean by "indicia"?

25 A Yes, it just shows that the person has ties to that

1 apartment house where we were searching.

2 Q Okay.

3 MR. WHITE: Your Honor, may I approach? I need to --

4 THE COURT: Certainly. For exhibits?

5 MR. WHITE: Yes.

6 BY MR. WHITE:

7 Q Detective, at this time, I'm going to show you what's
8 already been marked and admitted as State's Exhibit 6.

9 Can you see that okay?

10 A Yes.

11 Q What is that?

12 A That's the Wells Fargo checkbook.

13 Q Okay. I'm just going to kind of open it up here. I'm
14 just going to go to the first check I see. Can you see that okay?

15 Focusing -- I'll just go like that. Can you see that
16 okay?

17 A Yes.

18 Q Can you see any other identifying information on that
19 check?

20 A Just some numbers, and I think that's the Wells Fargo
21 address.

22 Q Okay. So it's just -- would it be fair to say that this
23 is just a blank check, it's not a check that somebody ordered with
24 their address and everything else that we typically do?

25 A It's fair to say that, yeah.

1 Q And then the only identifying thing is that front where
2 it just says "Ryan" on it in somebody's handwriting?

3 A Yes.

4 Q Okay. And then right below it -- I don't even know if
5 you saw this. Did you page through this thing when you looked at
6 it?

7 A I don't recall if I did.

8 Q Okay. So is it fair to say that all you saw, when you
9 looked at it and put it in evidence, is that?

10 A I definitely looked at that. I don't recall if I
11 flipped through it or not.

12 Q Okay. Was there anything else in there that identified
13 Mr. Andrews as having sole access to that drawer?

14 A Not that I recall.

15 MR. WHITE: Okay. May I approach the witness, Your
16 Honor?

17 THE COURT: Yes.

18 BY MR. WHITE:

19 Q Detective Jones, have you had a chance to listen to the
20 wire recording?

21 A Yes, I did last night.

22 Q Last night. Okay.

23 I'm showing you what's been -- it's a disk that has been
24 marked as Exhibit 29, defense exhibit.

25 A Yeah.

1 Q Does that appear to be a disk?

2 A It looks like a disk, yes.

3 Q It's not the one you listened to, though, right?

4 A No.

5 Q You had your own copy?

6 A Yes.

7 Q And I'll tell you that the copy that the defense made

8 was from -- was provided from the District Attorney's Office.

9 Did you send what you had to the District Attorney's

10 Office?

11 A I would assume that the case detective did, yes.

12 MS. CAMERON: Your Honor, I'll stipulate that that's the

13 wire recording.

14 THE COURT: Okay. Has that already been admitted?

15 MR. WHITE: No, Your Honor. I move to admit Exhibit 29.

16 THE COURT: Any objection?

17 MS. CAMERON: No objection.

18 THE COURT: That will be marked and admitted.

19 (Exhibit 29 marked for identification and

20 admitted into evidence.)

21 MR. WHITE: Permission to publish, Your Honor?

22 THE COURT: You may.

23 (Audio recording played.)

24 BY MR. WHITE:

25 Q Detective, I'm going to probably end up -- I might have

1 to adjust the volume, too, but what do we hear there?

2 A It sounds to me like rustling.

3 Q Okay. What would that rustling be, in your experience?

4 A Based on the fact that it's the start of the wire, I'm
5 guessing it's the CI walking.

6 Q Okay.

7 (Audio recording played.)

8 BY MR. WHITE:

9 Q I'm kind of clicking through it to get to the substance.
10 Do you know what -- can you tell from that what we're
11 hearing?

12 A It sounds like when -- based on my experience, that when
13 he stops moving, the rustling stops, and you can hear it clearly.
14 So I just was -- I would assume at that point, he's not moving
15 anymore.

16 Q Okay. Now, is -- is this a good recording, from your
17 experience, or no?

18 A It's about average.

19 Q Is it? Okay.

20 (Audio recording played.)

21 BY MR. WHITE:

22 Q Do you hear some talking now?

23 A Yes.

24 Q It's not real clear, but you do hear some?

25 A Yes.

1 Q Who does that sound like on that?

2 A It's hard to make it out. It sounds like a male voice
3 to me.

4 Q Okay. Have you heard Mr. Daughtery's voice since the
5 day of this target?

6 A I have not.

7 Q No.

8 (Audio recording played.)

9 BY MR. WHITE:

10 Q I'm just going to stop for a sec.

11 Predominantly, you can hear just one male voice,
12 correct?

13 A Yes.

14 Q Can we presume that you can usually hear the actual
15 person that it's wired to, better than the other person?

16 A In my experience, yes.

17 Q So can we probably assume that this is mostly
18 Mr. Daughtery talking?

19 A I would assume so.

20 Q Okay.

21 (Audio recording played.)

22 BY MR. WHITE:

23 Q Right there are two noises. Okay?

24 You had just testified that you did not hear any dogs or
25 anything in there. That was clearly a dog bark, was it not?

1 A That was, yes.

2 Q Right after that, there was a cough. I -- to me, that
3 sounds like a female cough. I don't know for sure, but doesn't it
4 sound like a female cough to you, in your experience?

5 A That sounded like a cough. I don't know if I could tell
6 male or female.

7 Q Do you want to hear it again?

8 A Sure.

9 Q Okay.

10 (Audio recording played.)

11 BY MR. WHITE:

12 Q Now, if it was a female cough -- I'm not saying it is,
13 we don't know for sure -- but that would mean she was awake -- you
14 know that Christina Sambrano was there, right?

15 A There was a female there, yes. I don't recall if that
16 was her name.

17 Q You don't know her name, okay.

18 There was a female there. So if that's -- that would
19 mean that she was awake if that is a female cough, correct?

20 A It would be someone coughing. I don't know if they were
21 awake or not.

22 Q It could be coughing in her sleep.

23 (Audio recording played.)

24 BY MR. WHITE:

25 Q It sounds like Nick, right?

1 A I believe so.

2 Q What is he talking about there?

3 A It sounded like prices for different quantities of
4 drugs.

5 Q Okay.

6 (Audio recording played.)

7 BY MR. WHITE:

8 Q I probably should clear this up, too. Where is this all
9 taking place, so far as you know, to the best of your knowledge?

10 A As far as I know, it was inside the defendant's
11 apartment.

12 (Audio recording played.)

13 BY MR. WHITE:

14 Q And that right there, did it appear to you -- did it
15 sound like, to you, that there was anything being smoked?

16 A I couldn't make out anything.

17 Q You couldn't make it out?

18 A Just a bunch of rustling.

19 (Audio recording played.)

20 BY MR. WHITE:

21 Q I know you weren't there, but there was testimony from
22 the confidential informant, Mr. Daughtery, that Mr. Andrews had
23 gone to the bathroom, maybe more than once. And I can't remember
24 exactly, but definitely had gone to the bathroom at least once.

25 That sounds like there's nothing going on there at all,

1 no conversation.

2 A I didn't hear any conversation.

3 Q Possible that they have lost contact, in your
4 experience?

5 A I guess you could make that assumption off that. I
6 don't know. There was no conversation, no.

7 (Audio recording played.)

8 MR. WHITE: I'm going to skip a little bit to about
9 18 minutes in there. Hit that mark.

10 (Audio recording played.)

11 BY MR. WHITE:

12 Q So about 1822, 1823, it sounds like Nick asks him, "How
13 much do I still owe you?"

14 A Uh-huh, yes.

15 Q Do you think this is in regard -- is that where you
16 wrote down "debt owed" --

17 A Right.

18 Q -- question mark?

19 A I would assume so, yes.

20 (Audio recording played.)

21 BY MR. WHITE:

22 Q It almost sounds like they come to the conclusion it was
23 270 that was what was owed; is that correct?

24 A I couldn't understand the numbers, but, yeah, they were
25 talking about numbers.

1 Q Okay.

2 A It's hard to hear without having on headphones. It's a
3 little easier to hear.

4 Q In your wire notes, you also write about a deal sign.
5 What exactly is a deal sign?

6 A It's usually something that we have the confidential
7 informant say over the wire once the deal is done so that we know
8 that the deal is done.

9 Q So it's a verbal thing, it's not something like that or
10 walk out the door and do this or something (indicating)?

11 A Right.

12 Q It's verbal?

13 A Something verbal, yes.

14 Q It's an assigned word, different maybe for each one?

15 A Yes, it's just whatever the case detective wants to use.

16 Q And you did hear that in this?

17 A Yes.

18 Q Had you met Mr. Daughtery before that day?

19 A I don't believe so.

20 Q Okay. And so -- and the reason why I ask that is, you
21 don't know what he's like normally, right, walking around?

22 A I do not.

23 Q I mean, his demeanor or anything like that?

24 A Aside from the, I guess, 30 minutes total I spent with
25 him that day, I don't know.

1 Q Did he appear to you at all to be high or anything like
2 that?

3 A No.

4 Q Before or after?

5 A No, he did not.

6 Q And you spent -- you said you spent about -- I don't
7 know. How much -- how many minutes did you spend with him?

8 I guess you had to drive him back to the station from
9 Sparks, and then it took about five minutes, you determined, to
10 search him, and then he was off -- or you were gone.

11 A I was gone, yes.

12 Q You went back. Okay.

13 So what are we thinking here, maybe 15, 20 minutes
14 afterward?

15 A Maybe time before and after, maybe 30, 45 minutes
16 probably at the most.

17 Q Total? Okay.

18 And I don't want to know what you said, but did you --
19 did you have conversation with him?

20 A When?

21 Q With Mr. Daugherty.

22 A A few times, we talked, yeah, when --

23 Q On the way there and on the way back?

24 A Yes.

25 Q Okay. So did you -- were you able to kind of read his

1 demeanor at that point?

2 A Yes.

3 Q Did it change at all from beginning of the target time
4 until the end?

5 A I don't believe so.

6 MR. WHITE: Okay. Nothing further at this time, Your
7 Honor.

8 THE COURT: Redirect?
9

10 REDIRECT EXAMINATION

11 BY MS. CAMERON:

12 Q Detective, there are a couple of things that you didn't
13 recall, where the wire went, how you got in.

14 How many of these controlled buys do you do during any
15 given shift?

16 A Good days, we could do five or six; slow days, one or
17 two.

18 Q So in any given week -- you work five days?

19 A Four days.

20 Q Four days a week.

21 On average, how many are you doing a week then?

22 A If I had to take a guess, 20 to 30 maybe.

23 Q And although you guys take as much -- well, let me ask
24 you this.

25 Do you try to document as much as you can?

1 A Yes.

2 Q But they are not -- these aren't video recorded, these
3 deals?

4 A No, they are not.

5 Q And sometimes, is it fair to say you don't document
6 everything?

7 A Yes.

8 Q In this case, you did not write down where you put the
9 wire?

10 A I did not.

11 Q Is that something you would normally put down?

12 A I normally don't, no.

13 Q Okay. And you don't recall how you got into the
14 apartment. Is that something that you would normally write down?

15 A I wouldn't, no.

16 MS. CAMERON: Okay. No further questions.

17 MR. WHITE: I have no recross based on that, Your Honor.

18 THE COURT: Okay. May we thank and excuse this witness?

19 MS. CAMERON: Yes, thank you.

20 THE COURT: You may stand down, sir. Thank you very
21 much.

22 May I see counsel at sidebar.

23 (A conference was held at the bench.)

24 THE COURT: Okay. Ladies and gentlemen, we've got a
25 quick hearing that we've got to do as to a matter unrelated to

1 this.

2 So -- and I know we're running a little bit late. I
3 just had cataract surgery, so I have to -- everything is
4 cattywampus now.

5 So I'm going to let you guys go to lunch for -- to 1:45,
6 okay? 1:45. That gives us -- what is that, 12:30 -- yeah.

7 MS. CAMERON: Hour 15, yeah.

8 MR. WHITE: About an hour 15 minutes, Your Honor.

9 THE COURT: Because then we can take 15 minutes here,
10 and I can give you guys a break. Maybe -- you might not get as
11 much time because we've got to settle instructions too.

12 And then there's a possibility, ladies and gentlemen,
13 that the case may be going to you late this afternoon. So we may
14 be working after 5:00 p.m. Okay?

15 But I want you to be aware of that. We'll see how
16 things go this afternoon.

17 Is that a fair assessment, Counsel?

18 MR. WHITE: It is, Your Honor.

19 MS. CAMERON: Yes, Your Honor.

20 THE COURT: Okay. So be prepared. Okay? All right.
21 So go have a nice lunch and we'll see you back. Okay?

22 You are instructed not to discuss this case among
23 yourselves or with anyone else, form any ultimate conclusions, no
24 independent investigation, no Twittering, no Facebooking, no
25 eBaying, none of that.

1 THE BAILIFF: All rise for the jury.
2 (The jury exits the courtroom.)
3 THE COURT: Do we have Ms. Salzman Greco here?
4 Ms. Meier, is your client here?
5 MS. MEIER: Ms. Sambrano?
6 No. Your Honor, I tried to leave her a voicemail this
7 morning. I spoke to her Friday, yesterday, and I was anticipating
8 she was not going to be called.
9 So then this morning, I said now they want to have a
10 hearing, can you be here at noon or 1:30, and I haven't heard back
11 yet.
12 THE COURT: What do you mean, you anticipated she wasn't
13 going to be called? Mr. White told you, yes or no?
14 MR. WHITE: I -- Your Honor, I was never sure whether
15 she was going to invoke or not. I can't say "never." It was kind
16 of -- it just seemed sort of back and forth or not totally
17 determinative of whether she was going to testify.
18 THE COURT: So she's under subpoena.
19 MS. MEIER: Right.
20 THE COURT: Does she understand that?
21 MS. MEIER: Yes, Your Honor.
22 THE COURT: Okay. And she was apparently talking on the
23 phone last night to the defendant.
24 So the defendant knows her whereabouts.
25 MS. MEIER: Yes.

1 THE COURT: So if the defendant -- so Mr. Andrews, do
2 you want her here? You want your attorney to call her; is that
3 correct?

4 THE DEFENDANT: Yes.

5 THE COURT: Yes. Okay. So then you need to get your
6 investigator out, probably get law enforcement if we need to go
7 arrest her, whatever. Okay? But get her in here. Okay?

8 So tell her that I will send a law enforcement officer
9 out to arrest her.

10 What time was the subpoena?

11 MS. CAMERON: It would have been yesterday at 9:00, Your
12 Honor. But standard practice is to just be in contact with them
13 and then tell them when they do need to appear.

14 So I don't know what Mr. White's last conversation with
15 her, what time she was --

16 MR. WHITE: I did not have a conversation with her.
17 I'll have to find out from my investigator when he last spoke with
18 her.

19 MS. MEIER: There was no conversation, just mine with
20 her, because I got the file at 4:30 Friday, going over what she
21 would possibly be testifying to.

22 And I'm anticipating she'll invoke her Fifth Amendment
23 rights and say nothing to help this defendant.

24 THE COURT: But nonetheless, she's under subpoena. And
25 if Mr. White and his client want her subpoenaed, they have

1 subpoenaed her.

2 I'm just concerned that there may be some
3 miscommunication. She is in communication with Mr. Andrews, so
4 she's clearly here.

5 MS. MEIER: Right. And she's been in communication with
6 me as well, but if she needs to be here, I'll get her here.

7 THE COURT: Well, tell her she needs to get here -- I
8 want her here no later than 1:30 for a hearing outside the
9 presence.

10 I would like you here as well.

11 I apologize for any confusion as between you and
12 Mr. White, but apparently, Mr. Andrews, you know, believes she is
13 a necessary witness, and apparently, Mr. White does.

14 MS. MEIER: All right.

15 THE COURT: And she may invoke, she may not. But if
16 she's not here at 1:30, I will have the deputies go out and arrest
17 her pursuant to the subpoena power.

18 MS. MEIER: Got it.

19 THE COURT: Okay. Thank you very much.

20 MR. WHITE: Your Honor, it is -- it was written out
21 for -- the subpoena was served on her, and it was for June 13th,
22 which would have been yesterday, at 9:30 a.m.

23 THE COURT: Okay. So you and your -- where is your
24 investigator? Has he been -- or she been contacting her?

25 MR. WHITE: I'll have to find out, Your Honor. I don't

1 know.

2 MS. MEIER: He met with her on Thursday last week.

3 MR. WHITE: He did, but since then, I don't know.

4 THE COURT: Clearly, she's here. Clearly, Mr. Andrews
5 is talking to her. So if he has her phone number, call her. But,
6 apparently, she's speaking with him. So we know she's here, and
7 we know we can get her here. And if he knows where she's located,
8 that might help.

9 MS. MEIER: Yes.

10 THE COURT: But she's under subpoena, so we're going to
11 bring her in, okay? So 1:30. Get that done.

12 Now, Mr. White, we need to settle instructions so that
13 those can be ready to go.

14 The State will be resting shortly after lunch. We've
15 got -- we finished with this witness.

16 So you have how many more witnesses?

17 MS. CAMERON: One, Your Honor.

18 THE COURT: How long do you anticipate that witness to
19 go?

20 MS. CAMERON: Direct examination, 10, 15 minutes at
21 most.

22 THE COURT: Okay. All right. So this case will
23 conclude for the State probably around 2:00, 2:15?

24 MS. CAMERON: Yes, Your Honor.

25 THE COURT: So does Mr. White have the proposed

1 instructions?

2 Mr. White, do you have your instructions with you?

3 MR. WHITE: I do, Your Honor.

4 THE COURT: Okay. So let's begin numbering those. And
5 then I will be asking Mr. Andrews if he is going to testify, and
6 if he wants to -- constitutional case.

7 Okay?

8 And Ms. Clerk, would you mark the note for the record.

9 THE CLERK: I did, Your Honor.

10 THE COURT: And the record should reflect we received
11 one note from the jury, it was provided to counsel, and that note
12 has been marked and part of the record.

13 THE CLERK: Yes, Your Honor.

14 Mr. White, you've got your set of instructions?

15 MR. WHITE: Your Honor, I didn't provide them.

16 THE COURT: You didn't what?

17 MR. WHITE: I did not provide any instructions -- I have
18 a set myself, yes.

19 THE COURT: You brought a set --

20 MR. WHITE: Correct.

21 THE COURT -- that we're going to be going over.

22 MR. WHITE: Yes.

23 THE COURT: I understand.

24 So this is what we're going to do. We are going to go
25 ahead and go through these.

1 And if there are any objections, Mr. White -- these are
2 standard instructions -- interpose your objection.

3 And then I have to admonish your client --

4 MR. WHITE: Yes.

5 THE COURT: -- and determine whether he's going to
6 testify or not testify.

7 Because the State's case only has a -- one short witness
8 left, I'm going to go ahead and ask him those questions now.

9 So if you would stand, Mr. Andrews.

10 Sir, before you make your decision to testify in your
11 own defense, which we'll start at about 2 o'clock this afternoon,
12 we have to go over your constitutional rights and your right
13 against self-incrimination.

14 Do you understand that you have the constitutional right
15 against self-incrimination, you have no burden of proof in this
16 case, and you have no obligation to give any testimony whatsoever?

17 THE DEFENDANT: Yes, I do, Your Honor.

18 THE COURT: Do you understand that the State must prove
19 all the charges against you beyond a reasonable doubt?

20 THE DEFENDANT: Yes, I do, Your Honor.

21 THE COURT: Do you understand that if you decide to
22 remain silent and not give any testimony, the Court, if you and
23 your attorney ask, will instruct the jury as follows:

24 "It is the constitutional right of the defendant in a
25 criminal trial that he may not be compelled to testify. Thus, the

1 decision as to whether he should testify is left to the defendant
2 on the advice and counsel of his attorney.

3 "You must not draw any inference of guilt from the fact
4 that he does not testify, nor should this fact be discussed by you
5 or enter into your deliberations in any way."

6 Do you understand this instruction of law?

7 THE DEFENDANT: I do, Your Honor.

8 THE COURT: Do you understand that you also have the
9 constitutional right to give up this privilege against
10 self-incrimination and take the witness stand and testify in your
11 own behalf?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And are you satisfied that you've had
14 sufficient time to speak with your lawyer about the strengths and
15 the weaknesses of whether you should testify or not?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: So you have not talked to your client about
18 that?

19 THE DEFENDANT: I have, but sufficient time to really go
20 over everything so that I'm comfortable making that decision
21 100 percent whether I want to get on the stand, I'm not -- not so
22 much.

23 THE COURT: Okay. Do you have prior felony convictions?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: Okay. Do you understand that if you have

1 prior felony convictions and you choose to testify, the State may
2 cross-examine you about those convictions and the jury will be
3 made aware of those? Do you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Have you been to trial before?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Okay. Do you understand that if you choose
8 to testify, you will be subject to cross-examination?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And you understand, again, your criminal
11 history can be presented to the jury for felony criminal
12 convictions?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Okay. Do you understand -- and so do you
15 have questions about your constitutional right against
16 self-incrimination?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: Okay. And so your concern is Mr. White has
19 not explained to you the strengths and the benefits of whether you
20 should remain silent or whether you should take the witness stand?

21 THE DEFENDANT: Somewhat. Not fully. Not to my --

22 THE COURT: Has he given you his opinion about that?

23 THE WITNESS: Somewhat. I wouldn't say rock solid
24 100 percent either way.

25 THE COURT: So, Mr. White, do you have an opinion?

1 MR. WHITE: Yeah, I do.

2 THE COURT: Okay. And have you advised your client of
3 your opinion or your recommendation as to whether he should take
4 the witness stand or not?

5 MR. WHITE: Yes, we've talked about it. I was up at the
6 jail on Saturday night, too.

7 THE COURT: Okay. So you don't recall those
8 conversations with Mr. White?

9 THE DEFENDANT: I do, I absolutely do.

10 MR. WHITE: Your Honor, it's okay. If he's confused,
11 I'll sit down with him and talk to him a little. That's just what
12 we do.

13 THE COURT: Okay. All right. So you can speak with
14 your attorney a little bit further, but you must make your
15 decision, sir.

16 And, again, I remind you, sir, none of us were present
17 when any of these things occurred. So at the end of the day, it
18 is ultimately your choice.

19 If you choose to take the witness stand against the
20 advice of counsel, Mr. White, that's fine with him. He's your
21 advocate. He's your attorney. He can only give you his
22 assessment.

23 But you are the human who probably has the most
24 knowledge of the case. All right?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: So you will make the ultimate decision, but
2 you must make it very soon and you must be informed of your
3 rights. Okay?

4 THE DEFENDANT: Thank you, Your Honor.

5 THE COURT: All right. And we have to settle jury
6 instructions. So if you are not going to testify -- if you
7 ultimately choose not to testify, would you want the Court to give
8 the instruction that I explained to you?

9 MR. WHITE: Do you want to hear it one more time, the
10 instruction?

11 MS. CAMERON: Here.

12 THE COURT: My question to you again, Mr. Andrews, is if
13 you choose, after visiting with Mr. White further, that you do not
14 want to testify, would you want that instruction, yes or no?

15 THE DEFENDANT: Yes, I would like it if I chose --

16 THE COURT: Okay. Then what we'll do is mark it as an A
17 instruction, and then once we make that decision, we'll either
18 leave it or pull it. Okay?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. You may be seated, sir.

21 All right. Ladies -- or, Counsel, we're going to go
22 ahead and number these instructions so that we can get them ready.

23 And then, Mr. White, all you have to do is tell me
24 whether you have an objection or not. These are our standard
25 instructions.

1 "Ladies and gentlemen of the jury," Instruction
2 Number 1.

3 MR. WHITE: No objection.

4 THE COURT: Instruction -- you know -- do we need an
5 instruction number on the third page? Because it just goes with
6 "The ladies and gentlemen" -- oh, wait. I'm sorry, no, no, no.

7 Instruction Number 2 is "The Amended Information."

8 MR. WHITE: Yeah, it looks like it's two pages, Your
9 Honor, what I have.

10 THE COURT: Yeah. So that's Instruction Number 2.

11 MR. WHITE: No objection.

12 THE COURT: Number 3, "An Information is a formal
13 method."

14 MR. WHITE: No objection.

15 THE COURT: Number 4, "If, in these instructions, any
16 rule, direction or idea."

17 MR. WHITE: No objection.

18 THE COURT: "If during this trial, I have said or done
19 anything."

20 MR. WHITE: No objection.

21 THE COURT: Number 6, "Nothing that counsel say."

22 MR. WHITE: No objection.

23 THE COURT: Number 7, "It is the duty of the attorneys."

24 MR. WHITE: No objection.

25 THE COURT: Number 8, "Every person charged."

1 MR. WHITE: No objection.
2 THE COURT: Number 9, "A reasonable doubt."
3 MR. WHITE: No objection.
4 THE COURT: Number 10, "In every crime."
5 MR. WHITE: No objection.
6 THE COURT: Number 11, "The crime of trafficking."
7 MR. WHITE: No objection.
8 MS. CAMERON: And I included the next one. I don't know
9 if the Court had pulled them, but then I do have the one with the
10 citation. So there are some that are duplicative with the
11 citation at the bottom.
12 THE COURT: Right.
13 MR. WHITE: So that was Number --
14 THE COURT: That was Number 11.
15 MR. WHITE: Okay. Yeah. We have no objection.
16 THE COURT: That explains the law.
17 And then Number 12 would be "For a person to be guilty
18 of trafficking."
19 MR. WHITE: No objection.
20 THE COURT: Number 13, "The crime of unlawful sale of a
21 controlled substance," these are the elements.
22 MR. WHITE: No objection.
23 THE COURT: Number 14, "Methamphetamine and heroin are
24 both Schedule I."
25 MR. WHITE: No objection.

1 THE COURT: Number 15, "The word willfully."
2 MR. WHITE: No objection.
3 THE COURT: Number 16, "The law recognizes two kinds of
4 possession."
5 MR. WHITE: No objection.
6 THE COURT: Number 17, "In determining whether a person
7 knew the nature and presence of controlled substance."
8 MR. WHITE: No objection.
9 THE COURT: Number 18, "Intent may be proven by
10 circumstantial evidence."
11 MR. WHITE: Are you saying "intent" -- I'm sorry, Your
12 Honor, "Intent may be proven?"
13 THE COURT: Yes, intent instruction, Number 18.
14 MR. WHITE: No objection.
15 THE COURT: Number 19, "There are two types of evidence
16 you may properly arrive at a verdict."
17 MR. WHITE: No objection.
18 THE COURT: Number 20, "Neither side is required to call
19 as witnesses."
20 MR. WHITE: No objection.
21 THE COURT: Number 21, "To the jury alone belongs the
22 duty of weighing the evidence."
23 MR. WHITE: No objection.
24 THE COURT: 22, "Inconsistencies or discrepancies."
25 MR. WHITE: No objection.

1 THE COURT: 23, "The penalty provided."
2 MR. WHITE: No objection.
3 THE COURT: 24, "Each count charges a separate offense."
4 MR. WHITE: No objection.
5 THE COURT: 25, "During your deliberations."
6 MR. WHITE: No objection.
7 THE COURT: 26, "Although you are to consider only the
8 evidence."
9 MR. WHITE: No objection.
10 THE COURT: This is probably where we would insert -- it
11 would be 26A.
12 MR. WHITE: Okay.
13 THE COURT: "It's the constitutional right of a
14 defendant" -- or do you want it somewhere else, Mr. White?
15 MR. WHITE: No, that's probably fine. Let me see.
16 MS. CAMERON: Does the Court need a copy? I have a copy
17 I can provide to defense.
18 THE COURT: Well, just -- you can provide it to defense.
19 We need a -- because I need a clean face sheet. I just want you
20 to be able to get the copies made over the break.
21 MS. CAMERON: Yeah, okay.
22 THE COURT: Okay. So just insert -- but I do -- I'll
23 need a clean -- a clean face sheet, because I have the proposed
24 one written on.
25 MS. CAMERON: Oh, okay.

1 THE COURT: So then we stamp these original. These are
2 the ones I sign that go into the record.

3 MS. CAMERON: Okay.

4 THE COURT: So if you could insert -- that will be --
5 26A will be the -- if he chooses it. So we'll pull it or we'll
6 keep it after he gets to talk to Mr. White further.

7 MR. WHITE: Okay.

8 THE COURT: Okay. Then 27, "It is your duty as jurors
9 to consult with one another."

10 MR. WHITE: No objection.

11 THE COURT: And 28, "Upon retiring."

12 MR. WHITE: No objection.

13 THE COURT: Then we have the verdict forms for not
14 guilty and guilty. Those will all be marked original. And of
15 course, there's only one set of verdict forms that go in. So no
16 verdict forms for the jurors to read.

17 Mr. Andrews, each juror will get a set of these
18 instructions. The Court will read them, and then the four
19 original verdict forms will go in to the jury room, along with the
20 evidence.

21 THE DEFENDANT: Okay.

22 THE COURT: Okay?

23 THE DEFENDANT: Thank you.

24 THE COURT: And then, Mr. White, you played a recording
25 here. So we'll go ahead and -- we're going to have to get

1 something set up and available to the jurors if they want to hear
2 it again --

3 MR. WHITE: Okay.

4 THE COURT: -- in the jury room.

5 MR. WHITE: Certainly, Your Honor.

6 THE COURT: We'll be working on that as well.

7 MR. WHITE: Okay. Thank you.

8 THE COURT: Any other matters we need to take up outside
9 the presence of the jury?

10 MS. CAMERON: No, Your Honor.

11 MR. WHITE: Not that we're aware of right now.

12 THE COURT: I realize it's a shortened lunch hour, but I
13 need you back here by 1 -- I would say 1:35 to be safe.

14 And if Ms. --

15 MR. WHITE: Sambrano.

16 THE COURT: -- Sambrano is not present, then we'll need
17 to issue a warrant and get her arrested immediately. Okay?

18 MR. WHITE: Thank you, Your Honor.

19 THE COURT: All right. Any questions? Anything else we
20 need to take up?

21 MS. CAMERON: Am I making copies of these, Your Honor,
22 and how many copies?

23 THE COURT: You will need to make 13 copies just of the
24 instructions, and then a copy for yourself, and a copy -- well, I
25 think you both have your copies.

1 MS. CAMERON: Right. So 13 for the jury?

2 THE COURT: 13 for the jury, and then the original -- or

3 at least I need a new face sheet.

4 MS. CAMERON: I have it emailed to Ms. Travers. I can

5 bring another one. Otherwise, she can print one.

6 THE COURT: She can print it and I just need 26A to

7 include.

8 MR. WHITE: We need 13 of those, too, just in case, to

9 go to each?

10 THE COURT: I'll have her go ahead and get those

11 printed, and you can clip them together, so that we can just

12 quickly insert them. I could have my intern do that while you

13 are -- you know, while we're completing the witnesses.

14 MS. CAMERON: Okay.

15 THE COURT: Okay? Any questions?

16 No? We're good.

17 MR. WHITE: No, Your Honor. Thank you.

18 THE COURT: So I'll see you back at 1:35. Thank you.

19 (A recess was taken.)

20 THE COURT: The record should reflect we're outside the

21 presence of the jury.

22 There is a witness who the defense has subpoenaed and

23 seeks to call on behalf of the defendant, and she is here with her

24 attorney.

25 So we'll go ahead and call -- any objection to the State

1 to call her out of order to determine whether she's going to give
2 testimony in support of the defendant's case?

3 MS. CAMERON: I guess at this point, I don't know that
4 she needs to be sworn. I think -- does she need to be sworn?

5 THE COURT: Yes.

6 MS. CAMERON: Okay. I have no objection.

7 THE COURT: Come on up.

8 THE CLERK: Please raise your right hand.

9

10 CHRISTINA SAMBRANO

11 called as a witness, having been duly sworn,
12 testified as follows:

13

14 THE COURT: Ms. Meier, did you want to come up and sit
15 with her?

16 MS. MEIER: If I can.

17 THE COURT: You may.

18 Okay. You are under subpoena by Mr. White, who is the
19 attorney for Mr. Andrews.

20 And so, Mr. White, I'll go ahead and allow you -- and
21 the record should further reflect that alternate Public Defender
22 Krista Meier is present and is your attorney; is that correct?

23 MS. MEIER: That's correct.

24 THE COURT: So if you could state your name and spell
25 your last name for the record.

1 THE WITNESS: Christina Louise Sambrano,
2 S-a-m-b-r-a-n-o.

3 THE COURT: I need you to get a little closer, and if
4 you could speak up, I would appreciate that, Ms. Sambrano.

5 Okay. Mr. White, you may proceed.

6 MR. WHITE: Thank you, Your Honor.

7

8 DIRECT EXAMINATION

9 BY MR. WHITE:

10 Q Ms. Sambrano, were you present on June 19th, 2015, at
11 Mr. Andrews' house?

12 A Yes.

13 Q Were you awake or asleep that night?

14 A I was sleeping.

15 Q Where were you in the apartment?

16 A I'm going to plead my Fifth Amendment.

17 THE COURT: Okay.

18 THE WITNESS: I'm pleading my Fifth Amendment.

19 THE COURT: You are invoking?

20 THE WITNESS: I'm invoking my Fifth Amendment.

21 THE COURT: So the record is clear, Ms. Sambrano -- her
22 demeanor is somewhat, I think, hostile toward the process.

23 MR. WHITE: Yes.

24 THE COURT: And you invoke your right to -- against
25 self-incrimination --

1 THE WITNESS: Yes.

2 THE COURT: -- and you do not want to give any testimony
3 in this case?

4 THE WITNESS: No.

5 THE COURT: And Ms. Meier, you've had a chance to confer
6 with your client and you are in agreement with her invocation?

7 MS. MEIER: Yes, Your Honor.

8 THE COURT: Okay. Anything else?

9 MR. WHITE: No, Your Honor. I have no further questions
10 to ask her at this point.

11 I will not be -- we won't be calling her as a witness
12 then. I mean -- well --

13 THE COURT: She's responded to the subpoena. And she
14 has invoked her right against self-incrimination, which I think
15 she explained previously to the defendant and to counsel that that
16 was her intent.

17 MR. WHITE: Correct.

18 THE COURT: But we do have her here. And so the record
19 is complete.

20 MR. WHITE: Yes, Your Honor.

21 THE COURT: Anything else we need to place on the
22 record?

23 MR. WHITE: No, Your Honor.

24 MS. CAMERON: No, Your Honor.

25 THE COURT: And Ms. Meier, anything you want to put on

1 the record on behalf of your client?

2 MS. MEIER: No, Your Honor.

3 THE COURT: Only that she has complied with the
4 subpoena.

5 Thank you very much.

6 THE WITNESS: Thank you.

7 THE COURT: You may stand down.

8 Let's see. And the record should further reflect that
9 there was some conflict, I think, between -- was it Mr. Andrews'
10 brother was outside, or was there -- there was something in the
11 hallway, some conflict.

12 MS. CAMERON: Ms. Meier, myself and my investigator had
13 a conversation with Ms. Sambrano, and she got upset.

14 THE COURT: Oh, okay. She was upset.

15 MS. MEIER: Some information she did not know, so yes.

16 THE COURT: Okay.

17 Thank you very much. Thank you, Ms. Sambrano. Okay?

18 MR. WHITE: Thank you.

19 THE COURT: And before we bring the jury out,
20 Mr. Andrews' brother has been sitting close to the defense.

21 And my staff has observed, Mr. Andrews, that your
22 brother is attempting to communicate with you and has been making
23 comments and things as witnesses give their testimony.

24 So I'm going to order that your brother be seated -- he
25 can sit on this side, but -- and I'm going to further order -- I

1 don't know if he's coming back. Maybe he's not coming back.

2 Do you know?

3 THE DEFENDANT: I have no idea.

4 THE COURT: But it's the order of the Court that he not
5 be communicating or attempting to communicate with you during the
6 trial, nor should he be making comments as witnesses give
7 testimony. Okay?

8 THE DEFENDANT: Okay.

9 THE COURT: So I'll advise him. I understand you are
10 seated here and perhaps you didn't notice it, but if my staff is
11 noticing it, the jury is noticing it and that is never good
12 conduct. Okay?

13 THE DEFENDANT: Okay.

14 THE COURT: Thank you.

15 Thank you, Ms. Sambrano.

16 She's free to leave. She's invoking her right against
17 self-incrimination.

18 And Ms. Sambrano, you have no desire to give any
19 testimony in this case?

20 THE WITNESS: No.

21 THE COURT: Thank you.

22 MR. WHITE: Thank you, Your Honor.

23 THE COURT: Now, where is his brother? Is he coming
24 back?

25 THE BAILIFF: I'll find out. If he's sitting right

1 here, I'll advise my partner what you just told me.

2 THE COURT: No, bring him in and I'll admonish him.

3 THE BAILIFF: She's gathering them up and letting them
4 in.

5 THE COURT: Who is letting them in?

6 THE BAILIFF: My partner, Lynette.

7 THE COURT: I know. She's letting who in?

8 THE BAILIFF: The public and anybody else who was
9 waiting. Some people sat outside, instead of coming in. So she's
10 letting them know.

11 THE COURT: Okay. While we're outside the presence of
12 the jury, Mr. Andrews, did you have a chance to speak to your
13 attorney?

14 THE DEFENDANT: Yes, I did, Your Honor.

15 THE COURT: And we've gone over your constitutional
16 rights. And do you need me to review those with you again?

17 THE DEFENDANT: No, I don't, Your Honor.

18 THE COURT: So with these constitutional rights in mind,
19 having spent more time with your attorney, what is your decision
20 as to whether you want to testify or not testify?

21 THE DEFENDANT: I would like to testify, Your Honor.

22 THE COURT: All right. So you will testify and you
23 understand that you will be subject to cross-examination?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Okay. Thank you.

1 Then we can pull 26A from those instructions.

2 And now, sir, your name for the record?

3 Sir, the gentleman right here, would you stand up?

4 Right there.

5 What's your name, for the record.

6 MR. CHRISTOPHER ANDREWS: My name is

7 Christopher Andrews, ma'am, Your Honor.

8 THE COURT: Okay. Mr. Andrews, my staff has observed
9 and folks in the courtroom observed that you've been attempting to
10 speak with your brother, communicate with your brother during the
11 course of trial and have made comments about the -- you know, some
12 comments toward some of the witnesses.

13 So I have to instruct you that you must stop doing that.
14 You are not allowed to communicate with your brother during the
15 course of trial.

16 And so, I've instructed the deputies to have you sit to
17 the left of the courtroom. You can sit in these seats anywhere
18 you choose on this side of the courtroom. Okay?

19 And, again, I have to explain to you, sir, that any
20 conduct that you exhibit in the courtroom, the jurors are also
21 viewing. And so that is not appropriate conduct.

22 And if you continue to attempt to communicate with your
23 brother, then I may hold you in contempt of court. So I have to
24 warn you in advance.

25 Do you understand, sir?

1 MR. CHRISTOPHER ANDREWS: I understand.

2 THE COURT: Okay. Thank you very much, sir. Can you

3 abide by those rules?

4 MR. CHRISTOPHER ANDREWS: I can.

5 THE COURT: Thank you so much.

6 Okay. And you are -- are you a witness in the case?

7 No? Okay. Thank you.

8 Any other matters we need to take up outside the

9 presence of the jury?

10 MS. CAMERON: Nothing on behalf of State, Your Honor.

11 MR. WHITE: No, Your Honor.

12 THE COURT: Okay. Thank you.

13 Let's go ahead and get the jury back in.

14 (The jury entered the courtroom.)

15 THE COURT: The record should reflect our jurors are

16 present and accounted for.

17 You may call your next witness.

18 MS. CAMERON: Officer Sean Gibson.

19

20 SEAN GIBSON

21 called as a witness, having been duly sworn,

22 testified as follows:

23

24 THE WITNESS: Sorry.

25 MS. CAMERON: That's all right. I think that the chair

1 is a little cattywampus today.

2

3

DIRECT EXAMINATION

4 BY MS. CAMERON:

5 Q So will you please state your name for the record and
6 spell your last name.

7 A Sean Lane Gibson, G-i-b-s-o-n.

8 Q And are you employed, sir?

9 A I am.

10 Q Who do you work for?

11 A Reno Police Department.

12 Q In what capacity?

13 A Currently a patrol officer.

14 Q How long have you been in your current assignment?

15 A Just about eight months.

16 Q And before that?

17 A I was a detective with the Street Enforcement Team.

18 Q How long were you a detective with -- we call it "SET";
19 is that correct?

20 A Yes.

21 Q How long were you with SET?

22 A Four years.

23 Q How long total law enforcement experience?

24 A Just shy of 20 years.

25 Q All with Reno Police Department?

1 A No.

2 Q What other law enforcement agencies?

3 A I worked for the University Police Department for nine
4 years, and I started in Lovelock with the Lovelock Police
5 Department for two years.

6 Q Drawing your attention to June of last year, 2015, were
7 you involved in an investigation targeting an individual named
8 Ryan Andrews regarding possible sales of narcotics?

9 A I was.

10 Q What was your involvement in that investigation?

11 A My assignment for that operation was to be the marked
12 unit, marked police car operator.

13 Q You were driving the one marked police vehicle?

14 A Yes, ma'am.

15 Q Okay. And let me ask you this.

16 Before -- well, ultimately, where did you respond in
17 your marked patrol vehicle, on June 19th, 2015?

18 A I was in the area of I Street, I believe the 900 block.

19 Typically, we keep the marked unit out of the area for
20 obvious reasons of not to alert anybody that we're in that area.

21 Q Before responding to that area, did you have any
22 involvement before actually going to the location?

23 A I did. We typically, when we're in the office,
24 detectives putting up an operation, we assist in getting that
25 operation moving forward.

1 Q What was your involvement getting it forward back at the
2 station?

3 A I conducted our -- made the original buy money list for
4 the money to be used during the drug transaction.

5 Q I'm going to show you what's been marked Exhibit 24.
6 Take a look at that for me.

7 A Uh-huh.

8 Q Do you recognize what that is?

9 A Yes. This is what we would call our original buy money
10 list.

11 Q Do you recognize the handwriting in the upper left-hand
12 corner?

13 A I do. That is my handwriting.

14 Q Your name and badge number?

15 A Yes.

16 Q And the case number assigned to this investigation
17 targeting Ryan Andrews?

18 A Yes, ma'am.

19 Q Appear to have been altered in any way since you made
20 the photocopy?

21 A No, not that I can see.

22 MS. CAMERON: Move to admit Exhibit 24 and permission to
23 publish.

24 THE COURT: Any objection?

25 MR. WHITE: No objection.

1 THE COURT: Okay. That will be marked and admitted.
2 (Exhibit 24 marked for identification
3 and admitted into evidence.)
4 BY MS. CAMERON:
5 Q I had mentioned writing in the upper left-hand corner.
6 That's your writing?
7 A Yes, ma'am.
8 Q And how much money was photocopied? On the front page,
9 it looks like --
10 A 280.
11 Q 280.
12 Second page?
13 A Should be another -- looks like another 80.
14 Q And third page, 30, for a grand total of -- math skills
15 on the spot.
16 A 280, 80, is 360 -- 390.
17 Q 390. You pass.
18 A I appreciate that.
19 Q Okay. So you photocopied \$390, and that was back at the
20 station before the controlled buy?
21 A Yes, correct.
22 Q Okay. Showing you Exhibit 25, if you press on that
23 screen ahead of you, please mark where was it that you parked.
24 A If I recall, it's actually not on this page. It's going
25 to be a little further. I'm trying to get my bearings here.

1 The apartment is still -- so I believe Pyramid is to the
2 right, if I'm correct.

3 Q Okay. So I'm going to mark, so you -- off the screen to
4 the left --

5 A Oh, actually, so -- I'm looking -- here is I Street. I
6 just saw it. So it's going to be more south.

7 Q But off the screen?

8 A Yeah, I believe off and to the right to kind of the
9 southeast.

10 Q Okay. How many blocks away were you?

11 A Actually, I believe I was on H Street. There's like
12 a -- I believe there's a cul-de-sac just a little bit -- or, a
13 side street here.

14 And it still might be a little right. It was just off
15 of Pyramid on to a cul-de-sac off of H Street, I believe.

16 Q Okay. Two blocks, a block or two?

17 A Typically, yes. We don't want to be too far out, in
18 case we're needed, but not too -- so close so we're jeopardizing
19 anything that's happening.

20 Q Once you got to the scene, what did you do once you
21 parked?

22 A Once I overheard that they were going to take the
23 suspect into custody, I drove into the parking lot at the
24 apartments on I Street.

25 Q So it's announced over the radio --

1 A Yes.

2 Q -- to respond?

3 A Uh-huh, yes.

4 Q And what do you see when you respond?

5 A When I get into the parking lot, the suspect,
6 Mr. Andrews, is already in handcuffs. We, basically, do what we
7 call -- we scoop him up and get him out of the area, because they
8 were still focusing on the apartment. There were still things
9 happening there.

10 So they don't want the marked unit in the area for any
11 more time than necessary.

12 So, basically, grabbed him, put him in the marked unit
13 and then drive out of the area.

14 Q When -- well, let me back up a little bit.

15 You said a suspect, Ryan Andrews. Is that individual
16 that you saw in the parking lot on June 19th in the courtroom
17 today?

18 A Yes.

19 Q Can you please describe what they are wearing, where
20 they are seated.

21 A Wearing a blue shirt, blue tie, seated at the defense
22 table.

23 Q Glasses?

24 A Yes, glasses.

25 MS. CAMERON: May the record reflect identification of

1 the defendant?

2 THE COURT: So noted.

3 BY MS. CAMERON:

4 Q So when you see him, he's already handcuffed, correct?

5 A Yes.

6 Q Do you ever see a dog?

7 A I do not. I don't recall seeing a dog.

8 Q Still kind of -- strike that.

9 If you could, again, touch the screen where you saw the
10 defendant detained.

11 A He was right in this area here. I came in off of
12 I Street here and parked here, so kind of in that L-shape corner
13 there.

14 Q Where Apartment 218 is located?

15 A Yes.

16 Q Do you ultimately search him?

17 A I do.

18 Q Do you do it before or after what you've just described,
19 this scoop-up into the patrol vehicle?

20 A Typically, initially, I'll do a quick pat-down for
21 weapons, anything like that. And then we'll do a more thorough
22 search out of the area, just to be out of that area, and let the
23 detectives continue their investigation.

24 Q Where did you do the more thorough search?

25 A Again, it was a little south -- I believe there are some

1 businesses just to the south -- kind of tucked in behind one of
2 the buildings over there.

3 Q And then had him exit the vehicle again?

4 A Yes.

5 Q And what, if anything, did you find as a result of your
6 search of the defendant?

7 A Located the -- our prerecorded buy monies in his right
8 front pocket.

9 Q All of it?

10 A Yes.

11 Q And you said what pocket?

12 A Right front pocket of his -- I believe he was wearing
13 shorts.

14 Q What did you do at that point?

15 A At that point, I just had a conversation with
16 Mr. Andrews.

17 Typically, the person that's in the marked unit during
18 an operation like that wants -- once our suspect is in custody, we
19 attempt to talk to them about providing substantial assistance.

20 Q Okay. And ultimately, do you -- do you transport and
21 book him into custody?

22 A If I recall correctly, I did. I don't recall, because
23 if they are cooperative or if they want to help us out, we usually
24 go back to the station.

25 I don't recall going back to the station, so I believe I

1 went straight to the jail.

2 Q Did you fill out what -- the probable cause sheet here
3 or the PC sheet here in this case?

4 A I may have. I don't recall for sure.

5 MS. CAMERON: Your Honor, may I approach?

6 THE COURT: You may.

7 BY MS. CAMERON:

8 Q Do you recognize this document?

9 A I do, yes.

10 Q Is that your handwriting? Did you fill that out?

11 A I did, yes.

12 Q Where did you get the information that you put with
13 regards to address?

14 A From Detective Rasmussen.

15 Q Okay. So all the information would have been from the
16 detective?

17 A Yeah, the case history, yes, ma'am.

18 Q And was that -- the defendant's address, then, is part
19 of the information that you put on this sheet for booking
20 purposes?

21 A Yes, ma'am.

22 Q And what was his address?

23 A The 900 I Street, Number 218.

24 Q Do you ever respond, then, back to the station -- do you
25 have any other involvement, I guess, in this operation after he's

1 booked?

2 A I don't believe so.

3 In looking at the probable cause sheet, it shows me
4 being the transporting officer to the jail. So I probably was out
5 at the jail after that time getting him booked in.

6 Q Did you act as -- I guess Detective Rasmussen referred
7 to as an evidence tech. Did he ever give you a bunch of evidence
8 to book in?

9 A Yes. Once the case was concluded and we were back at
10 our office, he transferred the property to me for booking into
11 evidence.

12 Again, it's just a delegation of duties to help him out
13 to get the case done.

14 MS. CAMERON: Okay. No further questions.

15 Thank you, Officer.

16 THE COURT: Cross-exam.

17 MR. WHITE: Thank you, Your Honor.

18 Court's indulgence, Your Honor.

19

20 CROSS-EXAMINATION

21 BY MR. WHITE:

22 Q Officer, you were in charge of getting the buy money to
23 the confidential informant?

24 A No, sir.

25 Q No? Did you give it to the detectives?

1 A Yes, I made the -- did the photocopies, completed the
2 list, and then typically, give it back to the case agent and they
3 control it from there.

4 Q Okay. So your statement today is that it was \$390?

5 A I believe so, yes.

6 Q That's what you started with?

7 A Yes.

8 Q So explain how you do that. You start with some actual
9 money and then make photocopies of it?

10 A Yes.

11 Q Okay. And then you try to match those up later, is that
12 what I understand?

13 A Yes, it's for comparison. Say, we have somebody who has
14 more money other than our buy money in there, we -- it gives us a
15 comparison so we know which one is ours and which one -- or
16 whoever we have taken into custody.

17 Q Okay. Now, are you told what the money is for?

18 A Yeah, for a controlled purchase, yes.

19 Q Okay. For a controlled purchase.

20 Are you told that there's anything else that it's for?

21 A Not -- I don't recall anything else for it.

22 Q Okay. So you don't recall being told that there was
23 also a debt owed?

24 A Vaguely, I remember some -- obviously, we brief our
25 operation beforehand, but I don't remember specifically what the

1 debt was or anything like that.

2 Q Okay. And your statement today is also that you saw --
3 you saw him being arrested down --

4 A No.

5 Q Just directly down -- you didn't see him being arrested?

6 A No, I did not.

7 Q Oh, just saw him in handcuffs?

8 A Yes.

9 Q Okay. You weren't there yet?

10 A No.

11 Q Okay. So you saw him in handcuffs and it was directly
12 below?

13 A Yeah, in the parking lot area of the apartment complex.

14 Q Was there, like, stairs coming down and you are by the
15 bottom of the stairs?

16 A Somewhere in that vicinity, yes.

17 MR. WHITE: Okay. I have nothing further.

18 THE COURT: Redirect?

19 MS. CAMERON: No, thank you, Your Honor.

20 THE COURT: Thank you. You may step down.

21 THE WITNESS: Thank you.

22 MS. CAMERON: That is the State's last witness and we
23 would rest.

24 THE COURT: Thank you.

25 Mr. White, you may call your first witness.

1 MR. WHITE: Defense's witness -- as a defense witness,
2 we call Ryan Andrews to the witness stand, Your Honor.

3 THE COURT: Okay. Come on up, Mr. Andrews.

4
5 RYAN ANDREWS

6 called as a witness, having been duly sworn,
7 testified as follows:

8
9 THE COURT: You'll take a seat in the witness stand.
10 And Mr. White, you can do your direct.

11 MR. WHITE: Thank you, Your Honor.

12
13 DIRECT EXAMINATION

14 BY MR. WHITE:

15 Q Mr. Andrews, would you please state your name and spell
16 your last name for the record.

17 A Ryan Andrews, A-n-d-r-e-w-s.

18 Q How long did you know -- or, did you know
19 Nick Daughtery?

20 A Yes, I did. Yes, I do.

21 Q How long have you known Mr. Daughtery, at this point?

22 A At this point, roughly, two years.

23 Q How long had you known him as of June 19th, 2015?

24 A Roughly, a year.

25 Q Okay. Were you neighbors with him?

1 A Yes, I was.

2 Q And for how long do you remember being neighbors with
3 him or him living in the same apartment complex next to you?

4 A It was roughly a year, although I was only there for
5 approximately four to five months out of that year.

6 Q So let me clear that up. Did he live there for a year?

7 A Yeah.

8 Q And there was an overlap when you lived there for maybe
9 four or five months at the same time?

10 A Yes.

11 Q Okay. How close was his apartment to yours?

12 A Two doors down.

13 Q Two doors down?

14 A Uh-huh, not three.

15 Q Did you say -- I'm sorry?

16 A I said "not three." Two doors down.

17 Q Did you buy a dog from Mr. Daughtery?

18 A I did.

19 Q Okay. Was it a puppy when you got it?

20 A Yes, he was.

21 Q What kind of dog?

22 A Pit bull.

23 Q Okay. Do you still have that dog?

24 A I do.

25 Q And was Nick breeding dogs?

1 A Yes, he was.

2 Q Okay. Would you describe your relationship with Nick as
3 friends?

4 A Yes, we began as friends and got closer than friends, I
5 think, more like -- I have to decide another way to put it. Maybe
6 treated him like a little brother.

7 THE COURT: I'm sorry, what did you say?

8 THE WITNESS: Treated him as a little brother.

9 THE COURT: Oh, okay.

10 BY MR. WHITE:

11 Q Do you happen to remember a time when you helped him
12 with the rent?

13 A Yes, I do. Absolutely.

14 Q Okay. If you don't remember, that's fine.

15 Do you remember what it was about or --

16 A I do remember what it was about.

17 Q Can you --

18 A He was doing drugs and --

19 MS. CAMERON: Your Honor, I object to relevance at this
20 point.

21 THE COURT: How is it --

22 MR. WHITE: I'll withdraw, Your Honor. I'll move on.

23 THE COURT: Okay. Sustained.

24 BY MR. WHITE:

25 Q You've already heard some of the testimony from

1 Mr. Daughtery. Did he come visit your apartment a lot?

2 A Yes, he did.

3 Q And by "a lot," I guess I mean how often -- or, I want
4 to ask you, how often did he visit you in a week, do you think?

5 A Pretty much on a daily basis.

6 Q Would he come over more than once a day sometimes?

7 A Yes.

8 Q What would you do when he would come over?

9 A We would hang out and talk about all kinds of things and
10 do drugs.

11 Q What kind of drugs would you use?

12 A Mostly heroin, and methamphetamine as well. More times,
13 heroin, but -- I would say towards the end, methamphetamine had a
14 little bit stronger use probably between the two of us.

15 THE COURT: I need you to speak up just a little bit --

16 THE WITNESS: Okay. Sorry.

17 THE COURT: -- so the jurors can hear you all the way to
18 the end, okay?

19 THE WITNESS. All right.

20 BY MR. WHITE:

21 Q Mr. Andrews, there's a microphone picking up what you
22 are saying, projecting to the courtroom. Right there.

23 A All right.

24 Q In your estimation, do you think you have a drug
25 problem?

1 A Yes, I do.

2 Q You have an addiction?

3 A Absolutely.

4 Q When Nick would come over, when you say that sometimes

5 you would get high, most of the time you would get high, was there

6 anybody else there?

7 A Yes, there was.

8 Q Okay. Who was there?

9 A That would be my ex-girlfriend who lived there with me,

10 and probably --

11 Q Who is that? What's her name?

12 A Christina Sambrano.

13 Q Was she living there at the time?

14 A Yes, she was.

15 Q At the time of this event --

16 A Yes, she was.

17 Q -- on June 19th, 2015?

18 A Yes.

19 Q And was there anybody else living there?

20 A My friend Rick.

21 Q Okay.

22 A DeBock (phonetic spelling).

23 Q Was he there when you were arrested?

24 A He was not there.

25 Q Where was he staying?

1 A He was staying in the living room.

2 Q Where? Where was he sleeping?

3 A On the sofa.

4 Q Did he -- did he also get high with you?

5 A Yes.

6 Q Mr. Andrews, as you sit here today, you are a convicted

7 felon, aren't you?

8 A Yes, I am.

9 Q You have two felonies from 2009, correct?

10 A Correct.

11 Q And were those -- did you go to trial for those, or were

12 those a plea?

13 A Plea.

14 Q Was there some point where Nick Daughtery stopped

15 contacting you?

16 A Yes, yes, there was.

17 Q And I guess I should back up. Did you guys have regular

18 conversations on the phone or through texts?

19 A Yes.

20 Q And at some point, did he stop?

21 A Yes.

22 Q Did that kind of stop or at least subside a little bit?

23 A Yes.

24 Q Do you remember about when that was, in relation to

25 June 19, 2015?

1 A Roughly, four or five weeks before that took place,
2 June.

3 Q Did you buy a vehicle from Mr. -- from Mr. Daughtery?

4 A Yes, I did.

5 Q Okay. And what would you describe that vehicle as?

6 A A '94 -- '97 Astro van.

7 At the time that I bought it, I never had a chance to
8 see it. I was strictly going off of his word on what he told me
9 the condition it was in, that it was running, that it had a clean
10 and clear title, all of which, finding out later, it did not.

11 Q And to the best of your recollection, what do you
12 remember paying him for that?

13 A That it was 500, an extra 50 because he said -- he
14 stated that it was running, but he wanted to use the \$50 to get
15 some extra spark plugs, some wires to do a tune-up on it just to
16 make sure that it was really running good, because I was going to
17 use it for business.

18 Q What -- we don't know -- what were you going to use that
19 van --

20 A I was going to use it for a detailing business. A
21 friend of mine was going to help me get a business license and to
22 set up shop on the Alamo Truck Stop to polish the aluminum gas
23 tanks, rims or what have you, on the big trucks.

24 Q And in your estimation -- well, actually, let me ask you
25 this question first.

1 Did you try to contact Nick to get the van?

2 A I did.

3 Q So did you ever see that van -- did you ever see that

4 van?

5 A Yes, I did.

6 Q Okay. When was the first time you saw that van that you

7 had already paid him for?

8 A Roughly, three or four weeks.

9 Q Three or four weeks after you paid him?

10 A Yes.

11 Q And did he -- did you call him?

12 A I called him and texted him.

13 Q And he responded that you could come over and look at

14 it?

15 A He didn't respond to my calls or texts for a while.

16 And, then, finally, when he did, I did end up going over there and

17 seeing the van for myself.

18 Q When you say "over there," did he have a new place that

19 he was living, since he had moved out of the other apartment?

20 A Yes. Yeah.

21 Q He had moved from the 900 I Street apartments, right?

22 A Yes.

23 Q And so did you go -- you did go look at it?

24 A Yes, I did.

25 Q And describe what you saw.

1 A By no means was it suitable or fit for any job anywhere.
2 It had a flat tire. The other tires were bald and can't -- the
3 hood was all the way up, just kind of propped, so I had to look
4 underneath. And there was stuff torn all over the place.

5 There was some gas tanks, little plastic gas tanks that
6 were empty, and just by one of the windows down, you could smell a
7 very strong smell of gasoline.

8 The back seat was ripped out of there, about
9 100 percent. It was just -- it was nothing of what he described
10 to me.

11 Q Did you go in it or just look in it?

12 A Looked in it, from --

13 Q And you could smell gasoline?

14 A -- I could see it really clearly.

15 Yeah, a strong smell of gasoline.

16 Q Was it running?

17 A No, it was not.

18 Q And I don't mean at that moment. Would the van -- could
19 it start?

20 A No.

21 Q Could you start the van?

22 A No.

23 Q And had you talked to Nick about your agreement? What
24 was your agreement with Nick?

25 A That he would get the van and deliver it. And that's at

1 the point where he said, "Well, it's going to take me at least a
2 day to do the tune-up, so let me get it to you tomorrow then."

3 I said okay. We did a gentleman's handshake.

4 And I did not see -- you know, I didn't know, at that
5 time, where he was living. I didn't know. So I couldn't just
6 drive over there and knock on the door and bug him about it. I
7 just -- I didn't know.

8 And he wasn't responding back to any of my calls or
9 texts at that time. So -- but I paid him 500 for the van and 50
10 for the extra stuff. It was just -- I guess --

11 Q I just want to make sure we don't skip over anything
12 or -- make sure it's clear.

13 Did you pay him the \$500 when you made that handshake
14 you are saying?

15 A Yes, I did.

16 Q Or 550?

17 A The full 550 is what I gave him. And he was to score
18 that -- the plugs and stuff and get it done the next day.

19 THE COURT: Again, if you would speak clearly and loudly
20 so we can hear.

21 THE WITNESS: I apologize.

22 BY MR. WHITE:

23 Q Did Mr. Daughtery ever fix that van?

24 A Not to my recollection. Nothing to do with our deal. I
25 have no idea what -- we came to the conclusion that, you know, he

1 just --

2 Q Let me stop you. I have a better question for that.

3 Did you see the van any time after that one time you saw

4 it or the one we're talking about?

5 A No, I didn't see it.

6 Q Okay. So did you know if it was running after that? Do

7 you know if he even got it fixed?

8 A He told me that he did not. He said it would have cost

9 too much to get it running.

10 Q Did you ever receive that van?

11 A No, I did not.

12 Q Did you ever receive your money back for the van?

13 A I never got paid back in full. But he did that day,

14 June 19th, come and pay me partial amount, paid me back.

15 Q You heard some testimony from Mr. Daughtery about

16 payments made. Did -- do you remember -- best of your

17 recollection, do you remember any payments? I think he mentioned

18 here \$20 here and there.

19 A No. No.

20 Q So Mr. Daughtery stops -- or the texts and calls from

21 Mr. Daughtery and hanging out, subside?

22 A Yes.

23 Q Let me start from there. When is the next time you hear

24 from him?

25 A I left him a text message. And I just plain and simply

1 said can you please either bring me a vehicle in good working
2 order, a good clean, clear title, like we spoke about, or please
3 bring me my money back.

4 Q And in relation to June 19th, 2015, when was that in
5 relation to that date? When did you get that text?

6 A Get that text or give that text to him?

7 Q I'm sorry, when did you -- did you hear back from him?

8 A Not immediately. Probably within -- I think it was that
9 day, later in that day.

10 Q Okay. When did you send that text to him in relation to
11 June 19th?

12 It's okay. Just --

13 A Roughly --

14 Q -- to the best of your memory.

15 A -- 10 days, 12 days, a couple of weeks. It was just --
16 I can't remember an exact amount of time, but it's roughly a week
17 and a half, two weeks before June 19.

18 Q Roughly two weeks?

19 A Roughly.

20 Q And you think he responded that day?

21 A I believe he either called me or texted me, apologized,
22 saying that he was in jail and he couldn't -- couldn't get in
23 touch with me and that he was now working a new job and that he
24 wanted to pay me back.

25 Q Did you receive any calls or texts from him regarding

1 buying drugs?

2 A Yes, I did.

3 Q And he wanted to purchase drugs from you?

4 A Yes.

5 Q Okay. About when did those -- when were those made in
6 relation to June 19th?

7 A That day, a couple days prior.

8 Q What was your initial reaction to those, that contact
9 from Nick?

10 A I thought that was pretty odd. It was pretty strange.
11 I never received any calls or texts from him in that manner.
12 So I just responded in a -- you know, what are you
13 talking about, why are you talking like this to me, why are you
14 asking me these questions, why are you asking to buy drugs from
15 me, what's -- then it would stop and then he came over.

16 Q Did it seem strange that he would come over and get high
17 with you anyway?

18 A Yeah. Yeah.

19 Q So let's move forward. Did you get any texts or calls
20 from him on June 19th, 2015?

21 A Yes.

22 Q Again, were they regarding buying drugs?

23 A Not all of them. I think he did speak about some of
24 that in one or two of the texts, if I remember right.

25 Q Okay. And what was your response?

1 A Same response.

2 Q Did you --

3 A To buy drugs, like --

4 Q Did you invite him over?

5 A I asked him to come over and he said sure.

6 Q Was it around the time that he -- was it before he

7 knocked on the door?

8 A Was what before he knocked on the door?

9 Q Did you invite him over before he eventually knocked on

10 your door?

11 A Yes.

12 Q Okay. And so eventually, early evening, I guess,

13 5 o'clock or so, he -- or 5:30, did he appear at your door?

14 A He did.

15 Q Who answered the door?

16 A I did.

17 Q Did you invite him in?

18 A I did.

19 Q And what took place when you invited him in? Did you

20 sit down?

21 A I just embraced him, like I did every time he came in.

22 Q Embraced him?

23 A Yeah, give him a hug, love you brother, love you too,

24 blah, blah, blah, what's going on.

25 Immediately I congratulated him on the new job.

1 Q Did he explain what that new job was, or was it kind of
2 just general?

3 A Not so much.

4 Q But you congratulated him?

5 A I did.

6 Q After you congratulate him, did you guys take a seat?

7 A We did.

8 Q Where did you sit?

9 A I sat in the kitchen directly across from him. He was
10 on the other side of the counter.

11 Q Okay. Is that a place you would normally sit with him
12 in the past?

13 A That's where -- yeah, nine times out of ten. Once in a
14 while, we would sit on the sofa and the chair and watch TV,
15 talked. Usually, we were there.

16 Q We've heard some of the recording. Was there talk about
17 the debt owed?

18 A Yeah, I believe we did bring it up at one time.

19 Q Was your dog there?

20 A Yes, he was.

21 Q What's your dog's name?

22 A Tanner.

23 He's my little boy. I'll never have kids, so --

24 Q Let me stop you.

25 A Yes, sir.

1 Q Did you -- was there some sort of dispute as to how much
2 money was left over, owed to you?

3 A I would say the only dispute in that, really, is he --
4 I'm not sure if he brought it up that day or a couple days
5 previous when he come over and spoke about exactly what happened
6 and how it went down and how bad he felt about it, that he -- you
7 know, I'll pay you some extra, you know.

8 And I didn't have any problem accepting that. I helped
9 him out plenty of times. That put me in a pretty rough spot
10 financially, you know. I gave him pretty much all the money that
11 I had left right then and there.

12 I needed to buy the van, but I needed that money for
13 something very important as well.

14 Q I don't know if I asked that. It put you in a tough
15 financial spot when you bought that van?

16 A Yeah, it did. But I figured I would be making money
17 with that van, so I would do whatever I had to do to try to make
18 it work, borrow some money from my mom or what have you, to help
19 pay my rent.

20 But it was to help pay his rent, for his kids, that --

21 Q At any point during that -- during those about
22 40 minutes, was there -- were drugs being taken?

23 A Were we doing drugs?

24 Q Yes.

25 A Yes.

1 Q Well, let me ask who was doing them. Were you doing
2 them?

3 A Yes.

4 Q Okay. What were you doing?

5 A Heroin and methamphetamine.

6 Q And how were you ingesting it?

7 A Smoking it.

8 Q What about Mr. Daughtery?

9 A Same.

10 Q He was smoking both of those?

11 A Yes, no different than any other time that he ever came
12 over. That's what we did.

13 Q What is the effect when you take heroin and
14 methamphetamine?

15 A If you were just to smoke heroin by itself, I think, a
16 downer. It's obviously an opiate. It will relax you.

17 In turn, if you smoke the methamphetamine with it or
18 directly after, it kind of lifts you up, which is pretty much --
19 actually, kind of makes you more level.

20 Q It almost takes you back to normal, to balance?

21 A Correct.

22 Q And you are saying that both of you were ingesting both
23 of those drugs by smoking them --

24 A Yes.

25 Q -- while you were seated there for about -- during --

1 sometime during the 40 minutes?

2 A Absolutely.

3 Q Ms. Sambrano, was she there?

4 A Yes, she was.

5 Q Was she moving about the apartment, or was she sleeping?

6 A She was sleeping. She did wake up one time, came out,
7 asked me for a drink, went back to the bedroom.

8 THE COURT: You are going to have to speak up, sir.

9 Are you able to hear down there?

10 Okay. Speak up.

11 THE WITNESS: Okay.

12 MR. WHITE: Move closer. Just move a little closer.

13 That's it.

14 BY MR. WHITE:

15 Q Did Ms. Sambrano just go straight back to her room -- to
16 your room after she got a drink?

17 A She might have been out there for a minute and a half,
18 two minutes.

19 Q Okay. Did -- on that night or that early evening of
20 June 19th, did she ingest any drugs?

21 A I don't remember 100 percent if she, you know, came out
22 and did some with us or not. She might have taken a hit. I
23 don't --

24 Q It's okay. If you don't remember, that's
25 understandable. It's almost a year ago.

1 Had she in the past, though?

2 A Done drugs with us?

3 Q Yes.

4 A Yes.

5 Q You heard Mr. Daughtery's testimony on -- at one point,

6 did you go down the hall to go to the bathroom?

7 A Yes, it's not so much of a hall. It's very small

8 one-bedroom apartment.

9 Q Okay. Thank you for correcting me.

10 Is it a -- it's just a one-bedroom apartment and a

11 living room and a kitchen, kind of?

12 A Yeah, yeah. Literally, from where he's sitting, maybe

13 eight feet, ten feet tops, to the door going into the bedroom,

14 leading in to get to the rest room.

15 Q So is it -- kitchen is just separated, really, by a bar

16 area?

17 A Yes.

18 Q And then there's one larger room, which would be, I

19 guess, your --

20 A Living room.

21 Q -- living room?

22 A Uh-huh.

23 Q And then there's no hallway, just there's a door at the

24 end -- on one of those walls --

25 A Correct.

1 Q -- that opens up into the bedroom?

2 A Correct.

3 Q Where is the bathroom located?

4 A If you were walking in to the bedroom, to the left,
5 right, go inside the bathroom.

6 Q And is there another bathroom in the apartment or just
7 one?

8 A No, just one.

9 Q And how many times did you need to use the bathroom
10 during the time that Nick was there?

11 A I believe, twice. I went off to the rest room twice.

12 Q Okay. Did you have to pass Christina to get to the
13 bathroom?

14 A Yes.

15 Q Okay. Did you say anything to her regarding --

16 A I did.

17 Q What did you say to her?

18 A Just told her that I felt that he was acting really
19 strange.

20 Q Who?

21 A Nick. The stuff that he was saying, the stuff that he
22 was talking about.

23 Q Let's be more specific. What was so strange about what
24 he was saying?

25 A First of all, trying to buy drugs from me was very weird

1 and just how much he was talking about drugs in general. You
2 know, he generally -- he did talk a lot, but not like that.

3 Q He seemed -- did he seem overly -- I don't know -- for
4 lack of a better term, overly enthusiastic about talking about
5 drugs that day?

6 A Yeah, I would say at the very least, yes.

7 Q Was he talking about his Suboxone that he was on?

8 A I think he did bring that up at one point, that he is
9 out and he wasn't going to get anymore for a day or two.

10 Q Do you know anybody ever that runs out of Suboxone?

11 MS. CAMERON: Objection, relevance.

12 THE COURT: Sustained.

13 MS. CAMERON: Calls for speculation.

14 THE COURT: Sustained.

15 MR. WHITE: Okay. May I rephrase it, Your Honor.

16 BY MR. WHITE:

17 Q Have you ever known somebody to run out of Suboxone?

18 MS. CAMERON: Again, objection.

19 THE COURT: Sustained. It's not relevant to this case.

20 BY MR. WHITE:

21 Q At some point, did Christina go -- she was in the
22 bedroom most of the time; is that correct?

23 A Most of the time.

24 Q Do you know if she fell asleep? Only if you know.

25 A I don't remember 100 percent. I know that when I went

1 in there to use the rest room, she was awake. The TV was on.

2 Q At any time did you -- did you give Nick Daughtery drugs
3 in exchange for money?

4 A No.

5 Q Do you know what was happening when you went to the
6 bathroom?

7 A I have no idea.

8 Q Was Nick left alone in the kitchen?

9 A Yes, as he was many times before.

10 Q Many times before?

11 A Yeah, absolutely. I trusted him.

12 Q Did Nick -- did Nick know there were other drugs in a
13 drawer?

14 A Yes. He knew exactly where the drugs were, what they
15 were, yeah.

16 MR. WHITE: Court's indulgence, Your Honor.

17 BY MR. WHITE:

18 Q Besides the people before that you mentioned were
19 living -- Ms. Sambrano and a guy named Rick, were other people in
20 and out of that apartment?

21 A Yeah.

22 Q Did you have other friends and neighbors that would come
23 over?

24 A Yeah.

25 Q And I mean, neighbors, were they people that lived in

1 the same complex?

2 A Yes.

3 Q Were some of them drug users?

4 A Yes.

5 Q Were all of them?

6 A Pretty much.

7 Q Pretty much. Okay.

8 Did those people know about any drugs in the drawer?

9 A I didn't hide the fact I was doing drugs. It's in the
10 drawer. Yeah, I mean, it's right there, open. It's not like I
11 went to a different room, got something out and tried to be
12 secretive.

13 Q Right there in the kitchen?

14 A Yeah.

15 Q Would those people come in and grab some for themselves,
16 like somebody would go to a refrigerator and grab a drink?

17 A Not everyone, but a couple people that I trusted and
18 thought were decent, you know.

19 It wasn't like a great thing. Yeah, once in a while.

20 Nick, I trusted him a little more than -- just, we grew
21 a strong relationship. I can't even express how special the dog
22 is to me and my family.

23 But just going above that, it just -- you know, he grew
24 up -- I thought he was a great kid.

25 Q You really liked Nick?

1 A Yeah.

2 MR. WHITE: I have nothing further.

3 THE COURT: Before you begin cross, can I see counsel at
4 sidebar.

5 (A conference was held at the bench.)

6 THE COURT: Record should reflect the Court met with
7 counsel at sidebar.

8 You may proceed with cross-examination.

9

10 CROSS-EXAMINATION

11 BY MS. CAMERON:

12 Q Mr. Andrews, how old are you?

13 A Forty-two years old.

14 Q And to clarify, your felony convictions were for two
15 counts of burglary, correct?

16 A Correct.

17 Q And those were here in Washoe County?

18 A Yes.

19 Q Now, you testified that you ultimately went over to
20 Nick's house to find this van, right?

21 A Yes.

22 Q Okay. But you also said you didn't know where he lived?

23 A I do not know where he lived when I first bought it from
24 him, that is correct.

25 Q So how, then, Mr. Andrews, did you find out where he

1 lived?

2 A When he got back in touch with me, he gave me the
3 address.

4 Q Okay. So then he tells you where he lives, and you
5 went -- you didn't go by yourself, right?

6 A I did go by myself the first time.

7 Q So then, when -- how many times, then, did you go over
8 there?

9 A Twice.

10 Q Okay. So you are saying the first time, you went by
11 yourself, correct?

12 A Yeah.

13 Q Okay. The second time, you went with somebody?
14 Is that a "yes"?

15 A Yes.

16 Q And who was that person?

17 A That was Rick, the fellow that was staying with us.

18 Q So you went by twice to Nick's apartment, correct?

19 A Yes.

20 Q Okay. And it's your testimony Nick told you where he
21 lived?

22 A I believe he sent me a text or told me on the phone,
23 yes.

24 Q When was it that you were going over to check out this
25 van?

1 Let's start with the first time when you went by
2 yourself. When was that?

3 A As I stated previously, it was after we initially made
4 the deal and I paid him. Within three weeks -- I mean, I don't
5 have an exact --

6 Q Okay. So that first time -- I'm just clarifying -- you
7 do the handshake deal, 500 bucks. Three to four weeks later, you
8 go over there. And that's when you are talking about you go by
9 yourself?

10 A Yeah, rough estimate of time frame, yeah.

11 Q Then you don't like it, right? You don't like the looks
12 of the van, this isn't what you signed up for, and you -- from
13 that time, when do you go back with Rick?

14 A I don't remember exactly, date -- you know, what day it
15 was or what --

16 Q Before June 19th, how long before June 19th did you go
17 over to Nick's apartment with Rick?

18 A I can't remember exactly.

19 Q How long after you had seen the van did you decide to
20 take Rick with you to Nick's apartment?

21 A I didn't necessarily decide to take Rick with me. He
22 was just with me that day.

23 Q Okay.

24 A And I -- like I say, I can't remember exactly when it
25 was.

1 Q So you remember three to four weeks, but -- for the
2 first time?

3 A I don't remember -- roughly, three to four weeks, yeah.

4 Q But not for the second time, you have no idea?

5 A I don't know. Within a week or two. I'm not -- I mean,
6 I don't remember exactly.

7 Q Did you threaten Nick?

8 MR. WHITE: Objection, Your Honor.

9 THE COURT: Well --

10 MR. WHITE: I think -- Your Honor, may we approach?

11 THE COURT: Okay.

12 (A conference was held at the bench.)

13 THE COURT: Record should reflect the Court met with
14 counsel at sidebar.

15 The objection is noted and overruled.

16 You may answer the question.

17 THE WITNESS: Did I threaten Nick? No, I did not
18 threaten Nick.

19 If you are interested in knowing the truth of that
20 actual situation --

21 BY MS. CAMERON:

22 Q That's my question. Stop.

23 THE COURT: Just listen to the question and answer that.

24 BY MS. CAMERON:

25 Q That was my question. Thank you for answering.

1 At any point, did you threaten Nick about getting your
2 money back?

3 A Did I threaten Nick? No, I did not.

4 Q Did you have Rick threaten Nick on your behalf?

5 A No, absolutely, I did not have Rick threaten him on my
6 behalf.

7 Q Okay. The last time that you had seen -- I think it was
8 on your direct -- you had seen Nick before your arrest was four to
9 five weeks. Is that your testimony?

10 You stopped talking four to five weeks before your
11 arrest. I heard you say that. Is that not correct?

12 A Right. But then directly before the arrest, I don't
13 know, we had some contact, maybe a week. He's talking about he's
14 going to be working, he's looking forward to come pay me back.

15 Q Before your arrest, other than over the phone, was he
16 coming over during that time?

17 A Can you repeat the question, please.

18 Q Was Nick coming over to your apartment in those weeks
19 preceding your arrest?

20 A No, he did not come over, although I had seen him out
21 and about.

22 Q Then I'm confused, because you talked about that you had
23 talked about the debt owed previously with him, you said just a
24 couple days before.

25 So did he not come over a couple days before, or did he?

1 A I don't remember 100 percent if he came over to my
2 place, if I met him somewhere, or if I had seen him out and about.

3 Q Okay. Now, you talk about you are doing heroin and you
4 are doing meth. You've been doing drugs for a while, safe to say?
5 Drugs have been a part of your life for a while?

6 A Since -- a really strong script, without going in --
7 OxyContin was in -- cut off, and yes, I did resort to using street
8 drugs.

9 Q How long ago did you start using drugs, Mr. Andrews?

10 A It's been quite a while. I don't have an exact.

11 Q A couple of years? You've been using drugs for a couple
12 of years, fair to say?

13 A Yeah. Off and on, I've had absence from it and doing
14 really good in life, and then something happened.

15 Q You have relapses?

16 A Yeah.

17 Q Okay. So drugs have been -- safe to say drugs have been
18 a part of your life, whether you are trying to stay away from them
19 in your periods of abstinence or when they are a part of your
20 life, all consuming. Would that be a fair statement?

21 A Somewhat.

22 Q Okay. So tell me, then, why, if somebody -- if you just
23 have drugs in your kitchen drawer and a buddy who comes over and
24 uses drugs with you every time, it would be strange that he's
25 talking to you about drugs?

1 A It was very, very odd, because it had never happened
2 before.

3 Q Every time he comes over, he uses drugs with you?

4 A Every single time, I would say, almost every --

5 Q When you are using drugs, when you are on -- when you
6 are an addict, drugs consume your life, fair to say?

7 A They can.

8 Q Okay. So yet, at this point in your life, you thought
9 it was weird or strange that Nick is talking to you about drugs?

10 A Yeah, exactly what drugs he was talking about, how much
11 he was talking about them, and then what the -- you know, I don't
12 even remember exactly, one possibly -- what was it? An employee
13 or employer -- it just -- he was saying so much.

14 At one point, you don't hear me, that's what -- I'm just
15 like -- it's like what is he talking about, thinking to myself,
16 you know, what is he doing, what is he trying to accomplish, what
17 is he doing? I don't know. Of course.

18 Q Okay. The drugs that you use with him, you get out of
19 the kitchen drawer?

20 A Yeah.

21 Q Yeah?

22 Do you weigh it out before you smoke it, or do you just
23 know how much you need?

24 A Just put some in the pipe.

25 Q What is that?

1 A I put some in the foil, I put some in the pipe and puff
2 and smoke.

3 Q What do you got the scale for?

4 A There are different individuals living in the house,
5 without implicating them -- we all did drugs. Different people
6 brought different drugs into the house at different times.

7 And for purposes -- maybe if you are buying something,
8 you want to make sure you know what you are getting, what have
9 you, you know --

10 Q If you are buying something, you want to know how --

11 A If I'm buying --

12 Q You want to know how much you are getting? Yeah?

13 A If I'm -- someone is coming over with something or they
14 bring something -- that's generally -- a drug addict would -- I
15 mean, it's -- you want to know --

16 Q You want to make sure you are getting what you are
17 buying, right?

18 A (Nodding head affirmatively.)

19 Q Same with the baggie --

20 THE COURT: You need to answer out loud, sir.

21 BY MS. CAMERON:

22 Q Is that a "yes"?

23 A Yes.

24 Q Same with those little baggies in that drawer that we
25 saw?

1 A Yeah, there's no dispute, I was doing a lot of drugs. I
2 bought a lot of drugs. That's empty bags of --

3 Q You are saving the baggies once you use all of the drugs
4 out of them?

5 A Absolutely. It's very indicative. You can open them up
6 and -- embarrassing -- but scrape the residue out of them.

7 Q Mr. Andrews, I'm showing you the baggies.

8 A Uh-huh.

9 Q Do those look used?

10 A Do they look used?

11 Q Yes.

12 A I'm not a professional. I can't see if those little
13 things in that bag are used or not or if they have been washed out
14 with water.

15 Q You wash your bags out with water?

16 A If you put a couple drops in there, then you can get
17 everything out of there and pour it on to a --

18 MR. WHITE: Your Honor, I didn't just see it. May I?

19 THE COURT: Excuse me?

20 MR. WHITE: I just want to see it, too.

21 THE COURT: You want to see the exhibit?

22 MR. WHITE: Yes.

23 THE COURT: Okay.

24 MR. WHITE: Thank you.

25 THE WITNESS: You have a look on your face of disgust

1 almost, and I'm --

2 MS. CAMERON: Stop. Mr. Andrews, stop.

3 THE COURT: Mr. Andrews, as I explained to you, you are
4 subject to cross-examination.

5 THE WITNESS: Yes.

6 THE COURT: Your attorney can do redirect. But unless
7 there's a question pending, please be quiet.

8 THE WITNESS: Okay.

9 THE COURT: Thank you.

10 BY MS. CAMERON:

11 Q Would you agree with me that doing drugs has had
12 negative consequences on your life? Do you like doing drugs?

13 A I would agree with you that it had negative consequences
14 in my life, yes.

15 Q If you met someone on the street, would you encourage
16 them to not do drugs?

17 A Thinking right now in front of you with a clean, sober
18 state of mind, absolutely, to encourage them not to do drugs, yes.

19 Q Would you agree with a very simple statement that drugs
20 are bad?

21 A Yes.

22 Q Okay. Why, then, to those close people you love, you
23 are giving them these drugs? Just come, take. Why do you do
24 that?

25 A Why do drug addicts do that? I -- I really don't have

1 an answer for you, other than when you are getting high, like I
2 said, good morals and principles, at least the stuff that I
3 absolutely try and do when I'm clean and sober, and I do a pretty
4 good job at -- I think I'm a decent person -- go out the window
5 when you are using drugs, absolutely.

6 I turn into a completely different person.

7 MS. CAMERON: No further.

8 THE COURT: Redirect?

9

10 REDIRECT EXAMINATION

11 BY MR. WHITE:

12 Q I'm going to start where Ms. Cameron left off. Her
13 question to you was, why would you give drugs to the people you
14 love.

15 And my question, based on that, is, do drug addicts like
16 to -- well, first of all, is it miserable sometimes being a drug
17 addict?

18 A Yes, absolutely. Yes.

19 Q And the old saying, does misery love company?

20 A Yes. Yes.

21 Q And your answer also was that morals and principles go
22 out the window. Do you really feel that way?

23 A Yes.

24 Q Ms. Cameron also asked you was it strange for Nick to
25 talk about drugs, or why was it strange for Nick to talk about

1 drugs, since he had always come over and done them with you.

2 Was it more that it was strange he was talking about
3 buying drugs?

4 A Absolutely.

5 Q Was that part of your normal conversation, him buying
6 drugs from you, or just -- did you just --

7 A That's never come up before.

8 Q When you would -- when he would hang out with you and
9 come over and you two would just do drugs, was it more of a social
10 thing and you would talk about other things at that time?

11 A Yeah, social thing, looking at how I was destroying my
12 life, yeah, socially.

13 Q Did any of your friends that you would join in doing
14 drugs with at your apartment -- did they ever turn you down or
15 tell you, "No, I don't want to do those and you can't make me"?

16 A No.

17 Q I just want to get this straight. So Ms. Cameron asked
18 you about a scale. So --

19 A Yes.

20 Q People use scales when they also have people sell them
21 drugs?

22 A Yes.

23 Q If you were going to buy drugs from someone --

24 A Yes.

25 Q -- you would use it to weigh the drugs so you know what

1 you are getting?

2 A Yes.

3 MR. WHITE: Nothing further, Your Honor.

4 THE COURT: Anything else from the State?

5 MS. CAMERON: No, thank you.

6 THE COURT: You may stand down, sir. Thank you.

7 Mr. White, any other witnesses for the defense?

8 MR. WHITE: Your Honor, the defense does not have any
9 more witnesses, and it rests.

10 THE COURT: Okay. And you have conferred with your
11 client regarding --

12 MR. WHITE: Yes, Your Honor.

13 THE COURT: -- other witnesses?

14 Okay. Any other witnesses for the State?

15 MS. CAMERON: No, Your Honor, no rebuttal.

16 THE COURT: Okay. Can I see counsel at sidebar.

17 (A conference was held at the bench.)

18 THE COURT: Maria, can I see you at sidebar?

19 THE CLERK: Yes.

20 THE COURT: Ladies and gentlemen, thank you for your

21 patience. I thought we could perhaps conclude today, but an

22 emergency hearing has come up related to a different case that I
23 must preside over, plus you will have had quite a long day.

24 You still -- we have our jury instructions settled. The
25 case has come to its conclusion, but I need to give you the jury

1 instructions, and then we'll hear closing argument from counsel.

2 So this -- it will go to you very early in the morning
3 tomorrow, but I would like to have you back tomorrow morning at
4 9:00 a.m., rather than keep you waiting.

5 Now, we will call Judge Wilson. I know you are
6 subpoenaed -- one of our jurors is subpoenaed to be a witness in
7 Sparks Justice Court or Sparks Muni.

8 A JUROR: Municipal Court.

9 THE COURT: Municipal Court. We have a copy of that,
10 right?

11 A JUROR: Yes.

12 THE COURT: So we did leave a message to him that you
13 had been seated. And so we'll -- but there's a trailing calendar
14 out there. So we'll confirm that there's not a problem. And
15 we'll explain the problems we had here today.

16 This hearing is unforeseen. I'm afraid it's going to
17 take a little bit more time. And by the time we get everything to
18 you, it's going to be pretty late in the day.

19 So that's the plan of attack. And we appreciate your
20 patience on that.

21 You are instructed not to discuss this case among
22 yourselves or with anyone else, or form any ultimate conclusions
23 regarding the case until it's submitted to you.

24 You are not to read, look at, or listen to any news
25 media account, should there be any, or engage in any form of

1 independent investigation.

2 We'll see you all back here at 9:00 a.m. tomorrow
3 morning, smart and sharp.

4 What will happen is, the jury instructions will be
5 ready, and I will read them to you, as the law requires. You'll
6 be allowed to make notes on them. You'll each have your own copy.

7 Then you are going to hear closing arguments first from
8 the State, then from defense, final rebuttal argument from the
9 State, and then your deliberations will begin.

10 So I anticipate that will happen in the morning in a
11 rather short order fashion. Okay?

12 So we'll see you back in the morning.

13 Counsel, if you'd please remain, I need to talk to you.

14 (The jury exited the courtroom.)

15 THE COURT: Okay. Please be seated.

16 The record should reflect we're outside the presence of
17 the jury.

18 And I want Mr. White -- it's the order of the Court that
19 you and Ms. Cameron meet and confer on those jury instructions.

20 I believe there's one other instruction that is
21 generally given related to how a jury can weigh felony
22 convictions. And so we can mark that as an A, or was that A or B,
23 whatever we want to do.

24 Are there any other instructions? I think we pulled the
25 constitutional right to remain silent instruction because

1 Mr. Andrews testified, but then we need to, I think, insert the
2 felony conviction instruction.

3 MR. WHITE: Yes, Your Honor. Yes.

4 Do you have a copy of that?

5 MS. CAMERON: I have it on my computer. I can email it
6 to Mr. White and we'll confer.

7 THE COURT: So get it -- and you are familiar with this
8 instruction, Mr. White?

9 MR. WHITE: Yes, Your Honor.

10 THE COURT: Okay. And is there any objection to the
11 instruction?

12 MR. WHITE: No.

13 THE COURT: Okay. Then we need to get that printed.
14 Maybe we can get that completed this afternoon so we can begin
15 first thing in the morning to instruct and to get to
16 deliberations.

17 I -- as I said, I have another hearing behind you guys.
18 So we'll take a five minutes to let you guys get stuff cleaned
19 out, and then we will bring -- Maria, is -- you've got my file on
20 this?

21 THE CLERK: Yes, I do, Your Honor.

22 THE COURT: Mr. --

23 THE CLERK: Mr. Mitchell.

24 THE COURT: So get Mr. Mitchell.

25 And, Mr. Lucia, are you going to be able to cover this?

1 MR. LUCIA: Yeah, I can handle it.

2 THE COURT: Okay. Is Mr. Goodnight available?

3 THE CLERK: He's on his way, Your Honor. He was doing

4 some cases over at the Justice Court, so he is on his way.

5 THE COURT: And maybe you and Mr. Goodnight can review

6 the criminal history. I'm trying to find out what the bail is.

7 It's a mandatory prison term. And he's interposing whatever he's

8 interposing.

9 MR. LUCIA: Yeah, I've got all the criminal history and

10 the facts.

11 THE COURT: So I presume we'll move to a bail hearing,

12 because I may have to change the status of his bail. It will take

13 a few minutes.

14 Thank you.

15 (The proceedings concluded at 3:14 p.m.)

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

3
4
5 I, CONSTANCE S. EISENBERG, an Official Reporter of the
6 Second Judicial District Court of the State of Nevada, in and for
7 the County of Washoe, DO HEREBY CERTIFY:

8 That I was present in Department 1 of the above-entitled
9 Court on June 14, 2016, and took verbatim stenotype notes of the
10 proceedings had upon the matter captioned within, and thereafter
11 transcribed them into typewriting as herein appears;

12 That I am not a relative nor an employee of any of the
13 parties, nor am I financially or otherwise interested in this
14 action;

15 That the foregoing transcript, consisting of pages 1
16 through 141, is a full, true and correct transcription of my
17 stenotype notes of said proceedings.

18 DATED: At Reno, Nevada, 21st day of September, 2016.
19
20

21 /s/Constance S. Eisenberg

22 CONSTANCE S. EISENBERG
23 CCR #142, RMR, CRR
24
25

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 6th day of February 2017. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

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John Reese Petty
Washoe County Public Defender's Office