

1 Galaxy phone?

2 A They asked if they didn't get any money.

3 Q And --

4 A I said no.

5 Q Okay. And is that what you testified to here
6 today?

7 A Yes.

8 Q Can you flip to page 36. At the top of page 36 --
9 well, let's look at page 35 first because you're answering a
10 question from page 35.

11 Okay. So you had a response where you said, "That
12 would have been to be Popeye's again, I think."

13 Question, "Well, you didn't do the same store?"

14 Answer, "No. I believe, it was another Popeye's."

15 "Was it a Popeye's or a Taco Bell?"

16 "It was by an RC Willey."

17 Do you remember saying that to the detectives?

18 A Yes.

19 Q Did the detectives before you ever brought up RC
20 Willey ever say anything to you about an RC Willey being
21 located by one of the robbery locations?

22 A No.

23 Q So you -- did you volunteer that information on
24 your own without being told what to say?

25 A I'm not sure if they showed me a picture.

1 Q Do you see anywhere there referencing a picture?
2 Take your time and read through it.

3 A No.

4 Q Okay. And again, you said, "I believe it was
5 another Popeye's?"

6 "Was it Popeye's or Taco Bell?"

7 "It was by RC Willey."

8 A Yes.

9 Q Turn to page 26, please. Are you discussing a
10 robbery that occurred at another Popeye's?

11 MS. LOBO: I'm sorry to interrupt you, Mr. Portz.
12 What page did you say?

13 MR. PORTZ: 26.

14 MS. LOBO: 26. Thank you.

15 THE WITNESS: Yes.

16 BY MR. PORTZ:

17 Q Okay. And in reference to this Popeye's, do the
18 detectives ask you where you were when you dropped them off,
19 Tony and Brandon?

20 A Yes.

21 Q And your answer was, quote, "Side street. I don't
22 know, side street. Magoo's," question mark.

23 Question, "Magoo's, is that the street?"

24 Answer, "No, it's a bar."

25 Do you recall that?

1 A Yes.

2 Q Okay. Again, you were the one who brought up
3 Magoo's; is that correct?

4 A Yes.

5 Q And there was a Magoo's Bar next to one of the
6 Popeye's that you described a robbery taking place at?

7 A Yes.

8 Q And that's what you've testified to yesterday and
9 today?

10 A Yes.

11 Q And in anywhere there did the detectives prior to
12 you saying Magoo's telling that there was a robbery at
13 Magoo's --

14 A No.

15 Q -- or a robbery at a Popeye's by Magoo's?

16 A No.

17 Q Thank you. I'll take that back. Donte, all these
18 statements that you made to the police, this was the night of
19 your arrest before you ever spoke to the District Attorney's
20 Office; is that correct?

21 A Yes.

22 Q Those statements were all made before you were
23 presented with a plea negotiation with the State; is that
24 correct?

25 A Yes.

1 Q Okay. Mr. Tanasi brought up the fact that you
2 received an OR as part of your deal, that you got to get out
3 of jail for free. Do you recall that question?

4 A Yes.

5 Q Okay.

6 MS. LOBO: Objection. Misstates testimony.

7 THE COURT: I don't know if he said get out of jail
8 for free.

9 MS. LOBO: Jail for free, yeah.

10 BY MR. PORTZ:

11 Q He said you didn't have to pay a \$400,000 bail to
12 get out. You got out of jail, right?

13 A Correct.

14 Q And you didn't have to pay any bail to get out was
15 essentially the line of questioning?

16 A Yes.

17 Q So Donte, let me ask you this, after you entered
18 into your deal with the State, did you have any concerns
19 about remaining in Clark County Detention Center when you
20 have an Agreement to Testify at a criminal trial on behalf of
21 the prosecution?

22 A Yes.

23 Q What sort of concerns do you have? I need you to
24 move your hand from your mouth.

25 A Any concern any witness would have, safety.

1 Q Why would you have safety concerns?

2 MS. LOBO: Objection. Can we approach, Judge?

3 THE COURT: Yes.

4 (Off-record bench conference)

5 THE COURT: Okay. Mr. Portz, go ahead.

6 MR. PORTZ: Thank you, Your Honor.

7 BY MR. PORTZ:

8 Q Donte, are you familiar with the term snitch?

9 A Yes.

10 Q All right. And what happens to snitches in Clark
11 County Detention Center? What's your understanding is it
12 a --

13 A They don't --

14 Q -- safe place to be for snitches?

15 A No.

16 Q Why?

17 A Because everyone wants their head.

18 Q Everyone wants what?

19 A Their head.

20 Q So is that why you state you had safety concerns
21 after you entered into a deal with State?

22 A Yes.

23 Q When you were released from custody, you weren't
24 just given a straight own recognizance release, right? We
25 went through your Guilty Plea Agreement. You were placed on

1 house arrest; is that correct?

2 A Yes.

3 Q Are there costs associated with house arrest?

4 A Yes.

5 Q How much are those costs every month?

6 A A lot.

7 Q Okay. Have you been paying for it ever since you
8 were released from custody?

9 A Yes.

10 Q Ms. Lobo brought up the fact that you were left off
11 of house arrest from January 20th through January 30th of, I
12 believe, it was 20 --

13 A '16.

14 Q -- 16?

15 A Yes.

16 Q Do you recall that?

17 A Yes.

18 Q Why were you -- well, first of all, did you have to
19 request permission to be released from house arrest?

20 A Yes.

21 Q And who did you ask permission from?

22 A The judge.

23 Q Okay. So the judge had to make that decision?

24 A Yes.

25 Q And were you given a temporary leave from house

1 arrest from the 20th through the 30th of January 2016?

2 A Yes.

3 Q Why did you need to take that leave?

4 A The owner of my company requested that I go to
5 Florida to help with a big move.

6 Q Okay. So speak up, Donte, please.

7 A The owner of the company I worked for requested
8 that I help him out specifically.

9 Q Okay. And were you made aware of what would happen
10 if you did not return to house arrest after your trip up to
11 January 30th, 2016?

12 A Yes.

13 Q What would happen if you failed to get back out in
14 house arrest after this job opportunity in Florida?

15 A A warrant would be placed out for my arrest.

16 Q And if you were arrested, would you be placed back
17 into custody?

18 A Yes.

19 Q Donte, there was a moment during Mr. Tanasi's
20 questions where he asked you if the guns were yours, and you
21 said something to the effect of possession is nine-tenths of
22 the law; is that correct?

23 A Yes.

24 Q Okay. Donte, you're not an attorney, right?

25 A No.

1 Q You're not -- that's just -- is that just a saying
2 that you know possession is nine-tenths of the law?

3 A Yes.

4 Q You didn't actually purchase those firearms?

5 A No.

6 Q Were those firearms registered to you?

7 A No.

8 Q Who -- when was the first time you saw those
9 firearms?

10 A At Brianna and Tony's house.

11 Q And who had those firearms?

12 A In the beginning, the one, Tony.

13 Q Okay. Who would carry those firearms into the
14 restaurants when you participated in the robberies as a
15 getaway driver?

16 A Tony and Brandon.

17 Q Ms. Lobo questioned you on a number of things that
18 you've testified to this week that were not in your
19 statement, such as, you testified this week that Brandon or
20 Tony came up to you during that break in the robberies and
21 told you we're getting lucky when you're not coming, you
22 should join back up; do you recall that?

23 A Yes.

24 Q Okay. Or that you went to a Popeye's in Henderson
25 when you started back up because they told you that the

1 Popeye's had the most money; do you recall that question?

2 A Yes.

3 Q All right. Now, you didn't tell the detectives
4 that in your statement. I have a question for you. Were you
5 ever asked that by the detectives?

6 A I'm not -- I don't remember.

7 Q Is it fair to say you can only answer questions
8 that you're asked?

9 A Yes.

10 Q But you did tell the detectives about your
11 involvement in six separate robberies; is that correct?

12 A Yes.

13 Q Did you tell the detectives that that was your car?

14 A Yes.

15 Q And did you acknowledge that the detectives that
16 you operated as a getaway driver for these robberies?

17 A Yes.

18 Q I want to clarify something Ms. Lobo asked you
19 about that last El Pollo Loco robbery where Brandon hurt his
20 hand. She asked you a question, she said that Brandon got
21 stitched up and you said yes. I want to be clear, did
22 Brandon actually go to the hospital after --

23 A I'm not sure.

24 Q Okay. You don't -- did he have to receive
25 stitches, to your knowledge?

1 A Not to my knowledge. I -- I don't know.

2 Q Did he ever come back and say anything to you about
3 having to go to the hospital or get stitches?

4 A I don't remember.

5 Q So do you know, do you have any idea whether or not
6 Brandon ever had to receive stitches for his injury?

7 A No.

8 Q I want to discuss what Ms. Lobo brought up with
9 regards to your status in the military. That were discharged
10 under honorable conditions. Is that how you described it?

11 A Yes.

12 Q Okay. Did the State, Ms. Mercer or myself, have
13 anything to do with the standard by which you were discharged
14 from the military?

15 A No.

16 Q Did your plea deal or your Agreement to Testify
17 reflect in any way a recommendation of how the military
18 should treat or handle you?

19 A No.

20 Q Why did you get a discharge under honorable
21 conditions as opposed to a dishonorable discharge?

22 A Because of my military character.

23 Q What does that mean?

24 A The things that is I've committed on a civilian
25 side is not on the military side so.

1 Q Okay. So can you -- I guess, I don't understand.
2 Can you explain that?

3 A They thought as though I would suffer my
4 consequences on this side, there's no need to suffer
5 consequences on both sides.

6 Q Okay. So the military decided that and you were
7 discharged?

8 A With general, under honorable conditions.

9 Q Okay.

10 MR. PORTZ: Court's indulgence.

11 BY MR. PORTZ:

12 Q Donte, do you recall when you were released from
13 custody in this case?

14 A August 3rd, 2015.

15 Q And when did you gain employment after your
16 release?

17 A Fifteen days later.

18 Q And have you remained employed your entire time
19 while out of custody?

20 A Yes.

21 MR. PORTZ: Your Honor, at this time, the State
22 would ask for demonstrative purposes that Mr. Johns step down
23 from the stand and we can have him stand somewhere in the
24 vicinity of Mr. Starr and Mr. Hobson for size comparisons.

25 THE COURT: All right. Mr. Johns, please step

1 down. Jim.

2 THE MARSHAL: Step over here.

3 (Pause in the proceedings)

4 MR. PORTZ: And then we'd also ask that Mr. Starr
5 and Mr. Johns turn around as well and face away from the
6 jurors.

7 THE COURT: All right. Turn around.

8 MR. PORTZ: Thank you. And now, Mr. Hobson,
9 please.

10 THE COURT: All right.

11 MR. PORTZ: And I would ask that they turn around
12 and face away from the jury. Thank you, Donte. You can sit
13 down. I have no further questions, Your Honor.

14 THE COURT: Cross?

15 MR. TANASI: Yes, Your Honor.

16 RECROSS-EXAMINATION

17 BY MR. TANASI:

18 Q Mr. Johns, let's go back to your statement
19 regarding the hat in this case, okay? You told detectives in
20 that statement the night that you were arrested, "Sports
21 team, perhaps, A or P," and then the rest of that was, "I
22 don't know, man," right?

23 A Yes.

24 Q Because you really don't know, right?

25 A Correct.

1 Q And you testified that at the time of this
2 statement, this time that you were giving a statement after
3 you were arrested, no deals with State were in place, right?

4 A Yes.

5 Q No deals with any prosecutor, no deal with any
6 judge, none of that was in place at the time that you gave
7 this testimony; is that -- that's --

8 A Yes.

9 Q -- that's your testimony, right?

10 A Yeah.

11 Q Okay. But you knew that the officers would tell
12 the DAs and the judges about your testimony; isn't that true?

13 A Yes.

14 Q And again, when I say your testimony, coming from
15 that statement that day, you knew you were told that the
16 prosecutors and DAs -- prosecutors and the judges would find
17 out about what you did in that statement, correct?

18 A Yes.

19 Q All right. You testified that the detective showed
20 you a picture, perhaps, regarding the RC Willey?

21 A I believe so.

22 Q Yeah. What else did the detective show you during
23 the course of your interview with them the night you were
24 arrested?

25 A There were multiple pictures.

1 Q Multiple pictures. How many?
2 A Hard to say. It was a folder.
3 Q Too many to count?
4 A Yes.
5 Q More than five?
6 A Yes.
7 Q More than ten?
8 A Yes.
9 Q More than 20?
10 A Not sure.
11 Q Possibly more than 20?
12 A Could be, yes.
13 Q Could it be more than 30?
14 A The folder had more than 30, yes.
15 Q Could it be more than 50?
16 A Probably the discovery.
17 Q What's that?
18 A Probably as thick as the discovery.
19 Q So it's your testimony -- let's talk about that.
20 When you get arrested in this case and when you wind up
21 pleading not guilty, you get a copy as is your right of the
22 discovery in the case, right?
23 A Yes.
24 Q And that discovery has the evidence that the State
25 is going to use to eventually try to convict you, correct?

1 A Yes.

2 Q All right. So in this case, you're saying that
3 that was a pretty big stack. Could you estimate for the
4 jury --

5 A I didn't --

6 Q -- with your hands?

7 A I didn't get a discovery. I seen --

8 Q You saw a discovery?

9 A Yeah.

10 Q You didn't get it?

11 A Yeah.

12 Q Okay. Can you estimate for the jury the size of
13 the discovery you saw with your hands? Okay. So maybe if
14 you could, just hold your hands up a little bit higher?

15 A Give or --

16 Q Okay. Is that about a foot? Keep your hands up
17 just for a second. My measurements, probably disappoint my
18 father, the carpenter, but that's about a foot?

19 A Yes.

20 Q Fair? Okay. So you saw all of that with the
21 detectives the night that you were giving them the statement,
22 correct?

23 A No, not all of it.

24 Q How much of that 12 inches would you say was shown
25 to you as you were going through this case?

1 A They flipped through it. I don't know. A little
2 over half.

3 Q A little over half?

4 A Yeah.

5 Q So a little over half of the discovery was shown to
6 you by the detective as you were going through this case,
7 correct?

8 A Yes.

9 Q And this is again, the night of the arrest,
10 correct?

11 A Yes.

12 Q Okay. The night of the arrest where you started
13 off with saying that you were only involved in two robberies,
14 correct?

15 A Yes.

16 Q And then by the end that ballooned up to what,
17 four, five, six?

18 A Six -- six or seven, I believe.

19 Q Okay. You don't know as you sit here what that
20 number is, though, right?

21 A Yes.

22 MR. TANASI: Thank you. Nothing further. Oh,
23 actually, I apologize. Court's indulgence.

24 BY MR. TANASI:

25 Q You were asked one question about house arrest and

1 the cost of that.

2 A Yes.

3 Q Correct? Remember that?

4 A Yes.

5 Q And did your house arrest cost you \$400,000?

6 A No.

7 Q Okay. A lot less than \$400,000, fair to say?

8 A It adds up, but, yes, less.

9 Q How much total would you say, you think your house
10 arrest costs you?

11 A As of right now, I don't know, maybe 6,000.

12 Q 6,000. Okay. Thank you, sir.

13 MR. TANASI: Nothing further.

14 THE COURT: Ms. Lobo?

15 MS. LOBO: Nothing further.

16 THE COURT: Will the parties approach real quick.

17 (Off-record bench conference)

18 THE COURT: Okay. Mr. Johns, I have a question.

19 There were some questions with regards to whether or not you
20 would speak to the defense attorneys and you said that you
21 were willing to; do you remember that --

22 THE WITNESS: Yes.

23 THE COURT: -- line of questioning? At some point
24 in time, you didn't speak to them; is that correct?

25 THE WITNESS: Correct.

1 THE COURT: And was that done on the advice of your
2 attorney?

3 THE WITNESS: Yes.

4 THE COURT: Okay. So you chose to follow the
5 advice of your attorney and not speak with the defense
6 attorneys; is that right?

7 THE WITNESS: Yeah, he changed his mind and then
8 yes.

9 THE COURT: What's that?

10 THE WITNESS: At first it was like oh, go ahead and
11 then he changed his mind.

12 THE COURT: Okay. And all along, you were willing
13 to speak to them, you just decided to follow the advice of
14 your attorney?

15 THE WITNESS: Yes.

16 THE COURT: Okay. Do you have any questions as a
17 result of those questions?

18 MR. PORTZ: No, Your Honor. Thank you.

19 MR. TANASI: No, Your Honor.

20 THE COURT: Mr. Tanasi?

21 MS. LOBO: No, Your Honor.

22 THE COURT: Okay. We have a question? A couple
23 questions, okay. Will the parties approach?

24 (Off-record bench conference)

25 THE COURT: Okay. Mr. Johns, I have some questions

1 for you, okay?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. Let's see, Donte, are you
4 left or right-handed?

5 THE WITNESS: Right.

6 THE COURT: Is your cousin, Ernest, left or
7 right-handed.

8 THE WITNESS: Right.

9 THE COURT: Okay. Did you ever handle the guns
10 before or after the robberies?

11 THE WITNESS: No.

12 THE COURT: Did you ever clean or take the guns
13 apart?

14 THE WITNESS: No.

15 THE COURT: Out of the three of you, Tony, Brandon
16 and Donte, have -- who has the most weapons experience?

17 THE WITNESS: Me.

18 THE COURT: Okay. You mentioned during the sixth
19 and seventh event that you opened the trunk. During prior
20 events were the weapons in the trunk or inside the car?

21 THE WITNESS: I believe, they were in the trunk.

22 THE COURT: If in the trunk during previous events,
23 did you open the trunk for them?

24 THE WITNESS: Yeah.

25 THE COURT: Yesterday you testified that you have

1 lived in Las Vegas off and on for four years. Can you tell
2 us when you moved back to Las Vegas, month, day and year and
3 from where you lived in between?

4 THE WITNESS: July 22nd, 2014 I moved back to
5 Vegas. August of 2011 I finished my senior year out here,
6 joined the military and was all over in between those months
7 -- in between those.

8 THE COURT: Okay. Do you know when Tony and/or
9 Brandon moved to Las Vegas?

10 THE WITNESS: 2013, I believe. I'm not sure.

11 THE COURT: Okay. If you were only the getaway
12 driver and never used either gun that you testified was
13 stored in Tony's kitchen cabinet or in trunk of your car when
14 not in use, how did you know the cap better of each firearm
15 when you testified here today?

16 THE WITNESS: I seen pictures when I was arrested
17 and I seen the weapons prior.

18 THE COURT: Okay. Are you right -- okay. Are you
19 right or left-handed?

20 THE WITNESS: Right.

21 THE COURT: All right. Who approached you about
22 becoming the driver for the robberies?

23 THE WITNESS: It just kind of happened.

24 THE COURT: Okay. Between November 5th and 17th,
25 were you aware of the other robberies happening without you?

1 THE WITNESS: No.

2 THE COURT: How do you know the details of the
3 stolen phones if they were tossed before you saw them?

4 THE WITNESS: Talked about it.

5 THE COURT: Okay. Were you court marshaled as a
6 result of your involvement in the robberies resulting in the
7 general discharge under honorable conditions or was it a Plea
8 Agreement?

9 THE WITNESS: No, it was a court marshal.

10 THE COURT: Did you make the plea deal with the
11 State before or after the general discharge?

12 THE WITNESS: Prior -- I don't remember.

13 THE COURT: Okay. I understand you have received
14 crew based instructions for breaching buildings. What
15 buildings have you breached in a non-training real world
16 environment?

17 THE WITNESS: None.

18 THE COURT: Okay. Any questions as a result of
19 those questions?

20 MR. PORTZ: Yes, Your Honor.

21 THE COURT: Okay.

22 FURTHER REDIRECT EXAMINATION

23 BY MR. PORTZ:

24 Q Donte, with regards to the question on how the
25 phones were tossed or how you knew phones were tossed, can

1 you give us a little more detail on how you knew that they
2 tossed iPhones?

3 A They would come and tell me.

4 Q Okay. Who would tell you?

5 A They would.

6 Q They being --

7 A Brandon and Tony.

8 Q Okay. And when would they tell you that?

9 A When they got in the car.

10 Q And specifically, when they got in the car after
11 what happened?

12 A I drove away.

13 Q Okay, but I mean, you said they would tell you when
14 they get in the car. What had they just been doing before
15 they got in the car and told you we tossed the iPhone?

16 A Robbing the establishment.

17 Q And again, who explained the reason why they tossed
18 the iPhones?

19 A I don't know exactly which one.

20 Q Okay. But is it one of them at least?

21 A Yes.

22 Q Okay. One of them being either Brandon or Tony?

23 A Yes.

24 Q With regards to your ability to make out the make
25 and model of the two firearms, that .38 caliber revolver and

1 the .45 Ruger --

2 A Yes.

3 Q -- you've told us -- well, what's your background
4 and experience with firearms?

5 A Handled all type of weapons.

6 Q And where did you receive that training and
7 experience?

8 A Military.

9 Q So are you fairly familiar with handguns, make,
10 model, caliber, et cetera?

11 A Yes.

12 Q And you testified that you had seen both of those
13 firearms before and during the robbery series?

14 A Yes.

15 Q Did you ever handle those firearms during any
16 robberies?

17 A No.

18 Q Do you recall being told by the detectives that
19 they were going to test the guns for DNA --

20 A Yeah.

21 Q -- to see if you ever touched them?

22 A Yes.

23 Q Okay. And did you tell the detectives -- what did
24 you tell the detectives?

25 A Said I may have touched it.

1 MR. PORTZ: May I approach the witness, Your Honor?

2 THE COURT: Yes.

3 MR. PORTZ: Page 76.

4 BY MR. PORTZ:

5 Q Okay, Donte, again, your statement from November
6 24th, 2014.

7 A Yes.

8 Q Page 76. Second line there, the question is,
9 "We're going to test those guns for DNA. Did you ever touch
10 them?" And take a moment and read through that.

11 A All right.

12 Q So on the night of the arrest, did you tell the
13 detectives whether or not you touched the guns?

14 A I told them I didn't.

15 Q And did you believe your DNA would be found on
16 those firearms?

17 A No.

18 MR. PORTZ: Court's indulgence. Thank you, Donte.
19 Your Honor, no further questions.

20 THE COURT: Cross?

21 MR. TANASI: Nothing further, Your Honor.

22 MS. LOBO: Nothing further.

23 THE COURT: All right. Okay. Mr. Johns, thank you
24 so much for your testimony. You can step down. You're
25 excused. State, call your next witness.

1 MS. MERCER: Your Honor, State calls Detective Jeff
2 Abell.

3 DETECTIVE JEFFERY ABELL, STATE'S WITNESS, SWORN

4 THE CLERK: Thank you. Please be seated. If you
5 could please state your full name, spelling your first and
6 last name for the record.

7 THE WITNESS: It's Jeffery Abell, J-e-f-f-e-r-y;
8 A-b-e-l-l.

9 THE COURT: Your witness, Ms. Mercer.

10 MS. MERCER: Thank you.

11 DIRECT EXAMINATION

12 BY MS. MERCER:

13 Q Sir, where are you currently employed?

14 A With the Las Vegas Metropolitan Police Department.

15 Q In what capacity?

16 A A patrol detective.

17 Q How long have you been a patrol detective?

18 A Coming up on a year.

19 Q Prior to become a patrol detective, were you
20 employed as a detective elsewhere within the department?

21 A Yes, a robbery detective.

22 Q How long did you serve as a robbery detective?

23 A Almost four years.

24 Q Prior to serving as a robbery detective, did you
25 work as what's referred to as a PSU officer?

1 A Yes.

2 Q And what does PSU stand for?

3 A That's problem-solving unit --

4 Q What --

5 A -- and we mostly dealt with robberies in the

6 northeast area command.

7 Q The northeast area command?

8 A Yes.

9 Q Is the problem-solving unit basically a step

10 between a patrol officer and a detective?

11 A Yes.

12 Q How long did you serve as a PSU officer?

13 A It's close to three years.

14 Q And prior to that, were you a patrol officer within

15 Metro?

16 A I was a COP officer.

17 Q What's a COP officer?

18 A Community orienting policing.

19 Q In total how long have you been employed by Metro?

20 A Coming up on 11 years.

21 Q Prior to your employment with Metro, what did you

22 do?

23 A In the Air Force.

24 Q How long did you serve in the Air Force?

25 A Twenty-three years.

1 Q Directing your attention to October and November of
2 2014, you were working in the robbery unit then, correct?

3 A That's correct.

4 Q At some point, did you become assigned to what was
5 referred to as the windbreaker series?

6 A Yes.

7 Q Prior to you becoming assigned to that series, was
8 it assigned to someone else within your unit?

9 A Yes.

10 Q Who was it assigned to initially?

11 A Detective DePalma.

12 Q With regards to how it was identified as a series,
13 who made that decision?

14 A I believe, it was our IS, our investigative
15 specialist.

16 Q What is an investigative specialist?

17 A They basically analyze all the robberies throughout
18 the valley and determine if they're related or not.

19 Q Based upon what types of factors?

20 A Time of day, what type of businesses they're
21 hitting, subject descriptors, weapons used, clothing, stuff
22 like that. Vehicles used.

23 Q Manner in which they're committed?

24 A Yes.

25 Q Okay. So had it already been determined to be a

1 series before it reached your hands?

2 A Yes.

3 Q Did you concur with that agreement -- or did you
4 concur with the analysis that it was, in fact, a series?

5 A Yes.

6 Q With why did you believe that these robberies were
7 all part of the same series?

8 A Had similar MOs. They were hitting places right at
9 the same times, the same times of night around between 10:30
10 and 1:00 o'clock in the morning. Their descriptors were the
11 same, tall -- one tall, one shorter. They were using similar
12 type of weapons, revolver, gun, knife. The clothing sort of
13 matched. They were wearing the gloves, same gloves, same
14 color bandanas. Their movements, the way they moved were
15 similar.

16 The way they ordering the clerks and the -- or the
17 employees around were similar.

18 Q What about the locations being hit?

19 A The locations? Well, they were mostly fast food
20 restaurants.

21 Q In your time as a robbery detective on the robbery
22 unit, about how many robbery series do you think you worked?

23 A I would say four or five series as far as when
24 they're multiple.

25 Q And a series is three or more robberies?

1 A Yes.

2 Q Did you also assist in other detectives in
3 investigating their series?

4 A Yes.

5 Q In total how much series did you work on in
6 robbery?

7 A I couldn't tell you. A lot.

8 Q Of the series that you worked on in robbery,
9 approximately how many of those involved hitting fast food
10 stories such as El Pollo Loco, Popeye's, Taco Bell?

11 A I mean, we had similar series where they'd hit
12 Subways, but they would constantly hit Subways or they'd hit
13 T-mobile stores or -- but as far as like the fast food these
14 type of restaurants, I don't think I worked anywhere these
15 dimension of restaurants were hit.

16 Q Okay. So this was -- the places that they were
17 hitting was unique?

18 A Yes.

19 Q You indicated that one of the things that made you
20 believe that they were related was the descriptions of the
21 suspects?

22 A Yes.

23 Q What were the commonalities in the suspect
24 descriptions?

25 A Well, one was extremely tall between 6 and 6 foot 4

1 inches tall, thin build. And the other one was
2 approximately, between 5, 5, 7 foot inches tall.

3 Q As the detective assigned to this series, did you
4 have -- did you request the surveillance footage from each
5 incident?

6 A Yes.

7 Q Did you obtain the surveillance footage from each
8 incident?

9 A Eventually, yes.

10 Q Have you watched the surveillance footage from each
11 incident?

12 A Yes.

13 Q How many times have you watched that surveillance
14 footage?

15 A I would say between 10 to 20 times each.

16 Q For each event?

17 A Yes.

18 Q Is it fair to say that you have an advantage over
19 someone who is witnessing a crime because you can fast
20 forward and rewind and repeatedly watch that surveillance
21 video?

22 A I can go slow speed or still by still, yes.

23 Q When you watched the surveillance videos, did you
24 still maintain the belief that it was the same sets of
25 individuals committing these robberies?

1 A Absolutely.

2 Q I'm going to come back to that line of questioning
3 in a second, but I want to get some background information.
4 As a detective with Metro -- or as a lead detective, you have
5 access to all of the reports related to the series, correct?

6 A Correct.

7 Q With regards to each of these incidents a crime
8 scene analyst was called to the scene, correct?

9 A Correct.

10 Q They were never able to recover fingerprints or
11 DNA, correct?

12 A Correct.

13 Q Because of the fact that they were wearing gloves?

14 A That is correct.

15 Q And with regards to these incidents, a patrol
16 officer always responded, correct?

17 A Yes.

18 Q And then you all were call out, the various
19 detectives in your bureau?

20 A Robbery detectives were called out, yes, or they
21 were called to come out.

22 Q Fast forwarding to November 25th of 2014. On that
23 date did you make an arrest of individuals that you believed
24 to be involved in this series?

25 A They were arrested -- they were taken into custody

1 on the 25th. I think I arrested them the 26th because it was
2 after midnight.

3 Q Okay, taken into custody on the 25th, and then
4 after midnight formally arrested?

5 A Yes.

6 Q Who were those individuals?

7 A It was Donte Johns, Brandon Starr and Tony Hobson.

8 Q And have you had contact with those individuals?

9 A Yes.

10 Q Do you see any of them in the courtroom today?

11 A Yes, I do.

12 Q Do you see specifically Brandon Starr in the
13 courtroom today?

14 A Yes.

15 Q Could you please point to him and identify an
16 article of clothing that he's wearing.

17 A He's sitting right over there in the black shirt.

18 MS. MERCER: Your Honor, may the record --

19 THE WITNESS: At the very far --

20 MS. MERCER: -- record reflect that he's identified
21 Brandon Starr?

22 THE COURT: It shall.

23 BY MS. MERCER:

24 Q Do you see Tony Hobson in the courtroom today?

25 A Yes, I do.

1 Q Could you please point to him and identify an
2 article of clothing that he's wearing.

3 A He's sitting right there in the black and maroon
4 plaid shirt.

5 MS. MERCER: Your Honor, may the record reflect
6 that he's identified defendant, Tony Hobson?

7 THE COURT: It shall.

8 BY MS. MERCER:

9 Q Following the arrest of Donte Johns, Tony Hobson
10 and Brandon Starr, did you have occasion to execute a search
11 warrant at 3955 East Charleston, number 250?

12 A Yes.

13 Q Why did you execute a search warrant at that
14 address?

15 A We still have some outstanding property,
16 outstanding clothing that was seen during the surveillance
17 videos and described by them, the victims.

18 Q So you were hoping to obtain those items?

19 A Yes.

20 Q What is required before you search a premises like
21 that?

22 A Probable cause that the items may be located in the
23 premise.

24 Q And what probable cause did you have to believe
25 that those items would be located in 3955 East Charleston,

1 number 250?

2 A Because that was the apartment where Tony Hobson
3 and, I believe, Brandon Starr resided.

4 Q Okay. How did you come to the conclusion that you
5 believe that they were residing there?

6 A One, that's what Donte Johns told me. And two, I
7 pulled Nevada Power for that apartment and it showed that
8 Tony Hobson had power in his name as of the first of, I
9 believe, October.

10 Q Okay. So the power at that location was in the
11 name of Tony Hobson?

12 A Yes.

13 Q The NV Energy bill?

14 A Yes.

15 Q Did you also obtain a copy of the lease agreement
16 for that apartment?

17 A I did.

18 Q And whose name was on the lease?

19 A Brianna Rankin (phonetic).

20 Q And did you learn that Brianna Rankin was Tony
21 Hobson's girlfriend?

22 A Girlfriend or ex-husband or something like that.
23 She listed him ex-husband, I think, on the lease.

24 Q Okay. What is a search warrant?

25 A A search warrant is just an authorization from the

1 court and a judge that we can enter a premise to retrieve
2 property.

3 Q Did you, in fact, obtain a search warrant for that
4 premise?

5 A I did.

6 Q And were you present when it was executed?

7 A Yes.

8 Q When a search warrant is executed at a premise like
9 that, how many detectives typically are involved in that
10 process?

11 A I mean, it depends on how many we have available.
12 But on that we had to call out SWAT and SWAT served the
13 warrant itself and we stood back. Once they cleared the
14 residence, then we went in with a search warrant.

15 Q Okay. And how many robbery detectives were there?

16 A There was four, plus a sergeant, I believe. And
17 then we had two on surveillance. So that would have been six
18 total plus a sergeant.

19 Q Okay. And then did you also have a crime scene
20 analyst present?

21 A Yes.

22 Q Why did you call a crime scene analyst out?

23 A To document the scene and the property recovered.

24 Q Does she document the property recovered in place
25 where it's recovered before it's moved?

1 A She takes overall pictures before anything's
2 touched and then after we search we find stuff, she'll take
3 pictures of the property.

4 Q Okay. With regards to the involvement of other
5 robbery detectives, does every single robbery detective
6 prepare a report on a case?

7 A No.

8 Q Whose responsibility is it to prepare the main
9 arrest report?

10 A The lead detective.

11 Q And the lead detective relies on information given
12 to him by other people to the extent that they weren't
13 present for it?

14 A Correct.

15 Q Why doesn't every single officer prepare their own
16 reports about their involvement?

17 A They feed the information to the lead detective
18 who's in control of the investigation and then he determines
19 what to put in the report or what's valid or what's not or --

20 Q With regards to the search warrant executed at 3955
21 East Charleston, when there are six detectives participated
22 in the search, do you all assign different tasks to each
23 detective?

24 A The lead detective does. I assigned Detective
25 Turner to document what was recovered and Detective Sciamanti

1 (phonetic) and Detective Flynn search the premise.

2 Q And what was your involvement?

3 A I was the affiant of the search warrant so I just
4 observed.

5 Q Okay. And did you observe the items as it -- as
6 they were located --

7 A Yes.

8 Q -- and it's relevant to your investigation?

9 A Yes.

10 Q In place where they were recovered?

11 A Yes.

12 Q Before they were moved?

13 A All except for, I think, the red baseball hat. He
14 removed it before I actually saw it in place.

15 Q Okay.

16 A But I later saw it in the stills.

17 Q And did you actually end up participating in this
18 search?

19 A I did.

20 Q Why?

21 A I asked the detectives that were searching if they
22 found the bandanas and they said no, and the only place that
23 wasn't looked was the kitchen garbage can so I decided to
24 look in the garbage can for them.

25 Q Okay.

1 MS. MERCER: Permission to publish, Your Honor?

2 THE COURT: Yes.

3 BY MS. MERCER:

4 Q Detective, I'm publishing on the overhead State's
5 Exhibit 225. Is this the apartment at 3955 East Charleston,
6 No. 250 that was searched?

7 A Yes.

8 Q By you and the other robbery detectives?

9 A Yes.

10 Q Showing you 226. Do you see anything in this
11 photograph that was relevant to your investigation of this
12 robbery series?

13 A Yes, there was a gray hooded jacket with a
14 distinctive interior.

15 Q Okay. Showing you 227. Is that a closer
16 photograph of that jacket?

17 A Yes.

18 Q Showing you 228. Is that a closer photograph -- an
19 even closer photograph of the jacket?

20 A Yes.

21 Q Why was that jacket significant to your
22 investigation?

23 A Because I recalled seeing a similar type jacket
24 used in the 7-Eleven robbery.

25 Q The --

1 A One by the suspect.

2 Q The second robbery of the series?

3 A Yes.

4 Q And when you reviewed that surveillance footage,
5 did you notice a size difference between the two individuals
6 involved in that?

7 A Yes.

8 Q Which subject was wearing a hoodie?

9 A The smaller subject.

10 Q Showing you 229. Is that a photograph showing the
11 plaid lining in that jacket?

12 A Yes.

13 Q Showing you 230, is there anything in this
14 photograph that's -- that was pertinent to your
15 investigation?

16 A There was a blue Walmart reusable bag on top of the
17 counter.

18 Q Do you see it in this photograph?

19 A Yes.

20 Q Can you circle for me, please?

21 A It's right there.

22 Q Showing you 231. I'm going to zoom out. Is there
23 anything that was relevant to the investigation in this
24 photograph?

25 A Well, what was distinctive is that there was a box

1 with a coin sorter where they were sorting coins, I guess, or
2 they bought a coin sorter.

3 Q And why was that relevant?

4 A Because there was boxes and rolls of coins taken in
5 some of the robberies.

6 Q Showing you 232. I'm going to zoom in. Is there
7 anything relevant to your investigation in this photograph?

8 A There's a bag of coin rollers, empty coin rollers
9 to where you would put the coins in.

10 Q During the course of the execution of a search
11 warrant, is one of your objectives to show who was in control
12 of the premises?

13 A Yes.

14 Q How do you do that?

15 A We try to find or locate a bill or something with
16 the person's name or investigating in that address.

17 Q Why do you do that?

18 A It shows who has control and domain over that
19 residence.

20 Q Showing you 235. Is what's depicted in this
21 photograph relevant to your investigation?

22 A It's a family portrait of Brandon Starr.

23 Q And that was in the apartment?

24 A That was hanging on the wall in one of the
25 bedrooms.

1 Q During the course of the execution of the search
2 warrant, did you find some currency?

3 A Yes.

4 Q Where was that found?

5 A That was found in one of the bedrooms in a dresser
6 drawer that was taken out of the nightstand.

7 Q Showing you 234. Is that what's depicted in that
8 photograph?

9 A Yes.

10 Q Could you please circle it? And why was that
11 relevant to your investigation?

12 A There was denominations of money taken from each --
13 most of the stores anyway.

14 Q Going back to -- or actually, when you guys recover
15 money, do you -- is there a certain protocol that you have to
16 follow in the order that found it?

17 A You have to count it, document it on a receipt and
18 if it's over a certain amount, the sergeant's got to sign off
19 on it.

20 Q And was that done in this case?

21 A Yes.

22 Q Showing you 252. Is this what was being counted?

23 A Yes. It was laid out and counted and our CSA took
24 pictures of it.

25 Q How much money was that?

1 A I believe, it was a thousand dollars.

2 Q Going back to establishing control over a
3 residence. I'm publishing 247 on the overhead. What is
4 this?

5 A It looked like a Nevada bill.

6 Q Is this additional paperwork?

7 A Yes.

8 Q Oops. Went too far. And the name on it is Brandon
9 Starr?

10 A Yes.

11 Q Showing you 248. Is this an NV Energy bill in the
12 name of Brandon Starr?

13 A Yes.

14 Q Showing you 249. Is this a checkbook in the name
15 of Brandon Starr?

16 A Yes.

17 Q And were all those recovered inside of that
18 apartment?

19 A They were located and photographed, yes.

20 Q Showing you 250. What is this?

21 A I believe, that's a job inquiry for Tony Hobson.

22 Q And can you actually see his name on there?

23 A Yes.

24 Q Showing you 251. Is this an envelope addressed to
25 Tony Hobson?

1 A Yes.

2 Q And were these also located at the residence and
3 photographed during the execution of the search warrant?

4 A Yes, they were.

5 Q During the execution of the search warrant, did you
6 happen to come up across any cell phones?

7 A There were multiple cell phones in one of the
8 rooms, yes.

9 Q Were they photographed?

10 A Yes.

11 Q Why?

12 A Because we had multiple cell phones taken during
13 the robberies and we wanted to document the cell phones just
14 to cross check them against their serial numbers if we could
15 retrieve any serial numbers.

16 Q Showing you 241. Do you see one much those cell
17 phones in this picture?

18 A Yes.

19 Q 242. Is that the front of it?

20 A Yes.

21 Q And 243, the back?

22 A Yes.

23 Q Showing you 244. Is this another Samsung cell
24 phone.

25 A There was multiple cell phones in that purse, yes.

1 Q 245, is that the cell phones pull out of that
2 purse?

3 A Yes.

4 Q And they're all white Samsungs?

5 A Correct.

6 Q Showing you 246. Is that the back of another cell
7 phone recovered in the -- or that was photographed during the
8 execution of the search?

9 A Yes.

10 Q And it says Galaxy S4?

11 A Correct.

12 Q Did you also recover additional items of clothing
13 that were relevant to your investigation?

14 A I did.

15 Q Showing you 236. Is this one of those items of
16 clothing that you recovered?

17 A Yes. That's a Cincinnati Reds baseball cap.

18 Q That was inside of a closet?

19 A Correct.

20 Q Showing you 237. Is that a closer photograph of
21 that Cincinnati's Red cap?

22 A Yes.

23 Q Showing you 238. Is that the cap itself?

24 A Yes.

25 Q Why did you recover that cap?

1 A That cap was worn by the tall suspect in the El
2 Pollo Loco robbery, which was the first in the series.

3 Q First robbery in the series?

4 A Yes.

5 Q Showing you 239. Is this another object that you
6 recovered?

7 A Yes.

8 Q What specifically is it?

9 A Appears to be a Pittsburgh Pirates baseball cap.

10 Q And that was recovered from that cabinet in the
11 hallway?

12 A Yes.

13 Q Showing you 240. Is that a close-up of the hat?

14 A Yes.

15 Q Why was that relevant to your investigation?

16 A That I actually saw in the video surveillance while
17 I was at the scene of the -- the Pizza Hut off West Lake
18 Mead. The taller suspect was wearing that.

19 Q Okay. And then you indicated that you personally
20 searched the trash can.

21 A Correct.

22 Q Correct? And the trash can was in --

23 A The kitchen.

24 Q Showing you 233. Is this a photograph of the trash
25 can that you searched?

1 A Yes.

2 Q When you searched it, were you wearing gloves?

3 A Yes.

4 Q Showing you 253. Do you see anything in this
5 photograph that was relevant to your investigation?

6 A There were coin rolls, which matched some of the
7 coin rolls that were taken from one of the restaurants.

8 Q Showing you 254. Is there anything relevant to
9 your investigation in this photograph?

10 A More coin rolls and then there was a Popeye
11 receipt.

12 Q Did you pull that Popeye's receipt out and
13 photograph it?

14 A Yes. Well, CSA photographed it. I pulled it out.

15 Q Did you impound it?

16 A Detective Turner did.

17 Q Showing you 259. Is this one of the receipts
18 recovered from the trash can?

19 A Yes.

20 Q And it has an amount written at the top
21 one-eighty-seven-sixteen?

22 A Yes.

23 Q Showing you 260. This is
24 three-eighty-six-fourteen?

25 A Yes.

1 Q At the top?

2 A Yes.

3 Q And 261 it says one-seventy-two-o-eight at the top?

4 A Yes.

5 Q And were all of these recovered from that trash

6 can?

7 A They were.

8 Q By you personally?

9 A Yes.

10 Q So if Detective Turner indicate the that those were
11 recovered in a nightstand that would have been a wrong answer
12 on her part?

13 A That would have been a mistake, yes.

14 Q In fact, at some point did you become aware that
15 she had improperly or incorrectly labeled the location of
16 that item's recovery?

17 A Yes.

18 Q And did you direct her to fix that?

19 A Yes.

20 Q And was it fixed?

21 A Yes.

22 Q At the end of the execution of the search warrant,
23 is there anything -- are there any procedures that you have
24 to follow?

25 A Well, we have to take a picture of the search

1 warrant and then return the property we're taking. Then we
2 make sure that the residence is secure.

3 Q Showing you 262. Is this a copy -- or a photograph
4 of the search warrant?

5 A Yes.

6 Q The order sealing the affidavit?

7 A Yes.

8 Q And the return that was left at the residence?

9 A Correct.

10 Q And it's a carbon copy?

11 A Yes.

12 Q So that you can maintain an exact copy of what you
13 leave behind?

14 A Yes. The original gets turned into the court.

15 Q With regards to this return, the ink indicating
16 receipts is a little bit -- or the writing is a little bit
17 darker, correct?

18 A Yes.

19 Q Why?

20 A Because when we tore the pink slip off, I noticed
21 that the receipts were not on there so I wrote the receipts
22 on both. So it wasn't carbon copied so I put it on the
23 original and the pink document, we took them.

24 Q Okay. Now, backing up to the time that the
25 suspects were taken into custody. Was any of the clothing

1 that they were wearing relevant to your investigation?

2 A A lot of it was, yes.

3 Q Why?

4 A Because I had seen those clothings in multiple
5 surveillance videos that I had watched.

6 Q Specifically, with regards to the jacket worn by
7 Brandon Starr in Exhibit 203, was that relevant to your
8 investigation?

9 A Yes.

10 Q Showing you 313. Do you recognize this to be a
11 still taken from the video of Donte Johns in the interview
12 room?

13 A Uh-huh.

14 Q Is any of his clothing relevant to your
15 investigation at all?

16 A None of it matched.

17 Q In fact, did you even impound his clothing?

18 A No.

19 Q Was Tony Hobson also wearing clothing that was
20 relevant to your investigation?

21 A Yes.

22 Q Why?

23 A I had seen those clothings worn by the shorter
24 suspect in multiple of the events, surveillance videos.

25 Q What clothing was he wearing?

CONTINUED

NEXT

VOLUME

1 A Correct.

2 Q You pled guilty to count four robbery November 23rd
3 and November 24th, correct?

4 A Correct.

5 Q Pled guilty to count five, burglary while in
6 possession of a deadly weapon, correct?

7 A Correct.

8 Q Okay. So you're accurate, there's a burglary plea
9 there. But again, you only pled to three robberies then,
10 correct?

11 A Correct.

12 Q Okay. And as part of this Guilty Plea Agreement
13 you signed an Agreement to Testify, right?

14 A Yes.

15 Q And it's your obligation to testify truthfully, as
16 you understand it, right?

17 A Yes.

18 Q Because if you don't testify truthfully, then the
19 whole deal goes away, right?

20 A Yes.

21 Q Okay. So let's talk about how sentencing works.
22 You have a really good lawyer in this case, and I'm sure your
23 lawyer went over what your sentencing -- what the sentencing
24 procedure's like in this case; is that true?

25 A Yes.

1 Q Okay. So you know that the time of sentencing His
2 Honor decides ultimately what your sentence would be, right?

3 A Yes.

4 Q Okay. It's his final say, correct?

5 A Yes.

6 Q But there's more to it than that, right? In other
7 words, His Honor's decision is based on a couple of folks
8 getting to recommend what they think should be done, correct?

9 A Correct.

10 Q So let's talk about who those folks are, fair?
11 Okay. So you understand that you're going to do an interview
12 with the probation office, right?

13 A Yes.

14 Q The probation office is going to decide what they
15 think is an appropriate sentence for you, fair?

16 A Yes.

17 Q Okay. That probation office will make a
18 recommendation to His Honor, fair?

19 A Yes.

20 Q Okay. Your lawyer, he's going to get up and do a
21 good job for you, and he's going to also recommend what he
22 believes your sentence should be, fair?

23 A Yes.

24 Q So it's two folk that is will talk to His Honor,
25 fair?

1 A Yes.

2 Q Okay. The last folks that are going to recommend
3 what your sentence should be in this case is going to be
4 State of Nevada, either Ms. Mercer or Mr. Portz, fair?

5 A Yes.

6 Q Okay. So when they get up and testify or when they
7 get up, rather, and make their recommendation, would you
8 agree with me, you want them to be as happy with you as
9 possible, right?

10 A Yeah.

11 Q I mean, you want them to say as many good things
12 about you as possible, right?

13 A Yes.

14 Q Okay. So not testifying in this case would be one
15 of those things that would be awful for them to get up and
16 say, hey, Judge, in this case, we had an Agreement to
17 Testify, but he didn't hold up his end of the agreement; that
18 would be an awful thing, correct?

19 A Yes.

20 Q All right. And you don't want that to happen in
21 this case, right?

22 A No.

23 Q You want this thing to work out as best as possible
24 for you, fair?

25 A Yes.

1 Q And you understand that in this case, ultimately,
2 you have a shot at probation, correct?

3 A Yes.

4 Q That have you a shot at staying home, correct?

5 A Yes.

6 Q All right. Again, we touched on it, but you're in
7 the military or were in the military at one point, correct?

8 A Yes.

9 Q Would you agree with me that today's kind of modern
10 warfare is not fought necessarily in the jungle?

11 A Yes.

12 Q Okay. It's not necessarily in the forest anymore?
13 It's actually on the streets, correct?

14 A Correct.

15 Q And so your training included how to break and
16 enter into buildings, fair?

17 A Negative.

18 Q You never learned how to break and enter into a
19 building during a military procedure?

20 A I wouldn't say breaking and entering.

21 Q How would you describe it?

22 A Securing a building.

23 Q How would you secure a building?

24 A Into words, I wouldn't know how to explain it.

25 Q Well, go I have me a scenario. There's folks that

1 are in a building, and you think those folks are adverse or
2 hostile to the United States and so you need to go in and get
3 those folks. Are you going to have a plan, a game plan
4 before you go in or are you just going to show up?

5 A Have a game plan.

6 Q Okay. And what would that game plan entail?

7 A Going in with the crew.

8 Q Sure. And those folks on the inside, they're not
9 going to just let you in, you're going to have to physically
10 break in, correct?

11 A Yes.

12 Q So you know how to do that, right?

13 A Yes.

14 Q You've been trained how to do that, right?

15 A Yes.

16 Q You've been trained on how to approach a scene,
17 correct?

18 A Yes.

19 Q And how to plan for it in advance, right?

20 A Yes.

21 Q You worked at Pep Boys in October and November of
22 2014, correct?

23 A Yes.

24 Q And you worked with your brother, correct?

25 A Yes.

1 Q Do you recall -- or your current -- or your address
2 in 2014, was that 1420 Hacienda Ave?

3 A Yes.

4 Q Okay. You didn't live there alone, right?

5 A No.

6 Q Okay. You lived with a guy named Ernest Mopkins?

7 A Yes.

8 Q Ernest is your cousin, right?

9 A Yes.

10 Q Ernest is bigger than you, right?

11 A Yes.

12 Q The 3955 East Charleston address that we've talked
13 about, your direct -- your answer in response to some of the
14 questions yesterday were that, to your knowledge, Tony lived
15 there. That's your words, I wrote them down. You said to my
16 knowledge.

17 A Yes.

18 Q Okay. So you're not a hundred percent sure where
19 Tony was living in 2014, in October, November 2014, right?

20 A Yes.

21 Q That's correct, you're not a hundred percent sure
22 where he was living, right?

23 A Not a hundred, no.

24 Q Okay. In fact, that 3955 apartment, that's
25 Brianna's apartment, right?

1 A Yes.

2 Q And you know who Brianna is, correct?

3 A Yes.

4 Q Okay. Brianna is the mother of your niece, right?

5 A Yes.

6 Q And I think mother of your nephew?

7 A Yes.

8 Q Okay. So you usually would stay at Brianna's
9 place, right?

10 A What do you mean by stay?

11 Q You'd stay over in the kitchen?

12 A Yes.

13 Q Stay in the kitchen?

14 A Yes.

15 Q Actually, sleep in the kitchen at Brianna's house?

16 A Sleep in the kitchen?

17 Q You'd stay in the kitchen at Brianna's house?

18 A Like not overnight, but yes, I would go -- I
19 wouldn't -- I'd just stay in the kitchen.

20 Q You would never sleep in the kitchen as well?

21 A I've never slept over there.

22 Q Okay. You'd go over and you'd stay in the kitchen?
23 That's what your testimony is?

24 A That's -- that's where the chill spot is. I didn't
25 have a reason to go anywhere else so --

1 Q So you were --

2 A -- except for the bathroom.

3 Q And I didn't mean to cut you off. So you were
4 there at that apartment often in October, November of 2014;
5 is that fair to say?

6 A Yes.

7 Q All right. Let's talk about the Dodge, Dodge
8 Charger. That's your Dodge Charger, correct?

9 A Yes.

10 Q Your trunk, correct?

11 A Yes.

12 Q You own the Dodge, you own the trunk, right?

13 A Yes.

14 Q You own the stuff that's in the trunk, right?

15 A Yes.

16 Q Your axe, right?

17 A Yes.

18 Q Okay. Your guns, right?

19 A No.

20 Q Your trunk, no?

21 A Nine-tenths of the law, anything in my vehicle is
22 mine, yes, but --

23 Q So the guns are nine-tenth yours?

24 A While in my car, yes.

25 Q Okay. How many robberies did you participate in

1 this case, because I've been trying to keep track and I
2 can't. What is the number of robberies that you participated
3 in, in this case?

4 A I'm not sure.

5 Q You don't know. As you sit here right now, you
6 couldn't tell us what robberies you participated in, right?
7 You agree with me, you have you to be led through video
8 surveillance and taken through all the details in order to
9 remember which robberies you participated in and which
10 robberies you didn't, right?

11 A Yes. No.

12 Q Okay. In fact, in your voluntary statement that
13 Mr. Portz went over with you, when you started that
14 statement, the first thing you told the detective was that
15 you participated in two, right?

16 A Yes.

17 Q Okay. You pled guilty on more than two so we know
18 how that's another lie, correct?

19 A Yes.

20 Q All right. Then you told them that you
21 participated in three, right?

22 A I believe so.

23 Q Right. And again, the way this is happening is
24 you're being questioned and you're kind of being led through
25 it and you're kind of giving up more robberies as you go,

1 right?

2 A Yes.

3 Q Okay. The four -- or ultimately, you then say you
4 committed four robberies and then a fifth in that statement,
5 fair?

6 A To the best of my knowledge, yes.

7 Q Again, it's after you're being questioned
8 repeatedly, right?

9 A Yes.

10 Q All right. And you know even in that questioning,
11 you're being told how things are going to work out better for
12 you if you just continue to be honest, right?

13 A Yes.

14 Q You continue to give the officers what they want,
15 they're going to turn around and try to give you what you
16 want, right?

17 A Yes.

18 Q So you know that the more you give them what they
19 want, the better things are going to be for you? And that's
20 kind of the same way the things went down with the robberies,
21 right? You testified earlier that -- yesterday that you
22 stopped the robberies for a little while and you got back in
23 because you heard they were being lucky -- they were getting
24 lucky, right?

25 A Yes.

1 Q So you wanted to jump in and get some financial
2 gain on it, right?

3 A Yes.

4 Q Okay. Then when you got caught, you want to turn
5 around and make up all these stories about all these
6 robberies that might client, Mr. Starr, had been involved
7 with you, right? Because you know it's just going to benefit
8 you so you might as well come up with that, right?

9 A Yes.

10 Q Let's talk about the hat that Mr. Portz went over
11 with you.

12 MR. TANASI: Court's indulgence.

13 BY MR. TANASI:

14 Q You were shown page 41 of your voluntary statement
15 with Mr. Portz; do you remember that?

16 A Yes.

17 Q Okay. And in that question, and again that 41,
18 just for reference, that is you having your interview with
19 Detective Weirauch is one of detectives that's interviewing
20 at the time, right?

21 A Yes.

22 Q And that's the night you were arrested at Taco
23 Bell, correct?

24 A Yes.

25 Q Okay. So in that you say -- or the question is

1 asked, Bo, okay, what kind of hat does he usually wear, and
2 your testimony -- or your statement, right, was not
3 definitive. It was, um, description, I don't know, probably
4 Angels fitted. You were then asked, fitted baseball cap,
5 you're talking about?

6 And then you answered no, but they -- the -- but it
7 doesn't fold. Then the question is okay, what color is it?
8 And you say, black and red, perhaps. You were asked then, is
9 there any lettering or any symbol or anything? And you said,
10 maybe an A. It was a letter, I believe, right?

11 A Yes.

12 Q So again, you're not -- even the night of the
13 insurance department be, you're not even clear what hat is
14 being worn, what this hat is, whether it has a P or an A or
15 what -- what the hat has to do with anything, fair?

16 A Yes.

17 Q Okay. But again, when you're being given that
18 information in the context of how the hat might be used in a
19 robbery, you start to kind of piece it together and then when
20 we fast forward all the way to today, now you know exactly
21 what the hat is and what the hat stands for, correct?

22 A Yes.

23 Q And you know that because you know it's going to
24 benefit you, right?

25 A Yes.

1 MR. TANASI: Thank you. Nothing further.

2 THE COURT: Ms. Lobo, Mr. Maningo?

3 MS. LOBO: Yes.

4 MR. MANINGO: Ms. Lobo.

5 THE COURT: Okay.

6 MS. LOBO: And Judge, if we could approach before I
7 begin?

8 THE COURT: Yes.

9 (Off-record bench conference)

10 CROSS-EXAMINATION

11 BY MS. LOBO:

12 Q Okay, Mr. Johns, my name is Adrian Lobo and I
13 represent, along with Mr. Maningo, we represent Brandon
14 Starr. And I just have some questions for you about their
15 statements and about your testimony here today.

16 So let's start at the beginning. I believe that
17 you testified yesterday, your exact words is that you knew
18 Brandon and you considered Brandon a friend; is that correct?

19 A Yes.

20 Q Okay. That's not what you told the police the
21 night that you were interviewed, though. Do you remember
22 being interviewed by the police and you told the police that
23 you didn't know Brandon at all? Do you recall saying that to
24 the police?

25 A I believe so.

1 Q And that you really said that he was a friend of
2 Tony's and he wasn't your friend? Is that fair?

3 A Yes.

4 Q Do you recall saying that?

5 A Yes.

6 Q You only knew Brandon through Tony; is that fair?

7 A No. No.

8 Q I'm sorry?

9 A I knew him personally as well.

10 Q You knew him personally as well. You actually knew
11 him when all three of you guys were living in California?

12 A Yes.

13 Q And he was a friend to your brother?

14 A Yes.

15 Q Brandon took Tony under his wing; is that fair to
16 say?

17 A Yes.

18 Q And he was a good friend to him?

19 A Yes.

20 Q He tried to keep Brandon on the straight and narrow
21 path -- tried to keep Tony on a good path?

22 A Yes.

23 Q So when you were telling the police that have you
24 no idea who he is, that was not being honest?

25 A No.

1 Q It wasn't being honest?

2 A No.

3 Q That would be a lie?

4 A Yes.

5 Q There was a variety of statements that you said
6 that Brandon and Tony made yesterday. I'm going to go
7 through some of those statements and make sure that I have
8 them all straight.

9 MS. LOBO: Court's brief indulgence.

10 BY MS. LOBO:

11 Q Yesterday you stated that there was a discussion
12 that maybe a Taco Bell should be robbed and this was after
13 you were leaving the Burger King; do you remember saying
14 that?

15 A Yes.

16 Q That was not something that you told to the police;
17 is that correct?

18 A I don't believe -- I'm not sure.

19 Q You're not sure?

20 A I'm not sure if I told them that.

21 Q Okay. So let's start with the beginning, then,
22 actually. The night that you were arrested you gave an
23 interview to two detectives; do you remember that?

24 A Yes.

25 Q And that was detective Abell and Detective

1 Weirauch?

2 A Yes.

3 Q And you talked to them for over an hour, I think,
4 almost two hours; is that fair?

5 A Yes.

6 Q And in that statement, you don't recall whether or
7 not you told them there was a discussion?

8 A Correct.

9 Q You said -- Detective Abell said what was going to
10 happen that night, and you said nothing; does that sound
11 fair?

12 A Yes.

13 Q You told the ladies and gentlemen of the jury that
14 Brandon wore the jacket that he's depicted in the arrest
15 photo that he wrote that everyday?

16 A Yes.

17 Q And you didn't Detective Abell or Detective
18 Weirauch when you were sitting down in that interview, did
19 you?

20 A I don't believe so.

21 Q And you said that there was a break in the series
22 of robberies, there was an 11-day break, and you said that it
23 was because it was stupid?

24 A Yes.

25 Q And that you realized that this was stupid and

1 that's why you didn't want to partake anymore?

2 A Yes.

3 Q And that wasn't something that you told detectives
4 when you sat down and talked to them? You didn't tell them
5 that, did you?

6 A I don't believe so.

7 Q Then you also told the ladies and gentlemen of the
8 jury that either Brandon or Tony got lucky every time that
9 you weren't there, and that whenever you weren't there, that
10 you didn't go, that that's the reason why you didn't go. Do
11 you remember saying that?

12 A Yes.

13 Q That wasn't something that you told the detectives
14 when you were interviewing?

15 A I'm not sure.

16 Q You don't have any reason to disagree that's not in
17 your interview? I can show it to you, if you'd wish.

18 A It's -- it's nothing -- no.

19 Q Okay. You also stated that you started back in
20 this because there was more money to be made?

21 A Yes.

22 Q And you saw that either Brandon or Tony was telling
23 you that Popeye's has the most money and that's why those
24 locations were picked?

25 A Correct.

1 Q And that's not something that you told the
2 detectives when you were sitting down with them in this case?

3 A No.

4 Q And then you also stated that the Ruger came later
5 on when either Brandon or Tony got that; is that correct?

6 A Yes.

7 Q And you didn't tell the detectives that that night
8 either?

9 A No.

10 Q Additionally, you also mentioned on the November
11 24th incident where the Popeye's, I believe, on the night
12 before this all happened that Brandon sustained a cut on his
13 hand?

14 A Yes.

15 Q And that cut came from throwing the rock through
16 the window, is what you're saying?

17 A Yes.

18 Q And that he was bleeding all over the car, right?

19 A Yes.

20 Q It seemed pretty bad, right?

21 A Yes.

22 Q And he had it stitched up for that reason?

23 A Yes.

24 Q You didn't tell the detectives that night?

25 A No.

1 Q Okay. So let's talk about what happened. And so
2 you got arrested, then on November 25th, right?

3 A Yes.

4 Q Transported to CCDC?

5 A Yes.

6 Q Then you were in custody, right?

7 A Yes.

8 Q You stayed in custody, just as Mr. Tanasi went
9 through with you, right?

10 A Yes.

11 Q And your attorney sometime before January -- or I'm
12 sorry, July of 2015, reached out -- there must have -- there
13 was some discussion beforehand before you signed that deal
14 with the State; is that correct?

15 A Yes.

16 Q And some sort of negotiations were reached in order
17 before for you to even sign that deal?

18 A Yes.

19 Q So from November of 2014 to July of 2015, you
20 stayed in custody?

21 A Yes.

22 Q Once you signed that deal, you sat down then again
23 with both of the district attorneys in this case, with your
24 attorney; do you remember that?

25 A Yes.

1 Q And you gave what's called a proffer; do you
2 remember that?

3 A Yes.

4 Q And during that proffer, it lasted several hours;
5 is that fair?

6 A Yes.

7 Q And you were in custody when that proffer
8 happened --

9 A Yes.

10 Q -- right?

11 A Yes.

12 Q And you were transported to the District Attorney's
13 Office, right?

14 A No.

15 Q Transported to the court?

16 A I was still in CCDC's building.

17 Q So they came to you at CCDC and got your side of
18 the story of what happened?

19 A Yes.

20 Q Correct?

21 A Yes.

22 Q Then after they got your version of events of what
23 happened, you had another opportunity to talk to the State
24 before coming to testify here today, correct?

25 A Yes.

1 Q You sat down and you pretrialed with them in
2 preparation for your testimony today?

3 A Yes.

4 Q And yesterday?

5 A Yes.

6 Q And during those conversations they went through
7 all of that video surveillane with you, right?

8 A Yes.

9 Q And had you -- they probably stopped -- they
10 stopped the video and asked you what was happening in each of
11 the events?

12 A Yes.

13 Q They asked you to describe what was happening?

14 A Yes.

15 Q They asked you what conversations were taking place
16 inside of the car?

17 A Yes.

18 Q They asked you to actually sign and date one of the
19 disks; is that correct?

20 A Yes.

21 Q And after having this interaction with the State of
22 Nevada, you came here prepared to testify today?

23 A Yes.

24 Q Those statements weren't recorded, were they?

25 A No.

1 Q They weren't transcribed, like the way that your
2 voluntary statement is, right?

3 A Correct.

4 Q Let's talk about -- since you do know Brandon
5 pretty well, let's talk about what -- you know Brandon's
6 girlfriend. I believe, you used to work with her, Brittany?

7 A Yes.

8 Q And that was at the insurance or C3, as you call
9 it?

10 A Yes.

11 Q And you know that Brandon was living with his
12 girlfriend at the time of this arrest?

13 A Yes.

14 Q That he did not stay at that Charleston apartment?

15 A Correct.

16 Q So the weapons that were found in your car, I
17 believe, you said is when Mr. Tanasi is that those weapons
18 were yours, they were in your vehicle; is that correct?

19 A Correct.

20 Q And that that was your axe?

21 A Correct.

22 Q And you used that for work?

23 A Yes.

24 Q And when you were actually arrested, you had a
25 weapon on you?

1 A Yes.

2 Q You had that knife that was on you?

3 A Yes.

4 Q And it was found in your pocket?

5 A Yes.

6 Q When Mr. Portz was showing you your Guilty Plea
7 Agreement, he went through each of the charges that you pled
8 guilty to; do you remember that?

9 A Yes.

10 Q And that each of those charges that you pled guilty
11 to, they carry a range of sentencing; is that fair?

12 A Yes.

13 Q And all of those charges that I'm sure your
14 attorney went through, he laid out all the penalty changes
15 and possibilities?

16 A Yes.

17 Q And each one of those charges, if the worst case
18 scenario on that for each of those, if you were maxed out and
19 everything was ran consecutive would be 66 years on the back
20 end so it would be 25 to 66; is that correct?

21 A Yes.

22 Q And that the best case scenario for you is that you
23 would be possibility of probation?

24 A Yes.

25 Q And you don't have a sentencing date right now, do

1 you?

2 A No.

3 Q You just have a status check?

4 A Yes.

5 Q And when's your next court date, Mr. Johns?

6 A June 8th.

7 Q June 8th. And the goal is for you to get
8 probation, that's what you would like, correct?

9 A Yes.

10 Q And you've been out of custody this entire time
11 since you entered in to those negotiations?

12 A Correct.

13 Q And you've been on house arrest, I believe you
14 said?

15 A Yes.

16 Q But you did get a break in house arrest; that's
17 correct?

18 A Yes.

19 Q On January 20th through January 30th, you were no
20 longer on house arrest for that period of time?

21 A Correct.

22 Q Then you got back on house arrest?

23 A Yes.

24 Q Before you entered into these negotiations, you
25 were charged with a variety of felonies stemming out of seven

1 different events?

2 A Yes.

3 Q The worst case scenario that you were facing at
4 that time, the worst thing that could happen to you is the
5 possibility of life in prison; do you remember that?

6 A Yes.

7 Q And you would agree that the possibility of
8 probation is substantially less than life in prison?

9 A Yes.

10 Q Do you recall ever declining to speak to
11 Mr. Maningo or Ms. Border (phonetic) at the time this case
12 was set for trial; do you remember that?

13 A No.

14 Q You don't remember declining to speak to us?

15 A No.

16 Q You don't? So it's your testimony that you would
17 have spoken to us?

18 A Yes.

19 Q If we received that information, it would be
20 incorrect?

21 A Correct.

22 Q As part of, I believe, you said you were discharged
23 from the military?

24 A Yes.

25 Q That would be a dishonorable discharge, correct?

1 A No.

2 Q What kind of discharge would that be?

3 A General under honorable conditions.

4 Q Under honorable conditions you were discharged from

5 the military?

6 A Yes.

7 Q And I see you still wearing your dog tags today.

8 Is that them?

9 A Yes.

10 Q You're five, eleven?

11 A Yes.

12 Q You're 220 pounds?

13 A No.

14 Q How much do you weigh, sir?

15 A 165.

16 Q As a result of this arrest, did you ever get your

17 Charger back?

18 A No. I got another one.

19 Q You have another car?

20 A Yes.

21 Q That Charger, the police took possession of it --

22 A Yes.

23 Q -- correct?

24 A Yes.

25 Q It's your testimony that you were always the

1 getaway driver, right?

2 A Yes.

3 Q You never went inside and you never, as Detective
4 Weirauch put it, kicked the crap out of people and pointed
5 guns at girls?

6 A No.

7 Q State's 313 that we saw with you in your dress
8 clothes from work. You aren't dressed like that all the
9 time, are you?

10 A Yes.

11 Q Yes --

12 A Yes.

13 Q -- you are?

14 A Yes.

15 Q You're dressed like that all time?

16 A Yes.

17 Q On every single event you were dressed like that?

18 A Yes.

19 Q You wouldn't dress like casual how you are today?

20 A Slim to none.

21 Q Detective Abell asked you point blank in your
22 interview, were the same people always involved; do you
23 recall that question?

24 A Yes.

25 Q And that you told him no more, no less; do you

1 remember saying that?

2 A Yes.

3 Q Detective Abell asked you if there was a woman that
4 was involved possibly; do you remember that?

5 A Yes.

6 Q And you said no?

7 A Yes.

8 Q You were also asked about if a heavy-set person in
9 one of the videos, if they were involved, and what did you
10 tell him?

11 A I have no idea.

12 MS. LOBO: I will pass the witness.

13 THE COURT: Redirect.

14 MR. PORTZ: Yes, Your Honor. Before that, can we
15 approach briefly?

16 THE COURT: Yes.

17 (Off-record bench conference)

18 THE COURT: All right. Hold on. The jury's
19 indicating that they want to take a break. So this will be a
20 good opportunity to give you an opportunity to speak with
21 your clients. But during this recess, you're admonished not
22 to talk or converse amongst yourselves or with anyone else on
23 any subject connected with this trial or read, watch or
24 listen to any report or any commentary on the trial by any
25 person connected with this trial or by any medium of

1 information, including but not limited to, newspapers,
2 television, Internet or radio. Or form or express any
3 opinion on any subject connected with this trial until the
4 case is finally submitted to you.

5 It's 5 after. I'll give you until 20 after. So
6 we'll be at ease while the jury leaves the room.

7 (Outside the presence of the jury)

8 THE COURT: Jim, do you want to escort Mr. Johns
9 out as well? Mr. Cottner, could you wait?

10 MR. TANASI: Judge, I'm sorry, before Mr. Johns
11 leaves, I have a witness who's out there who's waiting who's
12 a family member. I just want to make sure they're not
13 talking to each other when they go out there.

14 THE COURT: Okay. Well, Mr. Johns, you're not to
15 speak with anyone while you're outside, okay?

16 THE WITNESS: Okay.

17 THE COURT: All right.

18 MR. TANASI: Thank you, Judge.

19 THE COURT: Okay. We're outside the presence of
20 the jury. I just want to -- I want to make something clear
21 on the record here, so I understand. Before we -- we'll
22 begin to start redirect of Mr. Johns, the State asked to
23 approach. And while we were here discussing another issue,
24 defense counsel for both Mr. Hobson and Mr. Starr had asked
25 for an instruction to the jury instructing the jury basically

1 the information regarding Mr. Johns' decision not to discuss
2 anything with the defense.

3 And before I did anything with that, I wanted to
4 make it very clear as to -- now, Mr. Johns testified that he
5 was willing to speak to the defense, and as in
6 cross-examination by Mr. Tanasi, if I remember right, there
7 was some questions of him about that. He said he always
8 would speak with the defense. And -- but then I'm not sure
9 exactly how it came out, but Mr. Tanasi, I'll let you make a
10 better record, but I believe thought that that he had
11 indicated that his attorney had informed him not to.

12 I'm not sure. I can't remember that. Is that what
13 your understanding is?

14 MR. TANASI: Essentially --

15 THE COURT: Okay.

16 MR. TANASI: On his attorney's advice, he didn't
17 talk to me as opposed to being open and talk to me whatever I
18 wanted to.

19 THE COURT: Okay.

20 MR. TANASI: That contrasted what I believe came
21 out of the cross.

22 THE COURT: Okay. And then in cross by Ms. Lobo in
23 the same area, the questioning was to the point where he
24 indicated he was always willing to speak, but then her
25 question was well, if that wasn't the information related to

1 them, it would have been incorrect information. So that's
2 where that was left, and he said yes.

3 So I guess, what I'm -- what I've asked Mr. Cottner
4 here for is to explain to the Court specifically what
5 information you indicated to him or what you informed him or
6 what you informed --

7 MR. COTTNER: Just lay it all out?

8 THE COURT: Yes.

9 MR. COTTNER: All right. At one point, I believe,
10 Lance and Mr. -- or Mr. Tanasi and Mr. Maningo reached out to
11 me about would he be willing to, and I spoke to him, and he
12 said he would be willing to.

13 We were trying to find a date to work on it, and
14 the closer it got, the more I kind of realized, I mean, let's
15 be honest here, his -- he wants to please the State with his
16 testimony and being truthful and everything. And it was my
17 choice and my advice to him that, hey, I don't think it is in
18 your best interest with how you've aligned yourself to ever
19 open yourself up to an interview like that. And that's what
20 we discussed.

21 THE COURT: And you told him that?

22 MR. COTTNER: Yes.

23 THE COURT: Okay. And what did you relate to the
24 defense counsel, then?

25 MR. COTTNER: That we weren't going to go through

1 with any interviews or anything.

2 THE COURT: Okay. Did you tell them that he was
3 not going to, or did you tell them that under your advice or
4 how -- what did you say?

5 MR. COTTNER: I don't remember specifically. I
6 probably said he didn't want to, but if he didn't want to it
7 was because of my advice to him.

8 THE COURT: Okay. Was there ever any time that he
9 informed you that he would not speak with them?

10 MR. COTTNER: Him specifically?

11 THE COURT: Yes.

12 MR. COTTNER: We had a conversation about it, and
13 he was like okay, I'll listen to you.

14 THE COURT: Okay. All right. So think about that.

15 MR. MANINGO: May I, Your Honor?

16 THE COURT: Yes, go ahead, Mr. Maningo.

17 MR. MANINGO: Mr. Cottner, at that point,
18 Mr. Johns' position changed on your advice, though, correct?

19 MR. COTTNER: Yes.

20 MR. MANINGO: And he went from being amenable to
21 talking to us to not being amenable to talking to us?

22 MR. COTTNER: I think it was he knew I didn't think
23 it was in his best interest so he was going to listen to me.

24 MR. MANINGO: But the fact remains that he went
25 from being amenable to not?

1 THE COURT: Well, I don't know if that's
2 necessarily --

3 MS. MERCER: That's -- yeah.

4 THE COURT: -- true when he's being told by his
5 attorney not to do it so.

6 MR. TANASI: Judge, I mean, we're --

7 THE COURT: I mean, come on, guys. I know it's on
8 the record, but --

9 MR. MANINGO: I'm not trying to split hairs here.

10 THE COURT: Yes, you are. When your attorney
11 informs you -- when you're involved in a case like this and
12 your attorney tells you not to do this, are you then saying
13 that that's his decision now not to do it?

14 MR. MANINGO: Yes. If he follows the advice.

15 THE COURT: Okay.

16 MR. TANASI: Your Honor --

17 THE COURT: Okay. I understand what you're saying.
18 I understand.

19 MR. TANASI: And I think we believe --

20 THE COURT: So at some point in time he stopped
21 wanting to talk to you?

22 MR. MANINGO: Right. That's all I'm saying.

23 THE COURT: Okay. So what is it that you're asking
24 for for a jury instruction?

25 MR. TANASI: Just so the jury knows that his lawyer

1 advised him not to talk to us and he followed that advice.

2 MS. MERCER: Why does --

3 MR. TANASI: And if that comes out --

4 THE COURT: Why does that need to be an
5 instruction?

6 MR. TANASI: Again, without having to call --

7 THE COURT: Can't you --

8 MR. TANASI: -- Mr. Cottner --

9 THE COURT: -- just ask him --

10 MR. TANASI: Well, sure.

11 THE COURT: -- at some point in time, Mr. Johns,
12 did you talk to Mr. Cottner? Did Mr. Cottner tell you that
13 it was not in your best interest to speak to me?

14 MR. TANASI: Sure. And it can be that way, if
15 that's how he answers it.

16 THE COURT: And we'll see what he says, yeah, and
17 then it's out there.

18 MS. MERCER: Even if he doesn't give him the answer
19 he wants, why does that entitle him to an instruction? He's
20 no different from any other witness.

21 THE COURT: No, I'm not saying it is so far. I was
22 just asking to understand what they were asking for.

23 MS. MERCER: Yeah, I'm trying to understand why
24 that --

25 THE COURT: I'm not saying it does. I'm -- I just

1 want to see where we're going with this.

2 MR. TANASI: Sure.

3 THE COURT: And I'm saying that you can -- I think
4 you can solve it with your questioning of him.

5 MR. TANASI: All right.

6 THE COURT: But to ask the Court then to be
7 involved to wage in on this, I don't know if that's the
8 appropriate --

9 MR. MANINGO: Your Honor, I think we were trying to
10 be proactive in addressing a potential objection to it being
11 privileged communications between attorney and client.

12 THE COURT: Yeah, but it's his.

13 MR. MANINGO: It's his privilege, of course.

14 THE COURT: Right.

15 MR. MANINGO: But if Mr. Cottner --

16 THE COURT: If he wants to answer it, then I'm
17 going to -- I'll let him answer it.

18 MR. MANINGO: Okay. Very good.

19 THE COURT: Okay.

20 MR. MANINGO: Thank you.

21 THE COURT: I mean, he's here now subject to
22 cross-examination under the direction of his attorney,
23 correct?

24 MR. MANINGO: Right.

25 MR. TANASI: Judge, the main concern is just that

1 if he doesn't say what Mr. Cottner just said, that's the main
2 concern, too.

3 THE COURT: Well, let's deal with that -- let's get
4 down that --

5 MR. TANASI: Okay.

6 THE COURT: Let's deal with that if we get to that.

7 MR. TANASI: Sure.

8 THE COURT: If he says what Mr. Cottner's saying,
9 then -- and if you need to, I'll even give you an opportunity
10 to call Mr. Cottner, but I don't think we need to. That's
11 why --

12 MR. TANASI: I was trying to avoid that
13 truthfully --

14 THE COURT: Okay.

15 MR. TANASI: -- as part of --

16 THE COURT: All right. Okay.

17 MR. TANASI: -- your request.

18 THE COURT: All right, so let's -- anything else?

19 MR. TANASI: That's it, Judge.

20 THE COURT: Okay. Talk to your clients --

21 MR. TANASI: Thank you.

22 THE COURT: -- about what I indicated at the bench.

23 MR. TANASI: Sure. All right.

24 THE COURT: Okay? All right. All right, we'll be
25 back at 20 after. Off the record.

1 (Court recessed at 1:10 p.m. until 1:27 p.m.)

2 (Outside the presence of the jury)

3 THE COURT: Okay. Jim, you want to get the jury
4 in?

5 MR. MANINGO: Your Honor, I'm sorry.

6 THE COURT: Jim, hold on.

7 MR. COTTNER: Before we did, I wanted to -- I spoke
8 to both parties beforehand, and I it want to make a record
9 that I don't think it's proper for my client to disclose, you
10 know, attorney/client privileged statements. I spoke to both
11 parties about hey, I'm going to tell him I don't -- it's my
12 advice, that is something that's sacred of what we do, that
13 we should -- you don't have to answer questions unless
14 instructed by the Court about what I said to you, you said to
15 me, and the strategy behind what we said to one another.

16 THE COURT: Okay.

17 MR. MANINGO: And, Your Honor, I just wanted to
18 address the scheduling, if I may. It's now 1:30.

19 THE COURT: Um-h'm.

20 MR. MANINGO: I know we still have Mr. Johns on the
21 stand.

22 THE COURT: Um-h'm.

23 MR. MANINGO: After that, I suspect that we have
24 lead Detective Jeff Abell to taking the stand. At that
25 point, I'm surmising that the State will rest their case. I

1 have witnesses lined up for 3:00 o'clock. If we go into --
2 I'm just wondering, Your Honor, if I can release my witnesses
3 or if I should keep them all --

4 THE COURT: Keep them here.

5 MR. MANINGO: -- here?

6 THE COURT: Um-h'm.

7 MR. MANINGO: You'd prefer that?

8 THE COURT: Um-h'm.

9 MR. MANINGO: Just in case?

10 THE COURT: Yeah.

11 MR. MANINGO: Very good.

12 THE COURT: All right. Jim, bring the jury in.

13 (In the presence of the jury)

14 THE COURT: Jim, do you want to get the witness,
15 too?

16 THE MARSHAL: Please be seated. Department 19 is
17 back in session.

18 THE COURT: Okay. This is the continuation of a
19 jury trial in Case No. C-303022, State of Nevada versus Tony
20 Hobson and Brandon Starr. I'd like the record to reflect the
21 presence of defendants, their counsel, as well as the State
22 and their counsel, all members of the jury. Will the parties
23 stipulate to the presence of the jury?.

24 MS. MERCER: Yes, Your Honor.

25 MR. TANASI: Yes, Your Honor.

1 MS. LOBO: Yes, Your Honor.

2 THE COURT: Okay. Okay. And Mr. Johns has come
3 back in the courtroom at this time. So Mr. Johns, if you'd
4 come back up to the witness stand.

5 Okay, Mr. Johns, I just want to remind you you're
6 still under oath. Okay, go ahead and have a seat.
7 Mr. Portz.

8 MR. PORTZ: Thank you, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. PORTZ:

11 Q Donte, I want to go through some of the questions
12 you were asked on cross-examination and clarify a few points,
13 okay?

14 A Yes.

15 Q Now, Mr. Tanasi was up here during
16 cross-examination, he said that following your arrest, you
17 were taken down to a judge named Judge Sciscento for a
18 preliminary hearing where you pled not guilty; do you recall
19 him asking you that?

20 A Yes.

21 Q I believe, you said that that was a lie, you
22 pleaded not guilty. Do you recall him asking you that
23 question?

24 A Yes.

25 Q And he referenced a number of other times during

1 the process in which you pled not guilty as you made your way
2 up to District Court; do you recall those questions?

3 A Yes.

4 Q Donte, when you were under arrest you had -- or
5 placed in custody, you had an attorney, correct?

6 A Yes.

7 Q And your attorney advises you on what to do or say
8 with regards to entering a plea at these preliminary stages?

9 A Yes.

10 Q And did your attorney also advise you that you have
11 a right that you can exercise, which is a right to go to
12 trial?

13 A Yes.

14 Q And were you advised that you would be foregoing
15 that right if you were to plead guilty to all charges right
16 away?

17 A Yes.

18 Q So based on the advice of counsel, is that the
19 reason why you pled not guilty at the initial stages?

20 A To --

21 Q When you pled not guilty, was it based on the
22 advice of your attorney?

23 A Yes.

24 Q Before you even had an attorney in this case, the
25 night of your arrest, you confessed to the police, correct?

1 A Yes.

2 Q Okay. Same set of facts that you testified to
3 yesterday and today; is that fair to say?

4 A Yes.

5 Q Now, I think both Mr. Tanasi and Ms. Lobo suggested
6 that you had been led through all or most of your confession;
7 do you recall them -- that line of questioning by these two
8 attorneys?

9 MS. LOBO: And I'm going to object as to object
10 mine. That misstates my part of my cross-examination that he
11 was led through his questions.

12 THE COURT: Well, I do remember it at least from
13 one of the two defense attorneys.

14 MR. TANASI: Judge, I have in objection. I
15 actually agree with him.

16 THE COURT: Okay. All right. So you're objecting
17 but he's not.

18 MS. LOBO: Correct.

19 THE COURT: All right. So --

20 MR. PORTZ: I'll rephrase.

21 THE COURT: -- overruled. Go ahead.

22 MR. PORTZ: Thank you.

23 BY MR. PORTZ:

24 Q Mr. Tanasi suggested that you were led through your
25 entire interview with the police; do you recall that?

1 A Yes.

2 MR. PORTZ: At this point, Your Honor, may I
3 approach the witness?

4 THE COURT: Yes.

5 MR. PORTZ: And if the Court will indulge me, can I
6 bring the computer? It has my notes.

7 THE COURT: Yeah.

8 BY MR. PORTZ:

9 Q Donte, I'm going to hand you a copy of your
10 voluntary statement. That's your statement, correct? Take
11 your time and flip through it if you need to.

12 A Yes.

13 Q All right. Do me a favor and let's go to page 41
14 of that statement. And try to keep it in order because we're
15 going to jump around a little. Now, Mr. Tanasi -- this was
16 in reference to the baseball hat -- and Mr. Tanasi read a
17 portion of your statement to you from this section, and I'll
18 read it out loud the portion that Mr. Tanasi read to see if
19 you recall this.

20 He said in regards to what kind of hat Brandon
21 usually wears, you said, "Um, description, I don't know,
22 probably Angels, fitted."

23 Question, "Fitted? Baseball cap you talking
24 about?"

25 Answer, "No, but the -- but it doesn't fold."

1 Question, "Okay. What color is it?"

2 Answer, "Black and red, perhaps."

3 Question, "Is the lettering or any symbol or
4 anything?"

5 Answer, "Maybe an A. It was a letter, I believe."

6 And Mr. Tanasi stopped reading at that point; do
7 you recall that?

8 A Yes.

9 Q Okay. And that was followed up by question, "A
10 letter, do you know what kind of letter?"

11 And you answered, "A sports team, perhaps A or P, I
12 don't know, man;" is that correct?

13 A Yes.

14 Q Okay. And did we see a P on one of those hats that
15 I showed you from State's exhibits?

16 A Yes.

17 Q Let's turn to page 42, please. I'm going to direct
18 you towards the bottom of State's 42. There was a question
19 -- you informed the detectives that they, referencing Brandon
20 and Tony, quote, "threw a lot of stuff out the window".

21 Question, "Like what?"

22 You said, "Receipts, plastic bucket, I think they
23 threw a phone out."

24 And then a couple lines later they said, "What kind
25 of phone?"

1 And you said, "iPhone," correct?

2 A Yes.

3 Q Okay. So they didn't tell you that they threw
4 phones out of the car, right? They didn't tell you that, the
5 detectives. You told them; is that fair?

6 A Yes.

7 Q And they didn't tell you what kind of phone that
8 Brandon threw -- or tony threw out of the car. You told them
9 it was an iPhone, correct?

10 A Yes.

11 Q So the detectives weren't feeding you that answer,
12 were they?

13 A No.

14 Q You were providing them that answer when they asked
15 you an open-ended question; is that correct?

16 A Yes.

17 Q And that is similar to your testimony today that
18 they threw iPhones out pause they had the Find My iPhone app,
19 correct?

20 MR. TANASI: Objection. Leading, Your Honor.

21 THE COURT: Sustained.

22 BY MR. PORTZ:

23 Q What did you testify to with regards to iPhones
24 today?

25 A That they threw them out.

1 Q And why did they throw them out?

2 A Because of the GPS.

3 Q Okay. And does that match what you told
4 detectives?

5 A Yeah.

6 Q Without being fed the answer?

7 A Yes.

8 Q Okay. Let's turn to page 47. Okay. On page 47 do
9 you have a conversation with detectives about Tony having a
10 daughter?

11 A Yes.

12 Q And do you tell them that the daughter's only a
13 week old at this point?

14 A Yes.

15 Q And again, this interview took place on the evening
16 of November 25th, 2014 in the early hours of November 26th,
17 2014, correct?

18 A Yes.

19 Q So you represented to detectives as you represented
20 at trial that his daughter was born about the 18th of
21 November?

22 A Yes.

23 Q Let's flip to page 63. Now, just to be clear,
24 Donte, the detectives didn't tell you what date your niece
25 was born; is that correct?

1 A I don't believe so, no.

2 Q They didn't feed you that answer?

3 A No.

4 Q Okay. Page 63, and actually do 62 as well, please.
5 Page 62, you guys are discussing the surgical masks; is that
6 correct, that they were wearing for the robberies?

7 A Yes.

8 Q Okay. And at the bottom of 62, did the detectives
9 ask you, where did they get that?

10 A Yes.

11 Q Okay. And you said, "I don't know, I have no idea,
12 hospital probably;" is that correct?

13 A Yes.

14 Q So you told the detectives, as you told the jury
15 here today, that it was probably yeah a hospital where they
16 got the medical masks; is that correct?

17 A Yes.

18 Q Also, on page 62, at the very top, were you asked,
19 what item Brandon and Tony were throwing the currency in from
20 their robberies?

21 A They asked what's -- what the blue bag they're
22 carrying.

23 Q Okay. And then you say, "A blue bag," and they say
24 "Yeah," and then you said, "Is it a Walmart bag," correct?

25 A Yes.

1 Q Okay. And the bag that they carried was a Walmart
2 bag; is that correct?

3 A Yes.

4 Q The detectives didn't tell you to say it was a
5 Walmart bag; is that correct?

6 A No, I asked them.

7 Q Okay. Do you remember using a Walmart bag or that
8 Tony and Brandon would use a Walmart bag?

9 A Yes.

10 Q Can you turn to page 76. Just keep those in order,
11 please. Okay. Did the detectives ask you, "What kind of gun
12 did Brandon and Tony show you?"

13 A Yes.

14 Q Okay. What was your answer?

15 A ".38 revolvers, .45 silver."

16 Q And then did they ask you what type of firearm the
17 .45 was?

18 A Yes.

19 Q And did they ask whether it was automatic or
20 semi-automatic?

21 A Yes.

22 Q And your response was what?

23 A Semi.

24 Q Did they ask you what type of -- what the revolver
25 looked like?

1 A Yes.

2 Q What did you describe?

3 A Black wood grain.

4 Q Black wood grain? Okay. So the detectives didn't
5 tell you that the weapons that were being used in this crime
6 was a .38 revolver or .45 silver; is that correct?

7 A Correct.

8 Q Okay. They didn't tell you that the revolver was
9 black with wood grain?

10 A No.

11 Q You told them?

12 A Yes. It was in my trunk.

13 Q Let's go to page 55, please. Okay. On page 55 are
14 you describing the robbery that took place at the Little
15 Caesars after the Pizza Hut?

16 A Yes.

17 Q Okay. And do you recall the detectives asking you
18 where you parked?

19 A Yes.

20 Q And what did you say?

21 A On the side.

22 Q Okay. And when you testified yesterday about that
23 Little Caesars/Pizza Hut robbery, where did you indicate you
24 parked your vehicle?

25 A In the back.

1 Q Okay. But was it on the side of that building next
2 to the Little Caesars?

3 A Oh, yeah.

4 Q Okay. And then did you explain why you parked on
5 the side?

6 A Because there was a truck there.

7 Q Okay. And did the detectives ask you what kind of
8 truck was there?

9 A Yes.

10 Q And what did you say?

11 A Delivery guy, that was the second one. That was a
12 Pizza Hut.

13 Q Okay. So you told the detectives that the Little
14 Caesars, that you parked on the side and that there was a
15 delivery truck out front; is that correct?

16 A Yes.

17 Q Okay. The detectives did not tell you that there
18 was a delivery truck, you told them; is that fair to say?

19 A Correct.

20 Q They didn't feed you that answer?

21 MS. LOBO: Objection. Leading.

22 THE COURT: Yeah. I'm going to sustain the
23 objection.

24 MR. PORTZ: Your Honor, I'm --

25 THE COURT: Come on. Just ask the question. Let

1 him answer.

2 BY MR. PORTZ:

3 Q Can you flip to page 52, please? Actually, I'm
4 sorry, go to page 56. On page 56, are you still discussing
5 the Little Caesars robbery?

6 A I believe so, yeah.

7 Q Okay. Did you indicate whether or not a cell phone
8 was taken at that robbery?

9 A They asked me whose phone did they take.

10 Q Okay. And what was your response?

11 A A female's.

12 Q When you testified today about that Pizza Hut
13 robbery, is that similar to the testimony you described that
14 a female's phone was taken?

15 A Yes.

16 Q Okay. Go to page 52. Do you discuss what type of
17 phone was taken?

18 A Yes.

19 Q Specifically, is the question, "Okay, what kind of
20 phone did they get?"

21 Answer, "Um, I believe, it was a Galaxy."

22 Is that what your transcript says?

23 A Yes.

24 Q Did you discuss whether any money was obtained
25 during the robbery of the Little Caesars where they got the

1 LAS VEGAS, NEVADA, WEDNESDAY, MAY 18, 2016, 11:07 A.M.

2 (Outside the presence of the jury)

3 THE COURT: Okay. We're back on the record in
4 State of Nevada versus Tony Hobson and Brandon Starr in Case
5 No. C-303022. I'd like the record to reflect the presence of
6 the defendants and their counsel, as well as the State and
7 their counsel.

8 Before we bring the jury back in, did the parties
9 want to make a record as to the objections that were made
10 yesterday?

11 MR. MANINGO: We do, Your Honor.

12 MS. LOBO: Yeah, Your Honor, I'll handle it for us.
13 There was an objection that was lodged by Mr. Maningo and I
14 believe, Mr. Tanasi was joining in. There were a number of
15 statements. I went through it in my notes and I looked at
16 them.

17 The ones that I can pick out was that Brandon wore
18 this particular jacket every day, the one that was depicted
19 in the arrest photo. That the breaking -- the break happened
20 in the sequence of robberies because it was stupid and that
21 Brandon and Tony, he attributes, he doesn't know which one
22 said the statement, that they got lucky every time he didn't
23 go.

24 The next statement is that they started back
25 because there was more money being taken, more money at the

1 restaurants. The next statement was that Brandon and Tony,
2 one of them told him that Popeye's has the most money.
3 Brandon and Tony got a Ruger later on. And that now the most
4 recent one was that Brandon was bleeding from a cut that he
5 sustained through a breaking of one of the windows at one of
6 the restaurants.

7 All of these statements had not been turned over to
8 the defense. We inquired at the bench whether or not these
9 were in writing, and if they were in writing, we would be
10 entitled to them. If they weren't in writing, then
11 necessarily they don't have to be turned over.

12 There was a discussion about whether or not this
13 was Brady material. And at this point, it's our position
14 that it's not necessarily -- it's not exculpatory because
15 it's being presented by the State in the trial, but it
16 definitely could have possibly led to exculpatory
17 information, if handed over prior, or possibly to impeachment
18 information. But we didn't know this until the testimony was
19 unfolding.

20 At this point, for the record, we would be moving
21 for a continuance, if there is a written statement, in fact.
22 I understand we're not entitled to their notes, but if there
23 is a written or recorded statement, that we would be entitled
24 to it.

25 THE COURT: State, did you want to respond?

1 MR. PORTZ: And Your Honor, I think you addressed
2 it at the bench yesterday that they haven't really cited to
3 any sort of obligation by the State to hand over these
4 statements. There was no recorded statement so I think that
5 addresses their concern. There's no written statement, which
6 I think addresses their concern as well.

7 And they were free to pretrial any and all
8 witnesses noticed in this case, including Donte Johns. So
9 the fact that he stated some things that -- in his testimony
10 that were never written or recorded statements that would be
11 obligated to hand it over and were not exculpatory are not a
12 grounds for continuance nor is it a discovery violation of
13 the statutes.

14 Court's indulgence. And Your Honor, it's also my
15 understanding that the defense did reach out either to
16 Mr. Johns or Mr. Johns' attorney, Kyle Cottner, and asked if
17 they could speak with him, and it was my understanding that
18 Mr. Johns was amenable to speaking with the defense and that
19 no one ever spoke to him as well.

20 That was my understanding. I don't -- that's all I
21 can represent.

22 MS. LOBO: That is not my understanding, Your
23 Honor. I did speak to Mr. Cottner, who was in trial. He
24 told me that basically, a gist of what was going to happen.
25 I wanted to know specifically what events, how many because

1 we are four or five by the voluntary, but I did not get any
2 sort of indication that he would be okay speaking to myself
3 or to Mr. Tanasi.

4 MR. TANASI: And Your Honor, I would join with
5 that. My request was probably quite a bit earlier, I think,
6 than Ms. Lobo's and Mr. Maningo's request, and my
7 recollection of that request was that Mr. Johns didn't want
8 to speak with us.

9 THE COURT: All right. Well, for the record,
10 Mr. Johns' attorney, Mr. Cottner, is here. Mr. Cottner, do
11 you want to address that at all? Can you?

12 MR. COTTNER: Yes, I can. Initially, Mr. Tanasi
13 and I believe, Mr. Maningo reached out to me about speaking
14 with Donte. Initially, Donte was amenable to it. I spoke to
15 him some more. Upon my counsel, he decided that it was best
16 if we did not talk to them. And that's kind of the extent of
17 it. They asked again, I believe, closer to trial, and again,
18 I said hey, I don't think it's in his best interest.

19 THE COURT: Okay. All right, thank you. Anything
20 further?

21 MR. PORTZ: No, Your Honor.

22 MR. TANASI: No, Your Honor.

23 MS. LOBO: No, Your Honor.

24 THE COURT: All right. Well, I have to look at NRS
25 174.235, and that's actually what is the obligation by the

1 prosecution with respect to what's being claimed as their
2 violation here.

3 I don't believe that -- were any of these
4 statements that were not turned over to the defense any
5 written statements made by Mr. Johns?

6 MS. MERCER: No, Your Honor.

7 MR. PORTZ: No, Your Honor.

8 THE COURT: And the statement talking about actual,
9 I guess, it would be his confession was a record statement,
10 and that was turned over; is that correct?

11 MS. MERCER: Correct.

12 MR. PORTZ: Yes, Your Honor.

13 THE COURT: And these are -- this is information
14 that you may have learned during your pretrial or is it
15 information you just learned of at trial?

16 MR. PORTZ: A mixture of both, but there was -- we
17 did pretrial our witnesses --

18 THE COURT: Okay.

19 MR. PORTZ: -- all of our witnesses.

20 THE COURT: All right. Well, I think consistent
21 with NRS 174.235, I believe, the State has abided by that
22 obligation. I do understand the nature of the defense
23 position that they needed to know this because it could have
24 led them to possible -- possibly finding some possible
25 exculpatory information, but that's not an obligation that

1 the State turnover unless they know it to be exculpatory
2 information.

3 And so far, what I've heard is nothing that appears
4 to be exculpatory in nature as far as Mr. Starr or
5 Mr. Hobson's position. So --

6 MR. TANASI: Your Honor, I just would point out for
7 the record, I think one of the new things that was also --
8 that came out yesterday was actually the labeling and the
9 watching of the surveillance video in this case. He actually
10 marked that. So again, those would be statements as well.

11 THE COURT: Okay.

12 MR. TANASI: But again, understanding exculpatory.

13 THE COURT: I got you. All right. Anything
14 further?

15 MS. LOBO: No, Your Honor.

16 MR. TANASI: No, Your Honor. Thank you.

17 THE COURT: Okay. So can we get the jury in?

18 MR. PORTZ: Yes, Your Honor.

19 MR. TANASI: Yes.

20 THE COURT: All right. Okay, Jim, you want to
21 bring them in?

22 DEFENDANT STARR: Excuse me -- excuse me, Judge --

23 MR. MANINGO: Brandon --

24 THE COURT: Yeah?

25 MR. MANINGO: Nothing, Your Honor.

1 THE COURT: Are you okay.

2 MR. MANINGO: We're fine.

3 DEFENDANT STARR: No, I'm not.

4 MR. MANINGO: We're fine, Your Honor. Thank you.

5 THE COURT: Well, hold on, Jim. Could you
6 approach? Why don't the parties approach.

7 (Off-record bench conference)

8 THE COURT: All right. Mr. Starr, I'm going to
9 give you an opportunity to talk with your attorney some more
10 and maybe Mr. Hobson and his attorney. I'm going to have the
11 State step out. I'm going to step out, and if you need to,
12 I'll address it any further, okay? All right. We'll just
13 take a quick recess. Let's -- --

14 MR. MANINGO: Thank you, Your Honor.

15 (Court recessed at 11:17 a.m. until 11:39 a.m.)

16 THE MARSHAL: Be seated. Department 19 is back in
17 session.

18 THE COURT: Okay. Jim, you want to get the State
19 in here. Did you guys want to make any -- put anything on
20 the record now?

21 MS. LOBO: If I could just add something to the
22 last record I made, Judge.

23 THE COURT: Okay.

24 MS. LOBO: That would be great.

25 THE COURT: Okay. You mean what we already put on?

1 MS. LOBO: Correct. If I could just add one more
2 caveat after speaking with Mr. Starr.

3 THE COURT: Okay. Not any -- you talking about
4 with regards to the motion -- the discovery type of argument?

5 MS. LOBO: Yes, Your Honor.

6 MR. MANINGO: Yes, Your Honor.

7 THE COURT: Okay. Then I need the State here --

8 MS. LOBO: Correct.

9 THE COURT: -- then. Jim, you want to get the
10 State back? Yeah.

11 THE MARSHAL: Are they outside?

12 THE COURT: Yes.

13 (Pause in the proceedings)

14 THE COURT: Okay. We're back on the record in C-
15 303022, State of Nevada versus Tony Hobson and Brandon Starr.
16 I'd like the record to reflect the presence of the defendants
17 and their counsel as well as State and their counsel.

18 Before we -- I took a quick break to give defense
19 counsel an opportunity to speak with their clients. We're
20 back on the record, and Ms. Lobo had indicated that she
21 wanted to address the previous motion just to make a record
22 of some additional remarks. Okay.

23 MS. LOBO: Yes, Your Honor. After speaking to
24 Mr. Starr and Mr. Maningo about the motion, I would also like
25 to move for a mistrial due to the violation.

1 THE COURT: Okay.

2 MR. TANASI: I'd join that, Your Honor.

3 THE COURT: I've already addressed it. I don't
4 think there's any violation so I'm denying the motion.

5 MS. LOBO: Okay.

6 THE COURT: Okay?

7 MR. TANASI: Thank you.

8 THE COURT: All right. All right. Want to bring
9 the jury in?

10 (In the presence of the jury)

11 THE MARSHAL: Please be seated. Department 19 is
12 back in session.

13 THE COURT: Okay. This is the continuation of the
14 jury trial in C-303022, State of Nevada versus Tony Hobson
15 and Brandon Starr. I'd like the record to reflect the
16 presence of the jury. Will all parties stipulate to the
17 presence of the jury in.

18 MS. MERCER: Yes, Your Honor.

19 MR. PORTZ: Yes, Your Honor.

20 MS. LOBO: Yes, Your Honor.

21 THE COURT: Okay. Ms. Noquez.

22 JUROR NO. 1: I'm here.

23 THE COURT: Robert Bass.

24 JUROR NO. 2: Here.

25 THE COURT: Vince Gaeta.

1 JUROR NO. 3: Present.

2 THE COURT: Lin-Adelle (sic) Addington.

3 JUROR NO. 4: Here.

4 THE COURT: Lin-Belle Addington.

5 JUROR NO. 4: Lin. That's fine.

6 THE COURT: Okay. Daniel Boggs.

7 JUROR NO. 5: Here.

8 THE COURT: Nicholas Kozlowski.

9 JUROR NO. 6: Present.

10 THE COURT: William Burns.

11 JUROR NO. 7: Here.

12 THE COURT: David Synder.

13 JUROR NO. 9: Here.

14 THE COURT: Glynis Bernard.

15 JUROR NO. 10: Here.

16 THE COURT: Daniel Powers.

17 JUROR NO. 11: Here.

18 THE COURT: Charles Worth.

19 JUROR NO. 12: Here.

20 THE COURT: Heather Hedrick.

21 JUROR NO. 14: Here.

22 THE COURT: And Dustin Bigelow.

23 JUROR NO. 15: Here.

24 THE COURT: Okay. Before we took our break last
25 night, the State was still in their case-in-chief with

1 Mr. Johns on the witness stand. Is Mr. Johns present?

2 MR. PORTZ: I believe he's outside, Your Honor.

3 THE COURT: Jim, you want to bring him back?

4 MR. PORTZ: Your Honor, may I approach the clerk?

5 THE COURT: Yes. Mr. Johns, I'm going to have you
6 remain standing. I'm going to swear you in again, okay? All
7 right, thank you.

8 DONTE JOHNS, STATE'S WITNESS, RESWORN

9 THE CLERK: Thank you. Please be seated. State
10 your full name, spelling of the first and last name for the
11 record.

12 THE WITNESS: Donte Johns, D-o-n-t-e, J-o-h-n-s.

13 THE COURT: All right. Mr. Portz, still your
14 witness.

15 MR. PORTZ: Thank you, Your Honor.

16 THE COURT: Okay.

17 DIRECT EXAMINATION (RESUMED)

18 BY MR. PORTZ:

19 Q Good morning, Mr. Johns. Again, sir, just to
20 address some of the concerns we had yesterday. Please just
21 come close to the microphone. I want to make sure everyone
22 can hear you, okay?

23 A Yes.

24 Q Thank you. So we left off yesterday, we had
25 discussed the robbery that took place at the Popeye's on

1 November 24th, the night before your arrest. Do you recall
2 us having -- or do you recall testifying about that?

3 A Yes.

4 Q Okay. So the next day, November 25th, as you
5 testified yesterday, that was the night that you were
6 arrested; is that correct?

7 A Yes.

8 Q Outside the Taco Bell?

9 A Yes.

10 Q Now, Donte, when was the decision made when you
11 were at that Taco Bell, the night you were arrested, when was
12 the decision made by you, Mr. Starr and Mr. Hobson to rob the
13 Taco Bell?

14 A On our way to it.

15 Q On your way to it? Okay. Was that in you were at
16 the Burger King going to Taco Bell or before you got to
17 Burger King?

18 A No. Already leaving Burger King.

19 Q Okay. How did that conversation come up that you
20 decided that you were going to rob the Taco Bell?

21 A It was a "we might as well" type of thing.

22 Q Okay. Speak up, please.

23 A It was a "we might as well" type of thing.

24 Q Who had that conversation?

25 A The three of us.

1 Q Now, when Mr. Starr got out of the vehicle and
2 went back to the trunk, did you see him wearing anything on
3 his face?

4 A No.

5 Q Okay. What were Mr. Starr and Mr. Hobson wearing
6 on their faces when they had been committing these robberies
7 in late November with you?

8 A Hospital masks.

9 Q Now, you testified that after Mr. Starr got out of
10 the vehicle and went to the trunk, that's when you saw the
11 police and the three of you were arrested, correct?

12 A Yes.

13 Q I'm going to republish what's been admitted as
14 State's 313. Donte, do you recognize who that is in this
15 photograph?

16 A Yes.

17 Q And who is that?

18 A Me.

19 Q And I want you to describe for the jury all of the
20 clothes you were wearing, shoes, pant, shirts, jacket?

21 MS. LOBO: Objection.

22 MR. TANASI: Objection, Your Honor. Asked and
23 answered.

24 THE COURT: Sustained.

25 MR. PORTZ: Your Honor --

1 BY MR. PORTZ:

2 Q Then specifically as to your shirt, what was your
3 shirt? What type of shirt were you wearing?

4 MS. LOBO: Same objection --

5 THE WITNESS: A --

6 MS. LOBO: -- Judge.

7 THE COURT: Overruled.

8 THE WITNESS: Button-up.

9 BY MR. PORTZ:

10 Q Okay. A button-up?

11 A Yes.

12 Q Can you describe it a little further? Like fully
13 buttoned up, just a collar?

14 A Fully buttoned up to the collar.

15 Q Now, that image that you just saw, that was you in
16 the interrogation room at Metro headquarters?

17 A Yes.

18 Q Okay. And was it at that time that you spoke with
19 those two detectives about your involvement in these
20 robberies?

21 A Yes.

22 Q Now, based on your confession to these detectives,
23 were you ultimately charged in a second superseding
24 indictment with crimes associated with the robberies that
25 took place at the Pizza Hut on November 3rd, a Little Caesars

1 on November 4th, Popeye's on November 22nd and El Pollo Loco
2 on November 23rd, Taco Bell on November 23rd, a Popeye's
3 Chicken on November 24th, and then the Taco Bell that you
4 were arrested at on November 25th?

5 A What's the question? Was I --

6 Q Were you -- after that confession, were you
7 ultimately charged with crimes associated with those seven
8 locations?

9 A Yes.

10 Q And after that second superseding -- well, did
11 those charges include burglary with a deadly weapon?

12 A Yes.

13 Q Did they include conspiracy to commit robbery?

14 A Yes.

15 Q Did they include robbery with deadly weapon?

16 A Yes.

17 Q And were you charged as your role and your capacity
18 as the getaway driver and lookout?

19 A Yes.

20 Q On behalf of Mr. Hobson and Mr. Starr?

21 A Yes.

22 Q Were you also charged with conspiracy to commit
23 kidnapping?

24 A And then not -- yes.

25 Q And first degree kidnapping with use of a deadly

1 weapon?

2 A Yes.

3 Q Attempt first degree kidnapping with use of a
4 deadly weapon?

5 A Yes.

6 Q And an attempt robbery with use of a deadly weapon
7 acting as the lookout and getaway driver at the Taco Bell
8 that you were arrested at?

9 A Yes.

10 Q Following the filing of that second superseding
11 indictment, did you subsequently enter into a plea deal with
12 the State of Nevada?

13 A Yes.

14 MR. PORTZ: Your Honor, may I approach the witness?

15 THE COURT: Yes.

16 BY MR. PORTZ:

17 Q This has been admitted as State's 307. Donte, do
18 you recognize what this is?

19 A Yes.

20 Q What is it?

21 A My Guilty Plea Agreement.

22 Q Is that your name on the Guilty Plea Agreement?

23 A Yes. Well --

24 Q On the first page?

25 A It's spelled wrong.

1 Q Okay. What's the name stated on this Guilty Plea
2 Agreement?

3 A Donte Marquel Johns (phonetic).

4 Q And where is the misspelling?

5 A Middle name Marquel. It's Maquel.

6 Q And is that M-a-q-u-e-l?

7 A Yes.

8 Q Okay. But this is the Guilty Plea Agreement that
9 you received in this state -- in this case?

10 A Yes.

11 Q All right. I'd direct your attention to page 6 of
12 the Guilty Plea Agreement. Is that your signature?

13 A Yes.

14 Q Did you review this Plea Agreement with your
15 attorney?

16 A Yes.

17 Q And that's before you signed it?

18 A Yes.

19 Q Now, the deal that you struck with the State, and
20 I'm going to publish State's 307. So this is your -- this is
21 the front page of your Guilty Plea Agreement, correct?

22 A Yes.

23 Q Okay. Now, pursuant to this Guilty Plea Agreement,
24 you're pleading guilty to one count of conspiracy to commit
25 robbery, category B felony; is that correct?

1 A Yes.

2 Q You're also pleading guilty to one, two, three
3 counts of robbery; is that correct?

4 A Yes.

5 Q And you are pleading guilty to one count of
6 burglary while in possession of a deadly weapon; is that
7 correct?

8 A Yes.

9 Q And I'm going to direct you to the Exhibit 1
10 attached to your Guilty Plea Agreement, this Third
11 Superseding Indictment. This outlines the charges that you
12 are charged with and are pleading guilty to pursuant to the
13 Plea Agreement, correct?

14 A Yes.

15 Q As to count one, the conspiracy to commit robbery,
16 that incorporates all of the robberies that you participated
17 in, including the Taco Bell that you were arrested at,
18 correct, November 3rd, 4th, 22nd, 23rd, 24th and 25th?

19 A Yes.

20 Q As to the count two robbery, the victims charged or
21 named therein are the victims from the Pizza Hut on November
22 3rd and the Little Caesars from November 4th; is that
23 correct?

24 A Yes.

25 Q The count three robbery, the victims named therein

1 include the victims from the November 22nd and November 23rd
2 robberies of Popeye's and El Pollo Loco, respectively?

3 A Yes.

4 Q Count four robbery, incorporates all the victims in
5 the robberies that took place November 23rd at Taco Bell and
6 November 24th at Popeye's Chicken; is that correct?

7 A Yes.

8 Q And then count five, burglary while in possession
9 of a deadly weapon includes all of the locations and events
10 of those six robberies and burglaries that you acknowledge
11 committing in your conversation with the detectives on the
12 night of your arrest, correct?

13 A Yes.

14 Q Now, pursuant to your Plea Agreement, Donte, is it
15 your understanding after reading through it and signing it
16 that the State retains a full right to argue at your
17 sentencing?

18 A Yes.

19 Q Have you been sentenced yet, Donte?

20 A No.

21 Q Did you enter into an agreement where your
22 testimony today is a part of this Guilty Plea Agreement; is
23 that correct?

24 A Yes.

25 Q As far as you know, the fact that you haven't been

1 sentenced, is that because you have not fully completed your
2 Agreement to Testify at this point in time?

3 A Yes.

4 Q Now, as part of your agreement, you were given an
5 owner cognizance release upon your entry of plea; is that
6 right?

7 A Yes.

8 Q And that meant that you were released from custody?

9 A Yes.

10 Q Now, your release was subject to a number of
11 conditions; is that correct?

12 A Yes.

13 Q The first of which, again, and this is in your
14 Guilty Plea Agreement, is that you are to remain on house
15 arrest while you are out of custody?

16 A Yes.

17 Q Are you still on house arrest, Donte?

18 A Yes.

19 Q You are also have no contact with any of your
20 co-defendants, Mr. Johns -- or Mr. Hobson or Mr. Starr for
21 they're known associates; is that correct?

22 A Yes.

23 Q You are to also have no contact whatsoever with
24 your mother while on your own recognizance release and house
25 arrest?

1 A Yes.

2 Q And that you are to maintain good communication
3 with your attorney who you went through this Guilty Plea
4 Agreement with?

5 A Yes.

6 Q Is it your understanding as written in the Guilty
7 Plea Agreement that failure to abide by any of those
8 conditions or to honor your Agreement to Testify will result
9 in revocation of your own recognizance release custody status
10 on house arrest?

11 A Yes.

12 Q Is it also your understanding that if you fail to
13 honor this agreement, that your plea can and will be
14 withdrawn and a trial will be set for your involvement in the
15 six robberies to which you confessed and a seventh attempt
16 robbery at the Taco Bell where you were arrested?

17 A Yes.

18 Q And is it also part of your agreement that when you
19 are sentenced, you will pay full restitution to all victims
20 that are named in the Third Superseding Indictment attached
21 to this Guilty Plea Agreement?

22 A Yes.

23 Q I want to go over the charges that you have plead
24 guilty to and are awaiting sentencing on. The conspiracy to
25 commit robbery as outlined in your Guilty Plea Agreement.

1 You understand that you can receive between one to six years
2 sentence in the Nevada Department of Corrections?

3 A Yes.

4 Q And that you could potentially receive 28 to 72
5 months as to count one?

6 A Yes.

7 Q Is it also your understanding that count one is a
8 probationable offense?

9 A Yes.

10 Q As to the robbery counts that you have pled guilty,
11 counts two, three and four, is it your understanding that you
12 can be sentenced between two to 15 years in Nevada Department
13 of Corrections?

14 A Yes.

15 Q And is it your understanding that the maximum
16 sentence you could receive for each of those robberies is 6
17 to 15 years in the Nevada Department of Corrections?

18 A Yes.

19 MS. LOBO: Leading, Judge. Objection.

20 MR. PORTZ: Your Honor --

21 THE COURT: Objecting to leading?

22 MS. LOBO: Yes.

23 THE COURT: Overruled.

24 MR. PORTZ: Thank you, Your Honor.

25 BY MR. PORTZ:

1 Q Is it your understanding that the robbery
2 convictions are also potentially probationable?

3 A Yes.

4 Q And finally, as to count five, burglary with use of
5 a deadly weapon, is it your understanding as written in your
6 Guilty Plea Agreement that's been admitted into evidence by
7 stipulation between the parties that you could receive
8 between 2 to 15 years in the Nevada Department of
9 Corrections?

10 A Yes.

11 Q And that the maximum sentence you could receive is
12 6 to 15 years?

13 A Yes.

14 Q Is it your understanding that burglary with a
15 deadly weapon is also a potentially probationable offense?

16 A Yes.

17 Q You understand the State has a full right to argue
18 in this case and can ask for anything from probation to
19 maximum sentences to run consecutive to one another?

20 A Yes.

21 Q Do you also understand as written in your Guilty
22 Plea Agreement --

23 MR. PORTZ: Court's indulgence.

24 BY MR. PORTZ:

25 Q Directing you to page 4, that your sentence

1 ultimately is to be determined by the Court?

2 A Yes.

3 Q Whether you receive probation or a sentence to a
4 term of prison will ultimately be determined by the Court at
5 your time of sentencing?

6 A Yes.

7 Q Donte, in association with your Guilty Plea
8 Agreement you also entered into an Agreement to Testify in
9 this case; is that correct?

10 A Yes.

11 Q And part of your obligations in that agreement is
12 that you would cooperate with the Clark County District
13 Attorney's Office and the Las Vegas Metropolitan Police
14 Department in the prosecution of the instant case, correct?

15 A Yes.

16 Q And pursuant to your Agreement to Testify, that you
17 would testify fully and truthfully in this case?

18 A Yes.

19 Q Now, inside your Agreement to Testify, do you
20 recall a section titled obligation to be truthful?

21 A Yes.

22 Q And did it say, overriding all other terms and
23 conditions of your Plea Agreement and your Agreement to
24 Testify that the most important factor is that you testify
25 truthfully in court?

1 A Yes.

2 Q And any failure to do so would render the agreement
3 null and void and subject you to potential perjury?

4 A Yes.

5 Q Is it also your understanding that it is the trial
6 court, not State or anyone else, who determines whether or
7 not you have testified truthfully here today?

8 A Yes.

9 Q At your sentencing?

10 A Yes.

11 Q And if in any way your deal or your Agreement to
12 Testify is voided, that State can use your statements as you
13 testify here today against you in a criminal prosecution?

14 A Yes.

15 Q After you entered into the Guilty Plea Agreement,
16 Donte, with the State, have you and I and Ms. Mercer met with
17 your counsel and had a conversation about the facts of this
18 case?

19 A Yes.

20 Q And with you present?

21 A Yes.

22 Q Okay. Did we ever tell you what to say when you
23 testify?

24 A No.

25 Q Did we ever tell you how to say something when you

1 testify?

2 A No.

3 MS. LOBO: Objection. Vouching.

4 THE COURT: Overruled.

5 BY MR. PORTZ:

6 Q Again, did you have an attorney present when you
7 entered into these negotiations?

8 A Yes.

9 Q As you testify here today, do you have any reason
10 to want to hurt Tony Hobson?

11 A No.

12 Q As you testify --

13 MS. LOBO: Objection. Relevance.

14 THE COURT: Sustained.

15 BY MR. PORTZ:

16 Q The argument can be made, Donte, because you're
17 receiving some benefit, that you would say anything up there
18 on the stand. Is that what you're doing --

19 MS. LOBO: Objection. Leading.

20 MR. TANASI: Objection. Leading.

21 MR. PORTZ: I'm asking if he's --

22 THE COURT: Do you want to approach?

23 (Off-record bench conference)

24 THE COURT: All right. I'm going to sustain the
25 objection. Just rephrase your question.

1 BY MR. PORTZ:

2 Q Donte, are there any reasons or motivations that
3 you would have for testifying in a manner that would harm
4 either Mr. Starr or Mr. Hobson?

5 A No.

6 Q And again, you understand and signed an Agreement
7 to Testify with an obligation to testify truthfully, correct?

8 A Yes.

9 Q All right. Donte, you had told us yesterday that
10 you were a member of the military; is that correct?

11 A Yes.

12 Q Okay. As you testify here today, are you still a
13 member of the military?

14 A No.

15 MS. LOBO: Objection. Relevance.

16 THE COURT: Overruled. He can answer it. He said
17 no.

18 BY MR. PORTZ:

19 Q What happened with your position in the military
20 following these events and your arrest?

21 A General under honorable Conditions.

22 Q And what does that mean?

23 A Discharge.

24 Q A discharge?

25 A Yes.

1 Q Prior to your arrest, Donte, were you still
2 actively involved with the military?

3 A Yes.

4 Q What would you do with the military prior to your
5 arrest?

6 A Intelligence.

7 Q Would you ever be called away or taken out of town
8 on behalf of your work with the military?

9 A Yes.

10 Q I'm going to direct your attention to November 15th
11 and November 16th of 2014. Were you working out of town for
12 the military that day -- on those two days?

13 A Yes.

14 Q What were you doing?

15 A A military drill.

16 Q Okay. Why were you called out to do a military
17 drill?

18 A On reserve status it's once a month, two weeks out
19 of the year.

20 Q And where do you go to do the military drills?

21 A Depends.

22 Q Where did you go on that particular two-day span?

23 A Not sure.

24 Q All right. Just a few more questions, Donte. With
25 regards to the Pizza Hut robbery on November 3rd, 2014, how

1 much money did you receive in exchange for your role in that
2 robbery?

3 A Maybe a few hundred dollars, if that.

4 Q Okay. With regards to the Little Caesars robbery
5 that happened shortly after that, you testified that no money
6 was gotten, but a woman's whites Samsung Galaxy was taken; do
7 you recall that?

8 A Yes.

9 Q What happened with that phone?

10 A I have no recollection. I'm not sure.

11 Q Did you take that phone?

12 A No.

13 Q With regards to the Popeye's robbery by RC Willey's
14 out in Henderson, how much money did you receive for your
15 participation in that robbery?

16 A Maybe a few hundred bucks. I'm not sure as to how
17 much I've gotten.

18 Q Just repeat your answer, Donte, and please speak
19 up. I really want to make sure everyone can hear your
20 testimony.

21 A I'm not sure as to how much I've gotten in the
22 robberies. I wouldn't be able to give an accurate amount.

23 Q Okay. But you did receive money when you
24 participated if money was taken from these establishments?

25 A Yes.

1 Q Same question as to the El Pollo Loco, do you
2 recall how much money you received for your participation in
3 that robbery?

4 A No.

5 Q As to the Taco Bell robbery, do you recall if you
6 received any money in that?

7 A Maybe a few hundred bucks.

8 Q And with regards to the Popeye's, the night before
9 your arrest, did you receive any money for your participation
10 in that robbery?

11 A I'm not sure.

12 Q Donte, you mentioned --

13 A I believe -- I believe so.

14 Q I'm sorry?

15 A I believe so.

16 Q You believe so what?

17 A I received money for the 24th.

18 Q Okay. Do you recall the amount?

19 A No.

20 Q Do you recall collectively your participation in
21 all six robberies prior to your arrest about how much do you
22 estimate that you received for playing a role in
23 participating in these robberies?

24 A I don't know.

25 Q Give a rough estimate.

1 A 500 to a thousand, I'm not sure.

2 Q Okay. 500 to a thousand? Who would give you the
3 money?

4 A Just one of the two.

5 Q One of the two being who?

6 A Brandon or Tony.

7 Q In addition to that white Samsung Galaxy phone, do
8 you recall if in any of the robberies you participated in
9 other cell phones were taken from individuals inside the
10 store?

11 A I believe a few other instances.

12 Q Okay. What types of phones do you recall seeing
13 being brought back into your car after the robbery was
14 completed?

15 A They would get tossed. They wouldn't make it to
16 the car most of the time, iPhones.

17 Q Okay. So iPhones. Were there any other Samsung
18 Galaxies?

19 A I don't believe so.

20 Q Okay. Any other types of phones, other than iPhone
21 or Samsung Galaxy?

22 A No, it was just iPhone and Samsung Galaxies.

23 Q Why would an iPhone get tossed?

24 A iPhone locator, GPS.

25 Q Okay. Explain that a little further. What do you

1 mean by that?

2 A iPhone comes with a built-in app, Find My iPhone.

3 Q Okay. So who would toss the phone?

4 A One of the two mentioned.

5 Q One of the two being who?

6 A Tony or Brandon.

7 Q Okay. And did they state why they were throwing an
8 iPhone away?

9 A Because of GPS.

10 Q What was your concern after committing a robbery
11 driving around with an iPhone that has an app that lets
12 people locate a GPS where that phone is? What was your
13 concern?

14 A I didn't have a concern. They would toss it prior
15 to entering the vehicle.

16 Q Donte, when you did participate in these robberies,
17 how were these locations chosen?

18 A Randomly.

19 Q Randomly?

20 A Yes.

21 Q Describe that in more detail.

22 A Drive around, see a place, stop.

23 Q Would you pick particular -- okay, who would decide
24 which ones to stop at?

25 A It was a open conversation.

1 Q Describe that in more detail. What will do you
2 mean by that?

3 A Any one of us would just choose, hey, just stop
4 there.

5 Q And was there particular times that you chose to
6 rob or burglarize these particular establishments when you
7 went out and participated in these robberies?

8 A After closing.

9 Q Okay. How would you know if a store was closed or
10 not?

11 A Times are listed on Google.

12 Q Please, Donte, speak up.

13 A Times are listed on the Internet.

14 Q How would you access the Internet?

15 A Via phone.

16 Q And who would access -- which of you would use your
17 phone to see what time a store was going to close?

18 A Whoever decides to just pull up it on the phone.

19 Q Okay. Do you ever pull it up on your phone?

20 A No.

21 Q Did you ever see Brandon pull it up on his phone?

22 A No.

23 Q Did you ever see Tony pull it up on his phone?

24 A I don't remember, honestly.

25 Q Well, you've testified that you -- the three of you

1 would use cell phones to search the Internet and determine
2 what time a restaurant would close.

3 A Yes.

4 Q How do you know that if you're saying you don't
5 know --

6 A I -- well, I know that. I just can't pinpoint.
7 It's -- it's one of the three of us on multiple occasions,
8 so.

9 Q The firearms, Donte, I want to talk about those for
10 a moment. You testified yesterday there was one revolver and
11 one Ruger, correct?

12 A Yes.

13 Q Okay. Was -- as far back as you participated in
14 these robberies, was there always a revolver used?

15 A Yes.

16 Q Was there always a Ruger used?

17 A No.

18 Q Okay. When did the Ruger come into play?

19 A Late November.

20 Q Okay. And where would those firearms be kept?

21 A It depends. Sometimes in the house. Sometimes
22 left in the car.

23 Q Okay. You said sometimes in the house and
24 sometimes left in the car. So whose house would the firearms
25 be left in sometimes?

1 A Brianna and Tony.

2 Q And that's the location 3955 East Charleston?

3 A Yes.

4 Q Where in the house would the firearms be kept?

5 A Kitchen cabinet.

6 Q You said sometimes they were kept in the trunk; is
7 that right?

8 A Yes.

9 Q The trunk of what?

10 A My car.

11 Q Your silver Charger?

12 A Yes.

13 Q Were any of these firearms yours, Donte?

14 A No.

15 Q Were any of these firearms registered to you?

16 A No.

17 MR. PORTZ: Court's indulgence.

18 BY MR. PORTZ:

19 Q Donte, I'm publishing State's 180. What is that a
20 picture of?

21 A My silver Charger.

22 Q Is that the night of your arrest?

23 A Yes.

24 Q Publishing State's 181. Is that the same vehicle?

25 A Yes.

1 Q 182, do you recognize the license plate?

2 A Yes.

3 Q And this is again, the license plate to your
4 Charger?

5 A Yes.

6 Q Looking inside the trunk, State's 189, what do you
7 recognize in State's 189?

8 A Gloves, jacket, Pep Boys uniform, Chase Bank
9 folder, the hatchet.

10 Q Which of those items would be used by Mr. Starr
11 and/or Mr. Hobson during the robberies?

12 A The gloves and hatchet.

13 Q Can you circle the gloves, please. And then circle
14 the hatchet. Okay, thank you. Publishing 191. What do you
15 recognize there from the robberies?

16 A Gloves, Pep Boys uniform, wire hanger, I think the
17 handle to the revolver.

18 Q Publishing 192, what is that a picture of?

19 A The revolver.

20 Q And where is it located?

21 A Under my Pep Boys uniform or in my trunk.

22 Q In the trunk of your car?

23 A Um-h'm. Yes.

24 Q And is that where it was on the night that you were
25 arrested?

1 A Yes.

2 Q Publishing 196. Is this also the trunk of your
3 car?

4 A Yes.

5 Q Okay. On the night of your arrest?

6 A Yes.

7 Q And do you recognize another weapon used in the
8 robberies?

9 A Yes.

10 Q What's that?

11 A The Ruger.

12 Q Can you circle that, please. And publishing 198.
13 Is that also a picture of that same firearm?

14 A Yes.

15 Q Publishing 199. What do you see here, Donte?

16 A Gloves and a mask and hangers.

17 Q These gloves on the right, the red and black
18 gloves, where are those from, do you know?

19 A Pep Boys.

20 Q The glove on the left, the gray and red baseball
21 glove; do you recognize that?

22 A No.

23 Q Okay. Do you know where it's from?

24 A No.

25 Q The gray gloves in the middle, do you recognize

1 those?

2 A Military.

3 Q Okay. Donte, I need you to speak up.

4 A Military gloves.

5 Q Okay. Whose gloves are they?

6 A The ones in the middle?

7 Q Yes, the gray ones in the middle?

8 A Mine.

9 Q What do you use those gloves for, Donte?

10 A Winter season.

11 Q What do you mean by winter season?

12 A When it's cold, it's inner shells to thicker
13 gloves.

14 Q And when would you use them in the winter season?

15 A Daily.

16 Q Daily?

17 A Um-h'm.

18 Q What were you doing that you would need those
19 gloves?

20 A I'm outside at Pep Boys until late night so I
21 usually put them on.

22 Q Did you ever wear these gloves and participate in a
23 robbery in this series?

24 A No.

25 Q Showing you 225. Yesterday you identified this as

1 whose apartment?
2 A Tony and Brianna's.
3 Q Publish what's been admitted as 227 and now 228.
4 Do you see that -- what that is, Donte?
5 A Yes.
6 Q What is that?
7 A A Shaka jacket.
8 Q A what?
9 A A gray Shaka jacket.
10 Q What's a Shaka jacket?
11 A It's a brand name.
12 Q 299, what are we looking at here?
13 A Plaided inside.
14 Q Is that the same jacket?
15 A Yes.
16 Q Do you know whose jacket that is?
17 A Tony's.
18 Q Tony Hobson?
19 A Yes.
20 Q How do you know it's Tony's?
21 A Because he wore it.
22 Q Showing you 238. Do you recognize 238?
23 A Yes.
24 Q What is that?
25 A A hat.

1 Q Whose hat?

2 A I'm not sure.

3 Q Have you seen it before?

4 A Yes.

5 Q Who have you seen it on?

6 A Both Tony and/or Brandon.

7 Q Would that hat ever be worn during one of the
8 robberies that you participated in?

9 A I'm not sure. I believe so.

10 Q Publishing State's 240. Do you recognize what that
11 is?

12 A Yes.

13 Q What is it?

14 A A hat.

15 Q Do you know whose hat that is?

16 A No.

17 Q Have you ever seen that hat used in a robbery that
18 you participated in?

19 MR. TANASI: Objection, Your Honor. He doesn't
20 know whose hat it is.

21 THE COURT: Well, it doesn't mean he didn't see it
22 so overruled.

23 BY MR. PORTZ:

24 Q Have you seen that hat before?

25 A I believe so, yes.

1 Q Who have you seen wearing it?

2 A I am not sure.

3 Q Donte, would it refresh your recollection to have a
4 look at your statement that you gave on the night of your
5 arrest to the police?

6 A Yes.

7 MR. PORTZ: Court's indulgence. Referencing page
8 41. May I approach, Your Honor?

9 THE COURT: Yes.

10 BY MR. PORTZ:

11 Q Donte, I'm going to show you the first page of a
12 stack of pages. Do you recognize what this is?

13 A Yes.

14 Q What is this?

15 A Voluntary Statement.

16 Q Is it a transcription of what your conversation
17 with the police was?

18 A Yes.

19 Q And did this occur on November 26th at about 12:20
20 a.m., shortly after midnight?

21 A Yes.

22 Q Have you seen this transcript before?

23 A Yes.

24 Q And did it fairly and accurately reflect the
25 conversation you had with those detectives?

1 A Yes.

2 Q Is it fair to say that your memory was a little
3 more fresh on November 26th, 2014 than it is today in May of
4 2016?

5 A Yes.

6 Q I'm going to direct your attention to page 41 of
7 that statement. I'm going to ask you to read this page to
8 yourself. And let me know when you're done reading.

9 A I'm done.

10 Q Okay. Are you done reading?

11 A Yes.

12 Q Does that refresh your memory as to whose hat that
13 might be?

14 A Yeah, it could be Brandon's.

15 Q Okay. Did you tell detectives on the night of your
16 arrest that Brandon wore a black and red hat with either a
17 letter A or a letter P on it?

18 A Yes.

19 MR. PORTZ: Court's indulgence. Thank you,
20 Mr. Johns. Your Honor, at this point, I have no further
21 questions.

22 THE COURT: Cross.

23 MR. TANASI: Yes, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. TANASI:

1 Q Good afternoon, Mr. Johns. My name is Rich Tanasi.
2 I represent your brother. I got a couple questions for you
3 on cross; is that okay?

4 A Yes.

5 Q All right, sir. This is hard for you, correct?

6 A Yes.

7 Q This is probably one of the hardest things you've
8 ever had to do, correct?

9 A Yes.

10 Q In fact, they, the State, are making you do the
11 hardest thing anything fucking brother can do, and if I don't
12 do both -- if I don't do, both of us go to jail. Is that a
13 fair statement that you made?

14 A Yes.

15 Q Okay. You made that statement in a text message,
16 correct?

17 A Yes.

18 Q That you're being made to do this, fair?

19 A Bad choice of words.

20 Q Okay. It's your words, though.

21 A Yeah.

22 Q I didn't choose them, you did. You said, they
23 making me do the hardest thing, and I'll stop there. Your
24 words, correct?

25 A Yes.

1 Q Being made to do this, fair?

2 A Yes.

3 Q You met with the district attorney prior to today's
4 testimony, correct?

5 A Yes.

6 Q And you've done that a couple times, fair?

7 A Yes.

8 Q And you probably met with folks from their office
9 as well, investigators or other folks?

10 A No.

11 Q No? So you met with the two district attorneys
12 that are here in this room before today's testimony on how
13 many occasions would you say?

14 A Three.

15 Q Okay. In those three occasions, you wanted to be
16 fair, you wanted to be open, you wanted to be truthful,
17 correct?

18 A Yes.

19 Q Because the truth is the truth. It doesn't change
20 no matter who you tell it to, right?

21 A Yes.

22 Q Do you remember when -- do you remember learning
23 that I asked to meet with you --

24 A Yeah.

25 Q -- through your attorney?

1 A Yes.

2 Q Correct? And you wouldn't meet with me, fair to
3 say?

4 A No.

5 Q No?

6 A I said yes.

7 Q You said you would meet with me?

8 A Yes.

9 Q Okay. So it's your testimony that you would meet
10 with me if I asked, fair?

11 A Yes.

12 Q Okay. Is it your testimony that you weren't
13 advised it's in your best interest not to meet with me?

14 A No.

15 Q Okay.

16 A I was told that he didn't care.

17 Q Okay. So your testimony, just so we're crystal
18 clear, is that you even though I asked to meet with you and
19 was told that you refused, you actually would have met with
20 me; is that fair?

21 A Yes.

22 Q Okay. You were in the military, we've talked
23 about, correct?

24 A Yes.

25 Q Okay. You're familiar with what a JAG attorney is,

1 right?

2 A Yes.

3 Q Okay. It's a judicial advocate general for the
4 military, fair?

5 A Yes.

6 Q Okay. After this case, after you were arrested,
7 you were contacted by somebody from the JAG attorney's
8 office, correct?

9 A I believe so, yes.

10 Q Okay. They wanted to talk to you about your
11 involvement in this case, right?

12 A Yes.

13 Q And they wanted you to be truthful, right?

14 A Yes.

15 Q Okay. But you denied your involvement in this case
16 to that JAG officer; isn't that fair?

17 A Yes.

18 Q Okay. So you weren't truthful there, right?

19 A Right.

20 Q In this case, when you were arrested, you had
21 arraignment, do you remember that, in Justice Court?

22 A Yes.

23 Q Okay. It's in this building, right?

24 A Yes.

25 Q Okay. It was in front of Justice Court Department

1 2, Judge Sciscento; do you remember that?

2 A Yes.

3 Q Okay. And when you're in front of Judge Sciscento,
4 you plead not guilty, right?

5 A Yes.

6 Q Which means you said you were not guilty of all of
7 these charges that have been lodged against you in this case,
8 correct?

9 A Correct.

10 Q So you weren't being truthful there either because
11 you said you weren't guilty, but you're saying you are today,
12 correct?

13 A Correct.

14 Q All right.

15 MR. PORTZ: Your Honor, I'm going to object to this
16 line of questioning.

17 THE COURT: Well, I'm going to give you a chance to
18 redirect but overruled.

19 MR. TANASI: Thank you.

20 BY MR. TANASI:

21 Q And in that case when you pled not guilty, the
22 judge, Judge Sciscento in Justice Court, the lower level
23 judge, he set bail for \$400,000, right?

24 A Correct.

25 Q So you weren't getting out unless you were posting

1 \$400,000 bail, correct?

2 A Correct.

3 Q All right. And you didn't post a bond ever, right?
4 Never came up with the 400 or any portion of that, correct?

5 A No, correct.

6 Q Okay. Then you went to District Court, correct?

7 A Yes.

8 Q Okay. And you were in this courtroom, correct?

9 A Yes.

10 Q In front of this judge, correct?

11 A Yes.

12 Q Okay. And you were charged again with the counts
13 that we've talked about, and again, you pled not guilty,
14 correct?

15 A Correct.

16 Q And that was on December 22nd, 2015, right?

17 A Yes.

18 Q Okay. So again, not guilty, not being truthful,
19 fair?

20 A Yes.

21 Q Okay. Then on July 27th, 2015, back in this
22 courtroom again -- oh, I'm sorry, backing up. On February
23 25th, 2015, back in this courtroom again still in custody, in
24 shackles, not free to leave, you pled not guilty again,
25 correct?

1 A Yes.

2 Q And so you weren't being truthful again, correct?

3 A Yes.

4 Q Okay. And then we get to July 27th, 2015, you sign
5 a Guilty Plea Agreement with the State of Nevada, correct?

6 A Yes.

7 Q And part of that Guilty Plea Agreement is you get
8 to go home, correct?

9 A Yes.

10 Q You get to go to house arrest, right?

11 A Yes.

12 Q You don't have to post the \$400,000, right?

13 A Correct.

14 Q You can just go home, right?

15 A On house arrest, yes.

16 Q When you signed that agreement with the State of
17 Nevada, correct?

18 A Yes.

19 Q And in that case -- or in this case, when you
20 signed that agreement, you pled guilty to conspiracy to
21 commit robbery, correct?

22 A Yes.

23 Q Okay. And under that conspiracy charge you
24 referenced a November 3rd robbery, a November 4th robbery, a
25 November 22nd robbery, a November 23rd robbery, a November

1 24th robbery and November 25th robbery, correct?

2 A Yes.

3 Q So by my count that's one, two, three, four, five,
4 six robberies, correct?

5 A Yes.

6 Q Okay. But you actually pled guilty to specific
7 robbery counts, not just the conspiracy to commit the
8 robbery, the actual robbery counts themselves, correct?

9 A Yes.

10 Q Okay. And in that scenario, you pled to four
11 robberies, just four, correct?

12 A Three.

13 Q Do you understand that it's --

14 A Four charges.

15 Q Is that your understanding today is that it's
16 three?

17 A Three robbery counts on my Plea Agreement and --

18 Q Okay.

19 A -- a burglary.

20 Q Would you disagree with me in looking at your
21 Guilty Plea Agreement you pled to count two robbery occurring
22 on November 3rd and November 4th, correct?

23 A Correct.

24 Q You pled guilty to count three robbery, November
25 22nd and November 23rd, correct?

1 A What do you mean?

2 Q Was there a break? A long period of time in which
3 you didn't partake in any robberies? Like a week or two-week
4 period?

5 A Yes.

6 Q Why did you not continue to participate in
7 robberies?

8 A They were stupid.

9 Q I'm sorry?

10 A It was a stupid idea.

11 Q Do you know if Brandon or Tony stopped for some time
12 committing these robberies?

13 A To my knowledge, yes.

14 Q Whose idea was it to stop committing these
15 robberies?

16 A It just kind of happened. Everyone just kind of
17 just stopped doing it.

18 Q Because you said it was stupid?

19 A Yes.

20 Q Now, before November 22nd, you noted -- well, first
21 you noted and testified that Tony's daughter, your niece, was
22 born on November 18th, correct?

23 A Yes.

24 Q Okay. At some point, did you learn or did you come
25 to learn that Tony and Brandon had started robbing places

1 again?

2 A Yes.

3 Q How did you come to learn that fact?

4 A Well, one of the two, I'm not sure which, told me
5 they were getting lucky every time I did not go.

6 Q Okay. I want you to speak up a little louder. I
7 want everyone to hear you.

8 A They got lucky every time I did not go.

9 Q One of the two of them said that to you?

10 A Yes.

11 Q You don't know which one?

12 A No.

13 Q Where were you when they said that to you?

14 A Work.

15 Q Were they both present when that was said?

16 A Yes. Well, I was at -- behind the work, so his
17 house.

18 Q You were --

19 A I was going to work so --

20 Q Okay. So you were at Tony's house getting ready for
21 work?

22 A Yes.

23 Q Did you live at Tony's house?

24 A No.

25 Q You lived somewhere else with your cousin, right?

1 A Yes.

2 Q Would you go to Tony's house to get ready for work
3 sometimes?

4 A Yes.

5 Q Why is that?

6 A It was convenient.

7 Q Okay. Is that because it was close to where you
8 worked?

9 A Yes.

10 Q So while you were at Tony's house, you had a
11 conversation with Mr. Starr and Mr. Hobson, and one of the two
12 of them said to you, we're getting lucky every time you don't
13 come?

14 A Yes.

15 Q When they told you that, what did you decide to do?

16 A Start back.

17 Q Why did you decide to start back?

18 A Took their word.

19 Q I'm sorry?

20 A Took the luckily word so --

21 Q I'm sorry, I can't understand you, Donte.

22 A I took their word for it.

23 Q You took their word for it?

24 A Yeah.

25 Q What do you mean you took their word for it?

1 A That they were getting lucky.

2 Q And by lucky, what did you understand that to mean?

3 A Making more than prior, money.

4 Q Making more money? And making more money doing
5 what?

6 A Robbing.

7 Q Okay. So you took their word for it and you started
8 back up as a driver for these robberies?

9 A Yes.

10 Q What was your motivation -- other than just taking
11 their word for it, what was your motivation? Was it
12 financial? Did you want money? Did you need money? What --

13 A I figured --

14 Q -- were your reasons for joining back up?

15 A Better to be in my hands than letting someone else
16 try to drive them around.

17 Q Okay.

18 A (Indecipherable).

19 Q Why was that a factor for you to consider?

20 A I love my brother.

21 Q And by your brother, you mean Tony Hobson?

22 A Yes.

23 Q Did you also have a reason for wanting to
24 participate to make money?

25 A Little to none, but yes.

1 Q Quick question, before this break -- actually,
2 strike that. So you start back up with Tony and Brandon as a
3 driver for these robberies; is that what you're saying?

4 A Yes.

5 Q Okay. Do you recall the next place you went to?

6 A No.

7 MR. PORTZ: Can you go back to the dock cam?

8 BY MR. PORTZ:

9 Q What other stores do you remember going to and
10 participating in robberies? What type -- what restaurants
11 would you go to?

12 A Popeye's and El Pollo Loco.

13 Q Okay. I'm going to publish what's been admitted as
14 State's 290. Do you recognize what we're looking at here?

15 A Yes.

16 Q What is that?

17 A RC Willey and a Popeye's.

18 Q Okay. And that Popeye's that's marked there, is
19 that a Popeye's that you participated in robbing?

20 A Yes.

21 Q And your participation was, is what? Did you go in
22 the store or were you the driver again?

23 A Driver.

24 Q I'm going to publish State's 16. 3955 East
25 Charleston you said was Tony's residence, correct?

1 A To the best of my knowledge, yes.

2 Q Okay. That's where you would go to get changed for
3 work and see Tony and see your niece?

4 A Yes.

5 Q Okay. Do you remember driving all the way down to a
6 Popeye's here at 60 North Stephanie?

7 A Yes.

8 Q Was that this Popeye's that we see here in State's
9 290, by the RC Willey?

10 A Yes.

11 Q I'm going to zoom back in. And I want you to walk
12 us through what you did when you first got to the Popeye's.
13 Tell the ladies and gentlemen where you drove and where you
14 park.

15 A I drove up the side, around, and parked right here.

16 Q Okay. So for the record, you enter a straightway
17 just right of Popeye's, drove around a big dirt lot and then
18 parked, is that a hill on top of there?

19 A Yes.

20 Q Okay. Parked at the top of the hill in the RC
21 Willey parking lot; is that correct?

22 A Yes.

23 Q Okay. Could you see the Popeye's from where you
24 were parked?

25 A Barely, yes.

1 Q And then this area right here that the word Popeye's
2 is covered, is that a thoroughfare or what is that area?

3 A A hill.

4 Q It's a hill? Can you drive on that hill?

5 A Yes.

6 Q And it takes you down to that Popeye's?

7 A Yes.

8 Q Is there a reason that the three of you went to
9 Popeye's this evening?

10 A I believe, they held the most money.

11 Q Okay. Donte, I'm sorry, I'm having a hard time
12 hearing you. I know they might be having a hard time in the
13 back. Why did you go to Popeye's that evening?

14 A I believe they held the most money.

15 Q They held the most money?

16 A Yes.

17 Q Who told you that?

18 A One of the two.

19 Q Who?

20 A One of the two. I'm not sure which one. Tony or
21 Brandon.

22 Q Tony or Brandon told you that?

23 A Yes.

24 Q And this is -- they had also told you that they had
25 been getting lucky while you weren't participating in the

1 robberies during your break; is that correct?

2 A Yes.

3 Q All right. Now, Donte, you've shown us where you
4 drove and where you parked. Why didn't you just pull in and
5 come over here into the Popeye's parking lot if your plan was
6 to rob the Popeye's?

7 A Have to drive out down the hill or I can go straight
8 out towards the freeway.

9 Q Okay. So if we could clear that screen. So your
10 plan was to do what when the robbery was completed?

11 A Drive down, come out.

12 Q So that was the quickest, your position was in your
13 opinion the fastest way to get out of there?

14 A Yes.

15 Q After the robbery was completed? Did you discuss
16 with Brandon and Tony where you would be while they were
17 inside the Popeye's?

18 A Yes.

19 Q Okay. What was the plan?

20 A Drive down and come get them.

21 Q Do Brandon and Tony get out of your car?

22 A Yes.

23 Q And where do they go?

24 A Down the hill.

25 Q And do you see them as they approached the Popeye's?

- 1 A Barely.
- 2 Q Okay.
- 3 A I don't remember if I seen them.
- 4 Q All right. And Donte, please, I know it's tough,
5 but I need you to speak up loud, okay?
- 6 A Um-h'm.
- 7 Q All right. Where do you see the two of them go?
- 8 A I believe, they split. One in front of Popeye's one
9 in the drive -- the drive-thru.
- 10 Q Okay. So one of the two goes to the front of the
11 Popeye's?
- 12 A Yes.
- 13 Q And one go through the drive-thru?
- 14 A Yes.
- 15 Q By drive-thru, do you mean the drive-thru window?
- 16 A Yes.
- 17 Q What happens while they're inside the Popeye's?
- 18 A I'm not sure.
- 19 Q Okay. Do you recall how long they were inside
20 about?
- 21 A Two minutes.
- 22 Q Two minutes?
- 23 A Maybe.
- 24 Q Okay. Do they both come out at the same time?
- 25 A No.

1 Q Who comes out first?

2 A Tony.

3 Q And do you see where Tony comes out? Does he work
4 out the front door or what does he -- how does he exit the
5 Popeye's?

6 A He comes out of the drive-thru window.

7 Q What do you do -- where are you when you see Tony
8 come out of the drive-thru window?

9 A I drive down.

10 Q Okay. So are you still at the top of that hill?

11 A Yes.

12 Q All right. So you drive down. Now, you might have
13 already answered that. The drive-thru window from this angle
14 that we're looking at, is it on the right side of the Popeye's
15 or the left side of the Popeye's?

16 A On the right side.

17 Q On the right side?

18 A Yeah.

19 Q Okay. So you can see the drive-thru window from the
20 hill?

21 A It's a hill so kind of no, I can't.

22 Q Okay. But you see Tony exiting the drive-thru
23 window?

24 A Well, yeah, I was driving -- start driving.

25 Q Okay. So where do you go when you see Tony exit the

1 drive-thru window?

2 A Down the hill.

3 Q And what do you do?

4 A Pick him up.

5 Q And after you pick him up, where's Brandon?

6 A Still in the store.

7 Q Does Tony have anything with him when he gets inside
8 your car?

9 A A bag.

10 Q What's inside the bag?

11 A I believe, currency.

12 Q What kind of currency?

13 A Like dollars.

14 Q Like cash?

15 A Yeah, cash.

16 Q Paper currency?

17 A Yes.

18 Q Was there any coins?

19 A Yes.

20 Q Okay. How were the coins? Were the coins packaged
21 or were they loose change?

22 A They were in rolls.

23 Q In rolls? What were they rolled in, like plastic,
24 paper, do you recall?

25 A Paper.

1 Q Paper. I'm going to publish what's been admitted as
2 State's 252. Do they look similar to the wrappers we see
3 inside that Jack in the Box bag?

4 A Yes.

5 Q Yes?

6 A Yes.

7 Q All right. Does Brandon come out at some point?

8 A Yes.

9 Q How do you realize that Brandon has exited the
10 Popeye's?

11 A I see him come out of the drive-thru window.

12 Q You saw Brandon come out of the drive-thru window?

13 A Yes.

14 Q Okay. So Brandon comes out after Tony?

15 A Yes.

16 Q And what does Brandon do when he exits the
17 drive-thru window?

18 A Gets in the car.

19 Q Does Brandon have anything with him?

20 A No.

21 Q Do you see at any point in time during this robbery
22 any of the employees from that Popeye's?

23 A I believe, they run out the back.

24 Q Okay. Employees ran out the back of the Popeye's?

25 A Yes.

1 Q Do you recall how many you saw running out the back?

2 A Maybe five.

3 Q And was this before or after Tony and Brandon had
4 exited the Popeye's?

5 A Before Brandon, I think, after Tony.

6 Q Okay. So during the robbery at some point you saw
7 employees running out the back?

8 A Yes.

9 Q Now, you said that there was a bag being used to
10 hold currency; is that correct?

11 A Yes.

12 Q Do you recall what kind of bag this was?

13 A A blue bag.

14 Q A blue bag? Did it have a logo on it at all?

15 A I believe, it was a Walmart bag.

16 Q And again, I need you to speak up just a little bit
17 louder for me, okay?

18 A I believe, it was a Walmart bag.

19 Q I'm going to show you State's 280. Do you recognize
20 this? Do you need me to take it out?

21 A No. It's a Walmart bag.

22 Q Does it appear to be the same Walmart bag that was
23 used in that robbery at the Popeye's?

24 A They're all the same, so same concept, yes.

25 Q Okay. So the bag that was used in the Popeye's, you

1 don't know if this was the bag, per se --

2 A Um-h'm.

3 Q -- but it looked exactly like this?

4 A Yes.

5 Q Same color?

6 A Yes.

7 Q Same material?

8 A Yes.

9 Q Two handles?

10 A Yes.

11 MR. PORTZ: At this point we're going to publish
12 State's 136-A. Okay. If you could double click on the bottom
13 right image.

14 BY MR. PORTZ:

15 Q Now, you indicated one of the individuals went
16 through the front and one went through the drive-thru window
17 of this Popeye's, correct?

18 A Yes.

19 Q But you're not sure who -- which one did?

20 A Exactly.

21 Q Okay. Do you see the hat on the individual in the
22 front lobby of this screen image, which is at timestamp 11:19
23 and 27 seconds on November 22nd, 2014?

24 A Yes.

25 Q Do you recognize that hat?

1 A Barely. Yeah.

2 Q How do you recognize it?

3 A It has an A on it.

4 Q I'm going to show you State's 284. Do you recognize
5 State's 284? Have you seen this hat before?

6 A Pictures. I don't --

7 Q You ever seen anyone wear this hat before?

8 A No.

9 Q No?

10 A No.

11 MR. PORTZ: If we could back out. Double click the
12 drive-thru window. The top right.

13 BY MR. PORTZ:

14 Q Can you recognize or tell who that is from this
15 image?

16 A Could -- I'm not a hundred percent sure. It could
17 be Brandon.

18 Q Okay. The item on their face, is this a scarf or is
19 this one of the surgical masks that you referenced?

20 A It looks like a bandana.

21 Q Okay.

22 MR. PORTZ: Continue playing the video.

23 (Surveillance video playing)

24 MR. PORTZ: That one, yeah.

25 (Pause in the proceedings)

1 BY MR. PORTZ:

2 Q Donte, can you tell which of the two individuals,
3 Brandon or Tony, this is in this image at 11:19 and 57
4 seconds?

5 A I believe, Brandon.

6 Q Brandon? What makes you say that?

7 A Boots.

8 Q Okay. I'm sorry?

9 A Boots.

10 Q The boots? Okay. Do you recall what shoes Tony was
11 wearing on this night?

12 A No.

13 Q Do you see the blue Walmart bag in that employee's
14 hand?

15 A Yes.

16 (Surveillance video playing)

17 BY MR. PORTZ:

18 Q Okay. We paused it at timestamp 11:20 and 15
19 seconds. Do you see the mask on Brandon's face?

20 A Yes.

21 Q Okay. Does that appear to be one of the surgical
22 masks?

23 A Yes.

24 Q Now, this is November 22nd, correct, of 2014,
25 according to that timestamp; is that correct?

1 A Oh, yes, I'm sorry.

2 Q Okay. Do you know where the white masks came from?

3 A I believe, the hospital.

4 Q What hospital?

5 A Sunrise or Desert -- Sunrise, yeah.

6 Q Is that the hospital that your niece was born on
7 four days earlier?

8 A Yeah.

9 Q Prior to your niece's birth, did you participate in
10 any robberies where the defendants were wearing white surgical
11 masks?

12 A No.

13 Q Were they wearing bandanas at that time?

14 A Yes.

15 Q All right.

16 (Surveillance video playing)

17 BY MR. PORTZ:

18 Q Okay. Do you recognize that individual in this
19 screen capture at the drive-thru window?

20 A No.

21 Q Do you recognize what's in his hands?

22 A The blue Walmart bag.

23 Q And you said it was Brandon who exited after Tony,
24 correct?

25 A Yes.

1 Q And that both exited out of the drive-thru window,
2 correct?

3 A Yes.

4 Q All right. Now, when we talked about the November
5 3rd Pizza Hut robbery, you left Pizza Hut and went straight to
6 Little Caesars?

7 A Yes.

8 Q After this Popeye's robbery in Henderson, did you,
9 Brandon and Tony go do another robbery that night?

10 A No.

11 Q Where did you go?

12 A Home.

13 Q Did you receive any money after that Popeye's?

14 A I believe so, yes.

15 Q What kind of money did you receive? Cash, coins,
16 both?

17 A Both.

18 Q And who gave it to you?

19 A Both of them.

20 Q Okay. Now, you testified that you also recalled
21 doing an El Pollo Loco; is that correct?

22 A Yes.

23 Q Okay. Publishing what's been admitted as State's
24 289.

25 MR. PORTZ: Can we switchback to the dock cam,

1 please.

2 BY MR. PORTZ:

3 Q Do you recognize what we're looking at here?

4 A Yes.

5 Q There's -- appear little marker that says number 11,
6 El Pollo Loco, 11/23/14. Are you familiar with that El Pollo
7 Loco?

8 A Yes.

9 Q Is that an El Pollo Loco that you participated in
10 the robbery in?

11 A Yes.

12 Q And specifically, one you participated in with
13 Brandon and Tony?

14 A Yes.

15 Q I want you to do the same thing you did on the last
16 view, explain to the ladies and gentlemen how you pulled up
17 and where you parked in this particular robbery.

18 A I'm not sure way I came from, but I pulled in on
19 this side and then I made a u-turn and parked right there.

20 Q Okay. So for the record, you pulled into a
21 roundabout between the Magoo's Bar and the El Pollo Loco
22 parking lot, correct?

23 A Yes.

24 Q And then you headed north and you made a u-turn and
25 you parked on street on the other side of the median of the El

1 Pollo Loco?

2 A Yes.

3 Q Which way were you facing, towards the main
4 street --

5 A The street.

6 Q -- or towards that circular area above you?

7 A The main street.

8 Q What were you driving that night?

9 A My silver Charger.

10 MR. PORTZ: At this point, I'm going to publish
11 what's been admitted as State's 293-A.

12 BY MR. PORTZ:

13 Q Donte, do you see that row of just north of the El
14 Pollo Loco, those, I guess, cubicles or storage units?

15 A Yes.

16 (Pause in the proceedings)

17 MR. PORTZ: For the record, we're now playing the
18 CubeSmart Storage file. I'm going to start with number 2. I
19 apologize, let's start with number 1. I'm going to pause it
20 there. All right.

21 BY MR. PORTZ:

22 Q Donte, we've paused it about two seconds into this
23 clip. Do you recognize the vehicle in that image?

24 A Yes.

25 Q Whose vehicle is that?

1 A Mine.

2 Q And is that the car that you used to participate in
3 this robbery on November -- I apologize -- 23rd, 2014?

4 A Yes.

5 Q And I'd ask that we recognize the timestamp of 22:54
6 and 4 seconds is the time that vehicle appears to be making
7 that u-turn that you described; is that correct?

8 A Yes.

9 Q All right. So we'll now go to video clip 2. Do you
10 recognize your vehicle from video clip 2?

11 A Yes.

12 Q Can you please circle it on your screen? Okay. And
13 what are you doing there?

14 A Parked.

15 Q And is that where you indicated you had parked on
16 that exhibit of the photo of the restaurant and the Magoo's
17 Bar?

18 A Yes.

19 Q Now, after you parked there -- and we'll come back
20 to this video in a second -- after you parked there, what
21 happens?

22 A They get out and they start walking towards El Pollo
23 Loco.

24 Q Who gets out?

25 A Tony and Brandon.

1 Q Before you got to the El Pollo Loco, where were you
2 all?

3 A Home.

4 Q Where were you coming from?

5 A Home.

6 Q Home? Whose home?

7 A Tony's.

8 Q Now, once you park, you said Tony and Brandon get
9 out and they walk towards the El Pollo Loco. Do you see
10 where they go?

11 A Tony goes -- they split up. I believe, Tony went to
12 the back and Brandon went to the front.

13 Q Okay. Do you ever hear Tony and Brandon before they
14 get out of their car discuss how they're going to approach
15 the building, like I'll go up front and you go to the back,
16 anything like that?

17 A No, it's like a spur of the moment.

18 Q Do you see them talking to one another as they exit
19 your car and approach the El Pollo Loco?

20 A Yes.

21 Q So you said Tony went to the back and Brandon goes
22 to the front. What does Brandon do at the front?

23 A I'm not sure. I think he broke the glass.

24 Q Do you know how he broke the glass?

25 A A rock.

1 Q What is Tony doing at the back of the store?

2 A Holding the door.

3 Q What door?

4 A The back door.

5 Q To the restaurant?

6 A Yes.

7 Q And then what do you see Tony doing after he's held
8 the door, the back?

9 A Then he goes in.

10 Q How long do you wait outside?

11 A Maybe two minutes. A minute and a half, two
12 minutes.

13 Q And at that point, do Tony and Brandon come back
14 out?

15 A Yes.

16 Q Do you know if they were successful in getting any
17 money during this robbery?

18 A I believe so. But I'm not too sure.

19 Q Do you recall if they used any weapons in this
20 robbery?

21 A Yes.

22 Q What weapons do you recall being used in this
23 robbery?

24 A Two handguns.

25 Q Two handguns?

- 1 A Yes.
- 2 Q Can you describe the two handguns?
- 3 A A revolver and a .45.
- 4 Q Do you know what type of .45?
- 5 A A Ruger.
- 6 Q A Ruger? Is that a semi-automatic?
- 7 A Yes.
- 8 Q And it's a handgun, correct?
- 9 A Yes.
- 10 Q That .38 revolver you indicated was used back during
- 11 the Pizza Hut and the Little Caesars robbery; do you recall
- 12 that?
- 13 A Yes..
- 14 Q Okay. Why wasn't a Ruger used in that Little
- 15 Caesars and Pizza Hut robbery back in November 3rd?
- 16 A They didn't have it yet.
- 17 Q Who didn't have it yet?
- 18 A Neither one of them. It wasn't -- that wasn't a
- 19 belonging of theirs yet.
- 20 Q Do you know when that Ruger came into play?
- 21 A Not specifically, no.
- 22 Q When you learned of the Ruger, would they always use
- 23 two guns for the robberies?
- 24 A Yes.
- 25 Q Okay. So once they got it, they would use both?

1 Both would walk in with firearms?

2 A Yes.

3 Q Okay. We'll play the rest of the video. Have your
4 -- the surveillance video of your vehicle outside the El
5 Pollo Loco.

6 THE COURT: Christine, can you go back to the
7 video?

8 MR. PORTZ: It's -- I think, it's on. We're just
9 switching over.

10 MS. MERCER: I'm just trying to get it set up, Your
11 Honor.

12 THE COURT: Oh, you're trying to find it? I'm
13 sorry. Okay.

14 (Pause in the proceedings)

15 MR. PORTZ: Video 3.

16 (Surveillance video playing)

17 BY MR. PORTZ:

18 Q So are you still parked in that same area?

19 A In this video?

20 Q Yes.

21 A I can't tell.

22 Q You can't tell? Do you see any movement towards the
23 El Pollo Loco in that clip?

24 A No.

25 Q Okay. We'll go back and play it one more time.

1 It's a short clip. You said she exit your vehicle, which is
2 parked on the side and walk towards the El Pollo Loco. Is the
3 El Pollo Loco to the right of the screen?

4 A Yes.

5 Q All right. Okay. Did you see any movement towards
6 the El Pollo Loco?

7 A No.

8 Q Okay. We'll go to the next clip. Clip 4. When
9 they get back to your car, what do you do?

10 A I drive off.

11 Q Do you recall if you turned right or left?

12 MR. PORTZ: Pause it there, please.

13 THE WITNESS: Right.

14 BY MR. PORTZ:

15 Q Now, that where we just paused it about 11 seconds
16 in, we saw brake lights come on. Was that your vehicle? Can
17 you see your vehicle now?

18 A Yes.

19 Q Okay. And it's in the same spot that you'd parked
20 at the beginning of the robbery, correct?

21 A Yes.

22 Q Okay.

23 MR. PORTZ: Continue playing.

24 BY MR. PORTZ:

25 Q Okay. And did we see you signal right and turn

1 right onto the street there?

2 A Yes.

3 Q Do you recall if you did another robbery the same
4 night as the El Pollo Loco?

5 A Yes.

6 Q Do you recall what store it was?

7 A Taco Bell.

8 Q Did you drive straight there?

9 A I think we went to Taco Bell first.

10 Q You think you went to the Taco Bell first?

11 A Yes.

12 Q But you do recall doing the Taco Bell and the El
13 Pollo Loco on the same night; is that correct?

14 A Yes.

15 Q Okay. You know what, I apologize.

16 (Pause in the proceedings)

17 BY MR. PORTZ:

18 Q I'm going to play a clip from that El Pollo Loco
19 first before we move forward, Donte. This is going to be
20 State's 154-A.

21 (Pause in the proceedings)

22 BY MR. PORTZ:

23 Q Okay.

24 MR. PORTZ: Showing the backdoor clip from State's
25 154-A.

1 BY MR. PORTZ:

2 Q Okay. Do you recognize the individual in the black
3 hoodie and white mask?

4 A Coming from the back?

5 Q Coming from the back.

6 A I believe it's Tony.

7 Q And it was your testimony that Tony went to the back
8 of the store and Brandon went to the front, correct?

9 A Yes.

10 Q Could you tell what kind of firearm Tony was
11 holding?

12 A Not right there, no.

13 Q Now can you tell?

14 A Revolver.

15 Q I'm going to fast forward about 2 minutes and 50
16 seconds in. Okay. Can you tell who that is in this frame?

17 A No.

18 Q Do you recognize that blue bag?

19 A Yes.

20 Q How do you recognize it?

21 A It's the Walmart bag they used.

22 Q Okay. Can you tell who that -- which of the two
23 individuals that is now that you've seen the two at the
24 backdoor?

25 A Yes, yes.

1 Q Okay. Who's that individual?

2 A Tony.

3 Q And can you -- it might be difficult to tell, but do
4 you recognize the shoes Tony's wearing?

5 A No.

6 Q So the first individual that walked out with the
7 blue bag, who was that?

8 A Brandon.

9 MR. PORTZ: Court's indulgence.

10 THE COURT: Mr. Portz --

11 MR. PORTZ: Yes, Your Honor.

12 THE COURT: -- I'm going to give everybody a break
13 at this time.

14 MR. PORTZ: Okay.

15 THE COURT: It seems like they're all starting to be
16 fidgety.

17 MR. PORTZ: That's fine.

18 THE COURT: During this recess, you're admonished
19 not to talk or converse amongst yourself or with anyone else
20 on any subject connected with this trial, read, watch or
21 listen to any report or commentary on the trial by any person
22 connected with this trial by any medium of information, not
23 included without limitation, newspapers, television, Internet
24 or radio or form or express any opinion on any subject
25 connected with this trial until the case is finally submitted

1 to you.

2 I'll give you 15 minutes, ladies and gentlemen.

3 It's 25 until -- I mean 20 until now so be back by 5 until.

4 We'll be at ease while the jury leaves room.

5 (Pause in the proceedings)

6 (Outside the presence of the jury)

7 THE COURT: Okay. We're outside the presence of the
8 jury. Is there anything you need to put on the record?

9 MR. PORTZ: No, Your Honor.

10 MS. MERCER: No, Your Honor.

11 MR. TANASI: No, Your Honor.

12 THE COURT: We're off the record.

13 (Court recessed at 3:41 p.m. until 3:56 p.m.)

14 (Outside the presence of the jury)

15 (Pause in the proceedings)

16 THE COURT: Okay. All right. We all ready to go?
17 Go ahead and bring the jury in. Bring him back in, Jim.
18 Bring him back up here and bring the jury in.

19 (Pause in the proceedings)

20 THE COURT: Mr. Johns, come on back up here where
21 you were, okay? Jim, go ahead and get the jury in.

22 (In the presence of the jury)

23 THE MARSHAL: Please be seated. Department 19 is
24 back in session.

25 THE COURT: Okay. This is the continuation of the

1 jury trial in Case No. C-303022, State of Nevada versus Tony
2 Hobson and Brandon Starr. I'd like the record to reflect the
3 presence of the defendant and their counsel as well as the
4 State and their counsel, all members of the jury. Do the
5 parties stipulate to the presence of the jury in.

6 MS. MERCER: Yes, Your Honor.

7 MR. TANASI: Yes, Your Honor.

8 MS. LOBO: Yes, Your Honor.

9 THE COURT: Okay. Go ahead. Before we do,
10 Mr. Johns, I want to remind you you're still under oath. Do
11 you understand?

12 THE WITNESS: Yes, sir.

13 THE COURT: Okay.

14 MR. PORTZ: Thank you, Your Honor.

15 THE COURT: Mr. Portz.

16 BY MR. PORTZ:

17 Q Mr. Johns, before we took a break, we were going
18 through some surveillance video from that El Pollo Loco on
19 November 23rd, 2014. I'm going to show you a still. Now you
20 had testified previously that Mr. Starr was the individual who
21 walked out with the blue bag of that back door, correct?

22 A Yes.

23 Q Okay. Can you tell what type of firearm the
24 individual with the blue bag is holding in this frame; does
25 that appear to be a revolver or the Ruger?

1 A The Ruger.

2 Q All right. Now, you had -- we had discussed you
3 recall going to another restaurant that night. Which
4 restaurant was that?

5 A Taco Bell.

6 Q I'm going to publish what's been admitted State's
7 301.

8 (Pause in the proceedings)

9 BY MR. PORTZ:

10 Q Now, Donte, did you -- before we took the break and
11 testified, you weren't sure which one you did first or which
12 one you think went first?

13 A Well, the El Pollo Loco and then Taco Bell.

14 Q Okay. So did you drive straight to the Taco Bell?
15 Was it a direct trip or was it a roundabout trip?

16 A Direct.

17 Q About how long did it take before you got to that
18 Taco Bell?

19 A Five, ten minutes.

20 Q So again, no one -- you didn't go back to Tony
21 Hobson's house?

22 A No.

23 Q No one changed out of their clothes from the El
24 Pollo Loco robbery?

25 A No.

1 Q How did you settle in on this Taco Bell that you
2 went to that night?

3 A Drove past. There was an abandoned building right
4 next to it and I pulled on the side of it.

5 Q Whose idea was it to pull up to that particular Taco
6 Bell?

7 A I'm not entirely sure.

8 Q Was it your idea?

9 A No. Well, more of a mutual agreement.

10 Q Okay. Publishing now what's been admitted as
11 State's 302. Do you recognize what we're looking at here,
12 Donte?

13 A Yes.

14 Q What is this?

15 A It a Taco Bell and the building where I parked on
16 the side of.

17 Q Do me a favor, circle the Taco Bell for me. Okay.
18 So for the record, you circled the building to the right side
19 of this exhibit. Now, do you recall where you parked?

20 A Yes.

21 Q Where did you park?

22 A Here.

23 Q For the record, you indicated that you parked in a
24 lane to the left of the building that has a gray and red
25 facade; is that correct?

1 A Yes.

2 Q You said it was an abandoned building?

3 A I believe it to be, yes.

4 Q Okay. Can you describe for the members of the jury
5 how you pulled up to that parking spot. Draw us your path of
6 driving.

7 A I went this way, then around the building, right
8 there.

9 Q Okay. So you did a loop around that abandoned
10 building and parked on the other side of it. Could you see
11 the Taco Bell from where you were parked?

12 A No.

13 Q Why did you park over there?

14 A It was really dark.

15 Q Why did you want to park somewhere that was really
16 dark?

17 A So my car wasn't visible.

18 Q I guess, why did you want to be invisible? What
19 were you guys planning on doing at this Taco Bell?

20 A Robbing it.

21 Q When you stopped your car in that dark area, what
22 did Tony and Brandon do?

23 A They got out.

24 Q Do you recall if they were carrying any weapons?

25 A I'm not too sure. I was parked opposite from them.

1 I was parked the other way.

2 Q And do you see where they go?

3 A Back around the building. And then that's where I
4 don't know what's --

5 Q Okay. Can you see where they go or no?

6 A No. They went behind me. I was parked towards the
7 street so they went the other way where I came around.

8 Q And how long did you sit there until they came back?

9 A Maybe like 30 seconds.

10 Q And when they got back into the car, what did they
11 say?

12 A They weren't able to do anything.

13 THE COURT RECORDER: I couldn't hear you.

14 THE WITNESS: They weren't able to do anything.

15 BY MR. PORTZ:

16 Q What do you mean they weren't able to do anything?

17 A I don't think they entered the -- that
18 establishment. I think that too many people were around.

19 Q Okay. But you couldn't see them from you were
20 parked, correct?

21 A Correct.

22 Q Is did they come back with any money?

23 A No. I don't think they had anything. They just
24 hurried up and ran back to the car.

25 Q When they got in the car and they said that we

1 didn't -- we weren't able to do anything, what did you and
2 Tony and Brandon -- what did you and Tony and Brandon do?

3 A We went home.

4 MR. PORTZ: At this point, I'm going to publish
5 State's 165-A. Publishing camera 8. And the last four digits
6 of the file number are 0824.

7 BY MR. PORTZ:

8 Q Again, do you recognize the two masked individuals in
9 this frame at 11/23/14, timestamp 11:16:59?

10 A From the height difference, yeah.

11 Q Okay. Who's who in this? Who's the person in the
12 foreground, the front?

13 A Brandon.

14 Q And who's the person in the background?

15 A Tony.

16 Q The person in the background, what kind of mask is
17 that person wearing? What kind of mask is Tony wearing?

18 A A hospital.

19 Q Can you see the firearm in Brandon's hand?

20 A Yes.

21 Q What kind of firearm is that? Is that the revolver
22 or the Ruger?

23 A Looks like a revolver.

24 MR. PORTZ: Okay. We'll continue playing. Let me
25 back up a little.

1 BY MR. PORTZ:

2 Q Okay. Can you tell what firearm Tony's carrying in
3 that image? Is it hard to see?

4 A Looks like a revolver as well.

5 Q Okay. But there was only one revolver and one
6 Ruger, correct?

7 A Yes.

8 Q Okay. So let's continue playing. Which one is Tony
9 in this image? The one on the right or the one on the left?

10 A On the right.

11 Q Do you see the shoes that Tony is wearing?

12 A Yes.

13 Q Can you recognize those shoes?

14 A Gray, the Reeboks.

15 Q Again, I'm showing you what is State's 282-A. Would
16 Tony wear these shoes often?

17 A Yes.

18 Q Would Tony wear these shoes often when you were
19 participating in robberies with Tony and Brandon?

20 A Yes.

21 Q What would Brandon wear on his feet?

22 A Black boots.

23 Q I'm going to switch quickly to camera 5. I just
24 want to make sure we're clear on who has which gun. It's
25 going to be camera 5. Last four digits 6080. Can you tell

1 who that is?

2 A Brandon.

3 Q Okay. And what -- can you tell what kind of firearm
4 Brandon Starr is holding?

5 A Ruger.

6 Q Does he have those black boots on?

7 A Yes.

8 Q And what is on his face?

9 A Hospital mask.

10 Q Did you do anymore robberies that night other than
11 the El Pollo Loco and the Taco Bell?

12 A No.

13 Q Now, do you recall committing or being part of a
14 robbery with Brandon and Tony the night before you were
15 arrested at Taco Bell on November 25th?

16 A That was a Popeye's.

17 Q Okay. So you did a Popeye's and this is the night
18 before you were arrested, so it would be November 24th?

19 A Yeah, if I'm not mistaken.

20 Q I'm going to publish --

21 MR. PORTZ: If we could switch over to the dock cam,
22 please.

23 BY MR. PORTZ:

24 Q This is State's 303. Do you recognize the Popeye's?

25 A Yes.

1 Q Is this one of the Popeye's that you participated in
2 a robbery in?

3 A Yes.

4 Q Okay. And who was with you when this robbery went
5 down?

6 A Tony and Brandon.

7 Q And what was your role in the robbery?

8 A Drive.

9 Q Showing you State's 304. Is this another angle of
10 that Popeye's? Do you recognize that as another angle of that
11 Popeye's?

12 A Yes.

13 Q And State's 305. This is again another angle of the
14 Popeye's?

15 A Yeah.

16 Q When you pulled up to this Popeye's, where did you
17 stop your car?

18 A In the alleyway.

19 Q Where is the alleyway?

20 A Right there.

21 Q Okay. So for the record, you've indicated behind a
22 store to the left of the picture, left of the Popeye's?

23 A Yes.

24 Q So there's an alley that runs back there?

25 A Yes.

1 Q I'm going to publish State's 306. Do you see the
2 location that states Popeye's at the top of the screen?

3 A Yes.

4 Q Can you mark for the members of the jury where that
5 alley is that you parked? All right. So for the record,
6 you've drawn a line down an alley behind a store that says,
7 Jet For Cigarettes Cheap. Which way are you facing when you
8 park -- I'll just put State's 306 back up -- which way is your
9 car facing when you park? Away from the Popeye's or towards
10 the Popeye's?

11 A Away.

12 Q And when you park, what happens next?

13 A They get out.

14 Q And just to be clear, who is they?

15 A Brandon and Tony.

16 Q When they get out, what do you do?

17 A I stay there.

18 Q Do they take anything with them?

19 A When they go?

20 Q When they -- before -- when they leave the car?

21 A I pop the trunk so the contents of the trunk, yes.

22 Q Okay. Donte, I know it's tough, but you need to
23 speak up a little louder. What did do you?

24 A I popped the trunk so they took the contents of the
25 trunk.

1 Q Okay. What was in your trunk that night?

2 A Two handguns. Two handguns, a axe.

3 Q An axe?

4 A Um-h'm.

5 Q Why do you keep those items in your trunk, Donte?

6 A I use the axe for work.

7 Q Why do you keep the handguns in your trunk?

8 A Stupidity.

9 Q Okay. Is there a reason you don't carry the weapons
10 or the handguns inside your vehicle with you and Tony and
11 Brandon, if you're planning on getting out and robbing a
12 store?

13 A If I was to get pulled over prior, then search and
14 seizure would -- I don't know how the law goes, but I believe
15 what's in the trunk of my car, they need probable cause to
16 check.

17 Q So you pop the trunk, and there's two firearms and
18 an axe in the backseat; is a that -- or in the trunk, I'm
19 sorry?

20 A Yes.

21 Q Okay. Do you see what Brandon and Tony do at that
22 point?

23 A They run towards the store. I'm not exactly sure.

24 Q And how long do you sit there until they come back?

25 A A few minutes.

1 Q Do you relocate your car at all?

2 A No.

3 Q Do you -- can you see how Brandon and Tony approach
4 that Popeye's?

5 A No, just word of mouth afterwards on -- on -- well,
6 I wasn't watching them.

7 Q Okay. Whose word of mouth?

8 A Theirs after it happened.

9 Q Brandon and Tony?

10 A Yes.

11 Q What did they tell you they did?

12 A Broke the window and went through the drive-thru.

13 Q Did they say how they broke the window?

14 A I think like a rock. I don't think the hatchet
15 worked.

16 Q Okay, did they -- you said the hatchet didn't work?

17 A I don't believe so.

18 Q What made you believe the hatchet didn't work?

19 A I -- I -- I believe, I remember them saying that.

20 Q Was anyone injured during this robbery?

21 A I think Brandon got cut.

22 Q Where did Brandon get cut?

23 A The hand.

24 Q Please speak up.

25 A His hand.

1 Q His hand. Do you know -- did he say how he got his
2 hand cut?

3 A No. I assume the glass.

4 Q How did you know his hand was cut that night?

5 A He was bleeding all over the place.

6 Q Was he doing anything to try to stop it from
7 bleeding?

8 A Putting pressure on it.

9 Q And is this after the robbery when they come back
10 into your car?

11 A Yes.

12 Q Okay. When they come back into your car, can you
13 describe the route you took to exit the parking lot and flee
14 from the scene. Okay. So for the record, you've indicated
15 you drove down that alley behind the Smith's and then straight
16 out to Jones Boulevard and turned right; is that correct?

17 A Yes.

18 Q And where did you go after you exited and went down
19 Jones Boulevard?

20 A Home.

21 Q Was there any money taken on this robbery, to the
22 best of your recollection?

23 A To the best of my knowledge, I believe so, yes.

24 Q Do you know how much money, if any?

25 A No.

1 Q Did you receive any money for your participation in
2 this robbery?

3 A I do not remember.

4 Q I'm going to publish 179-A. While we're doing that,
5 before we switch over, you indicated this took place the night
6 before your arrest, correct?

7 A Yes.

8 Q Publish State's 207. Who is this in State's 207?

9 A Brandon.

10 Q Zoom in on his -- zoom in on his right hand here.
11 What do you see on his hand? On his right hand in this
12 photograph?

13 A Band-Aids.

14 Q I'm going to switch over to the video. Do you
15 recall what they used to carry any of the currency that they
16 took from this El Pollo -- or this Popeye's Chicken?

17 A They may have used the Walmart bag.

18 Q On that top left corner, did you see that individual
19 walk by the screen?

20 A Yes.

21 Q Can you tell who that person was?

22 A No.

23 Q Was it the same or similar clothing to what Brandon
24 or Tony would wear during the robberies?

25 A Yes.

1 Q Pause there. Can you tell who that -- on the bottom
2 right screen, who that individual is behind the employees of
3 the store?

4 A No.

5 Q Is this individual wearing something similar to what
6 Brandon or Tony would wear during the robberies, is the
7 question?

8 A Black hoodie and black jeans.

9 Q Do you see in that top middle screen one of the,
10 either Brandon or Tony in that photograph, the top middle?

11 A Yes.

12 Q Can you see what that person's holding in their
13 hands?

14 A It looks like a shot -- not a shotgun. A net.
15 Maybe the hatchet.

16 Q What color is the hatchet that was in the back of
17 your car?

18 A I thought it was red.

19 Q Can you see the color of the bag that the woman is
20 holding in the top middle screen?

21 A Yes.

22 Q What color bag is that?

23 A Blue.

24 Q All right.

25 MR. MANINGO: Your Honor, may we approach?

1 THE COURT: Yes.

2 MR. MANINGO: Thank you.

3 (Off-record bench conference)

4 THE COURT: Okay. Ladies and gentlemen, at this
5 time, I have to apologize to you. I have to be at a swearing
6 in for another judge at 5:00 o'clock in Henderson. So I have
7 to leave.

8 So we're not going to -- obviously, we're not going
9 to finish now with Mr. Johns, but tomorrow I have a pretty
10 good morning calendar, so 11:00 o'clock tomorrow again. All
11 right?

12 So you're admonished not to converse amongst
13 yourselves or with anyone else on any subject connected with
14 this trial or read, watch or listen to any report or
15 commentary on the trial by any person connected with this case
16 or by any medium of information, including without limitation,
17 newspapers, television, Internet or radio. You are further
18 admonished not to form or express any opinion on any subject
19 connected with this trial until the case is finally submitted
20 to you.

21 Be here tomorrow at 11:00 o'clock outside the
22 courtroom and the marshal will get you in, okay? I do -- we
23 do have a hearing -- be here before 11:00 and see if we can
24 get that done.

25 MR. MANINGO: Yes, sir.

1 THE COURT: Okay? So, okay. In I'm done with
2 calendar I'll take you right away. All right. Okay. All
3 right, we'll be at ease while the jury leaves the room. Thank
4 you.

5 (Outside the presence of the jury)

6 (Pause in the proceedings)

7 THE COURT: Mr. Johns, before you leave. Okay.
8 We're outside the presence of the jury.

9 THE CLERK: No, we're not.

10 THE COURT: What? No?

11 THE CLERK: (Inaudible).

12 THE COURT: We're outside the presence of the jury.
13 Mr. Johns, I want to remind you that you're still on the stand
14 until tomorrow. I'm going to expect that you're still under
15 oath.

16 If you have any discussion at all with any of the
17 parties, I want you to do it through your attorney, Ms.
18 Paddock or Mr. Cottner, okay? So if anyone approaches you,
19 before you discuss anything with them, either party, I want
20 you to do it through your attorney. Do you understand?

21 THE WITNESS: Yes, sir.

22 THE COURT: Okay. All right. So -- okay, go ahead,
23 you can step down.

24 Okay. All right. So we'll bring that up, that
25 issue that you raised at the bench tomorrow --

1 MR. MANINGO: That's fine, Your Honor. Thank you.

2 THE COURT: -- before we get started, okay?

3 MR. MANINGO: Perfect.

4 MR. TANASI: Thank you, Judge.

5 THE COURT: All right. Okay. So we're off the
6 record.

7 MR. PORTZ: Judge, do we have any idea what the rest
8 of the week's schedule looks like time-wise?

9 (Court recessed at 4:28 P.M., until Wednesday,
10 May 18, 2016, at 11:07 A.M.)

11 * * * * *

12 CERTIFICATE

13 ATTEST: I hereby certify that I have truly and correctly
14 transcribed the audio/visual proceedings in the above-entitled
15 case to the best of my ability.

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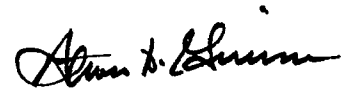
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Julie Lord

JULIE LORD, INDEPENDENT TRANSCRIBER



CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,	.	CASE NO. C-14-303022-1
	.	CASE NO. C-14-303022-2
Plaintiff,	.	
	.	DEPT. NO. XIX
vs.	.	
	.	TRANSCRIPT OF
TONY LEE HOBSON,	.	PROCEEDINGS
and BRANDON STARR,	.	
	.	
Defendants.	.	
.	.	

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

JURY TRIAL - DAY 10

WEDNESDAY, MAY 18, 2016

APPEARANCES:

FOR THE STATE:	ELIZABETH A. MERCER, ESQ. KENNETH PORTZ, ESQ. <i>Deputy District Attorneys</i>
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FOR DEFENDANT HOBSON:	RICHARD E. TANASI, ESQ.
-----------------------	-------------------------

FOR DEFENDANT STARR:	LANCE A. MANINGO, ESQ. ADRIAN LOBO, ESQ.
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FOR WITNESS DONTE JOHNS:	KYLE P. COTTNER, ESQ.
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COURT RECORDER:

CHRISTINE ERICKSON
District Court

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INDEXWITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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Donte Johns	13	45, 65	91, 123	114 ---
Det. Jeffery Abell	127	220, 238	269, 284, 292, 299	278, 280, 281, 302, 302

* * * * *

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IN THE SUPREME COURT OF THE STATE OF NEVADA

BRANDON STARR,)
#1165964,)
Appellant,)
v.)
STATE OF NEVADA,)
Respondent.)
_____)

CASE NO.: 71401 Electronically Filed
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APPELLANT'S APPENDIX VOLUME X

Appeal from a Denial of Post Conviction Relief
Eighth Judicial District Court, Clark County

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CERTIFICATE OF SERVICE

I hereby certify that I am an assistant to Terrence M. Jackson, Esq., am a person competent to serve papers and not a party to the above-entitled action and on the 19th day of June, 2017, I served a copy of the foregoing: Appellant's Appendix and Index, Volumes I - XII, as follows:

[X] Via Electronic Service (*eFlex*) to the Nevada Supreme Court and to the Eighth Judicial District Court, and by U.S. mail with first class postage affixed to the Petitioner/Appellant as follows:

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By: /s/ Ila C. Wills
Assistant to Terrence M. Jackson, Esq.

1 Q And what's your cousin's name?

2 A Ernest Mopkins (phonetic).

3 Q Now, moving forward to November 25th, 2014, were you
4 arrested on that evening, Donte?

5 A Yes.

6 Q And who were you arrested with, if anyone?

7 A Tony and Brandon.

8 Q And what's Tony's last name?

9 A Hobson.

10 Q And what's Brandon's last name?

11 A Starr.

12 MR. PORTZ: Your Honor, may I approach the witness
13 with what's been admitted as State's 273, 272 and 271?

14 THE COURT: Yes.

15 BY MR. PORTZ:

16 Q Can you tell me who's pictured here in State's 271?

17 A Tony.

18 Q This is Tony Hobson? I'm publishing to the jury.
19 And then State's 272, who's the individual pictured in there?

20 A Brandon.

21 Q Publish to the jury. And State's 273, do you
22 recognize that individual?

23 A Yes.

24 Q Who is that?

25 A Me.

1 Q Publishing to the jury. These photographs I've
2 showed you in 271, 272 and 273, does that fairly and
3 accurately depict how you and Mr. Starr and Mr. Hobson
4 appeared on the night of your arrest?

5 A Yes.

6 Q What's your relationship with Mr. Hobson?

7 A He's my brother.

8 Q Are you biological brothers?

9 A Yes.

10 Q And how so? You share a mother and a father or --

11 A Mother.

12 Q A mother? And have you known Mr. Hobson your whole
13 life?

14 A Yes.

15 Q Who is the older brother of the two?

16 A Him.

17 Q Tony?

18 A Yes..

19 Q And how do you know Mr. Starr, who you were also
20 arrested with on November 25th?

21 A A friend of the family for a long time.

22 Q And how long have you known him?

23 A About eight -- eight years.

24 Q Were you -- would you consider yourself to be good
25 friends with Mr. Starr?

1 A Yes.

2 Q And how did you meet Mr. Starr?

3 A Apartment complex.

4 Q What do you mean by that, apartment complex?

5 A We lived in the same apartment complex.

6 Q Did Mr. Starr know your brother, Tony?

7 A Yes.

8 Q And were Tony and Brandon Starr friends as well?

9 A Acquaintances.

10 Q Acquaintances?

11 A Yeah.

12 Q What was your understanding at the time of your
13 arrest or in November of 2014, what did Brandon Starr do for
14 work?

15 A Ralph Lauren. The Polo outlet.

16 Q And do you know if he worked anywhere else prior to
17 that or during that time?

18 A Not to my knowledge. Not to my knowledge. He had
19 got hired at Pep Boys.

20 Q At Pep Boys?

21 A Uh-huh.

22 Q Okay. And is that the same -- well, is that the
23 same Pep Boys that you were working at?

24 A Yes.

25 Q And Tony, what did he do for a living?

1 A He worked at Pep Boys.

2 Q And again, was this the same Pep Boys that you and
3 Brandon were employed at?

4 A Yes.

5 Q Now, did you live with Tony at that time?

6 A No.

7 Q But did you ever go to Tony's house?

8 A Yes.

9 Q And I'm going to publish State's 15. It's going to
10 come up on the screen. It says 3955 East Charleston. Is
11 that the apartment complex that Tony lived at?

12 A To my knowledge, yes.

13 Q And had you been to that apartment on more than one
14 occasion?

15 A Yes.

16 Q Where was this apartment in relation to the Pep Boys
17 that you worked at, about how far away?

18 A Right behind it.

19 Q What would be the reasons that you would go to
20 Tony's apartment?

21 A To see his niece, my niece and nephew, his
22 girlfriend at the time, they used to live there.

23 Q What was your relationship like with Tony at this
24 time?

25 A Like a brother's relationship. Played basketball,

1 worked together.

2 Q Now, on November 25th -- actually, I'm going to
3 publish one more photograph. This is what's been admitted as
4 State's 225. Do you recognize what we're looking at here?

5 A Yes.

6 Q What is that?

7 A The apartment complex we just discussed behind Pep
8 Boys.

9 Q Okay. I need you to speak up a little more.

10 A The apartment complex we just discussed behind Pep
11 Boys.

12 Q Okay. And do you see that door that's opened at the
13 top of the top of the stairway?

14 A Yes.

15 Q Do you recognize what apartment that is or whose
16 apartment that is?

17 A Yes.

18 Q Whose apartment is it?

19 A Tony.

20 Q Tony's?

21 A Um-h'm. Well, Brianna's.

22 Q Brianna's?

23 A Yeah.

24 Q But you would go there to see Tony?

25 A Yes.

1 Q So going back to the night of your arrest, what were
2 you doing before you met up with Tony and Brandon that night?

3 A I was at Chuck-E-Cheese.

4 Q Did you have work that day?

5 A Yes.

6 Q Was that before or after you were at Chuck-E-Cheese?

7 A Prior.

8 Q So after work, you went to Chuck-E-Cheese?

9 A Yes.

10 Q And what did you go there for?

11 A My best friend's niece' birthday.

12 Q When you left Chuck-E-Cheese, where did you go next?

13 A Home.

14 Q And what did you do at home?

15 A Freshened up.

16 Q You said you were working before all this. Were you
17 working at Pep Boys or C3 or was it --

18 A I was C3 prior to this.

19 Q Okay. So you said you freshened up when you got
20 home from Chuck-E-Cheese?

21 A Um-h'm.

22 Q What was your plan that evening? What were you
23 going to do?

24 A To go to my girlfriend's house.

25 Q Okay. And did you speak with your girlfriend about

1 this? Were you guys were going to meet up?

2 A No, I was going to go to her house then I told her I
3 would stop by Tony's to see my niece before I came over.

4 Q So you said Tony had a niece. How old was Tony's
5 niece on this date, November 25th?

6 A Tony's daughter.

7 Q I'm sorry, Tony's daughter, your niece, correct?

8 A Yes.

9 Q Okay. How was she on this date, November 25th?

10 A Maybe a week.

11 Q A week? I'm going to be publish what's been
12 admitted as State's 265. This is a birth certificate. Do
13 you recognize that name, Nalia Glow Harmony Hobson
14 (phonetic)?

15 A Yes.

16 Q Is that the name of your niece or Tony's daughter?

17 A Yes.

18 Q And on the date of birth, what date of birth is
19 that?

20 A November 18th, 2014.

21 Q Okay. So a week old. You were correct. And --

22 MR. PORTZ: And court's indulgence.

23 BY MR. PORTZ:

24 Q Do you recall or can you tell from the birth
25 certificate what hospital your niece was born at?

1 A Yes.

2 Q Where?

3 A Sunrise.

4 Q Okay. And then did you know that or did you ever go
5 to Sunrise to see your niece?

6 A The day she was born.

7 Q When you arrived at Tony's apartment on Charleston,
8 who was at the apartment?

9 A The night of --

10 Q The night of the arrest, when you went to go see
11 your niece before going to see your girlfriend.

12 A Oh, him and Brandon.

13 Q Who?

14 A Brandon and Tony.

15 Q Okay. And at some point, do you and Brandon and
16 Tony leave?

17 A Yes.

18 Q What's the reason for the three of you leaving that
19 apartment?

20 A Go get something to eat.

21 Q And what's your mode of transportation when you're
22 with Tony and Brandon?

23 A My car.

24 Q And what kind of car did you drive?

25 A '09 Charger.

1 Q What color is it?

2 A Silver.

3 Q So where were you going to go to eat?

4 A Burger King.

5 Q And did you make it to Burger King?

6 A Yeah, and then it was packed so we went to Taco
7 Bell.

8 Q Whose decision was it to go to Taco Bell?

9 A It was kind of a mutual agreement.

10 Q Publishing what's been admitted as State's 14.
11 Shows the intersection of Nellis and Desert Inn with an
12 address of 3264 South Nellis. Is that the Taco Bell that you
13 went to?

14 A Yes.

15 Q And I am going to publish now what's been admitted
16 as State's 294. Do you recognize this as the Taco Bell you
17 went to on the night of your arrest?

18 A Yes.

19 Q Now, this photograph obviously, was taken at the
20 daytime, but about what time do you think it was that you
21 were -- you had gotten to this Taco Bell?

22 A Probably 9:00, 10:00.

23 Q So later in the evening?

24 A Um-h'm.

25 Q Now, when you arrived at the Taco Bell, do you see

1 -- did you go straight through the drive-thru or where did
2 you go?

3 A No, it was cars and I was like I don't want to --
4 I'm not leaving again so I parked across from Taco Bell.

5 Q Can you see where you parked in this exhibit?

6 A By the white truck.

7 Q Okay. What I want you to do, Donte, if you touch
8 that screen in front of you, it will actually make a marking
9 on the screen for the jurors to see so -- okay. Can everyone
10 see that marking? There's a blue marking next to white truck
11 on the other side of a median from the Taco Bell; is that
12 correct?

13 A Yes.

14 Q Okay. Why would you park across the -- well, not
15 across the street, but that far away from the Taco Bell if
16 you were going to go eat?

17 A Started listening to music and just chilling in the
18 car.

19 Q On your way to that Taco Bell, had you discussed or
20 had Brandon or Tony discussed with you what they wanted to do
21 at that Taco Bell?

22 A No.

23 Q Okay.

24 MR. PORTZ: Court's indulgence.

25 BY MR. PORTZ:

1 Q So your plan was to go eat, but you decided it park
2 there next to the white truck and listen to music; is that
3 correct?

4 A Yes.

5 Q Okay. How long did you listen to music?

6 A Maybe 20 or 30 minutes.

7 Q Was there any discussion about what you wanted to do
8 at that Taco Bell while you were listening to music?

9 A Little to no discussion. Not that I can recall, no.

10 Q At any point in time did the topic come up of
11 robbing the Taco Bell?

12 MR. TANASI: Objection, Your Honor. Leading.

13 THE COURT: Sustained.

14 BY MR. PORTZ:

15 Q So you don't recall at this point in time having any
16 conversation about the Taco Bell?

17 MS. LOBO: Objection. Asked and answered.

18 THE COURT: Overruled. Answer the question.

19 THE WITNESS: Yeah, it was a possibility that we
20 did discuss it, yes.

21 BY MR. PORTZ:

22 Q It was a possibility that you discussed it?

23 A Yes.

24 Q Okay. Do you recall when that conversation may have
25 possibly taken place?

1 A In the car, we discussed maybe it wouldn't be a bad
2 idea.

3 Q Wouldn't be a bad idea to what?

4 A To rob it.

5 Q Had you done anything like this before with Tony and
6 Brandon?

7 A Yes.

8 Q So was it surprising to you when you had this
9 conversation about maybe it wasn't a bad idea to rob the Taco
10 Bell?

11 A No.

12 Q On the occasions that you had done this with Tony
13 and Brandon in the past, was it typically nighttime, as it
14 was when you arrived at this Taco Bell?

15 A Yes.

16 Q So you said you sat in the car for about 20 minutes
17 listening to music?

18 A Yes.

19 Q Why were you listening to music for 20 minutes?

20 A Just got a new stereo and was just listening to it.

21 Q And why don't we discuss where everyone was seated
22 in your silver Dodge Charger, okay? Who was in the driver's
23 seat?

24 A I was.

25 Q Who was in the front passenger seat?

1 A Tony.

2 Q And where was Mr. Starr?

3 A In the back.

4 Q While you're listening to music, at some point does
5 someone get out of the vehicle?

6 A Yes.

7 Q Who does?

8 A Brandon.

9 Q Is there any conversation at that point in time
10 about what's going to happen when Brandon gets out of the
11 vehicle?

12 A No. He just asked me to pop the trunk.

13 Q Do you pop the trunk for him when he gets out of the
14 vehicle?

15 A Yes.

16 Q And when you pop the trunk on your Charger, does
17 that cause the trunk to open all the way up or does it just
18 unlatch it so that someone back there can open it themselves?

19 A Unlatch.

20 Q And what does Brandon Starr do after you pop the
21 trunk?

22 A He gets out of the car.

23 Q Does he go to the trunk?

24 A Yes.

25 Q And what does he do when he gets to the trunk?

1 A I'm not sure. That's when the police pulled in.

2 Q Do you know whether or not he lifted or opened the
3 trunk before the police --

4 A I'm not sure. I was pointed the other way.

5 Q You were facing away from your trunk?

6 A Yes.

7 Q Now, you said that that's when the police pulled up;
8 is that correct?

9 A Yes.

10 Q Okay. At this point in time, who's inside the
11 vehicle with you --

12 A Me and --

13 Q -- when the police pull in?

14 A -- Tony.

15 Q Does Tony say anything when the police show up?

16 A Just curses.

17 Q What does he say?

18 A Fuck.

19 Q How does he say it?

20 A Like, fuck. Just a pissed off -- excuse my
21 language.

22 Q It's okay. Is Brandon still at the trunk when the
23 police show up?

24 A I'm not sure, they had all their lights flashing.

25 Q And what do they have the three of you do? Let's

1 start with Brandon first. Is Brandon, at least to your
2 knowledge, still behind your vehicle?

3 A I believe he's on the ground at that point.

4 Q Okay. And why is he on the ground?

5 A They were yelling, get on the ground.

6 Q And do you see them take Brandon into custody, the
7 police?

8 A No.

9 Q What happens after you see Brandon on the ground?

10 A Then at the tell me and Tony to get out of the car.

11 Q Do you recall who gets out first?

12 A I believe, I did.

13 Q What happens when you exit your driver's side
14 vehicle?

15 A I get on the ground.

16 Q And then what?

17 A Then they get Tony out on the ground -- on the
18 ground.

19 Q What do the police do? Do the police place you in
20 handcuffs?

21 A Yes.

22 Q After you've been placed in handcuffs, what do the
23 police do with you?

24 A Pat down.

25 Q And during that pat down, did they remove anything

1 from your pockets or your person?

2 A A knife, my wallet, and Carmex, probably.

3 Q Did they take you anywhere at that point in time?

4 A To the patrol car.

5 Q And at the patrol car how long did you sit there?

6 A About 15, 20 minutes.

7 Q While you were sitting there, did you see any police
8 officers around your vehicle?

9 A Yeah, they were searching it.

10 Q Were you placed in a patrol car with either Tony
11 Hobson or Brandon Starr?

12 A No.

13 Q Are the three of you all separated in different
14 cars?

15 A Yes.

16 Q And from there, where did the police take you?

17 A To headquarters.

18 Q When you were in headquarters, where did they place
19 you and Brandon and Tony?

20 A Separate rooms.

21 Q I'm going to publish what's been admitted as State's
22 312. Donte, do you recognize what's depicted in State's 312?

23 A Um-h'm.

24 Q Who is that?

25 A Me.

1 Q And is that what you were wearing on the night of
2 your arrest?

3 A Yes.

4 Q Can you describe what you were wearing at that time?

5 A Black slacks, black dress shoes, black pea coat.

6 Q Publishing what's been admitted as State's 313. Is
7 that another photograph of you?

8 A Yes.

9 Q This room you're in, is this one the rooms that they
10 took you in after you were brought down to headquarters?

11 A Yes.

12 Q And the shoes you were wearing, they're black dress
13 shoes, you said, correct?

14 A Yes.

15 Q And they appear to be shiny in this photograph?

16 A Yes.

17 Q I'm going to publish what's been admitted as State's
18 309. Do you recognize the individual in that photograph?

19 A Tony.

20 Q And again, State's 311, do you recognize the
21 individual in all black in that photograph?

22 A Tony.

23 Q Is that what Tony was wearing on the night of his
24 arrest?

25 A To my knowledge, yes.

1 Q Do you recall what type of shoes Tony would wear?

2 A The type he had on that night?

3 Q Yes.

4 A Gray Reeboks.

5 Q And --

6 MR. TANASI: Your Honor, I'm going to object. He's
7 looking right at the picture. He hasn't indicated that he
8 doesn't recall. He's looking at the picture and he's
9 answering the question.

10 THE COURT: Okay.

11 MR. PORTZ: I'll rephrase.

12 THE COURT: Sustained.

13 BY MR. PORTZ:

14 Q Do you have an independent recollection of the shoes
15 that he was wearing that night?

16 A The gray Reeboks.

17 Q Okay. And have you seen Tony wear those gray
18 Reeboks before?

19 A Yes.

20 Q I'm going to republish 311. I'm going to zoom in on
21 Tony's shoes. Does that appear to be the gray Reeboks?

22 A Yes.

23 MR. PORTZ: May I approach your clerk, Your Honor?

24 THE COURT: Yes.

25 MR. PORTZ: Approach the witness?

1 THE COURT: Yes.

2 BY MR. PORTZ:

3 Q Showing you State's 282-A. Are these the Reeboks
4 that you've seen Tony wear before?

5 A Yes.

6 Q And are these the Reeboks Tony was wearing the night
7 he was arrested?

8 A Yes.

9 Q Do you remember what color pants Tony was wearing?

10 A No.

11 Q Did Tony have a particular pair of pants that he
12 wore often?

13 A The same type, same color.

14 Q What color?

15 A Black.

16 Q And what would you see him --

17 A I'm sorry, different type, same color.

18 Q Different type, same color?

19 A Yes.

20 Q But he would commonly wear black pants?

21 A Yes.

22 Q Do you recall what Brandon was wearing on the night
23 of his arrest?

24 A No.

25 Q Publish what's been admitted as State's 203. Do you

1 recognize who's in State's 203?

2 A Yes.

3 Q Who is that?

4 A Brandon.

5 Q Do you see the jacket that he's wearing?

6 A Yes.

7 Q Have you seen Brandon wear that jacket before?

8 A Yes.

9 Q How often would you see Brandon wear that jacket?

10 A Every so often.

11 Q How often?

12 A Every so often. You mean like daily? No. Like,
13 yeah, almost every day.

14 Q Almost every day? And then the shoes that he was
15 wearing, without looking, I'll keep them off the screen, do
16 you recall what type of shoes Brandon was wearing that
17 evening?

18 A Boots.

19 Q And do you know if Brandon wears boots often?

20 A For Pep Boys, I believe.

21 Q Do you know what color the boots are?

22 A Black.

23 Q Do they look similar to the ones in State's 203
24 that's wearing in this picture?

25 A Yes.

1 Q Why were you wearing a pea coat, slacks and dress
2 shoes when Brandon and Tony were dressed up in a hoodie and a
3 gray and black windbreaker?

4 A That's always their attire. They --

5 Q Okay. That's always their attire?

6 A Um-h'm.

7 Q Why were you dressed up? You seemed -- you would
8 admit or you would agree with me that you were dressed a
9 little fancier than Brandon or Tony the night of your arrest,
10 correct?

11 A Yes.

12 Q Okay.

13 A From work, I haven't changed so.

14 Q Okay. So that was the attire you would wear to
15 work?

16 A Yes.

17 Q Now, you testified that they took away a knife and
18 some cash from you; is that correct?

19 A They took the cash later on.

20 Q Later on?

21 A It was in my pea coat.

22 Q Okay. Do you recall how much cash was on you when
23 they took that money from you?

24 A About 700, 750.

25 Q And where did you get that money from, Donte?

1 A It was rent money from my cousin.

2 Q And this was towards the end of the month that this
3 took place, November 25th?

4 A Yes.

5 Q You also said you had a knife on; is that correct?

6 A Yes.

7 Q Do you recall what kind of knife it was?

8 A Smith & Wesson.

9 Q And what color was it?

10 A Gray and black.

11 Q And where did you get that Smith & Wesson knife?

12 A From my manager at Pep Boys. I bought it off of
13 him.

14 Q How long had you had it for?

15 A Maybe a few weeks.

16 Q And what were you carrying that knife for?

17 A I've always carried a knife on me.

18 Q Why is that?

19 A Just being in the military, I've always held a
20 knife.

21 Q And I showed you some photographs of yourself at
22 headquarters inside an interview room. Do you recall being
23 there that night?

24 A Yes.

25 Q Okay. Do you recall having a conversation with two

1 detectives that evening?

2 A Yes.

3 Q And during that conversation, do you recall
4 discussing, as you testified today, that you had been a part
5 of robberies like the one you were planning at Taco Bell, on
6 prior events with these two individuals?

7 A Yes.

8 Q And specifically, do you recall, in addition to this
9 Taco Bell confessing to those detectives your involvement in
10 six separate robberies on prior occasions?

11 A Just about, yes.

12 Q Okay. In your conversation with detectives?

13 A Yes.

14 Q What was your role in those six other robberies that
15 you participated in?

16 A I drove.

17 Q Did you ever go into the establishments yourself?

18 A No.

19 Q Okay. I want to start with, do you recall
20 acknowledging that you were part of a robbery at Pizza Hut?

21 A Yes.

22 Q Publishing State's Exhibit 4. Showing the
23 intersection of Sahara and Nellis, there's a sign that says
24 5105 East Sahara. Do you recall if that's the location of
25 the Pizza Hut that you had participated in a robbery in?

1 A That specific address, I'm not sure. I'm not
2 familiar with Vegas, but I remember a Pizza Hut.

3 Q Okay. Publishing what's been admitted by
4 stipulation as State's 297. Do you see that Pizza Hut in
5 State's 297?

6 A Yes.

7 Q Okay. Do you recall being a part of a robbery that
8 took place at this particular Pizza Hut?

9 A Yes.

10 Q I'm going to publish State's 295. I'm going to zoom
11 in to the right side of the image. Do you see that same
12 Pizza Hut?

13 A Yes.

14 Q Okay. And if we zoom out and continue down to the
15 left side of this image, is it fair to say there's a long
16 parking lot?

17 A Yes.

18 Q Okay. If you zoom in to the left side of this
19 image, do you recognize that street that goes behind the
20 building or around the building?

21 A Yes.

22 Q Have you driven that street or that alleyway?

23 A Yes.

24 Q So returning to State's 4, zooming in on 5105 East
25 Sahara, you'd agree with me that there's a long parking lot

1 in front of East Sahara, that establishment?

2 A Yes.

3 Q And that it loops around the back of the building
4 and goes into an alleyway behind the establishment?

5 A Yes.

6 Q So does that appear to be the area of the Pizza Hut
7 that you participated in a robbery?

8 A Yes.

9 Q I'm going to republish State's 297. Can you
10 describe how you drove into the Pizza Hut, specifically from
11 the main roads. Did you see this entryway on the right side
12 of the photograph to the parking lot? There's a main road --

13 A Um-h'm.

14 Q -- and there's an entryway into the parking lot; do
15 you see that?

16 A Yes.

17 Q Is that how you got into the parking lot that night?

18 A Yes.

19 Q And what -- who were you with that evening?

20 A Brandon and Tony.

21 Q And what were you driving?

22 A Silver Charger.

23 Q And that Charger belongs to you, correct?

24 A Yes.

25 Q Okay. Describe what it is that you do before the

1 robbery takes place.

2 A I usually drop them off and then go park.

3 Q Okay. So in this specific instance, did you drop
4 them off before you went and parked?

5 A Yes.

6 Q Do you recall where you dropped them off at?

7 A Maybe by the We Care, I believe.

8 Q Okay. Can you see the We Care for the members of
9 the jury? Okay. So you dropped them off on that side of the
10 Pizza Hut?

11 A Yes.

12 Q Do you recall what Brandon or Tony were wearing that
13 evening when you dropped them off?

14 A I do not.

15 Q Where did you go after you dropped them off? You
16 said you go to park typically?

17 A Yes. I went --

18 Q Where did you go to park?

19 A Around the building.

20 Q Okay. Did you stop anywhere before you went around
21 the building?

22 A I think I parked in front of Pizza Hut and then I --

23 Q Why would you park in front of Pizza Hut after
24 you've already dropped Tony and Brandon?

25 A To act as if I was going to go in and then I changed

1 my mind.

2 Q Why would you want to act as if you were going to go
3 in?

4 A Just so that no one gets suspicious.

5 Q So you said you parked in front of it to act as if
6 you were going to go in but then you changed your mind. What
7 did you do when you changed your mind?

8 A Drove around the back.

9 Q Now, Donte, have you seen surveillance video of your
10 vehicle stopping in front of the Pizza Hut and then backing
11 up and driving around the back of the building?

12 A Yes.

13 Q Have you also seen surveillance video of your gray
14 silver Charger at an El Pollo Loco robbery on November 23rd,
15 2014?

16 A I remember the Pizza Hut. I'm not sure if I've seen
17 footage for the El Pollo Loco.

18 Q Have you seen --

19 A Oh, yes, I did, I'm sorry.

20 Q Okay.

21 MR. PORTZ: At this point, Your Honor, may I
22 approach with State's Proposed Exhibit 293?

23 THE COURT: Yes.

24 BY MR. PORTZ:

25 Q Donte, I'm showing you State's 293. There's a disk

1 inside marked as 293-A. Do you recognize 293-A?

2 A Yes.

3 Q And is that a CD with a video of your Charger at
4 those two separate robbery events?

5 A Yes.

6 Q How do you recognize this CD as containing those
7 videos?

8 A My initial and date.

9 Q Okay. So you initial, DJ, and the date, 5/15/2016?

10 A Yes.

11 MR. PORTZ: At this point, the State would move for
12 admission of State's Proposed 293 and 293-A.

13 THE COURT: Any objection?

14 MR. TANASI: No objection, Your Honor.

15 MS. LOBO: No objection.

16 THE COURT: It will be admitted.

17 (Exhibits 293 and 293-A admitted)

18 MR. PORTZ: Ask to publish?

19 THE COURT: Yes.

20 MR. PORTZ: Okay. So for the record, the file we
21 are in, in the CD for the first -- the Pizza Hut robbery is
22 the Sahara Mini Mart and we're going to play clip 1 under
23 score 09 is what the first four markings of the file is. And
24 we'll fast forward to approximately, 8 minutes and 30 seconds
25 into the clip.

1 (Playing video)

2 BY MR. PORTZ:

3 Q Donte, the timestamp on this video shows November
4 3rd, 2014, correct?

5 A Yes.

6 Q And do you see that vehicle pulling in to park?

7 A Yes.

8 Q Is that -- do you recognize that vehicle?

9 A Yes.

10 Q Is that your silver Dodge Charger?

11 A Yes.

12 Q And is this where you're parking in front of the
13 Pizza Hut?

14 A No. The We Care probably.

15 Q The We Care. Okay.

16 MR. PORTZ: Okay. If we could pause it there,
17 please. And that's at timestamp 23:59:50.

18 BY MR. PORTZ:

19 Q So Donte, did you see anyone get out of your vehicle
20 when you had parked there?

21 A Did I see anyone?

22 Q Yes.

23 A In the video, no.

24 Q Yes. Okay. Do you know where your car is driving
25 to right now?

1 A In front of the Pizza Hut.

2 Q Okay. So we're going to note that we're stopped at
3 23:59:50, which is when your car went out of frame. And we're
4 going to go to the next video clip, which is going to be 3
5 under score 14. And we'll fast forward to 9 minutes and 48
6 seconds into the video.

7 I want to note that the timestamp is 23:59 and 49
8 seconds. Okay. We'll pause there. Donte, do you recognize
9 the vehicle that just drove by?

10 A Yes.

11 Q Okay. Do you know, was that your vehicle?

12 A Yes.

13 Q Okay. We'll continue to play. Pause. Donte, is
14 that you driving around to the backside of the establishment?

15 A Yes.

16 Q So what we witnessed there --

17 MR. PORTZ: If we could switch back to the dock cam.
18 For the record, I'm publishing 295. I'm going to zoom in.

19 BY MR. PORTZ:

20 Q The Pizza Hut is to the right of this image, correct?

21 A Yes.

22 Q Okay. To the left you can see a building with red
23 writing there. Does that read Sahara Mini Mart? Can you tell
24 what that says?

25 A Oh, no.

1 Q Okay. Then this is the alleyway you drove behind,
2 correct?

3 A Yes.

4 Q Okay. So in that video that we just saw when you
5 stopped -- when you parked you said you saw no one get out of
6 vehicle, correct?

7 A Yes.

8 Q And then from there we saw your car drive past the
9 camera and then go back around to the -- behind the
10 establishment, correct?

11 A Yes.

12 Q So given your testimony earlier where you said you
13 dropped Tony and Brandon off in front of the We Care and then
14 you went and parked in front of the Pizza Hut, is it still
15 your testimony or do you still believe that when you parked in
16 that first camera shot that we saw, that you were parked in
17 front of the Pizza Hut or the We Care?

18 A I parked in front of the We Care then the Pizza Hut.

19 Q Okay. When you parked in front of the Pizza Hut,
20 though, Tony and Brandon had already gotten out of your car,
21 correct?

22 A Yes.

23 Q All right. I'm going to publish now what's been
24 admitted as State's 61. Do you recognize State's 61, Tony?

25 A Yes.

1 Q Or Donte, I'm sorry. What are we looking at here?

2 A The alleyway of Pizza Hut.

3 Q And what did you do when you went to the back
4 alleyway of the Pizza Hut?

5 A I parked prior to the door.

6 Q And while you were sitting there, what happened?

7 A I'm not understanding.

8 Q You said you parked by one of these back doors?

9 A Yes.

10 Q Okay. Did anything happen or did you just sit there
11 all night?

12 A Oh, Tony and Brandon ran out (inaudible).

13 Q Okay. And when they ran out, what did they do?

14 A Got in the car.

15 Q And did they say anything to you at that point?

16 A They didn't get much.

17 Q Did they tell you what to do?

18 A Just keep driving, we got to do another one.

19 Q When they said they didn't get much, what did you
20 take that to mean?

21 A They didn't get much money.

22 Q Now, you said you don't recall exactly what they
23 were wearing, but when they would conduct these robberies you
24 participated in, was there a certain style of clothing that
25 they would wear?

1 A The attire they were arrested in.

2 Q Similar to the attire they were arrested in?

3 A Yes.

4 Q Okay. Did they ever wear anything to cover their
5 faces during these robberies?

6 A Bandana.

7 Q Okay. In addition to bandanas, do you recall them
8 wearing anything else to cover their faces in some of these
9 robberies?

10 A Hospital mask.

11 Q Hospital mask? Was there a chronology to this? For
12 instance, were they wearing bandanas first and then later on
13 hospital masks or vice versa or was it mixed up or do you
14 recall?

15 A Bandana and then hospital -- it was kind of mixed
16 up, but bandanas came first.

17 Q Bandanas were first and then the hospital masks?

18 A Yes.

19 Q When they went into this Pizza Hut, do you recall if
20 they had any weapons on them?

21 A I believe, they had a revolver.

22 Q Okay. What kind of revolver?

23 A .38.

24 Q And do you know who was carrying the revolver?

25 A No.

1 Q But you do know one of the two of them had a
2 revolver?

3 A Yes.

4 Q Do you recall if the other one was carrying any
5 other kind of weapon?

6 A A knife.

7 Q Now, you said that you had a knife on you at the
8 time of your arrest; is that correct? A Smith & Wesson?

9 A Yes.

10 Q Do you know if anyone else between Tony or Brandon
11 had a similar style knife?

12 A I believe, me and Tony had the same exact knife.

13 Q Tony has the same exact knife?

14 A Yeah.

15 Q So you said they pull out -- or they come out of the
16 back door, get inside your car, say we didn't get anything or
17 we didn't get enough?

18 A We didn't get enough.

19 Q And that we got to hit another place?

20 A Yes.

21 Q Do you drive to another place that night?

22 A Yes.

23 Q Before we get there, I'm going to publish what's
24 been admitted as State's 64. 64-A, excuse me.

25 MR. PORTZ: Can we switch over to the computer,

1 please? And I'm going to play the channel 1 file and skip
2 forward to 43 seconds.

3 THE COURT: Mr. Portz, is this moving, or are we
4 just watching it, that picture?

5 MS. MERCER: It's moving.

6 THE COURT: Okay.

7 MR. PORTZ: We had the wrong time. I apologize,
8 Your Honor.

9 THE COURT: Okay.

10 MR. PORTZ: Moving to 13 minutes and 40 seconds.

11 BY MR. PORTZ:

12 Q Did you recognize the individuals that just entered
13 into that establishment, Donte?

14 A Yes.

15 Q Okay. Who did you recognize them to be?

16 A Brandon and Tony.

17 Q Is there a size difference between Brandon and Tony?

18 A Yes.

19 Q Who's bigger of the two?

20 A Brandon.

21 Q And Donte, could you do me a favor, again, I want to
22 make sure everyone hears you. Can you just remove your hand
23 from your mouth just so we can hear you clearly. So Brandon's
24 the bigger of the two?

25 A Yes.

1 MR. PORTZ: Let's go to channel 2. Fast forward to
2 13 minutes and 40 seconds in. Okay, we're going to back up a
3 little bit. Okay.

4 BY MR. PORTZ:

5 Q Donte, did you see two individuals running big the
6 screen in that shot?

7 A Yes.

8 Q Okay. Do you know who the first person was?

9 A Brandon.

10 Q And the individual depicted at 13 minutes and 44
11 seconds, can you tell who that person is?

12 A Tony.

13 Q Do you recognize or can you recognize the gloves
14 that Tony is wearing in this image?

15 A Yes.

16 Q Where did those gloves come from?

17 A From Pep Boys.

18 Q And do you recall Tony wearing those gloves when he
19 committed these robberies that you would drive for them?

20 A Yes.

21 Q Now, do you see something covering Tony's face?

22 A Yes.

23 Q Okay. What's he wearing on his face?

24 A A red bandana.

25 Q And then the jacket that he's wearing, do you

1 recognize that?

2 A Yes.

3 Q Okay. How do you recognize it?

4 A Same kind Brandon has.

5 Q Okay. So it's the same style as what -- or the same
6 type of sweater or jacket that Brandon wears?

7 A Yes.

8 Q Is that the same type of jacket that we saw Brandon
9 wearing when he was arrested?

10 A Yes.

11 Q And it's -- what color is the zipper on that jacket?

12 A Red. Red.

13 Q And for the record, is the jacket black on top and
14 gray starting from the chest down?

15 A Yes.

16 MR. PORTZ: If you'd go to channel 3. Strike that.
17 Can you return back to the dock cam, please?

18 BY MR. PORTZ:

19 Q So Tony and Brandon exited the back of the store; is
20 that correct?

21 A Yeah.

22 Q But they entered the front of the Pizza Hut?

23 A Yes.

24 Q Do you recall -- now, you said you went somewhere
25 right after that. Do you recall where you went next?

1 A Little Caesars.

2 Q Can you speak up a little more?

3 A Little Caesars.

4 Q Little Caesars? I'm going to publish what's been
5 admitted as State's 298. Donte, we're -- we'll zoom into the
6 bottom right. Do you see a little marking that says Pizza
7 Hut; do you not?

8 A Yes.

9 Q Okay. And again, that's on Sahara near Nellis where
10 you indicated this pizza robbery took place on that night,
11 November 3rd?

12 A Yes.

13 Q The Little Caesars, do you recall where that is? Is
14 that -- in relation to let's say Tony's apartment, is it close
15 to Tony's apartment or far from Tony's apartment?

16 A Close.

17 Q So do you see the Little Caesars Pizza marked here
18 on Lamb and Charleston?

19 A Yes.

20 Q Is that the Little Caesars that you went to that
21 night after the Pizza Hut?

22 A Yes.

23 Q And how did you get to that Little Caesars from
24 here? From Pizza Hut?

25 A I don't remember the exact route, but I didn't go

1 that way.

2 Q But you didn't go any of the -- so this exhibit
3 depicts a number of routes from Pizza Hut to Little Caesars,
4 but you didn't take either -- any of those routes; is that
5 what you're saying?

6 A Perhaps, the ten minute one or at least that way.

7 Q Okay. Do you recall whether you drove straight to
8 Little Caesars or if you went anywhere else first?

9 A Little Caesars.

10 Q Little Caesars?

11 A Yes.

12 Q So no one went home and got changed?

13 A No.

14 Q I'm going to publish what's been admitted as State's
15 299. Do you recognize what we're looking at here Donte?

16 A Little Caesars.

17 Q Can you circle Little Caesars on the screen for the
18 ladies and gentlemen. And when you got to Little Caesars,
19 what was the plan?

20 A To rob it.

21 Q So did you -- where did you park your vehicle? Can
22 you see it in this image?

23 A Yes.

24 Q Okay. Tell the members of the jury where you
25 parked. Okay. So you parked in the Little Caesars parking

1 lot where the truck is?

2 A No.

3 Q No?

4 A Wait, no.

5 Q I'm going to clear that image. I'm going to zoom
6 out a little bit. Does that picture -- can you see now where
7 you parked your vehicle?

8 A Yes.

9 Q Okay. Where did you park your vehicle? Okay. So
10 for the record, you've indicated a parking lot on the left
11 side of the Little Caesars and the appliance store next to it;
12 is that correct?

13 A Yes.

14 Q Is that parking lot separated by a median from the
15 actual Little Caesars store?

16 A Yes.

17 Q Why would you park over there instead of in front of
18 the Little Caesars that you intended to rob?

19 A I have no idea.

20 Q Okay. When you parked there, was Tony and Brandon
21 still with you?

22 A Yes.

23 Q And were they still wearing the same clothes?

24 A Yes.

25 Q And what did they do when you parked there?

- 1 A They got out.
- 2 Q Okay. And when they got out, where did they go?
- 3 A To the Little Caesars.
- 4 Q And what did you do as they walked to Little
5 Caesars?
- 6 A I drove to the side of the appliance building.
- 7 Q Let me make sure everyone is on the same page.
8 Should I zoom into the left side or the right side of this
9 photograph?
- 10 A I drove from here --
- 11 Q Well, let me --
- 12 A -- to the --
- 13 Q Okay. So you've indicated that you move from your
14 parking spot, and you drove -- let me zoom in a little closer.
15 Can you see where you parked your car after you left the
16 parking spot?
- 17 A Yes.
- 18 Q Where did you park your car? Okay. So you've
19 indicated on the side of that appliance store building?
- 20 A Yes.
- 21 Q Which way was your car facing, when you parked.
22 Were you facing towards the main street at the --
- 23 A Away.
- 24 Q Away from the main street?
- 25 A Yes.

1 Q Is there an outlet if you continued straight ahead
2 the way you were facing?

3 A No.

4 Q Why, if you were planning on robbing Little Caesars,
5 would you park in a direction that is opposite of a main
6 thoroughfare to get away?

7 A Lights out, car parked with the tinted windows, no
8 one bothers. Someone can easily see my windshield and see
9 someone's in it if I'm parked the other way.

10 Q Okay. So was it, I guess, to conceal what you were
11 attempting to do with this robbery?

12 A Yes.

13 Q Trying not to look suspicious?

14 A Yes.

15 Q How long do you think you sat there for before
16 Brandon and Tony came back?

17 A Maybe a minute or two.

18 Q Did Brandon and Tony know you were going to be
19 there?

20 A Yes.

21 Q So this was discussed before they went inside the
22 store; is that correct?

23 A Yes.

24 MR. PORTZ: Court's indulgence.

25 BY MR. PORTZ:

1 Q When Brandon and Tony come back to the car, are they
2 walking or are they running?

3 A I didn't see them until they got to the car.

4 Q When they got in, were they excited or were they
5 calm and relaxed? How would you describe their demeanor?

6 A Calm.

7 Q What did they say when they got back inside your
8 car?

9 A Little Caesars' employees weren't there.

10 Q Okay. Was there anyone there?

11 A The delivery man, I believe.

12 Q A delivery man? Did they say if there was anything
13 else inside the car -- inside the Little Caesars?

14 A I believe, it was one -- one delivery person.

15 Q Did they come out with any money from this Little
16 Caesars?

17 A No, not that I know of.

18 Q Do you recall if they came out with anyone's
19 personal property?

20 A A phone.

21 Q What kind of phone?

22 A Galaxy.

23 Q What color?

24 A White.

25 Q White?

1 A Yes.

2 Q Did they say where they got that white Galaxy phone
3 from?

4 A A lady.

5 Q A lady?

6 A Uh-huh.

7 Q So there was a lady inside the store?

8 A Yes.

9 Q At this point, I'm going to publish State's 82-A.

10 MR. PORTZ: Court's indulgence. I misspoke. We're
11 going to publish 71-A. I'm going to start with channel 1. 11
12 minutes and 39 seconds. Oh, I'm sorry, 13:14.

13 (Surveillance video playing)

14 BY MR. PORTZ:

15 Q Did you see those individuals walking on to the
16 screen?

17 A Yes.

18 Q Can you tell who those individuals are from that
19 video?

20 A No.

21 Q Let's go to --

22 MR. PORTZ: For the record, the timestamp is
23 November 4th just after midnight, at 12:12 a.m., 12:12 and 51
24 seconds a.m. I'm publishing channel 2.

25 BY MR. PORTZ:

1 Q And did you recognize those individuals walking
2 across the screen?

3 A The attire, yes.

4 Q The attire? Is it the same attire as the two
5 individuals that we saw in the Pizza Hut robbery surveillance
6 video that we just played a moment ago?

7 A Yes.

8 Q Channel 3. 14 minutes and 36 seconds in. Right
9 there. Now, can you recognize the two individuals in this
10 shot?

11 A With the attire, yes.

12 Q Okay.

13 A Yeah.

14 Q The person in the front, what color bandana is that
15 person wearing?

16 A Red.

17 Q And what color are the gloves?

18 A Red and white.

19 Q And you testified that at the Pizza Hut robbery, the
20 person in the red and white gloves with the red bandana was
21 Tony Hobson, correct?

22 A Yes.

23 Q Do you recognize this person to be Tony Hobson?

24 A Yes.

25 Q And is Tony Hobson shorter than Brandon Starr?

1 A Yes.

2 Q Okay. And is he still wearing the same jacket that
3 he was wearing in the Pizza Hut robbery that we saw taking
4 place earlier that night?

5 A Yes.

6 Q Okay.

7 MR. PORTZ: We'll do a quick pause there. That's
8 all right.

9 BY MR. PORTZ:

10 Q The second individual, did you recognize that person?

11 A Yes.

12 Q Who was that second person?

13 A Brandon.

14 Q Okay. Thank you. Where did you go when they exited
15 the Little Caesars and got into your car?

16 A To the house where we originally were from.

17 Q Whose house?

18 A Brianna and Tony's.

19 Q Brianna's house?

20 A Yes.

21 Q Is that where -- that's where Tony stays?

22 A Yes.

23 Q Now, after these two -- the Pizza Hut and Little
24 Caesars that occurred in that one night, is there a pause in
25 your involvement in the robberies?