

1 I'll make the instruction part of the record as it already
2 is, but I'm not going to give it, based on the circumstances
3 of this case. To basically say that in every situation when
4 police officers are able to apprehend individuals because
5 they didn't attempt to flee that they're entitled to an
6 instruction of this manner I think is -- I just don't think
7 it's appropriate; so okay?

8 MR. TANASI: Understood.

9 THE COURT: Okay. All right. And then you asked
10 for a dual role testimony instruction and you provided -- so
11 the record's clear, too, he's provided these to the Court in
12 our -- even in our format.

13 So the dual role, are you still offering that
14 instruction?

15 MR. TANASI: I'm not, Your Honor. Since then the
16 State's offered an expert instruction that satisfies the
17 concern.

18 THE COURT: Okay. All right. And then the last
19 one is the circumstantial evidence instruction, and you've
20 proffered a instruction not entirely complete as this case
21 that you cited, but also, I believe that under that case,
22 that there's no obligation to be given, if circumstantial
23 evidence is defined in the other instructions.

24 And I also want to draw the attention to the record
25 that my belief is, is that this particular instruction would

1 actually be asking the jury to consider circumstantial
2 evidence different and weigh it different than direct
3 evidence, which we know the law makes to distinction between
4 the two. So for that reason, I'm not going to give that
5 instruction.

6 MR. TANASI: May I be heard on that briefly, Your
7 Honor?

8 THE COURT: You can, yeah.

9 MR. TANASI: And again, I cited this instruction as
10 it came from an order from the Nevada Supreme Court, and I
11 think the spirit of that order was that if there is a
12 circumstantial instruction given, it should be fleshed out a
13 little more with the additional language that we're
14 suggesting and we've proffered.

15 Again, I didn't come up with the language on my
16 own. The Nevada Supreme Court appeared to in its order.

17 THE COURT: Okay. Did you want to make any further
18 record with regards to that?

19 MS. MERCER: Your Honor, the State agrees with --

20 THE COURT: Circumstantial.

21 MS. MERCER: The State agrees with the Court's
22 analysis, but in addition, I would note that the beginning
23 paragraph of this proposed the instruction that says,
24 Circumstantial evidence alone can certainly sustain a
25 criminal conviction. However to be sufficient, all the

1 circumstances taken together must exclude to a moral
2 certainty every hypothesis but the single one of guilt is not
3 included in the instruction that the Supreme Court directed
4 Judge Johnson to give.

5 THE COURT: Right. I actually typed it out, the
6 instruction that came from that case, and I'm going to make
7 that part of the record, that this as a court exhibit, this
8 instruction. It starts out, "Before you may rely on
9 circumstantial evidence to conclude that a fact necessary to
10 find the defendant guilty has been proved," that -- I'm going
11 to make that part of the record.

12 This is the actual instruction from that case.

13 MR. TANASI: Correct, Your Honor. And I apologize,
14 that language you are 100 percent accurate was not in that
15 order. So again --

16 THE COURT: Right.

17 MR. TANASI: -- what I would --

18 THE COURT: It was not in your instruction.

19 MR. TANASI: It's not my instruction either, that
20 first paragraph that the --

21 THE COURT: Right.

22 MR. TANASI: -- circumstantial evidence. Again, I
23 still think that before you may rely on the circumstantial
24 evidence and everything that follows that, is appropriate,
25 and it's triggered by the current circumstantial evidence

1 instruction that's in the case now.

2 THE COURT: Okay. All right, thank you.

3 (Court confers with Clerk)

4 THE COURT: Okay. So let's go ahead and look at
5 what we have.

6 MS. MERCER: Are you going to number them now or --

7 THE COURT: Yes, I wanted to number them. I was
8 going to go through them. Okay, we'll go off the record,
9 Christine. Okay. Are we off?

10 (Court recessed at 12:25 p.m. until 12:31 p.m.)

11 (Outside the presence of the jury)

12 THE COURT: -- say something before we go back on
13 the record?

14 MR. TANASI: I did. Just Court's indulgence
15 quickly on number 44. I know Mr. Maningo and I discussed
16 something. I just need to refresh my memory real quick.

17 THE COURT: All right. 44?

18 MR. MANINGO: Yes.

19 MR. TANASI: Yes, sir.

20 THE COURT: Okay. The fact that a witness was
21 given an inducement in exchange for --

22 MS. MERCER: I think it was that you wanted --

23 THE COURT: Oh, it should be his cooperation?

24 MS. MERCER: -- that additional language.

25 THE COURT: It should be his cooperation. Okay.

1 MS. MERCER: Rich, I think it was that extra
2 language --

3 MR. TANASI: Right.

4 MS. MERCER: -- for these reasons that you wanted.

5 (Off the record at 12:32 p.m. number 12:36 p.m.)

6 (Outside the presence of the jury)

7 MR. TANASI: Okay. That was off the record?

8 THE COURT: We need to put all that on the record.
9 No, what I'm going to do is I'm going to -- I'll go through
10 these questions and then you go ahead and add that, okay?

11 MR. TANASI: Okay, perfect.

12 THE COURT: All right. Are we back on?

13 MR. TANASI: Sorry.

14 THE COURT RECORDER: Yes, Judge.

15 THE COURT: Okay. We're back on the record in Case
16 C-303022, State of Nevada versus Tony Hobson and Brandon
17 Starr. Defendants are present with their counsel as well as
18 the State and their counsel.

19 Is the State familiar with the Court's proposed
20 jury instructions 1 through 54?

21 MS. MERCER: Yes, Your Honor.

22 THE COURT: Do you object to giving any of these
23 instructions?

24 MS. MERCER: No, Your Honor.

25 THE COURT: And do you have any additional

1 instructions that you propose at this time?

2 MS. MERCER: No, Your Honor.

3 THE COURT: Okay. And are the defendants,
4 Mr. Hobson, is he familiar with the proposed jury
5 instructions 1 through 54?

6 MR. TANASI: Yes, Your Honor.

7 THE COURT: Okay. And other than what we've
8 already put on the record, do you have any objection as to
9 giving of these instructions?

10 MR. TANASI: Only one, Your Honor.

11 THE COURT: Okay.

12 MR. TANASI: Number 51.

13 THE COURT: Okay.

14 MR. TANASI: The request from the defense is
15 essentially, Your Honor, that this punishment related
16 instruction be amended to state, "In your deliberation, you
17 may not discuss or consider the subject of punishment as this
18 is a matter which lies solely with the Court." The request
19 is to add, except with respect to the inducement discussed
20 above pointing directly to the Donte Johns' related jury
21 instructions in this case.

22 THE COURT: Okay. Mr. Maningo, do you join in
23 that?

24 MR. MANINGO: I do. Thank you, Your Honor.

25 THE COURT: Okay. All right. For the record, I

1 believe that this instruction is a proper instruction in
2 light of the fact that it is the jury's duty to not discuss
3 or consider the subject of punishment as it is lies with the
4 Court. However, and they are confined only to the
5 determination of whether or not the defendants are guilty or
6 not guilty.

7 I do understand what you're asking for with respect
8 to the fact that an accomplice has testified here and has
9 received an inducement. Those are included in the
10 instructions in this packet, and I am allowing you to
11 question -- I mean, to argue in closing with respect to what
12 the disparagy (sic) is, I believe, in your argument between
13 what Mr. Johns is receiving and what he was facing. But I
14 will not allow you to argue as to what the punishment is as
15 to your two clients, okay?

16 MR. TANASI: Understood.

17 THE COURT: Is that clear?

18 MR. MANINGO: Yes, sir.

19 MR. TANASI: Thank you.

20 THE COURT: Okay. Other than that, do you object
21 to the giving of these instructions?

22 MR. TANASI: No, Your Honor.

23 THE COURT: Mr. Maningo?

24 MR. MANINGO: No, Your Honor.

25 THE COURT: Okay. Do you have any additional

1 instructions that you propose other than what we've already
2 discussed and I've made part of the record as your proposed
3 jury instructions?

4 MR. TANASI: No, Your Honor.

5 THE COURT: Okay.

6 MR. MANINGO: No, Your Honor.

7 THE COURT: All right. And -- okay. Have you
8 received the verdict forms?

9 MS. MERCER: Not yet, Your Honor.

10 THE COURT: All right. Well, here they are.
11 They're done in each one's name.

12 MS. MERCER: Thank you. They're exactly the same.

13 MR. TANASI: They're the same?

14 MS. MERCER: They're just with different
15 defendants.

16 MR. TANASI: Okay.

17 THE COURT: There should be two of them.

18 MR. TANASI: One's Hobson, one's --

19 THE COURT: One's Hobson, one's Starr.

20 MS. MERCER: Right. So we --

21 THE COURT: Okay.

22 MS. MERCER: But they're exactly the same --

23 MR. TANASI: Okay.

24 THE COURT: -- in terms of the counts.

25 MR. TANASI: So we were just going to --

1 THE COURT: All right.

2 MS. MERCER: -- keep this one and you guys keep
3 that one.

4 MR. TANASI: Okay.

5 MS. MERCER: Flip through.

6 THE COURT: You want to take a look at them? The
7 only thing different is the name how it applies.

8 MR. MANINGO: No problem, thank you.

9 (Pause in the proceedings)

10 MS. MERCER: You guys didn't change anything,
11 right, Judge?

12 THE COURT: What's that?

13 MS. MERCER: You guys didn't change anything on the
14 verdict forms?

15 THE COURT: No. Make sure that they're all -- that
16 each count is correct with the names as well.

17 MR. TANASI: I would like a second to do that, Your
18 Honor.

19 THE COURT: Yeah.

20 MR. TANASI: That's --

21 THE COURT: I just want to make sure that
22 they're --

23 MR. MANINGO: All right.

24 THE COURT: Not only the heading but then each
25 count it has them named in there as well.

1 (Pause in the proceedings)

2 THE COURT: Guys, what I'm going to do is I'm going
3 to go ahead and leave that to you all.

4 MR. TANASI: Okay.

5 THE COURT: But before we do that, I want to finish
6 -- I want ask one additional question.

7 MR. TANASI: Sure.

8 THE COURT: And then I'll solve this tomorrow
9 morning when we come back, okay?

10 MS. MERCER: Okay.

11 MR. MANINGO: I don't anticipate any issues. We're
12 just double --

13 THE COURT: No, I know that.

14 MR. MANINGO: -- double-checking.

15 THE COURT: No, I want you to. There's a lot
16 there, I want you to look at it. We're going to make
17 everybody copies of that, okay?

18 MR. MANINGO: Okay.

19 THE COURT: But instruction number 3 is the
20 instruction that involves all the counts. Typically, I would
21 read -- when I read these, I read every count.

22 MS. MERCER: Oh, the parties have already agreed
23 that we don't feel it's necessary.

24 THE COURT: All right. So what I'm going to do is
25 I'm going to read the beginning of it where it says, "An

1 Indictment is but a formal method of accusing a person of a
2 crime, it is not in itself evidence of guilt." And I'm going
3 to read the heading. "In this case, it is charged in the
4 Second Superseding Indictment that" -- and that's the one
5 we're using; is that correct?

6 MS. MERCER: Correct.

7 THE COURT: Okay.

8 MR. TANASI: That's correct, Your Honor.

9 THE COURT: "That on or about between the 28th day
10 of October -- October 28th, 2014 and the 25th day of
11 November, 2014 the defendants Tony Lee Hobson and Brandon
12 Starr committed the offenses" -- I'm going to read it down
13 through and then I'm going to indicate that there was counts
14 1 through 82. And then I'll allow the jury -- because
15 they're all going to have a copy of this. I'll allow the
16 jury to have a copy of this with them when they deliberate.

17 MS. MERCER: Okay.

18 THE COURT: Do you have any objection to that?

19 MS. MERCER: No, Your Honor.

20 MR. TANASI: No.

21 MS. LOBO: No.

22 MR. MANINGO: No objection.

23 THE COURT: All right. That's how I'll handle that
24 then.

25 MS. MERCER: When -- I'm sorry, I might have missed

1 this part, Judge. When you skip through the actual counts,
2 are you going to pick up back with the, "It is the duty of
3 the jury to apply"?

4 THE COURT: Oh, at the end?

5 MS. MERCER: Yeah.

6 THE COURT: The very end one, yeah. It is the duty
7 that -- yeah, I'll go ahead and do that. It's the last two
8 paragraphs of the -- yeah. I'm sorry, thank you for --

9 MS. MERCER: Okay.

10 THE COURT: Okay. All right. So -- all right, so
11 I'll go ahead and leave this -- leave the verdicts with you
12 to take a look at it. And then let me know tomorrow --

13 MR. TANASI: Okay.

14 THE COURT: -- if there's any corrections or you
15 have any concerns with them. And at this point in time, then
16 we'll be adjourned until tomorrow at 9:30. All right?

17 MR. MANINGO: Thank you, Your Honor.

18 MS. MERCER: Thank you, Your Honor.

19 MR. TANASI: Thank you, Your Honor.

20 THE COURT: Is there anything else that you need to
21 put on the record at all other than --

22 MS. LOBO: No, Judge.

23 THE COURT: All right. Okay. So --

24 MR. MANINGO: Thank you.

25 MS. MERCER: Thank you.

1 THE COURT: -- ya'll have a good evening.

2 MR. TANASI: You too.

3 THE COURT: Okay?

4 MS. LOBO: Okay, thank you.

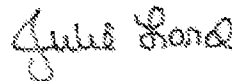
5 (Court recessed at 12:43 P.M., until Friday,

6 May 20, 2016, at 9:49 A.M.)

7 * * * * *

8 CERTIFICATE

9 ATTEST: I hereby certify that I have truly and correctly
10 transcribed the audio/visual proceedings in the above-
11 entitled case to the best of my ability.

12
13 

14
15 _____
16 JULIE LORD, INDEPENDENT TRANSCRIBER
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1 A We do share the same mother, yes.

2 Q Okay. And did you grow up in the same house with
3 Brandon?

4 A For a short period of time, yes.

5 Q Okay. When was that?

6 A From the time of 1988 until I want to say maybe the
7 mid '90s.

8 Q Okay. So during that period of time, you lived in
9 the same household, did you have contact with Brandon after
10 you weren't living in the same household?

11 A Yes.

12 Q Okay. Can you describe that contact for the ladies
13 and gentlemen of the jury?

14 A Play dates, phone calls, just, you know, regular
15 park and playing and just regular things that kids do.

16 Q Okay. Was there a point in time when Brandon came
17 to live in Las Vegas?

18 A Yes.

19 Q And when was that?

20 A This was in 2014 under my advisement.

21 Q Okay. And when he came to live in Las Vegas, who
22 was he living with you at that time?

23 A Originally, he came and stayed with me for a short
24 period of time.

25 Q Okay. And that was in 2014 you said?

1 A Yes, um-h'm.

2 Q And when did he -- well, was there a point in time
3 when he stopped living with you?

4 A Yes. I actually was able to help him get an
5 apartment about two weeks, actually, right after he came out
6 here. So I was able to help him get into an apartment.

7 Q Where was that apartment located at or the name of
8 the apartment complex?

9 A It was The Crossings at 1901 Lake Mead Boulevard.

10 Q Okay. Who did he live there with in that
11 apartment?

12 A With his fiancé and daughter.

13 Q Okay. And who was his fiancé?

14 A Brittany Rause (phonetic).

15 Q And how long did Brandon and Brittany live in that
16 apartment?

17 A Until I want to say the beginning or the middle of
18 November of 2014.

19 Q Okay. And if you know, do you -- what caused them
20 -- was there a point in time when they weren't going to live
21 there anymore?

22 A Yes.

23 Q Okay. Why?

24 A I came to the apartment to just have a sit down
25 with my brother, and he showed me different disturbing things

1 that were in the apartment. There were bugs, there was mold,
2 the refrigerator, when you tried to open it, it creaked, it
3 didn't work well so their food was spoiling. So I advised
4 him that he needed to get out of the apartment.

5 Q Okay. And where was he set to come and live in
6 November of 2014?

7 A He was transitioning to come and live back with me.

8 Q Okay. And was Brandon working at that time?

9 A Yes.

10 Q Where did Brandon work?

11 A He worked for Smash Burger during the day and Ralph
12 Lauren at night.

13 Q Okay. And I'm going to ask you the question that
14 right now Brandon is accused of violent crimes in nature. Do
15 you have an opinion as to whether Brandon is a violent or a
16 non-violent person?

17 A Yes.

18 Q What is that opinion?

19 A My opinion is that is a non-violent person.

20 Q Okay. What is the basis for that opinion?

21 A Well, of course, being his sister, older sister,
22 growing up with him, watching him play, seeing how he also
23 took care of our --

24 MR. PORTZ: Your Honor, I'm going to object at this
25 point.

1 THE WITNESS: -- younger siblings.

2 MR. PORTZ: We're getting into specific acts of
3 character evidence. They can -- she can testify as to her
4 opinion, but not getting in specific acts under certain rules
5 of evidence.

6 THE COURT: Sustained.

7 MS. LOBO: Thank you, Ms. Ray. I'll pass the
8 witness.

9 MR. PORTZ: Your Honor, may we approach?

10 THE COURT: Yes.

11 (Off-record bench conference)

12 CROSS-EXAMINATION

13 BY MR. PORTZ:

14 Q Good morning, Ms. Ray. My name is Nick Portz. I'm
15 with the District Attorney's Office. How are you doing
16 today?

17 A I'm good. How are you?

18 Q I'm good. Thank you very much. I just have a few
19 quick questions for you, okay?

20 A Okay.

21 Q You testified -- what was the address that you said
22 Brandon was living at before he was, I think you said,
23 transitioning to move back with you?

24 A It was 1901 Lake Mead Boulevard. The apartments
25 were called The Crossings at Lake Mead.

1 Q Okay. So at some point in mid-November he was
2 leaving that house?

3 A Correct.

4 Q Is that correct? Okay. And he was transitioning
5 to live with you?

6 A Correct.

7 Q But that doesn't mean living with you at that
8 point; is that correct?

9 A Correct.

10 Q Okay. You also testified that he worked at Smash
11 Brothers; is that correct?

12 A Smash Burger, yes.

13 Q Oh, Smash Burger, thank you. And that you two are
14 related, you're his sister, half sister?

15 A Well, sister, yes.

16 Q Okay. Now, ma'am, you testified about your opinion
17 of Mr. Starr's character as a non-violent person, and I
18 wanted to ask you a few questions. If I were to represent to
19 you that --

20 (Pause in the proceedings)

21 BY MR. PORTZ:

22 Q -- that the man who drove this gunman to this Pizza
23 Hut location identified this person in the picture with the
24 gun to be your brother, would that change your opinion as to
25 his character for peacefulness?

1 A And you said that the gentleman identified my
2 brother as being the one that with the hand gun?

3 Q Yes, ma'am. As dropping him off at this location
4 for the purpose of committing a robbery. Would that change
5 your opinion to Brandon trite for peacefulness?

6 A Sadly, because of the record, no.

7 Q No, it would not change your opinion?

8 A No.

9 Q Okay. If I were to tell you that this gentleman
10 right here at the register testified that the man identified
11 as your brother pistol whipped him with that revolver that
12 you see in his hand there, would that change your opinion as
13 to Brandon's character traits of peacefulness?

14 A I would actually decline to answer that question.

15 Q And you decline to answer that question as to
16 whether it changes your opinion?

17 A Correct.

18 MR. PORTZ: I'm going to approach showing the still
19 of number 5.

20 BY MR. PORTZ:

21 Q And this is a surveillance photograph taken at a
22 Little Caesars on November 4th of 2014. And your brother was
23 living in Las Vegas at that time, as you testified, correct?

24 A Correct.

25 Q Okay. Once again, this is only a few minutes after

1 -- or the same night as the incident I just showed you. The
2 man who drove your brother and Mr. Hobson to this location
3 and dropped him off for the purpose of committing a robbery
4 identified this man with the firearm as your brother, Brandon
5 Starr.

6 A On November the 4th?

7 Q On November 4th, 2014. This would have been just
8 after midnight. So it would have been November 3rd going
9 into November 4th. Would that change your understanding or
10 your opinion as to Brandon's character for peacefulness?

11 A May I speak freely?

12 Q I'm just asking you a yes or no question.

13 A Okay, well, no.

14 Q No, it wouldn't change your opinion?

15 A No.

16 MR. PORTZ: The still from the number 10 Popeye's.
17 Approach the witness, Your Honor?

18 THE COURT: Yes.

19 BY MR. PORTZ:

20 Q Ma'am, this is a photographic still on November
21 22nd. This would have been after Brandon had been
22 transitioning out of that apartment. This is at a Henderson
23 Popeye's and --

24 MS. LOBO: Judge, I'm going to object to the
25 characterization of when Brandon was transitioning out of the

1 apartment. We don't have an exact date or time frame.

2 THE COURT: Well, I think the time frame was
3 testified by Ms. Ray, but exact date I agree with you.

4 MS. LOBO: Right.

5 THE COURT: But there is a time frame there so I'm
6 going to overrule it and the jury can draw their own
7 conclusions based on the testimony.

8 MR. PORTZ: Thank you.

9 BY MR. PORTZ:

10 Q Once again, ma'am, the person who dropped the
11 gunman in this surveillance still off at this Popeye's
12 identified this man as your brother, Brandon Starr. Would
13 that change your opinion as to his trait for peacefulness or
14 as a non-violent person?

15 A No.

16 Q And if the employees of this Popeye's were to tell
17 you that this man identified as your brother pointed that
18 firearm at them and robbed them of money, would that change
19 your opinion of Brandon as a non-violent person?

20 A No.

21 Q Would it change your opinion if I were to show you
22 photographs of the man identified as your brother in three
23 additional armed robbery events as to your opinion of
24 Brandon's trait for peacefulness?

25 A I mean, the photos you would be able to show, but I

1 mean, I -- his track record, I just -- they're hard to
2 believe for me.

3 Q So if --

4 MR. PORTZ: And I'm approaching with the still to
5 State's 12.

6 BY MR. PORTZ:

7 Q If this man in the front with the mask pointing the
8 firearm at that young lady were identified as your brother
9 during the course of this trial, that wouldn't change your
10 opinion as to whether or not Brandon is a person of a violent
11 character?

12 A I apologize, did you say if it was -- he was
13 identified or he was identified as the person?

14 Q If he was identified as the person during the
15 course of this trial pointing that firearm at that young
16 lady, would that change your opinion as to whether or not
17 Brandon is a person of peaceful nature?

18 A That is a very graphic photo and in my opinion it
19 would shift a few things.

20 Q If I told you that only two days later your brother
21 was arrested in a silver Charger, at the trunk of that
22 Charger wearing this same design jacket of gray and black
23 hoodie with red zippers and in possession of gloves matching
24 the gloves in this photograph and a firearm matching the
25 firearm in this photograph in the trunk, would that change

1 your opinion as to Brandon's nature as a person of peaceful
2 character?

3 A It would rattle my mind for thoughts.

4 Q So those things might change your opinion as to
5 whether or not Brandon is an individual of -- or a
6 non-violent individual; is that fair to say, ma'am?

7 A It would make me think about things. I would not
8 say that it would fully change my mind as you said "if". You
9 didn't say that it was him.

10 Q Well, if I tell you that your brother was
11 arrested --

12 MS. LOBO: Objection. Counsel testifying.
13 Argumentative.

14 THE COURT: Overruled. This is --
15 BY MR. PORTZ:

16 Q If I tell you that your brother was, in fact,
17 arrested, identified by the officers who arrested him as the
18 man standing at the trunk of the Charger wearing the exact
19 same clothes that I just showed in that last photograph,
20 would that change your opinion?

21 A And you stated that photograph was the same day
22 that they were arrested?

23 Q It took place three days prior.

24 A So it is a possibility that someone else could have
25 been wearing that jacket on that day and my brother may have

1 wore it the other day.

2 Q Ma'am, would you expect your brother to brag to you
3 about committing armed robberies?

4 A We were close enough for him to let me know he was
5 doing something that he shouldn't have been doing. We
6 confided in each other.

7 Q So you think that if -- your testimony is you
8 believe Brandon would come to you and tell you that he was
9 committing armed robberies over the course of a month and a
10 half?

11 A I would hope so, yes.

12 Q You don't have knowledge of your brother's
13 whereabouts on these evenings that I showed you in these
14 photographs?

15 MS. LOBO: I'm going to object as to inappropriate.
16 May we approach?

17 THE COURT: Yes.

18 (Off-record bench conference)

19 BY MR. PORTZ:

20 Q And as you testify here today, you don't know your
21 brother's whereabouts on the evening of -- evenings of
22 November 4th, 2014?

23 A Actually, incorrect. On the evening of November
24 4th he wasn't even in the state.

25 Q On the evening of November 3rd, 2014?

1 A He wasn't in the state either.

2 Q It's your testimony that your brother was no longer
3 in the state of Nevada in November of 2014?

4 A No.

5 MS. LOBO: That's objection. Mischaracterization
6 of her testimony.

7 THE COURT: Well, if we even get to that. I mean,
8 the objection's kind of premature, but I'm going to sustain
9 it because --

10 MR. MANINGO: Your Honor, may we approach one more
11 time?

12 (Off-record bench conference)

13 THE COURT: Ladies and gentlemen, I need to take a
14 recess here. During this recess, you're admonished not to
15 talk or converse amongst yourself or with anyone else on any
16 subject connected with this trial or read, watch or listen to
17 any report of commentary on the trial or any person connected
18 with this trial by any medium of information, including
19 without limitation, newspapers, television, the Internet and
20 radio or form or express any opinion on any subject connected
21 with this trial until the case is finally submitted to you.

22 Ladies and gentlemen, it's 10 after now. Go ahead
23 and take 15 minutes, but make sure you're back here within 15
24 minutes to come back in the courtroom.

25 Also, Ms. Ray, I'm going to ask that you step down

1 so we can -- step out of the courtroom. Okay, go ahead.
2 We'll be at ease while you leave the room.

3 (Outside the presence of the jury)

4 THE COURT: Okay. We're outside the presence of
5 the jury. During cross-examination of Ms. Ray, State was
6 asking questions about if she knew where Mr. Starr would have
7 been at any of these times of the dates of these occurrences.

8 At that time, it struck an objection by the
9 defense. I'm going to allow you to make a record as to what
10 you believe your objection is and so I can make a ruling on
11 it. Okay?

12 MR. MANINGO: Thank you, Your Honor. I'll start
13 and then let Ms. Lobo finish up. The record that I was
14 making at the bench, Your Honor, was that we've exchanged
15 courtesies throughout this -- throughout this trial with the
16 State as to what the lineups are going to be for the next
17 day.

18 We did notice alibi witnesses in this case. We
19 noticed a witness from a bus station. We noticed a witness
20 from California that would have testified to Mr. Starr being
21 in California on certain nights that are in question.

22 We -- after the close of the State's case, we made
23 the strategic decision not to call those witnesses in our
24 defense case. Ms. Ray took the stand, was asked pointed
25 questions about her opinion with respect to Mr. Starr's

1 character. Those questions were not to elicit any sort of
2 alibi testimony.

3 I do not believe at all that it opened the door for
4 alibi, but yet, she had to say what her frame of reference
5 was as to when she knew Brandon, when she knew about Brandon,
6 but not with respect to specific nights.

7 On cross-examination of Ms. Ray, the questions were
8 asked of her, do you know where he was on these certain days
9 and these certain nights. With respect to, I believe,
10 November 3rd and November 4th that were directly asked of Ms.
11 Ray, she testified that Mr. Starr was out of the state. I
12 don't know if she said California or not, but she said out of
13 the state. I don't recall.

14 What that does, Your Honor, it puts the question in
15 the mind of the jury about where Brandon was. Was he out of
16 the state? We haven't presented that testimony. We haven't
17 presented that as part of our defense. If Your Honor is
18 going to allow that line of questioning, then we need to be
19 able to fully flesh out the issue. But based on the -- and
20 of course, you'll probably say well, you can, Mr. Maningo,
21 that's your right.

22 But what happened was because I told the State
23 yesterday that -- they told us they were closing. We told
24 them, okay, we've decided not to call the alibi witnesses, I
25 have released those witnesses. I have told the custodian of

1 records and the person most knowledgeable from the bus
2 company that she no longer had to appear and she was released
3 from her subpoena. I told the California witness who was
4 poised and ready, I think, I don't know for sure, to come
5 that she didn't have to come.

6 And now we're put in a position of the burden is on
7 us to flush out this issue of alibi and we want to be able to
8 do that. We need two things. One, a mistrial based on that.
9 Two, we need a continuance of this trial and a fair
10 opportunity to get our witnesses who were ready to come
11 testify back in this courtroom.

12 THE COURT: Okay. Ms. Lobo, did you want to add to
13 that?

14 MS. LOBO: Just briefly, for the record, just
15 outlining my questions. I asked Ms. Ray a series of
16 questions about how long has she been in Vegas? How does she
17 know Brandon? When did Brandon move to Vegas? And then she
18 testified for one period of time that for the first two weeks
19 Brandon lived here that Brandon stayed with her, but then she
20 helped Brandon get an apartment off of Lake Mead.

21 THE COURT: Um-h'm.

22 MS. LOBO: He lived at that apartment with
23 Brittany, and then after, I think, about October or November
24 is the time that she said that there was bugs and stuff in
25 the apartment and that he was going to come back and stay

1 with her.

2 THE COURT: Um-h'm.

3 MS. LOBO: That was what we had. Nothing in about
4 his whereabouts like day for day where they were. She was
5 living with his ex-girlfriend or fiancé at the time at that
6 apartment and not accounting for a personal time frame. I
7 only did that to give the jury context because the jury heard
8 yesterday, I believe, from Detective Abell that there was
9 things that were at the Charleston apartment address that
10 were attaching Brandon Starr to it.

11 So printed that evidence to show that he did have a
12 different residence and that she helped him securing that
13 residence and how long he was at that residence. I did not
14 intend to elicit day-by-day testimony of his accounting and
15 whereabouts.

16 And then just specific to the question about the
17 characterization of violence or non-violence and what was her
18 opinion, and I don't believe that we warranted the cross. It
19 was beyond the scope, the questions were, of going into a
20 day-by-day analysis of his whereabouts.

21 THE COURT: State, did you want to address that?

22 MR. TANASI: Your Honor, can I just lodge a
23 joinder?

24 THE COURT: Okay.

25 MR. TANASI: Thank you.

1 MR. PORTZ: Well, Judge, first of all, I would
2 point out that their direct completely touched on Brandon
3 Starr's whereabouts throughout the entirety of the crime
4 spree up until mid-November to when they got their witness
5 into this very vague transitioning period where they didn't
6 want to specify where he was living at that point in time.

7 So I don't see anything inappropriate about asking
8 this witness whether or not she was aware of his whereabouts
9 on a particular night that was relevant and pertinent to this
10 crime. That's not opening any sort of door. It's not
11 leading to any sort of mistrial. It's a perfectly relevant
12 question to show that this witness, who's not noticed as an
13 alibi witness, is or is not aware of someone's whereabouts on
14 the night that a particular crime occurred.

15 I would also note that my question was simply that
16 and that she blurts out the dates and the travel schedule
17 that they're worried about now. So this was not intended to
18 exploit anything that the defense is telling me that they
19 weren't calling a certain witness tomorrow. This was simply
20 a line of questioning that was to show that she was unaware
21 of his whereabouts on certain dates and times.

22 THE COURT: Mr. Maningo, do you want to --

23 MR. MANINGO: Your Honor, I don't suggest foul play
24 by Mr. Portz. I want to be clear on that. But I think the
25 reality of the situation is what it is.

1 THE COURT: Yeah, but Mr. Maningo, it sounds to me
2 that both you and Ms. Lobo, and Mr. Tanasi joined in on this,
3 is that you're telling the Court that State is not allowed to
4 cross-examine your witnesses to the extent of anything that
5 has to do with, other than just pointed questions that you
6 directed them on?

7 MR. MANINGO: The rule is clear, Your Honor. I
8 mean, there is a legal objection based on going outside the
9 scope of direct examination.

10 THE COURT: But that's not what the objection was.
11 Your objection was is that this was a -- they opened the door
12 to some alibi.

13 MR. MANINGO: Well, we made multiple objections,
14 Your Honor. And I know we were fired up and we were shooting
15 them out there. But we objected to outside scope of direct
16 examination. We objected to burden-shifting.

17 THE COURT: Okay. Now that's the one I want to
18 hear about. I'm really confused by what your thought pattern
19 is on that. In light of the fact that you presented Ms. Ray,
20 and you presented her to say I'm the one that brought
21 Mr. Starr at my direction to Las Vegas. He came here, he
22 lived with me for a couple weeks, then he got into an
23 apartment with his daughter and his fiancé.

24 And then he got a hold of me in reference to where
25 he was living, and I suggested that he move out and I told

1 him to do it in the middle of November of 2014. Oh, and by
2 the way, I know him so well that he has no violent tendencies
3 in my opinion. Okay?

4 That's what you offered him for.

5 MR. MANINGO: Where does that suggest alibi?

6 Where --

7 THE COURT: -- I --

8 MR. MANINGO: Where does that suggest that

9 Mr. Starr was at point A --

10 THE COURT: So --

11 MR. MANINGO: -- when he's alleged to be at point

12 B?

13 THE COURT: You --

14 MR. MANINGO: None of that does.

15 THE COURT: -- put her -- you put her here to say
16 that she was the one that basically has the most knowledge of
17 him and got him to come to Las Vegas, knows about him, knows
18 that he's living --

19 MR. MANINGO: Character.

20 THE COURT: -- with the fiancé.

21 MR. MANINGO: Character.

22 THE COURT: How's that character?

23 MR. MANINGO: Knows about him.

24 MS. LOBO: It's foundation.

25 THE COURT: No, knows where he lives, I brought him

1 here --

2 MR. MANINGO: Your Honor --

3 THE COURT: -- I know where he's staying, I -- he
4 asked me about my place that I'm staying in. He confides
5 with me -- in me.

6 MR. MANINGO: Yeah, Your Honor --

7 THE COURT: But then --

8 MR. MANINGO: -- if we would -- if we would have
9 just --

10 THE COURT: But I don't understand --

11 MR. MANINGO: I'm sorry.

12 THE COURT: -- your leap to the alibi.

13 MR. MANINGO: If we would have just put her up
14 there and say, what do you think of Mr. Starr, is he violent
15 or not violent, objection. Foundation. We had to establish
16 that she knew him and that --

17 THE COURT: Well, I understand that.

18 MR. MANINGO: -- that's what that was.

19 THE COURT: But that's a risk you run when you put
20 people on the stand.

21 MR. MANINGO: You ask the person --

22 THE COURT: You're saying they're not entitled to
23 cross-examine them?

24 MR. MANINGO: Of course they can, but they've got
25 to --

1 THE COURT: But then you say you can't question
2 them about whether or not you know him -- where the defendant
3 was on such and such a date?

4 MR. MANINGO: They can't.

5 THE COURT: Well, based on what? I'm completely
6 confused by your argument, Mr. Maningo.

7 MR. MANINGO: So you're saying --

8 THE COURT: I am.

9 MR. MANINGO: -- you're saying that with any
10 witness State called, I can ask them whatever they want
11 just --

12 THE COURT: Do you not --

13 MR. MANINGO: -- just because --

14 THE COURT: -- do that as your main course of
15 discovery practice in preliminary hearings? Everything you
16 want to ask you do.

17 MR. MANINGO: That is -- that's far different. I
18 mean, I'm sure you're not --

19 THE COURT: Okay.

20 MR. MANINGO: -- drawing a parallel between what
21 happens at preliminary hearing and what happens at trial
22 because --

23 THE COURT: No, I am --

24 MR. MANINGO: -- because there's no jury --

25 THE COURT: -- in some regards when you talk

1 about --

2 MR. MANINGO: -- there's no jury at preliminary
3 hearing.

4 THE COURT: -- cross-examination.

5 MR. MANINGO: At cross --

6 THE COURT: When you talk about cross-examination.
7 You presented this witness, you presented this witness for
8 purposes of knowing how he got to Vegas, knowing where he was
9 living at the time, where he was moving to at the time, and
10 now you're saying they can't ask any questions about that
11 time frame because it might say that he was not here, he may
12 -- was in a different state. That's a risk they run that
13 they -- that she says something like that.

14 But then you say it's burden-shifting? How is that
15 shifting a burden to the defense at all?

16 MR. MANINGO: They have put the expectation in the
17 mind of this jury that there's some sort of alibi defense.
18 That there's something out there that says that --

19 THE COURT: They have, because you're your witness
20 answered it, well, on November 3rd, 2016 he wasn't in the
21 state. They've done that? Your witness is the one that
22 answered them. Do you know where he was on November 3rd?

23 MR. MANINGO: Your Honor, she wouldn't have just --
24 she wouldn't have just blurted that out.

25 THE COURT: She just did.

1 MR. MANINGO: In response to a question from the
2 State.

3 MS. MERCER: Your Honor, I just want to make a
4 record --

5 THE COURT: But -- hold on. I'm still trying to
6 figure out how that burden shifts at all.

7 MR. MANINGO: And I don't mean to be redundant,
8 Your Honor. I believe it shifts the burden in this respect.

9 THE COURT: Okay.

10 MR. MANINGO: There was a question posed by the
11 State, and in answer to that question, the witness brought
12 out alibi material. Based on that, the jury heard just a
13 smidge of alibi information and leaves this jury wondering is
14 there an alibi defense? Was he somewhere else when he wasn't
15 -- was he somewhere else instead of at these alleged crimes?

16 We noticed alibi witnesses and made the strategic
17 decision not to call them. Now that that has happened, we
18 deserve the right to expand further to fulfill our now burden
19 that has been shifted to us to --

20 THE COURT: I disagree --

21 MR. MANINGO: -- show them --

22 THE COURT: -- there was any burden shifted to you
23 by that. If you believe you have an alibi to present,
24 present it. But by a question asked by a witness that you
25 presented that answers it, well, wasn't in the state,

1 that's --

2 MR. MANINGO: Let me just --

3 THE COURT: -- shifting the burden?

4 MR. MANINGO: Well, now we have to call witnesses
5 that we had decided previously not to call. And now --

6 THE COURT: But that -- but why you're saying that?
7 Because you took the decision not to call them and because
8 your witness answered a question by the State, you're saying
9 now State has shifted the burden to us; now that we have to
10 present this alibi?

11 MR. MANINGO: Yeah. Yeah.

12 THE COURT: I -- okay. Do you want to make a
13 further record? I --

14 MS. MERCER: I justify want to make the point that
15 the question to her was not, you don't know where your
16 brother was on November 3rd and November 4th. It was you
17 can't account for your brother's whereabouts at all times
18 during the events in this case? And she blurted out, as a
19 matter of fact, he wasn't here on November 3rd and 4th. He
20 was in California. And she was obviously trying to sneak
21 that in to help her brother.

22 MR. MANINGO: Your Honor, I think the only fair
23 remedy is a continuance to allow us to get our alibi
24 witnesses here.

25 THE COURT: How long you going to need them? And

1 why would you call them off before you finish your case?

2 MR. MANINGO: Your Honor, that falls on me. Your
3 Honor, I had representations back and forth with State and we
4 had been talking about line-ups all along and --

5 THE COURT: And Mr. Maningo --

6 MR. MANINGO: -- we made the --

7 THE COURT: -- in all due respect to you, if you
8 have a true alibi, why would you ever call them off? I mean,
9 I don't know, I mean --

10 MR. MANINGO: That's a --

11 THE COURT: -- maybe you --

12 MR. MANINGO: -- that's a strategy decision between
13 my client and I.

14 THE COURT: Okay.

15 MR. MANINGO: I'd be happy to go in camera with you
16 and explain that to you, if you wanted to hear an answer.

17 THE COURT: No, if you -- no, if you didn't want to
18 put it on the record, that's fine. I -- it's up to you.

19 MR. MANINGO: But --

20 THE COURT: But I -- I'm still perplexed, though,
21 as to your argument how this shifted the burden to you.

22 MR. MANINGO: It forces us to do -- I believe,
23 strategy-wise to effectively represent my client that now we
24 have to present evidence that we had previously decided not
25 to.

1 THE COURT: Just based on her statement that he
2 wasn't in the state?

3 MR. MANINGO: For specific dates. She said
4 specific dates.

5 THE COURT: November 3rd and November 4th he wasn't
6 in the state. Okay. And you believe that shifts the burden
7 to you, that it makes you put on --

8 MR. MANINGO: I believe --

9 THE COURT: -- an alibi now; that's what you're
10 saying?

11 MR. MANINGO: Yes.

12 THE COURT: Okay. And well, you've asked for a
13 mistrial also, right?

14 MR. MANINGO: Correct.

15 THE COURT: Okay. I'm going to deny the Motion for
16 a Mistrial. State. What -- let me ask you this on the
17 record. What is your intent -- what was your intention?
18 What's your intention leading down that -- I understand you
19 can ask him whether or not she knows whether he was here or
20 not. I agree with that. I completely agree that you have
21 that right in cross-examination under these circumstances to
22 ask her if she knew if he was here or not.

23 MR. PORTZ: And that was my sole intention was I
24 was actually going to address every single date that a crime
25 occurred. I had only in front of me, not my list of

1 everything, but the first slide of the surveillance footage
2 of what I'm showing her, which was November 3rd and November
3 4th.

4 I was going to run through each of those dates and
5 point out that she could not -- for the whereabouts of this
6 individual when she blurted that out so.

7 THE COURT: Was she noticed as an alibi?

8 MS. LOBO: No.

9 THE COURT: How would you expect the State then to
10 expect that she's going to say anything about an alibi unless
11 she probably heard it from somebody else and under these
12 circumstances?

13 I mean, if she knows that he wasn't here on
14 November 3rd or November 4th, then wouldn't you expect her to
15 be an alibi witness and be noticed by the defense?

16 MS. LOBO: No, absolutely not. I'll address that.
17 The people who we noticed for our alibi don't have anything
18 to do with it. She has that knowledge, but how we choose to
19 present the alibi defense in the most cohesive manner
20 possible is our decision.

21 She just knew that her brother was out of town.
22 She can't say to his whereabouts. We had to have the people
23 to where he actually went in California come and say my
24 brother was with me on these two dates and he rode the bus,
25 here's the bus ticket, and here --

1 THE COURT: Okay.

2 MS. LOBO: -- I picked my brother up from the bus
3 station.

4 THE COURT: Okay.

5 MR. PORTZ: I believe the answer to the question
6 should have been no, I wasn't with him on that particular
7 date and time.

8 MS. LOBO: That wasn't what you asked.

9 MR. PORTZ: I mean, I don't -- Judge, I don't see
10 how it was an unfair question. I think Your Honor's pointed
11 that out numerous times. These are pertinent, they're
12 relevant questions. Her answer was her answer to a yes or no
13 question where she discusses California. And the State
14 should be permitted, of course, to follow up with the fact
15 that she never reported that to anyone.

16 THE COURT: Okay. All right, well, defense, you
17 need to make the decision you want to do of whatever you need
18 to do. If you need additional time, let me know how much
19 additional time you're going to need. And I'm a little
20 concerned about the fact that you called these witnesses off
21 before you've rested your case, but I'll give you time.

22 I mean, that's -- I'll give you time to call any
23 witnesses that you need. But at this point in time, I'm
24 going to deny your motion for a mistrial. I don't believe
25 that there was any burden-shifting here based on the totality

1 of the circumstances under the questioning. Nor do I believe
2 that it was improper questions.

3 So I'm going to allow the jury to could back in and
4 we'll resume with Ms. Ray.

5 MR. MANINGO: And Your Honor, just for
6 clarification, you're going to allow Mr. Portz to go into
7 each event, ask questions of where -- if she has an
8 understanding of where he was at, at a given date and time?

9 MR. PORTZ: Your Honor, I'll save us some time.
10 I'll avoid that line of questioning since it's brought up,
11 you know, and it's so much concern for the defense. I'll
12 keep it brief and move through it. But I'm going to address
13 the fact that she said he was in California and hasn't told
14 anyone until this point or --

15 MS. LOBO: What?

16 MR. PORTZ: -- notified law enforcement, notified
17 the District Attorney's Office. I mean, she opened the door
18 to that. The State should -- the State needs to address that
19 point.

20 MR. MANINGO: And Your Honor, I understand the
21 Court's ruling. I'm not going to talk much longer, but the
22 door -- he can't say that her answer opened the door when it
23 was in response to his question by the State.

24 THE COURT: I don't think the question was an
25 improper question.

1 MR. MANINGO: Okay.

2 THE COURT: That's the ruling I've made.

3 MR. MANINGO: Okay.

4 THE COURT: The answer (indecipherable), I'm not
5 going to tell the State how to handle their case, I'm not
6 going to tell you how to handle your case. However, I don't
7 believe it was an improper question. The answer will stand.
8 However you want to respond to it, that's up to you -- up to
9 the State. And -- but I'm going to allow you to continue
10 down the questioning in any manner which you think's
11 appropriate under these circumstances and I'll deal with any
12 objection at the time of any question that you ask.

13 MS. MERCER: Your Honor, before we bring the jury
14 in, do you want to give them time to try to get ahold of
15 their witnesses so that we don't have to delay it in further?

16 THE COURT: Do you want to see if you can do that?

17 MR. MANINGO: And Your Honor, I'm not being coy in
18 saying this, but I really don't know how I'm going to be able
19 to get a California witness now to get back out here in -- I
20 mean, I'm happy to take the opportunity if you'll give it to
21 me.

22 And if you prefer I do it now, I will. If you
23 prefer to finish this --

24 THE COURT: I --

25 MR. MANINGO: -- witness --

1 THE COURT: I would also like to see did you
2 actually get subpoena returns from these individuals?

3 MR. MANINGO: Yeah.

4 THE COURT: And you had it set up for them to be
5 here and all that?

6 MR. MANINGO: Yes.

7 MS. LOBO: Yes.

8 THE COURT: I'd like to make -- we got to make that
9 part of the record --

10 MR. MANINGO: I will, Your Honor.

11 THE COURT: -- since you're -- what you're doing
12 here.

13 MR. MANINGO: And our investigator can come in and
14 offer that as well.

15 THE COURT: Okay. So whatever time you need, I'll
16 give you the time, but I -- okay. All right, so --

17 MR. MANINGO: And maybe a moment just to confer
18 with my client.

19 THE COURT: All right. Okay.

20 MR. MANINGO: Thank you, sir.

21 THE COURT: I'll take a break.

22 (Pause in the proceedings)

23 (Court recessed at 10:28 a.m. until 11:08 a.m.)

24 (Outside the presence of the jury.)

25 THE MARSHAL: Please remain seated. Department 19

1 is back in session.

2 THE COURT: Okay. We're back on the record in --

3 THE COURT RECORDER: No, we're not, Judge.

4 THE COURT: We're not? All right. Let me know.

5 (Pause in the proceedings)

6 THE COURT: We're back on the record in Case C-
7 303022, State of Nevada versus Tony Hobson and Brandon Starr.
8 I'd like the record to reflect the presence of defendants,
9 their counsel as well as the State and their counsel. We're
10 outside the presence of the jury. Mr. Maningo.

11 MR. MANINGO: Thank you, Your Honor. First, I want
12 to thank the State and the Court and everyone here for the
13 patience. I have a proposal for the Court that I think is
14 agreeable to the State. I'll let them respond on their own.

15 Because we feel that we need to put on an alibi
16 defense, I've made contact with my investigator, and he can
17 be available today or tomorrow morning. But with respect to
18 our California witness, if the Court would allow me just
19 slight continuance, we would propose that we finish up with
20 Reshitta today, and then we take a recess until tomorrow
21 morning.

22 If I'm able to get my witness here by tomorrow
23 morning, we'll proceed with her. If not, we'll call our
24 investigator and do the best we can within the rules of
25 evidence to have him testify. If we can't get the alibi

1 witnesses by tomorrow morning, we'll be prepared to close.

2 THE COURT: Okay. All right, that's -- do you want
3 to go ahead and put your investigator on this afternoon or
4 yeah, pretty soon?

5 MR. MANINGO: Your Honor, he says that he can be
6 available by 1:00 o'clock. I just don't know if the Court
7 would prefer -- he's also available tomorrow morning. And it
8 kind of --

9 MS. MERCER: It depends on --

10 MR. MANINGO: -- it depends on --

11 MS. MERCER: Right.

12 MR. MANINGO: -- if we get the California
13 witness --

14 MS. LOBO: (Inaudible).

15 THE COURT: Okay.

16 MR. MANINGO: -- whether we want him.

17 THE COURT: So you want to wait --

18 MS. MERCER: Yeah, it's probably easier just to --

19 THE COURT: You want to wait for that? I'll leave
20 it up to you, Mr. Maningo.

21 MR. MANINGO: I really appreciate the courtesies of
22 the Court and State. I'd prefer to wait until tomorrow
23 morning and we may not call him.

24 THE COURT: All right. Okay, I'll go ahead and --
25 do you have an objection to that?

1 MS. MERCER: No, Your Honor.

2 THE COURT: Okay. I'll go ahead and do that. What
3 I'd like to do, though, I'm going to go ahead and we'll
4 finish up with Ms. Ray and then -- Mr. Starr, go ahead and
5 have a seat.

6 MR. MANINGO: Thank you, sir.

7 THE COURT: Unless -- I mean, unless you want to
8 stand. It's really up to you. But we'll wait for Ms. --
9 finish with Ms. Ray, and then I'd like to probably go ahead
10 and possibly resolve the jury instructions today.

11 MS. LOBO: Okay.

12 THE COURT: But I don't know if you're ready for
13 that.

14 MR. MANINGO: I believe, we are.

15 MS. LOBO: We are.

16 THE COURT: Okay. Okay. All right, so why don't
17 we do that, then. Jim, you want to go ahead and get the jury
18 back in and we'll finish up? Bring Ms. Ray back as well.
19 Ms. Mercer, can you send me a copy of these without these
20 cites on them?

21 MS. MERCER: Yeah, I can do that. I just wasn't
22 sure if the Court had -- was done with the cites or not.

23 THE COURT: Yeah, I -- I -- yeah.

24 (Pause in the proceedings)

25 (In the presence of the jury)

1 THE MARSHAL: Please be seated. Department 19 is
2 back in session.

3 THE COURT: Okay, this is the continuation of the
4 jury trial in Case C-303022, State of Nevada versus Tony
5 Hobson and Brandon Starr. I'd like the record to reflect the
6 presence of all members of the jury. Will the parties
7 stipulate to that?

8 MR. PORTZ: Yes, Your Honor.

9 MR. TANASI: Yes, Your Honor.

10 THE COURT: Okay. Also, Ms. Ray is on the stand
11 currently. Ms. Ray, I want to remind you you're still under
12 oath.

13 THE WITNESS: Yes.

14 THE COURT: The State was in the process of
15 cross-examination. Mr. Portz.

16 MR. PORTZ: Thank you, Your Honor.

17 CROSS-EXAMINATION (RESUMED)

18 BY MR. PORTZ:

19 Q Ms. Ray, when -- before we took that break, you had
20 testified that you believed your brother to be out of town
21 during the period of November 2nd, November 3rd. You based
22 that testimony on the fact that you dropped him off at a bus
23 station?

24 A Correct.

25 Q Okay. And was that on November 2nd?

1 A Yes.

2 Q And did you pick him up on November 5th?

3 A Yes.

4 Q Okay. From that bus station?

5 A Correct.

6 Q All right. But you do not -- you cannot personally
7 account for his whereabouts during that period of time,
8 correct? You were not personal with him, yes or no?

9 A No.

10 Q All right. And you did not see him get off of a
11 bus or be dropped off by anyone when you picked him up at
12 that bus station, yes or no?

13 A No.

14 Q And you have never come forward and told the police
15 about the fact that you believed Brandon was out of town for
16 that period of time, yes or no?

17 A Well, I was never asked.

18 Q Okay. But ma'am, you understand that Brandon's on
19 trial for serious offenses here, correct?

20 A Correct.

21 Q Okay. And you never felt it necessary to go to the
22 police and inform them that Brandon was out of town for a
23 period of time during which this robbery spree took place?

24 A Well, you just provided me with the evidence. No
25 one has told me anything. I've been completely left out of

1 the loop.

2 Q Okay. Yes or no, did you go forward -- did you
3 take this information to the police at any point in time?

4 A No.

5 Q Did you ever bring this information that you claim
6 to have to the District Attorney's Office at any point in
7 time?

8 A No.

9 Q Did you ever speak to one of our investigators to
10 inform us about this information you had at any point in time
11 since November of 2014?

12 A No.

13 Q Now, you love your brother, Brandon; is that fair
14 to say?

15 A Yes.

16 Q You wouldn't want to see him get into trouble?

17 A No.

18 MR. PORTZ: And at this point, Your Honor, I'm
19 going to ask to approach with State's 232 and 270.

20 THE COURT: Okay, yes.

21 MR. PORTZ: Thank you.

22 BY MR. PORTZ:

23 Q And I'm going to show you, this is an exhibit
24 that's been admitted, State's 232. Do you recognize the
25 individual pictured in there?

1 A Yes.

2 Q Who is that?

3 A That is my brother and sister.

4 Q Okay. And your brother, Brandon, specifically?

5 A Yes.

6 Q And he's wearing a Cincinnati Reds ball cap?

7 A Correct.

8 Q And he's got what appears to be a red and gray
9 baseball glove on?

10 A Correct.

11 Q Okay. And then showing you State's 235. Do you
12 see the individuals pictured in that frame above the dresser?

13 A Yes.

14 Q Can you recognize who those individuals are?

15 A Yes. That is my brother, Brandon, and his fiancé,
16 Brittany.

17 Q Okay. And Brandon's got that red Cincinnati
18 baseball cap on as well, correct?

19 A Correct.

20 Q Okay. So going back to State's 270 and your
21 testimony on direct about having an opinion that Brandon is
22 of a non-violent nature, if I told you that the individual
23 wearing this red Cincinnati ball hat and the gray and red
24 baseball glove with the R on it that was seen in a video
25 committing an armed robbery, would that change your opinion

1 as to Brandon's nature being a non-violent person?

2 A If it was my brother, then I would still have
3 thoughts about that, yes.

4 Q You would have thoughts about it, but it wouldn't
5 change your opinion?

6 A I wouldn't say that it would fully change my
7 opinion, no.

8 MR. PORTZ: Court's indulgence.

9 BY MR. PORTZ:

10 Q Now, ma'am, is it true that, in fact, you did speak
11 to an investigator from the District Attorney's Office just
12 prior to this trial beginning?

13 A Yes.

14 Q And you spoke to that investigator about what your
15 understanding and knowledge was of this case; is that
16 correct?

17 A Incorrect.

18 Q Okay. Did --

19 MR. PORTZ: Court's indulgence.

20 BY MR. PORTZ:

21 Q He specifically asked you what information you
22 would provide at trial; is that correct?

23 A Correct.

24 Q And you never told him anything about dropping
25 Brandon off or picking Brandon up at a bus station; is that

1 correct?

2 A Correct.

3 Q Thank you.

4 MR. PORTZ: No further questions, Your Honor.

5 THE COURT: Redirect?

6 REDIRECT EXAMINATION

7 BY MS. LOBO:

8 Q Ms. Ray, why is it that you did not speak to the
9 District Attorney's Office when they called you prior to
10 trial starting?

11 A They actually did not call me prior to trial
12 starting. The investigator showed up at my house and gave my
13 husband a card. I made contact with him and advised him
14 anything that he needs to know about my testimony he can
15 speak with my brother's attorney's office.

16 Q Okay. And that would be myself and Mr. Maningo?

17 A Yes.

18 Q Okay. You mentioned on cross-examination that you
19 dropped Brandon off at the bus station on November 5th and
20 then picked him back -- I mean, on November 2nd, and then
21 picked him back up on November 5th. Do you know where he was
22 going, and if you do know, where?

23 MR. PORTZ: Objection, Your Honor. Hearsay and
24 lack of foundation.

25 BY MS. LOBO:

1 Q Do you --

2 THE COURT: It would be anything that was told to
3 her, to inform her, unless you can lay a better foundation as
4 to it, otherwise, then it would be hearsay.

5 MS. LOBO: Okay. I'll rephrase my question.

6 THE COURT: Okay.

7 BY MS. LOBO:

8 Q Why were you dropping Brandon off at the bus
9 station?

10 MR. PORTZ: Your Honor, I'm going to object to this
11 same question. I think it's calling for the same answer,
12 which would be based on hearsay and with a lack of
13 foundation.

14 MS. LOBO: Judge, at this point --

15 THE COURT: Well, I'm going to allow it.
16 Overruled. I think there's --

17 BY MS. LOBO:

18 Q Why were you dropping him off?

19 A He was traveling to California to visit a family
20 member.

21 Q Okay. You were shown a photo by -- State's 278.

22 MS. LOBO: If I can approach, Judge?

23 THE COURT: Yes.

24 BY MS. LOBO:

25 Q You stated that you recognized your brother wearing

1 these gloves?

2 A Yes.

3 Q Had you ever seen your brother wear these gloves
4 before?

5 A Yes.

6 Q When?

7 A When he has worked on my vehicle or our sister's
8 vehicles.

9 Q Okay. How often would that happen?

10 A Quite a bit. I had an older model vehicle that was
11 not that reliable so I would be able to call him, and he
12 would come over, tinker with a few things and make sure I was
13 back up and going.

14 Q Okay.

15 MS. LOBO: I'll pass the witness.

16 THE COURT: Redirect.

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

18 THE COURT: Do you have any questions, Mr. Tanasi?

19 MR. TANASI: I don't, Your Honor. Thank you.

20 THE COURT: We've got some questions. Jim.

21 (Off-record bench conference)

22 THE COURT: Okay, Ms. Ray --

23 THE WITNESS: Yes.

24 THE COURT: -- you testified that Brandon moved to
25 Las Vegas in 2014 and stayed with you for two weeks. Do you

1 remember the month and day in 2014?

2 THE WITNESS: I want to say that it may have been
3 around March or April. I do apologize, I'm not exactly sure
4 if it was March or April.

5 THE COURT: Okay. Any questions as a result of
6 those questions?

7 MS. LOBO: No.

8 MR. PORTZ: Well, their witness, but no questions
9 from the --

10 MS. LOBO: No, Your Honor.

11 MR. PORTZ: -- State.

12 THE COURT: Okay.

13 MR. TANASI: No, Your Honor.

14 THE COURT: I have a question.

15 THE WITNESS: Yes.

16 THE COURT: You said that, I guess, when you were
17 growing up with Mr. Starr, that you had play days?

18 THE WITNESS: Yes.

19 THE COURT: Okay. Was Mr. Starr ever involved in
20 sports?

21 THE WITNESS: I'll say, yes and no. He actually
22 was injured when he was a little bit younger so it made it
23 difficult for him to do a lot of different things.

24 THE COURT: Do you know if he played baseball or
25 softball or anything like that?

1 THE WITNESS: He did recreationally.

2 THE COURT: Did he do so when he moved here to Las
3 Vegas?

4 THE WITNESS: No.

5 THE COURT: Okay. All right. Do you have any
6 questions as a result of my questions?

7 MS. LOBO: No, Your Honor.

8 MR. TANASI: No, Your Honor.

9 MR. PORTZ: No, Your Honor.

10 THE COURT: Okay. All right, Ms. Ray, thank you so
11 much for your testimony. You can step down. Okay. Do you
12 want to approach?

13 MS. LOBO: Yes.

14 (Off-record bench conference)

15 THE COURT: Ladies and gentlemen, we've got some
16 other work we got to do outside your presence. And so what
17 I'm going to do is I'm going to excuse you for the evening.
18 And sorry, that's just kind of sometimes how to works.

19 Tell me when you would prefer coming back tomorrow
20 morning, and I can start as early as you'd like.

21 UNIDENTIFIED JUROR: Start at 9:00 again. See if
22 we can do a whole day and maybe --

23 UNIDENTIFIED JUROR: Can we do 10:00?

24 THE COURT: Okay.

25 UNIDENTIFIED JUROR: Do 10:00, yeah, that's fine.

1 UNIDENTIFIED JUROR: Can we do 10:00?

2 UNIDENTIFIED JUROR: That's fine.

3 THE COURT: I'd prefer 9:00.

4 UNIDENTIFIED JUROR: I've got stuff to do. I'll be
5 (indecipherable) really close to 9:00.

6 THE COURT: Do you think you can be here by 9:00
7 because I -- I'm -- they're telling me they're going to be
8 done tomorrow, finished, and you guys are going to get to
9 deliberate.

10 UNIDENTIFIED JUROR: 9:00 --

11 UNIDENTIFIED JUROR: Let's do it at 8:00.

12 THE COURT: 9:30?

13 UNIDENTIFIED JUROR: 9:30 it is.

14 THE COURT: Is everybody okay with that?

15 UNIDENTIFIED JUROR: Yeah, I'm good.

16 THE COURT: Mr. -- you okay with that?

17 UNIDENTIFIED JUROR: Sure.

18 THE COURT: Okay. All right. Okay, so ladies and
19 gentlemen, I'm going to take a evening recess until -- and be
20 here tomorrow at 9:30.

21 You're admonished not to converse amongst yourself
22 or with anyone else on any subject connected with this trial
23 or any read, watch or listen to any report or commentary on
24 the trial by any person connected with this trial or by any
25 medium of information, including without limitation,

1 newspapers, television, the Internet or radio.

2 You are further admonished not to form or express
3 any opinion on any subject connected with this trial until
4 the case is finally submitted to you. All right, 9:30
5 tomorrow.

6 (Outside the presence of the jury)

7 (Pause in the proceedings)

8 (Court recessed at 11:26 a.m. until 12:16 p.m.)

9 (Outside the presence of the jury.)

10 (Pause in the proceedings)

11 THE COURT: Okay, we're on the record in Case No.
12 C-303022, State of Nevada versus Tony Hobson and Brandon
13 Starr. We're here outside the presence of the jury for
14 purposes of settling jury instructions. I'd like the record
15 to reflect that Mr. Tanasi has filed with the Court a copy of
16 his proposed jury instructions along with a joint memorandum
17 in support of the instructions.

18 In these instructions he's proffered number 1 as a
19 entitled, testimony of a witness involving special
20 circumstances, immunity benefits accomplished, and plea.
21 It's a two-paragraph statement. There's -- after discussion,
22 the instruction that I'm going to instruct the jury on is:
23 "You have heard testimony from Donte Johns, a witness who
24 will receive a benefit from his testimony in cooperation with
25 the State. That testimony was given in exchange for an

1 inducement in connection with this case. You may consider
2 this inducement as one of many circumstances that you may
3 take into consideration in weighing the credibility of such a
4 witness."

5 Further, I am instructing the jury that "Donte
6 Johns has pled guilty to a crime arising out of the same
7 events in which Tony Hobson and Brandon Starr are on trial,
8 and this guilty plea is not evidence against the defendant
9 and you may consider it only in weighing and determining
10 Donte Johns' believability."

11 Mr. Tanasi has proffered this instruction. I'll
12 let you make any further records you'd like, but I've
13 explained to you the extent of what I'm going to instruct
14 them.

15 MR. TANASI: Sure, Your Honor. And briefly,
16 because the document that I did provide to the Court wasn't
17 actually filed so I just wanted to make a record.

18 THE COURT: I'm filing it.

19 MR. TANASI: Oh, you are? Excellent.

20 THE COURT: Um-h'm.

21 MR. TANASI: Okay. So --

22 THE COURT: I'm going to make it part of this
23 record so any -- if there's anybody looking at it further,
24 they can see it.

25 MR. TANASI: If it's going to be part of the

1 record, then, Your Honor, I'll submit it on the filed
2 document.

3 THE COURT: Okay. All right.

4 MS. LOBO: Okay. And we would just join. I think
5 it's on the filed document, but we're joining in Mr. Tanasi's
6 motion.

7 MR. TANASI: That's correct.

8 THE COURT: All right.

9 MR. TANASI: It was filed as, I think, Mr. Hobson
10 and Mr. Starr's motion or joint proposed.

11 MS. LOBO: Okay.

12 THE COURT: It does. It says Tony Lee Hobson and
13 Brandon Starr.

14 MS. LOBO: Okay.

15 THE COURT: Okay. There's a second one with
16 regards to accomplice witness. "The accomplice is hereby
17 defined" is how it starts out. That, I believe, is --
18 there's other instructions with respect to accomplice
19 testimony, accomplice witness, I think suffice. So I'm going
20 to be giving those.

21 And then you asked for a credibility of accomplice
22 testimony. And that basically, is the -- that one, number 3
23 and number 1, I've basically paired them together as they're
24 still two instructions, but it encompasses both of those.

25 MR. TANASI: Okay.

1 THE COURT: Okay? And then you asked for an
2 inverse flight instruction. I want to hear more argument on
3 that.

4 MR. TANASI: Okay. Your Honor, in this case, at
5 the end of the robbery series, the arrest that takes place at
6 Taco Bell involves many police officers, and in this case,
7 neither Mr. Hobson nor Mr. Starr attempted to flee in any
8 way. Had they, the State certainly would have sought a
9 flight instruction under the authority I cited in my moving
10 paper, the Weber v. State case (phonetic).

11 In this case -- and the reason that they would cite
12 that would be because of the flight signifying something more
13 than mere going away and embodies the idea of going away with
14 consciousness of guilt. On the flip side, the inverse
15 instruction requested in this case shows just the opposite
16 and intent to stand there and face whatever potential charges
17 might come down the pike.

18 So again, there isn't a case on point that says
19 that Mr. Hobson and Mr. Starr is entitled to an inverse
20 flight instruction, but I think that by inverse analogy it
21 would apply in this case.

22 THE COURT: State.

23 MS. MERCER: Your Honor, I would object to giving
24 it as Mr. Tanasi already noted that there's zero legal
25 authority for giving that instruction. The defense is

1 entitled to instructions, negatively phrased instructions
2 regarding the elements of offenses charged but not on flight.

3 And I also object to it because in the first 13
4 incidents they did flee the scene. The only time -- the only
5 reason they didn't get to flee on 14th event is they were
6 literally caught in the act and guns were drawn on them. And
7 Brandon Starr's response to one of the officers was, what are
8 you going to do, shoot me?

9 And then to --

10 DEFENDANT STARR: (Inaudible).

11 MS. MERCER: And with knowing that we have a video
12 of Tony Hobson acting inappropriately in an interview room
13 for, I think, about an hour, that would -- this instruction
14 gives the jury the implication that he was on his best
15 behavior that entire evening. But immediately after his
16 arrest, he's in the interview room MF'ing the detectives,
17 telling them that he slept with his wife last night, throwing
18 chairs around, et cetera, et cetera, et cetera. It seems to
19 contradict the purpose of this instruction.

20 THE COURT: And you're not offering a flight
21 instruction, are you --

22 MS. MERCER: No.

23 THE COURT: -- with regards to all the other --

24 MS. MERCER: No.

25 THE COURT: -- other counts? Okay. All right,

1 the envelope or whatever it was with his identification was
2 found by me in the bedroom. It's reversed.

3 THE COURT: Oh.

4 THE WITNESS: So if you just transpose the numbers,
5 it would be --

6 THE COURT: Okay.

7 THE WITNESS: -- correct.

8 THE COURT: All right. Okay. I wasn't -- I was
9 confused by that. The jury's got another question. Okay.

10 (Off-record bench conference)

11 THE COURT: Detective, we observed several victims
12 testify that the taller suspect was between five, eleven and
13 six foot and their voluntary reports substantiated their
14 testimony. That said, how can you count Donte Johns out as a
15 possible suspect who entered the other robbery locations that
16 occurred prior to the events he confessed to?

17 THE WITNESS: Well, as a detective, I don't go by
18 just witness statements alone. A lot of times people are not
19 very good at heights, especially if they're on the ground and
20 they got a gun pointed at them and they're looking straight
21 up.

22 Sometimes they say seven foot. I'm like seven
23 foot? So I take a conglomerates of the evidence of all
24 statements and then I look at the video to corroborate it and
25 then that's when I come up with my conclusion that no, this

1 is -- this is the right height, this is the right guy. And
2 that's -- that's normal on traumatic events, especially when
3 you think you're life's in danger that you just -- it flashes
4 and you see and you just think, especially if you're on the
5 ground looking up or if -- or you're bent over and somebody's
6 got a gun at your head. They're not always accurate.

7 THE COURT: Okay. All right. Do you have any
8 questions as a result of that --

9 MS. MERCER: Yes.

10 THE COURT: -- that question.

11 FURTHER REDIRECT EXAMINATION

12 BY MS. MERCER:

13 Q Detective, is that partly why you always do your
14 best to obtain a surveillance video of these incidents?

15 A It helps a tremendous amount, yes.

16 Q And when you're going through these videos watching
17 them repeatedly over and over again, what types of things do
18 you look for to help you determine the difference in heights
19 between the suspects?

20 A Well, you can go back to the stores and you can
21 look at the angle of the camera because if it's a higher
22 angle, it's going to show them as a shorter person or if it's
23 more on, you're going to get more of a accurate description
24 of height or just disparity (sic) between the two people or
25 three people, whoever are in the store. There's a lot of

1 things you can look at for determining height.

2 Q And with regards to the physical descriptors of the
3 suspects in this case, you indicated that Tony Hobson's five
4 foot seven?

5 A According to his -- yeah.

6 Q And you indicated that had Brandon Starr is six
7 foot four?

8 A Correct.

9 Q Which is a height difference of what?

10 A I think, what, nine inches.

11 Q Okay. And the difference between Tony Hobson and
12 Donte Johns, Donte Johns' height is five, eleven, correct?

13 A Correct.

14 Q What is that height difference?

15 A Four inches.

16 Q Is a height of nine inches easier to see on video
17 than a height of -- height difference of nine inches easier
18 to see than a height difference of four?

19 A Especially if at different camera angles. If it's
20 a higher angle, it's easier to see. If it's lower angle,
21 it's easier to see the height difference. And it's actually
22 easier to just -- better to see from different angles because
23 if it's a higher angle, they're more going to look closer
24 together because it -- it narrows the gap because it's at a
25 angle.

1 Q And what about the difference in the physical
2 builds between Donte Johns and Brandon Starr? Who's bigger?

3 A Donte Johns.

4 Q Donte Johns is bigger -- a bigger stature than --

5 A Oh --

6 Q -- Brandon Starr?

7 A -- Hobson, not -- no, Starr is a lot bigger.

8 Q And Donte Johns versus Tony Hobson, what is the
9 difference in the stature there?

10 A There's quite a bit of difference. He's a lot
11 smaller.

12 Q Who is?

13 A Hobson's a lot smaller and -- and more petite.

14 Q When you -- you've indicated that with regards to
15 the taller suspect, when you watch the video, you notice that
16 he would oftentimes hunch down, correct?

17 A Correct.

18 Q Did you notice anything distinctive about the
19 shorter person's walk?

20 A No, he was pretty much direct, straight up most of
21 the time.

22 Q And in all but how many events he was wearing the
23 gray Reeboks?

24 A I think, there's only one -- one, maybe two that I
25 -- the rest of them I -- one, maybe two that he wasn't

1 wearing the gray Reeboks.

2 MS. MERCER: No further questions.

3 MR. TANASI: Briefly, Your Honor.

4 FURTHER RECROSS-EXAMINATION

5 BY MR. TANASI:

6 Q You said that he was -- Mr. Hobson was wearing the
7 Reeboks in every video except for one or two or --

8 A Yeah, a couple of them he wasn't, I think.

9 Q Okay. And you know that just by looking at the
10 videos that the jury had watched themselves today?

11 A From my perception of the videos --

12 Q You're basing it just solely on the videos,
13 correct?

14 A Yes.

15 Q There's no other evidence? Just the videos to say
16 that the Reeboks were worn in every single robbery, correct?

17 A By the shorter suspect, correct.

18 Q Okay. Thank you, sir.

19 THE COURT: Mr. Maningo?

20 MR. MANINGO: Thank you, Your Honor.

21 FURTHER RECROSS-EXAMINATION

22 BY MR. MANINGO:

23 Q Detective, this last line of -- these last
24 questions have been about Donte Johns.

25 A Okay.

1 Q Would you agree that you could have done more to
2 investigate Donte Johns?

3 A No, he gave a full confession.

4 Q And that was enough for you?

5 A Along with the video evidence and the evidence at
6 the scenes, yes.

7 MR. MANINGO: No more questions.

8 THE COURT: Okay. All right, Detective, thank you
9 so much for your testimony. You can step down. You're
10 excused.

11 THE WITNESS: Thank you.

12 THE COURT: Okay? Ladies and gentlemen, we're
13 going to take our evening recess. Be here tomorrow at 9:00
14 o'clock to get started, and we're going to give you the whole
15 day.

16 So during this evening, you are admonished not to
17 converse amongst yourself or with anyone else on any subject
18 connected with this trial or read, watch or listen any report
19 of any commentary on the trial by any person connected with
20 this trial until -- I'm sorry, this case by any medium of
21 information, including without limitation, the newspapers,
22 television, Internet or radio.

23 Also, you're further admonished not to form or
24 express any opinion on any subject connected with this trial
25 until the case is finally submitted to you. Tomorrow at 9:00

1 o'clock. All right? We'll be at ease while the jury leaves
2 the room.

3 (Outside the presence of the jury)

4 THE COURT: Okay. We're outside the presence of
5 the jury. We'll start tomorrow at 9:00. I don't know if the
6 State's going to be resting at that time or not. If you have
7 any further witnesses, have them ready by 9:00 o'clock. And
8 the defense, I'll expect that you have your witnesses as
9 well.

10 Also, Mr. Tanasi had indicated to me as a result of
11 a conversation that the State knew about when he came back to
12 chambers just to let me know that there's a possibility that
13 you're going to be asking for a, I guess, a directed verdict
14 type of thing asking for a request for dismissal and that.

15 I'll give you that opportunity tomorrow after they
16 rest.

17 MR. TANASI: Okay.

18 THE COURT: And then we'll address that. Okay?
19 All right? Do you have anything else you need to put on the
20 record at this time?

21 MR. TANASI: And Your Honor, for the record, I
22 didn't -- I didn't run the directed verdict part by the
23 State. What I ran by the State was asking whether or not we
24 could let the one witness leave and then I --

25 THE COURT: Right. But then you just said that

1 you--

2 MR. TANASI: -- indicated to you --

3 THE COURT: Yeah, that's fine.

4 MR. TANASI: Okay.

5 THE COURT: I just wanted to make a record. It's

6 -- there

7 MR. TANASI: I can kind of hear whispers already so

8 I just wanted to make sure --

9 THE COURT: I didn't -- there was no
10 conversations --

11 MR. TANASI: -- I wasn't being accused of anything.

12 THE COURT: -- about anything to support it. It
13 was just that what your intention was.

14 MR. TANASI: Correct.

15 THE COURT: Okay. State, did you have anything
16 that you need to put on the record at this time?

17 MS. MERCER: I don't, Your Honor.

18 THE COURT: Okay. Any --

19 MR. PORTZ: Thank you, Your Honor.

20 THE COURT: All right.

21 MR. TANASI: Thank you, Judge.

22 THE COURT: Have a good evening. We'll see you
23 tomorrow at 9:00 o'clock.

24 MS. MERCER: Thank you.

25 MR. PORTZ: Thank you, Judge.

(Court recessed at 5:52 P.M., until Thursday,
May 19, 2016, at 9:08 A.M.)

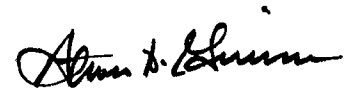
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CERTIFICATE

ATTEST: I hereby certify that I have truly and correctly
transcribed the audio/visual proceedings in the above-
entitled case to the best of my ability.

Julie Lord

JULIE LORD, INDEPENDENT TRANSCRIBER



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

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 11

THURSDAY, MAY 19, 2016

APPEARANCES:

FOR THE STATE:	ELIZABETH A. MERCER, ESQ. KENNETH PORTZ, ESQ. <i>Deputy District Attorneys</i>
FOR DEFENDANT HOBSON:	RICHARD E. TANASI, ESQ.
FOR DEFENDANT STARR:	LANCE A. MANINGO, ESQ. ADRIAN LOBO, ESQ.

COURT RECORDER:

CHRISTINE ERICKSON
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
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(303) 798-0890

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INDEXWITNESSES

NAME	DIRECT	CROSS	REDIRECT	RECROSS
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DEFENDANT HOBSON'S WITNESS:

Lynette Hobson	28	34		
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DEFENDANT STARR'S WITNESS:

Reshitta Ray	41	45	81	--
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EXHIBITS

DESCRIPTION	ADMITTED
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1 LAS VEGAS, NEVADA, THURSDAY, MAY 19, 2016, 9:08 A.M.

2 (Outside the presence of the jury)

3 THE COURT: Okay. Good morning, everybody.

4 MR. TANASI: Good morning, Your Honor.

5 MR. PORTZ: Good morning, Your Honor.

6 MR. MANINGO: Good morning, Your Honor.

7 THE COURT: Let's see, are we on the record,
8 Christine?

9 THE COURT RECORDER: Yes, Judge.

10 THE COURT: Okay. We're on the record in the case
11 of State of Nevada versus Tony Hobson and Brandon Starr in
12 C-303022. I'd like the record to reflect the presence of the
13 defendants and their counsel. Ms. Lobo's not here. Is
14 she --

15 MR. MANINGO: She is, Your Honor. I think she just
16 stepped out either to the restroom or --

17 THE COURT: Okay.

18 MR. MANINGO: She should be right back in.

19 THE COURT: And the State with their counsel. When
20 we took a break last night, the -- before I wanted the State
21 to indicate if they had any further witnesses, and if they
22 didn't, would they be resting today. Are you going to be
23 resting?

24 MS. MERCER: Yes, we will be, Your Honor.

25 THE COURT: Okay. And then the defense, did you

1 have your witnesses ready?

2 MR. TANASI: I do, Your Honor. One witness.

3 THE COURT: All right. Okay.

4 MR. MANINGO: And same, Your Honor, we have one
5 witness prepared to call after Mr. Tanasi.

6 THE COURT: While it's in my mind, I want to
7 address real quickly the jury instructions by the defense,
8 all right? Is everything okay like this and we can just talk
9 about them now?

10 MS. MERCER: That's fine, Your Honor.

11 MR. TANASI: Sure, Your Honor.

12 THE COURT: The one instruction that I was -- what
13 I was concerned about was the circumstantial evidence
14 instruction, based on the case that you cited from Judge
15 Johnson's case.

16 You know, I know the case says that you don't have
17 to give it, and I previously indicated that I believe that
18 the instruction is covered by the circumstantial evidence
19 definition. I'm of the opinion that if you give that
20 instruction, you highlight the -- you highlight
21 circumstantial evidence to the point that it takes away the
22 language. It's actual -- it's actually in opposite of the
23 other instruction because the other instruction says that the
24 law makes -- draws no distinction between what -- the weight
25 to be given to circumstantial or direct evidence.

1 And when you draw it out under those -- in that
2 manner, I'm of the opinion that it does just the opposite, it
3 brings it out and says you have to weigh it differently. And
4 so I -- do you want to address that or am I not reading it
5 right or --

6 MR. TANASI: Your Honor, I think the order just
7 establishes that if there is a circumstantial evidence
8 instruction that it should be fleshed out further, and the
9 language should be a little more descriptive. And I do
10 understand the Court's position. But respectfully, it's an
11 order for the Supreme Court who evaluated something similar
12 and came to that conclusion that additional language should
13 be added.

14 THE COURT: Well, it doesn't say it should be. It
15 says if you're going to give the other instruction.

16 MR. TANASI: Right.

17 THE COURT: What's the State's position on that?
18 If I was to give the instruction just like that came out of
19 that case, what's the State's position on that?

20 MS. MERCER: Well, Your Honor, the State objects to
21 -- objects to the giving of that instruction for the same
22 reasons that the Court has proffered. It does seem to
23 contradict the instruction that tells them that
24 circumstantial evidence can be weighed exactly the same way
25 as direct evidence. It's confusing. It's covered by other

1 instructions. The Court's -- the Supreme Court has
2 repeatedly said district courts aren't required to give that
3 instruction.

4 THE COURT: Okay.

5 MS. MERCER: But if they do, then it has to be this
6 version.

7 THE COURT: Okay. I just wanted to make sure it
8 was on the record that if

9 MR. TANASI: Sure.

10 THE COURT: -- I know we're going to solve -- I
11 mean settle instructions later, but I wanted to give you an
12 opportunity to argue that further, if you felt like it.

13 So when we get to the point where we're settling,
14 if you want to add additional, then I'll allow you. I'm
15 telling you, I'm just thinking on this issue, that's why I
16 wanted to bring it to --

17 MR. TANASI: Sure.

18 THE COURT: -- to your attention. Okay.

19 MR. TANASI: Understood.

20 THE COURT: Is there anything else at this point?

21 MR. TANASI: Did we want to go over some of the
22 other jury instructions?

23 MS. MERCER: Right.

24 MR. TANASI: The only one that I think that's still
25 at issue is the additional language on the Donte Johns

1 related instruction.

2 THE COURT: The first -- the one that he -- in your
3 first instruction?

4 MR. TANASI: Yes.

5 THE COURT: Well, I went back through it --

6 MR. TANASI: Um-h'm.

7 THE COURT: -- in the manner in which I said I
8 would do it, and I prepared it.

9 MR. TANASI: Okay.

10 THE COURT: So --

11 MR. TANASI: Maybe I'll take a look at that and
12 see --

13 THE COURT: Yeah, I'll give it to you.

14 MR. TANASI: -- where I -- yeah.

15 MS. MERCER: And you think --

16 THE COURT: It's just striking the -- some of the
17 language that we had discussed in chambers?

18 MR. TANASI: Yes.

19 THE COURT: Okay.

20 MS. MERCER: I think there was also the other one
21 outstanding one was the dual testimony one. I wasn't sure if
22 the Court had made a final decision on that one.

23 THE COURT: I don't know if they're going to still
24 offer that or not.

25 MS. MERCER: Oh, okay.

1 MR. TANASI: I'm not, Your Honor. I still have
2 State's.

3 THE COURT: Okay.

4 MR. TANASI: At least I don't -- I want to maybe
5 refer --

6 MS. LOBO: Yeah.

7 MR. TANASI: -- Ms. Lobo, but I've seen the State's
8 expert --

9 THE COURT: Okay.

10 MR. TANASI: -- jury instruction, and that's fine.

11 MS. MERCER: And the reverse flight was another one
12 that was still pending.

13 THE COURT: Okay. I need the expert one, though.
14 You have it --

15 MS. MERCER: I put that one in there, in the new
16 set that I e-mailed to your law clerk this morning, Your
17 Honor.

18 THE COURT: Okay. All right. And then the reverse
19 flight one.

20 MS. MERCER: That was one that the Court was taking
21 under advisement as well.

22 THE COURT: Yeah, I haven't -- let me get to the
23 actual instruction on that and then I'll hear more argument
24 on it.

25 MS. MERCER: Okay.

1 MR. TANASI: Understood.

2 THE COURT: Okay? All right. Okay. So other than
3 that, are we ready to go?

4 MR. TANASI: Well, if State's resting, Your Honor,
5 there is something the defense would like to be heard on as
6 well.

7 THE COURT: Well, they need to be rest in front of
8 the jury first.

9 MR. TANASI: Got it.

10 THE COURT: Are you -- of what you addressed in the
11 hallway?

12 MR. TANASI: Yes.

13 THE COURT: Okay.

14 MS. MERCER: Well, do you want to -- to save time,
15 do you want to just make the record now and then --

16 THE COURT: Yeah, let's go ahead and do it now.

17 MR. TANASI: Is that okay?

18 THE COURT: So State, you are going to rest when
19 the jury comes back; is that right?

20 MS. MERCER: We need to --

21 THE COURT: Make sure all your --

22 MS. MERCER: Well, we went through it with --
23 everything with the clerk yesterday, and I think the only
24 three additional things that need to be moved into evidence
25 are the packaging for some of the exhibits, which would be

1 278, 281 and 284. It's the bags that the evidence is
2 contained in.

3 THE COURT: Do you have any objection to those?

4 MS. LOBO: No objection.

5 MR. TANASI: No, Your Honor.

6 THE COURT: Okay, so --

7 MS. MERCER: And then I think Mr. Portz had
8 additional.

9 THE COURT: Those will be admitted then.

10 (Exhibits 278, 281 and 284 admitted)

11 MR. PORTZ: Additionally, Your Honor, yesterday I
12 had shown defense counsel or maybe the day before during
13 Donte Johns' testimony a document from his military office
14 explaining that he was out of state on November 15th and
15 16th. They had no objection to admit it.

16 I forgot to place it into evidence. I contacted
17 defense counsel yesterday and asked if they would have any --
18 Mr. Johns did testify to it -- I asked if they would have any
19 reason to object if we were to move to admit by stipulation
20 rather than calling Mr. Johns back, and both counsel said
21 they had no problem with admitting the evidence.

22 THE COURT: Is that correct?

23 MR. TANASI: That's correct, Your Honor.

24 MS. LOBO: That's correct.

25 THE COURT: Ms. Lobo? Okay. So is it marked now?

1 MR. PORTZ: I -- may I approach the clerk?

2 THE COURT: So it would be next in line --

3 MR. PORTZ: Yes.

4 THE COURT: -- and per stipulation it will be
5 admitted.

6 THE CLERK: 328.

7 (Exhibit 328 admitted)

8 THE COURT: Okay.

9 MR. PORTZ: Thank you.

10 THE COURT: All right. Other than that, anything
11 else?

12 MR. TANASI: Yes, Your Honor. I know it's been a
13 long haul so I will try to be as brief and quick as possible
14 with this. The defense, both Mr. Starr and Mr. Hobson, are
15 both moving for a motion to dismiss counts 6, 14, 15, 19 --

16 THE COURT: Let me get the --

17 MR. TANASI: Sure.

18 THE COURT: -- right -- it's the --

19 MR. TANASI: Second Superseding Indictment.

20 (Pause in the proceedings)

21 MR. TANASI: Filed on April 24th.

22 (Pause in the proceedings)

23 THE COURT: Okay. All right. So let's look at the
24 -- and you read the superseding in, though, right?

25 THE CLERK: Correct.

1 THE COURT: Okay. All right. Go back, which
2 counts again?
3 MR. TANASI: Understood. Count 6 --
4 THE COURT: Okay.
5 MR. TANASI: -- 14 --
6 THE COURT: All right, let me --
7 MR. TANASI: There's a bunch of them.
8 THE COURT: Let me write it down. Okay. 6 --
9 THE COURT: Um-h'm.
10 MR. TANASI: 14.
11 THE COURT: Uh-huh.
12 MR. TANASI: 15.
13 THE COURT: Okay.
14 MR. TANASI: 19.
15 THE COURT: Okay.
16 MR. TANASI: 20.
17 THE COURT: Uh-huh.
18 MR. TANASI: 25.
19 THE COURT: Okay.
20 MR. TANASI: 29.
21 THE COURT: Okay.
22 MR. TANASI: 30.
23 THE COURT: Okay.
24 MR. TANASI: 31.
25 THE COURT: Uh-huh.

1 MR. TANASI: 35.
2 THE COURT: Okay.
3 MR. TANASI: 40.
4 THE COURT: Okay.
5 MR. TANASI: 41.
6 THE COURT: Okay.
7 MR. TANASI: 42.
8 THE COURT: Okay.
9 MR. TANASI: 58.
10 THE COURT: Okay.
11 MR. TANASI: 67.
12 THE COURT: Okay.
13 MR. TANASI: 73.
14 THE COURT: Uh-huh.
15 MR. TANASI: 75.
16 THE COURT: Okay.
17 MR. TANASI: 76.
18 THE COURT: Okay.
19 MR. TANASI: And finally, 79.
20 THE COURT: All right. Does that pertain to both
21 defendants or is that just Mr. --
22 MS. LOBO: Yes, Your Honor.
23 THE COURT: -- Hobson?
24 MR. TANASI: Both defendants, Your Honor.
25 THE COURT: Okay.

1 MR. TANASI: Okay, and Your Honor, I'll put this
2 out there as well. It's an alternative motion for an NRS
3 175.381 advisory acquittal if you're not inclined to dismiss
4 these counts.

5 THE COURT: Okay.

6 MR. TANASI: The basis in this case, Your Honor, is
7 the Sixth Amendment. All those counts that I referenced are
8 standalone counts, not pled and/or, and/or, standalone counts
9 with victims that in this case we didn't hear from. Missing
10 witnesses. Violation of the defendant's right to be
11 confronted by the witnesses against them under the Sixth
12 Amendment.

13 I'd cite, Your Honor, the Coy v. Iowa State, 487,
14 1012. In that case, Justice Scalia kind of outlined the
15 reason for the importance of the confrontation clause. We've
16 never doubted therefore that the confrontation clause
17 guarantees the defendant a face-to-face meeting with the
18 witnesses appearing before the trier of fact.

19 In this case, Your Honor, the Court reversed the
20 convictions of the two counts of lascivious acts with a child
21 and remanded for a new trial. And the reason -- or the
22 testimony, the nature of the testimony in this case was the
23 witness was actually present but behind a mask. And that was
24 violation of the confrontation clause in that case.

25 In this case, those witnesses that I -- the victims

1 in those counts that I outlined were never present in this
2 case. Never testified in this case.

3 THE COURT: Okay.

4 MR. TANASI: Turning to Nevada authority, Your
5 Honor, and again, it's Federal District Court of Nevada
6 authority, there's a case called Nolan v. Palmer. In
7 District Court it's cited, and I have a copy of it as number
8 3:09-CV-00188-RCJ-WGC 212 U.S. District. In that case, Your
9 Honor, the Court reasoned that for a confrontation clause
10 violation to occur, a witness must make a testimonial
11 statement.

12 The witness who made the testimonial statement must
13 then be unavailable at trial and the defendant must have been
14 deprived an opportunity to cross-examine that witness on that
15 statement.

16 In this case, Your Honor, I went through and I
17 printed all of the statements from the witnesses who didn't
18 come to court and testify. And so in this case we have
19 testimonial statements from all the witnesses underlying
20 those counts not coming into court to testify about the
21 events in this case.

22 And so I would move to dismiss those counts for
23 violation of the Sixth Amendment confrontation clause, and
24 again, alternatively, if you're not inclined to dismiss those
25 counts, for an advisory acquittal of the same.

1 THE COURT: Okay. All right, let me keep looking
2 here. I want to make sure I got these all right. Okay. So
3 let me -- so I have it straight, you have count 6, 14, 15,
4 19, 20, 25, 29, 30, 31, 35, 40, 41, 42, 58, 67, 73, 75, 76
5 and 79?

6 MR. TANASI: Correct, Your Honor.

7 THE COURT: Okay. State, did you want to respond?

8 MS. MERCER: Your Honor, a Motion to Dismiss is
9 basically a Motion to -- for a Directed Verdict, which we
10 don't have in criminal cases in Nevada. So the only
11 appropriate remedy the defense has would be NRS 175.31. From
12 the State's perspective, it's not appropriate for the Court
13 to give an advisory verdict because the State's not required
14 to haul into court every single witness charged -- or every
15 single victim charged in that Indictment.

16 In fact, there's an instruction that tells them
17 that if the fact be attended with circumstances of
18 threatening word or gesture as in a common experience and is
19 likely to create an apprehension of danger and induce a man
20 to part with his property for the safety of his own person it
21 is robbery. It is not necessary to prove actual fear.

22 Meaning that when we have witnesses testifying to
23 the presence of other people during these robberies, that is
24 sufficient. That the law will presume that they were placed
25 in fear as well. We -- every single witness that testified,

1 testified to the presence of those persons during the course
2 of the robberies, when the force and violence was used. They
3 also have surveillance video showing them, those people are
4 present, the victims -- or the victims that did testify
5 identified those persons in the surveillance video.

6 At this point, there's sufficient evidence in the
7 record for it to go to the jury and let them make the
8 determination.

9 THE COURT: Does it change at all with regards to
10 the charges of kidnapping?

11 MS. MERCER: No, Your Honor, I don't believe it
12 does. I believe, it's the same thing. I mean, they can
13 testify that those people were kept inside against their will
14 because they testified that they were trying to exit and were
15 prevented from exiting.

16 In addition, I would note that this isn't a
17 confrontation issue. A confrontation issue occurs when a
18 witness actually takes the stand. Testifying behind a mask
19 is different from testifying face-to-face with their accuser.
20 And Nolan v. Palmer is completely inapplicable in this case.

21 THE COURT: Okay. All right. So Mr. Maningo, did
22 you -- or Ms. Lobo, did you want to add anything to that
23 argument?

24 MS. LOBO: Yes.

25 THE COURT: To Mr. Tanasi's argument?

1 MS. LOBO: We're joining with Mr. Tanasi --

2 THE COURT: Okay.

3 MS. LOBO: -- in that argument. I will just
4 briefly address, I do understand what the State is saying,
5 that fear is not necessary, actual fear, to be proved in that
6 way. But I believe that the way Mr. Tanasi framed it and
7 what really underlies this argument is the confrontation
8 clause in a situation where, yes, they don't have to bring
9 every single victim or they can choose how they want to
10 present their case. But the accused is entitled to make the
11 actual accusations, have a chance to rebut, and we don't know
12 what those people would have said if they were here.

13 And we have had not had the right to confront them,
14 to get their perceptions, biases. That is not absolutely
15 necessary for the robbery, but it's necessary for the Sixth
16 Amendment. And that is basic underpinning of it. And we
17 would join with Mr. Tanasi in his motion.

18 THE COURT: Okay. Mr. Tanasi, did you want to add
19 anything?

20 MR. TANASI: Just the one thing I'll add, Your
21 Honor, with respect to the Nolan case. There's an additional
22 sentence that I think's important. The witness who was made
23 -- who made the testimonial statement must be then
24 unavailable at trial and the defendant must have been
25 deprived of an opportunity to cross-examine the witness on

1 that statement.

2 There's been no showing of unavailability. It's
3 just been a choice not to call them.

4 THE COURT: Has any of the statements been
5 presented here?

6 MS. LOBO: No.

7 MS. MERCER: No.

8 MR. TANASI: No, Your Honor.

9 THE COURT: Okay. So what -- how does that case
10 apply then if the statements haven't been presented?

11 MR. TANASI: I think just for the notion that there
12 has to be a showing that if the State isn't going to bring
13 this witness in, or try to apply the statement, there needs
14 to be a showing of unavailability. I think just the
15 underpinning of the Sixth Amendment is that if the witness
16 isn't going to testify, there has to be a showing of
17 unavailability.

18 THE COURT: Even if they're not presenting the
19 statement?

20 MR. TANASI: I would submit that, Your Honor, yes.

21 THE COURT: So there's nothing to confront or make
22 allegations against your client from any witness without the
23 statement?

24 MR. TANASI: Again, we don't know because they
25 weren't here. We don't know what their biases might have

1 been. We don't --

2 THE COURT: No, there isn't. Nothing's been
3 presented to the jury about a statement or anything being
4 said by anyone else.

5 MR. TANASI: Again, I think, Officer -- Detective
6 Abell referenced how he was familiar with all the reports in
7 this case, all the incidents in this case, and so when
8 viewing all of those, all of those played into his
9 description of what the MO was and his description of how the
10 robberies actually went down.

11 So whether or not he referenced the statements
12 directly, I think they're still inherent to his description
13 of the synopsis of this case and what's calling the
14 windbreaker series.

15 THE COURT: Okay. I understand. Okay.

16 MR. TANASI: Thank you.

17 THE COURT: Anything further from the State?

18 MS. MERCER: No, Your Honor.

19 THE COURT: All right. At this point in time, I'm
20 going to deny your motion. I believe, it goes more to the
21 strength of their case and as to your defense and what you
22 would be presenting in argument.

23 I do believe that the State can present a case
24 without actual testimony from victims of robberies, but, you
25 know, it's based basically on the weight of it rather than

1 the admissibility of -- but nothing was actually admitted
2 here in the form of statements. That would be something that
3 your client would be able to cross-examine or you'd be able
4 to cross-examine.

5 MR. TANASI: Okay.

6 THE COURT: But, so I understand your argument, but
7 I think under the dichotomy of the actual crime, you know, I
8 mean, how the State establishes that somebody was in fear or
9 whatever, that's -- that's, I guess, left to argument based
10 on what was seen and, you know, what was there.

11 So I think maybe you have good arguments for these
12 for purposes of the strength of their case, but I don't
13 believe that there's an obligation that they present the
14 witness, and that it's a violation of your client's right to
15 confront them, because nothing was actually said by any of
16 them that I've heard in any of this testimony so. So your
17 motion will be denied. Okay?

18 So did we want -- anything else?

19 MR. TANASI: I was going to say before the jury
20 comes in, maybe to streamline things since the State is
21 resting, maybe if we could finish the admonishment for
22 testimony from our clients and then --

23 THE COURT: Okay.

24 MR. TANASI: -- also --

25 THE COURT: That's great.

1 MR. TANASI: -- Your Honor, I'd ask the Court to
2 admonish or at least go over with my client, who I've
3 discussed in closing argument, you know, we are going to
4 concede that robberies occurred in this case.

5 THE COURT: Okay.

6 MR. TANASI: And my client has given me consent to
7 do that. And I just would like the Court, please, for the
8 record to make a record of that.

9 THE COURT: Are you conceding in all of the, I
10 guess, it would be the events short of the last one, that an
11 actual robbery occurred?

12 MR. TANASI: Correct.

13 THE COURT: Okay.

14 MR. TANASI: And events that necessarily didn't
15 have the standalone witnesses.

16 THE COURT: Okay. But you're just not conceding
17 that your client is the ones that are identified on the --

18 MR. TANASI: Correct.

19 THE COURT: -- video. Okay. All right. Or at
20 least Mr. Hobson. What about Mr. Starr?

21 MS. LOBO: That's correct, Your Honor. It's the
22 same exact thing.

23 THE COURT: Okay.

24 MS. LOBO: We need you to admonish Mr. Starr in the
25 same manner.

1 THE COURT: All right. Mr. Hobson, you understand
2 what Mr. Tanasi has just represented? He's basically going
3 to say, you know, we're not fighting that there was actual
4 robberies here, we're just saying that my client's not the
5 one that did these? Do you understand that?

6 DEFENDANT HOBSON: Yes.

7 THE COURT: So he's conceding a portion of the
8 case, the State's case-in-chief that robberies occurred. Do
9 you understand?

10 DEFENDANT HOBSON: Yes, I understand that.

11 THE COURT: Do you understand that?

12 DEFENDANT HOBSON: Yes.

13 THE COURT: And you don't have any objection to
14 that?

15 DEFENDANT HOBSON: No.

16 THE COURT: How about you, Mr. Starr, do you
17 understand that?

18 DEFENDANT STARR: Yeah, I understand -- I
19 understand it.

20 THE COURT: Okay.

21 DEFENDANT STARR: I understand that and I don't
22 have any objection to it.

23 THE COURT: Okay. All right, so is there anything
24 other than that you'll be conceding --

25 MS. LOBO: No. Your Honor.

1 THE COURT: -- with respect to State's obligation?

2 MS. LOBO: No, Your Honor.

3 THE COURT: Okay. All right. Also, yesterday I
4 had the opportunity to speak to both of you shortly about
5 your right to testify. And I read those rights to you. You
6 both indicated that you understood them. Have you had an
7 opportunity to speak with your counsel about them,
8 Mr. Hobson?

9 DEFENDANT HOBSON: Yes.

10 THE COURT: And Mr. Starr, did you speak with your
11 counsel about that?

12 DEFENDANT STARR: Yeah, I spoke with them.

13 THE COURT: Okay. So I'm not going to ask you what
14 your intentions are, and hat your plan is, but do you have
15 any further questions of Court before we go any further about
16 your rights regarding your right to testify?

17 DEFENDANT HOBSON: No, no.

18 THE COURT: Mr. Starr, do you have any questions?

19 DEFENDANT STARR: No, no.

20 THE COURT: Okay. Also, there is an instruction
21 that I indicated I would give this instruction if your
22 attorneys asked me to do so with respect to the jury not
23 being able to -- not allowed to take into consideration the
24 fact that you're not testifying and use that against you.
25 That's an instruction. I'll read it again. It says, "The

1 law does not compel a defendant in a criminal case to take
2 the stand and testify and no presumption may be raised and no
3 inference of any kind may be drawn from a failure of a
4 defendant to testify."

5 I will instruct the jury under that same language
6 if you asked your attorneys to do so. Have you discussed
7 that with your attorneys as well?

8 DEFENDANT STARR: Yes, I discussed it with them.

9 DEFENDANT HOBSON: Yes.

10 THE COURT: Okay. Do you have any further
11 questions?

12 DEFENDANT STARR: No.

13 DEFENDANT HOBSON: No.

14 THE COURT: Okay. So we can get the jury in and
15 get going. Anything more, Mr. Tanasi?

16 MR. TANASI: That's it, Your Honor. Thank you.

17 THE COURT: Ms. Lobo, anything further?

18 MS. LOBO: No, nothing else.

19 THE COURT: All right. Jim, do you want to get the
20 jury back then?

21 (Pause in the proceedings)

22 MR. TANASI: Your Honor, may I step out and just
23 make sure my witness is out there?

24 THE COURT: Yeah.

25 (Pause in the proceedings)

1 (In the presence of the jury)

2 THE MARSHAL: Please be seated. Department 19 is
3 back in session.

4 THE COURT: Good morning, ladies and gentlemen.
5 We're back on the record in Case of C-303022, State of Nevada
6 versus Tony Hobson and Brandon Starr. I'd like the record to
7 reflect the presence of the defendants and their counsel as
8 well as the State and their counsel, all members of the jury.

9 Is Ms. Noguez here?

10 JUROR NO. 1: Here.

11 THE COURT: Robert Bass.

12 JUROR NO. 2: Here.

13 THE COURT: Vince Gaeta.

14 JUROR NO. 3: Here.

15 THE COURT: Lin-Belle Addington.

16 JUROR NO. 4: Here.

17 THE COURT: Daniel Boggs.

18 JUROR NO. 5: Here.

19 THE COURT: Nicholas Kozlowski.

20 JUROR NO. 6: Present.

21 THE COURT: William Burns.

22 JUROR NO. 7: Here.

23 THE COURT: David Synder.

24 JUROR NO. 9: Present.

25 THE COURT: Glynis Bernard.

1 JUROR NO. 10: Here.

2 THE COURT: Daniel Powers.

3 JUROR NO. 11: Here.

4 THE COURT: Charles Worth.

5 JUROR NO. 12: Here.

6 THE COURT: Heather Hedrick.

7 JUROR NO. 14: Here.

8 THE COURT: And Dustin Bigelow.

9 JUROR NO. 15: Here.

10 THE COURT: All right. All the parties stipulate
11 to the presence of the jury?

12 MR. TANASI: Yes, Your Honor.

13 MS. LOBO: Yes, Your Honor.

14 MS. MERCER: Yes, Your Honor.

15 THE COURT: Okay. When we took our recess last
16 night, the State was still in their case-in-chief. State,
17 did you have any further witnesses?

18 MS. MERCER: Your Honor, at this time, State rests.

19 THE COURT: Okay. Is all your exhibits in?

20 MS. MERCER: Yes, Your Honor. I conferred with
21 your clerk yesterday and all exhibits have been officially
22 moved in. The only two -- only three that weren't moved in
23 prior to the stipulation by the parties this morning were
24 278, 281, 284 and the last exhibit that was marked in order.

25 THE COURT: All right.

1 THE CLERK: 328.

2 THE COURT: Oh, 328. Okay. So at this time, State
3 has rested their case-in-chief. If the defense wishes to
4 present a defense, now is your opportunity.

5 MR. TANASI: Thank you, Your Honor. Defense calls
6 Lynette Hobson.

7 LYNETTE HOBSON, DEFENDANT'S WITNESS, SWORN

8 THE CLERK: Thank you. Please be seated. If you
9 could please state your full name, spelling of your first and
10 last name for the record.

11 THE WITNESS: Lynette Hobson, L-y-n-e-t-t-e,
12 H-o-b, as in boy, s, as in Sam, o-n.

13 THE COURT: Your witness.

14 MR. TANASI: Your Honor.

15 DIRECT EXAMINATION

16 BY MR. TANASI:

17 Q Good morning.

18 A Good morning.

19 Q How are you?

20 A Fine.

21 Q All right. Ms. Hobson, let's jump right to it.
22 Where do you live?

23 A Lake Mead and Hollywood.

24 Q Okay.

25 A You want the address?

1 Q Yes.

2 A 7055 East Lake Mead Boulevard, Apartment 1099, Las
3 Vegas, Nevada 89156.

4 Q Okay. And where were you living in October and
5 November of 2014?

6 A The same place.

7 Q Same place?

8 A Yes.

9 Q Who were you living with?

10 A Me, my two kids, and my brother, and my dad would
11 occasionally visit.

12 Q Okay. When you say your brother, who are you
13 referring to?

14 A Tony Hobson.

15 Q Okay. Do you see Mr. Hobson in the courtroom
16 today?

17 A Yes.

18 Q Okay. Is he seated right here at defense table?

19 A Yes.

20 Q Okay. Fair to say that's your brother, Tony
21 Hobson?

22 A Yes.

23 Q All right. Why was Mr. Hobson living with you in
24 October and November of 2014?

25 A Because him and his girlfriend weren't really

1 getting along so he would come and stay with me.

2 Q Okay. Who's his girlfriend?

3 A Brianna Rankin.

4 Q Okay. Do you know where she lived?

5 A She lived -- I don't know the exact address. I
6 just know the cross streets.

7 Q What were the cross streets?

8 A Sacramento and Charleston.

9 Q Okay. Do you know if she lived in an apartment or
10 a house?

11 A Apartment.

12 Q And so they're having trouble, and Mr. Hobson was
13 living with you during that time frame?

14 A Correct.

15 Q Correct? Did Mr. Hobson have kids?

16 A Yes.

17 Q Okay. And those kid would be your niece?

18 A And nephews, yes.

19 Q And nephew. What are their names?

20 A Tony, Jr.; Chicago Hobson, and Nalaya Hobson
21 (phonetic).

22 Q Okay. Who all was living at the East Charleston
23 apartment of those kids, if you know?

24 A Chicago Hobson, Brianna Rankin, Nalaya Hobson and
25 she had a roommate.

1 Q Okay. Now, do you know whether or not Mr. Hobson
2 had the power bill in his name at that apartment?

3 A Yes.

4 Q Did he have the power bill in his name in that
5 apartment?

6 MS. MERCER: Objection. Foundation. Hearsay.

7 THE COURT: Well, sustained to hearsay.

8 BY MR. TANASI:

9 Q While Mr. Hobson was living with you, was he paying
10 any of the bills?

11 A Yes.

12 Q What bills was he paying at your house?

13 A At my house he would give me money for gas and also
14 my power bill.

15 Q Okay. Was he paying for any other bills anywhere
16 else while he was living with you?

17 A Yes.

18 Q What bills was he paying?

19 A The electric bill where his kids stayed.

20 Q Okay. And his kids were staying at --

21 MS. MERCER: Objection.

22 BY MR. TANASI:

23 Q -- which house?

24 THE COURT: Well, hold on, hold on.

25 MS. MERCER: Lack of foundation. Hearsay.

1 THE COURT: I think he's trying to set the
2 foundation, but it is hearsay, so sustained.

3 BY MR. TANASI:

4 Q Again, Mr. Hobson was living with you in October,
5 November of 2014, correct?

6 A Correct.

7 Q And during that time frame he was paying bills
8 related to your apartment, correct?

9 A Correct.

10 Q And during that time frame, was he paying any other
11 bills anywhere else as far as you know?

12 A Yes. He was --

13 MS. MERCER: Objection as to foundation again.

14 MR. TANASI: Your Honor, I'm asking her if she
15 knows whether or not the bills were being paid --

16 THE COURT: If she knows, she can answer, yes or
17 no, if she knows, but then the next question is probably
18 going to be one they're going to object to. So go ahead, if
19 you know.

20 THE WITNESS: Yes.

21 BY MR. TANASI:

22 Q How do you know?

23 A Because I often speak with Brianna Rankin and --

24 MS. MERCER: Objection. Hearsay.

25 THE COURT: Well, she had -- I'll let that stand,

1 but the statements coming from Brianna is going to be the
2 hearsay so.

3 MR. TANASI: Understood.

4 BY MR. TANASI:

5 Q Did you have an opportunity ever to see the power
6 bill at the apartment for Ms. Rankin?

7 A Yes.

8 Q Okay. And to your knowledge, who was paying that
9 bill?

10 A My brother was.

11 MS. MERCER: Objection. Lack of foundation.

12 BY MR. TANASI:

13 Q And why was --

14 THE COURT: Overruled.

15 BY MR. TANASI:

16 Q And why was he paying that bill?

17 A Because she couldn't get the bill in her name and
18 he didn't want his kids in the dark.

19 MS. MERCER: Objection. Hearsay. Lack of
20 foundation.

21 THE COURT: Sustained.

22 MR. TANASI: Nothing further, Your Honor. Thank
23 you.

24 THE COURT: Okay. Did you have any questions, Ms.
25 Lobo and Mr. --

1 MS. LOBO: No, I do not.

2 THE COURT: -- Maningo?

3 MR. MANINGO: No, sir.

4 THE COURT: Cross?

5 MS. MERCER: Yes, please, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. MERCER:

8 Q Okay. So your testimony today is that the
9 defendant was residing with you in October and November of
10 2014?

11 A Yes.

12 Q When you leased your apartment, you had to fill out
13 lease agreements, correct?

14 A Correct.

15 MS. MERCER: Your Honor, permission to approach the
16 witness?

17 THE COURT: Yes.

18 BY MS. MERCER:

19 Q I'm showing you what's been marked for
20 identification purposes as State's Proposed Exhibit 325.
21 Could you please look through that and tell me whether you
22 recognize it?

23 A Yes. This is my old lease agreement.

24 MS. MERCER: Your Honor, I would move for the
25 admission of 325.

1 THE COURT: Any objection, Mr. Tanasi?

2 MR. TANASI: If I just have a chance to see it,
3 Your Honor, otherwise, I probably don't.

4 THE COURT: Okay. All right.

5 MR. TANASI: Thank you. Okay. No objection, Your
6 Honor.

7 THE COURT: It will be admitted.

8 (Exhibit 325 admitted)

9 MS. MERCER: And this lease agreement is for 7055
10 East Lake Mead Boulevard, No. 1099, correct.

11 A Correct.

12 Q And it bears your initials as well as James L.
13 Pringle (phonetic)?

14 A Correct.

15 Q Who is James L. Pringle?

16 A At the time, he was my boyfriend.

17 Q And so your boyfriend was living with you, and the
18 date on this agreement is April 20 -- or April 30th of 2014,
19 correct?

20 A He moved out after a month of moving in.

21 Q Ma'am, if you could just answer yes or no to the
22 question that I'm asking you.

23 A Correct.

24 Q And it indicates that it was good for one year and
25 one day?

1 A Correct.

2 Q Correct? So it expired on April 30th of 2015,
3 correct?

4 A Well, no.

5 Q It turned into a month-to-month after that?

6 A No, there was technicalities with my lease.

7 Q Meaning, you removed James Pringle, and that was
8 the only thing that changed?

9 A I removed him, but my lease didn't expire until
10 actually June.

11 Q Okay. June -- and on June 3rd, 2014 you signed --
12 I'm sorry, on June 1st of 2015 you signed a new lease,
13 correct?

14 A Correct.

15 Q And Tony Hobson wasn't listed as a resident on that
16 lease, correct?

17 A Correct.

18 Q He wasn't listed as a resident on your April 30th
19 of 2014 lease, correct?

20 A Correct.

21 Q And then you renewed your lease again in -- on June
22 31st of -- I'm sorry, the first day of June in 2016 -- or no,
23 sorry, wrong date. May 9th of 2016, correct?

24 A Correct.

25 Q And on that lease at that time the lease -- the

1 managing company changed, correct?

2 A Correct.

3 Q So on that lease you were also required to list
4 other occupants?

5 A Yes.

6 Q And you listed Jaylynn Bruner (phonetic)?

7 A Yes.

8 Q And you listed Jadaya Bruner (phonetic)?

9 A Jayda Bruner, yes.

10 Q Jayda?

11 A Yes.

12 Q And Jaylynn has a birthday of 1/24 of 2008?

13 A Correct.

14 Q Is that your child?

15 A Yes.

16 Q And Jadaya Bruner has a birth date of September
17 30th of 2009?

18 A Jayda Bruner, yes.

19 Q I'm sorry, Jayda? And that's your child too,
20 correct?

21 A Yes.

22 Q So you have two children?

23 A Yes.

24 Q You had a boyfriend living with you in 2014?

25 A Yes.

1 Q And then allegedly Tony Hobson stayed over at there
2 sometimes?

3 A No. Tony Hobson lived with me.

4 Q Okay. Well, when asked on direct examination, your
5 response was, he would come and stay with me, right?

6 A He would come -- he would come and live with me.

7 Q Okay. Well, you said come and stay with me,
8 correct?

9 A Yes.

10 Q Could you account for his whereabouts on every
11 single moment of every single day?

12 A No.

13 Q Do you think that if he was participating in 14
14 violent armed robberies he would tell but that?

15 A No.

16 Q And you never contacted the police and said, hey,
17 Tony was living with me back in October or November of 2014,
18 correct?

19 A I wasn't under the impression that I had to.

20 Q But you never did, correct?

21 A Correct.

22 Q And you never contacted the DA's Office and said
23 hey, Tony Hobson was living with me in October and November
24 of 2014, correct?

25 A I was never asked any questions.

1 Q Ma'am, if you could just answer yes or no.

2 A Correct.

3 Q Okay. So no one ever went out there and
4 photographed his belongings in your apartment or documented
5 any of his items in your apartment, correct?

6 A Correct.

7 Q So we have your word?

8 A Yes.

9 Q Correct?

10 A Correct.

11 Q And Tony Hobson is your brother?

12 A Correct.

13 Q You love him?

14 A Correct.

15 Q You don't want to see him get into any trouble?

16 A If he calls for it then that's on him.

17 Q Fair to say you don't want to see your brother go
18 to prison?

19 A Correct.

20 MS. MERCER: No further questions.

21 THE COURT: Redirect?

22 MR. TANASI: No redirect, Your Honor, but can we
23 approach?

24 THE COURT: Yes.

25 (Off-record bench conference)

1 THE COURT: Mr. Tanasi, did you have any further
2 questions?

3 MR. TANASI: No further questions. Thank you, Your
4 Honor.

5 THE COURT: Okay. All right. So Ms. Hobson, thank
6 you so much for your testimony. You can step down, okay?

7 THE WITNESS: Thank you.

8 THE COURT: All right. Mr. Tanasi, do you have
9 another witness?

10 MR. TANASI: I don't, Your Honor. And at this
11 point, Mr. Hobson would rest.

12 THE COURT: Okay. Mr. Maningo, Ms. Lobo?

13 MS. LOBO: Yes, Your Honor. We would call Reshitta
14 McCollough (phonetic).

15 (Pause in the proceedings)

16 RESHITTA RAY, DEFENDANT'S WITNESS, SWORN

17 THE CLERK: Thank you. Please be seated. If you
18 could please state your full name, spelling of the first and
19 last name for the record.

20 THE WITNESS: Reshitta Ray, R-e-s-h-i-t-t-a. Last
21 name R-a-y.

22 MS. LOBO: May I proceed?

23 THE COURT: Your witness, Ms. Lobo.

24 DIRECT EXAMINATION

25 BY MS. LOBO:

1 Q All right. And you just said Ms. Ray. I said to
2 the ladies and gentlemen of the jury Ms. McCollough. Were
3 you recently married?

4 A Yes, last year.

5 Q Okay. All right. So Ms. Ray I'll call you now.
6 How long have you lived in Las Vegas? Or have you lived --
7 where do you live?

8 A I do live here in Las Vegas. Do I need to state my
9 address or --

10 Q No, that's fine.

11 A Okay.

12 Q How long have you been in Las Vegas?

13 A For almost ten years.

14 Q Okay. And who do you recognize here in the
15 courtroom today?

16 A This gentleman here.

17 Q Okay. And you pointed to the left. Can you tell
18 us his name for the record?

19 A Yes, Brandon Starr.

20 Q Okay. And he's wearing a red shirt?

21 A Yes.

22 Q Okay. How do you know him?

23 A That is my younger brother.

24 Q Okay. And can you describe your relationship? Are
25 you full brother and sister?

1 conceal their identities.

2 A Did it say windbreakers? I think that it --

3 Q I don't know. I don't mean to speak out of place.
4 I don't know if it said windbreakers or hoodies.

5 A I don't recall it saying windbreakers.

6 Q Okay. The gray windbreaker that you've referenced
7 several times, in your mind is that a hoodie or is that a
8 windbreaker?

9 A It's both. It's a -- it's like a windbreaker
10 jacket with a hoodie.

11 Q Fair enough. I use the two terms synonymously,
12 too. You haven't done anything else with the night owl
13 series other than just look at Ms. Mercer's request, right?

14 A Actually, I pulled up events. I pulled up the
15 events -- not all the events, a good, you know, 15, 20
16 events, pulled up the patrol briefings, pulled up other
17 pictures of the suspects.

18 Q Did you bring any of those other pictures here?

19 A No.

20 Q Now, your windbreaker series, it consisted of 13
21 events, correct?

22 A Correct.

23 Q Okay. And it's your opinion that the same suspects
24 committed all 13 events, correct?

25 A Not the exact same. Two for sure.

1 Q And you don't know which two or which three out of
2 these multiple suspects committed which ones, do you?

3 A I know two for sure. From my opinion, I do.

4 Q You only know two? You're the lead detective --

5 A And --

6 Q -- and you only know for sure two --

7 A -- Donte Johns.

8 Q -- out of --

9 A So that would be --

10 MS. MERCER: Objection as to --

11 BY MR. MANINGO:

12 Q -- 13 events?

13 MS. MERCER: -- argumentative.

14 THE WITNESS: So three.

15 THE COURT: Now hold on, hold on. Let him answer
16 his question, okay?

17 THE WITNESS: So we have Donte Johns was the driver
18 and the other two that I --

19 BY MR. MANINGO:

20 Q Okay. But isn't it -- I'm sorry, Detective, but it
21 was just your testimony that out of 13 events, you only know
22 of two of them --

23 A Well, three with Donte Johns as driver.

24 Q Now, but you developed four suspects?

25 A There's at least four people involved in it.

1 Q At least four people involved. And some of the
2 events we know had three visible participants, right?

3 A Yes.

4 Q And others only had two visible participants?

5 A Two, and one, one.

6 Q One one. And isn't it true that the physical
7 descriptions from the eyewitness victims varied?

8 A Well, yes.

9 Q I mean, height descriptions ranged from five, six
10 to seven foot two, right?

11 A That's normal.

12 Q The other descriptions varied, too, didn't they?

13 A As far as?

14 Q The clothing. I mean, sometimes there were
15 bandanas, right?

16 A Yes.

17 Q And other times not?

18 A Yes.

19 Q Sometimes surgical masks?

20 A Yes.

21 Q Sometimes not?

22 A Yes.

23 Q Okay. Sometimes a black hoodie?

24 A Correct.

25 Q Sometimes a windbreaker?

1 A Correct.

2 Q Sometimes two identical windbreakers?

3 A Correct.

4 Q The gray windbreaker that Mr. Starr was

5 photographed in, in fact, there were at least two of those,

6 right?

7 A Yes.

8 Q And we know that?

9 A Yes.

10 Q Only one windbreaker was ever recovered; isn't that

11 right?

12 A That's correct.

13 Q Donte Johns' gray Dodge Charger was seen in two

14 events on video, correct?

15 A Two on video, correct.

16 Q And that's on November 3rd and November 4th,

17 correct?

18 A No.

19 Q And I say November 3rd and 4th because I think it

20 was 12:00 a.m. on the 4th, so same night, but --

21 A The Pizza Hut on the 4th and then the El Pollo on

22 the --

23 Q But the day crossed over?

24 A -- 23rd also recovered video of the Charger, I

25 believe.

1 Q But two events, right?

2 A Yes.

3 Q Okay. Now, you interviewed Donte Johns, didn't
4 you?

5 A Yes.

6 Q And you were there with Detective Weirauch?

7 A Yes.

8 Q And that was part of your investigation?

9 A Yes.

10 Q Okay. And during that interview, there was
11 question and answer about alternate suspects, wasn't there?

12 A Yes.

13 Q And you asked Donte Johns about a heavy set person,
14 correct?

15 A Correct.

16 Q And there was question and answer about a woman
17 involved also, correct?

18 A Possibly being a woman, yes.

19 Q Okay. And Donte Johns was asked if the same people
20 committed the -- all the events, right?

21 A The ones he was involved in, yes.

22 Q All right. And did -- did the rest of his
23 interview prompt you to investigate alternate suspects?

24 A Well, I knew there was a -- there was another
25 person outstanding.

1 Q Okay. Did you do anything --

2 A But --

3 Q -- to investigate?

4 A I looked at phone records, but I haven't been able
5 to identify anybody.

6 Q That's it, huh?

7 A Yeah. That's all -- I have in forensics.

8 Q You have in forensics?

9 A Four from the scenes to identify that other person.

10 Q All right. And you're in control of forensics,
11 aren't you?

12 A I'm not in control of forensics. The CSA is.

13 Q Well, you're the lead -- you're the lead detective.

14 A I can request forensics to be examined but.

15 Q But you're the lead detective?

16 A Yes.

17 Q And you interface with the CSAs?

18 A Yes.

19 Q Okay. And so you could direct them to collect
20 evidence at scenes, correct?

21 A If there's evidence to be collected, yes.

22 Q Okay. I mean, if the CSAs came in and said that
23 whenever they arrived at the scene, they were briefed by the
24 detective, would that be true?

25 A A lot of times they'll come in and they'll -- we'll

1 get a briefing from patrol with the CSA standing there and
2 then we'll walk the scene with CSA, and most of the times
3 they do it on their own. If I see something out of the
4 ordinary, I'll bring it to their attention.

5 Q Okay. Did you investigate any women with respect
6 to this --

7 A Did I do what?

8 Q Did you investigate any women with respect to these
9 events?

10 A I didn't have any potential suspects that I could
11 investigate other than that matched the descriptors.

12 Q Do you know who Ernest Mopkins is?

13 A Ernest Mopkins?

14 Q Does that name sound familiar to you at all?

15 A Yes.

16 Q Okay. Did you investigate him?

17 A I did pull up his stuff and he didn't appear to be
18 related.

19 Q Just pulled up his stuff?

20 A Yeah.

21 Q Did you ever execute any search warrants other than
22 the one?

23 A No.

24 Q Because you already had three people in custody?

25 A No, not necessarily.

1 Q You could have if you wanted to, right?

2 A I didn't have enough probable cause. You got to
3 have probable cause to do a search warrant.

4 Q And to get probable cause, you investigate?

5 A To get the investigation, you -- and then you got
6 to have evidence or circumstantial --

7 Q But investigation leads to probable cause leads to
8 a search warrant, right?

9 A If you got leads to follow up on, correct.

10 Q Okay, now the three suspects who were arrested on
11 November 25th, correct?

12 A The night of the 25th, morning of the 26th, yes.

13 Q Correct. I know there's a subtle difference, but
14 they were taken into custody at the Taco Bell --

15 A Yes.

16 Q -- correct? And then they weren't formally
17 arrested until they were at headquarters with you, correct?

18 A Technically, yeah.

19 Q You were the arresting officer, right?

20 A Yes.

21 Q But you weren't at the Taco Bell?

22 A No.

23 Q Okay. So in your scenario that you gave us of the
24 detective briefing and walking the scene with a CSA, that
25 wasn't you at the Taco Bell?

1 A Not when they were taken into custody, no.

2 Q That would have been -- well, there were a number
3 of patrol officers and detectives at the Taco Bell, correct?

4 A Yes. The whole other squad was out there, yes.

5 Q Okay. Now, are you familiar with CSAs Meckler and
6 Charlton?

7 A Charlton sounds familiar. I'm sure I am if I see
8 them.

9 Q Okay. You're the lead detective and they were the
10 CSAs on your series?

11 A Yeah, they were probably taking pictures.

12 Q Okay. CSAs don't just take pictures, though.

13 A They collect evidence and they document.

14 Q Right. That's important, though, isn't it?

15 A Yep.

16 Q Okay. I mean, taking pictures to preserve the
17 scene is important?

18 A Yes.

19 Q Collecting evidence is important?

20 A Correct.

21 Q Okay. Did you have any -- I mean, you're not -- it
22 sounds like you're not familiar with them, but did you have
23 any communications with them during either of their
24 collection of evidence?

25 A Only at the headquarters.

1 Q Okay. And that was with Ms. Charlton, correct?

2 A I believe so.

3 Q Okay. So before that, when -- well, you were made
4 aware of the evidence that Ms. Charlton collected at the
5 scene of the Taco Bell, correct?

6 A The other detectives informed me, correct, yes.

7 Q Okay. Were you critical at all of the photographs
8 that she took?

9 A I didn't know what photographs she took until
10 later.

11 Q Okay. Well, later were you critical in retrospect
12 of the photographs that she took?

13 A Not so much, not really.

14 Q Okay. You were satisfied with what she collected?

15 A I mean, she took photographs where they're in place
16 and then after she removed them so --

17 Q Okay. So --

18 A They were okay.

19 Q You were okay with them?

20 A Yep.

21 Q Okay. Were you critical of her collection of
22 evidence at the scene at the Taco Bell -- of the --
23 specifically in the Dodge Charger?

24 A No.

25 Q I mean, I'm talking in retrospect after you learned

1 of what she collected.

2 A I don't see anything that I could point to, no.

3 Q Okay. Were you critical at all of the processing
4 ever the scene with respect to collection of latent prints or
5 DNA or anything like that?

6 A No, I'm glad they were done, actually.

7 Q Pardon me?

8 A I was glad they were done, actually.

9 Q How about to the extent that they were done? Were
10 you critical of that?

11 A No, because a lot of times they take them back to
12 the lab and -- and they wait until I request certain -- what
13 they want done with them. So they won't do it right there at
14 the scene.

15 Q So you were satisfied with what she did at the
16 scene?

17 A Yes.

18 Q Okay. The CSAs, in the 13 events, isn't it true
19 that not one single fingerprint was collected?

20 A Correct.

21 Q Okay. Isn't it true that out of the 13 event, not
22 one single hair was collected?

23 A Correct.

24 Q In the 13 events and two or three of those where
25 blood was photographed, not one drop of blood was collected?

1 A That's incorrect. There was a blood swab taken.

2 Q Okay. Just one, right?

3 A Yes, as far as I know.

4 Q Was that processed?

5 A No.

6 Q In 13 events, not one molecule of DNA was
7 collected; isn't that right?

8 A Yes.

9 Q I'm not talking the Taco Bell, but the 13 events.

10 A Yes.

11 Q That's correct, right?

12 A Correct.

13 Q Not one molecule of DNA?

14 A Correct.

15 Q Now, in 13 events footwear lifts were taken I
16 believe twice; is that correct?

17 A I believe three.

18 Q Okay.

19 A I think.

20 Q If I represented to you that it was at a Pizza Hut
21 and an El Pollo Loco, would you have reason to disagree with
22 that?

23 A There was a boot print and Reebok. I know there
24 was a smear print of the one so I'm thinking three. So it
25 might be two different locations, but I know there was three

1 different shoes prints recovered.

2 Q You know Crystal May, yes?

3 A Not offhand.

4 Q Well, she's the forensic examiner that was doing
5 the forensics on your windbreaker series.

6 A Okay.

7 Q Okay. She's the one that you would have
8 communicated with in terms of asking her what to process.

9 A I sent a request in and then they assign it.

10 Q So once it's off your desk, you don't know what
11 happens to it?

12 A Well, I get the reports back. I had to go through
13 the supervisor to get more done.

14 Q Well, if she testified that she took direction from
15 you as to what to process, would that be accurate?

16 A Yeah, because I had to get permission and then --
17 and then I had to specify which extra ones I wanted done so
18 yeah, probably.

19 Q Okay, so you send her a letter?

20 A Or maybe an e-mail.

21 Q Or an e-mail that said process some of this stuff?

22 A Well, we -- it's done on computer so we can just
23 send it straight out what -- what to process. So I don't
24 know if I had direct communications with her or not or if
25 it's through the e-mail or through the request.

1 Q You testified that you're only allowed to send a
2 certain number of things to be processed, correct?

3 A Normally, yes.

4 Q Okay. What's the limit?

5 A It's five on a robbery event.

6 Q You had 13 events, didn't you?

7 A Correct.

8 Q So if my math's correct, you could have sent in 65
9 different pieces of evidence to be examined --

10 A Yeah.

11 Q -- before having to get authority? Is that right?

12 A Well, I tried that, and that was my argument, and
13 that's why I had to go to the supervisor to argue that point.
14 It was like I got to get more.

15 Q Okay. And the supervisor within Metro or within
16 the --

17 A The CSA --

18 Q -- crime lab?

19 A -- lab.

20 Q The CSA lab, okay. And when you asked for
21 additional, they gave you some additional?

22 A Yes.

23 Q Okay. And correct me if I'm wrong, but the items
24 that were processed included gloves?

25 A Yes.

1 Q Included a surgical mask?

2 A Yes.

3 Q Included firearms?

4 A Yes.

5 Q Included an axe?

6 A Yes.

7 Q Some swabs?

8 A I don't know if the swabs were or not. I'm not
9 sure.

10 Q And I'm just going from memory, too, but does that
11 sound about right?

12 A Yeah. Oh, you mean buccal swabs? Yes, buccal
13 swabs, yes.

14 Q Now you would try your best to send her only the
15 material that was worth her time to evaluate and process,
16 right?

17 A No. I -- I coordinated with the DA's Office what
18 items do we want and what items do we need and because
19 they're only going to limit us so much I'm not going to be
20 able to get like everything.

21 Q Now, if you reached your limit, you reached your
22 limit, but you thought there was something important to
23 process, you wouldn't be denied, would you?

24 A Well, I would have put that -- if it was that
25 important I would have put it on the list.

1 Q But what if it came in like after the first set of
2 materials that you forwarded?

3 A Maybe, I don't know.

4 Q You might get denied on that?

5 A I don't know. I got denied the first time, but --
6 so I had to go back if I really wanted it and see if I could
7 get it.

8 Q I mean, if it was something important and you're
9 the lead detective on 13 events, you could get something
10 processed if you wanted to?

11 A It's up to the CSA labs. It's really up to them
12 what they're going to -- how many they're going to let me do.

13 Q So if you went to the CSA lab and said, hey, I have
14 this piece of evidence that I think might exonerate somebody,
15 and they said -- they can just say, eh.

16 A As long as I can articulate it and get it through
17 the supervisor, I'm sure I could.

18 Q I mean, it's the same question, if you had
19 something that hey, I have this piece of evidence that if you
20 process it I think will lead to more arrests or confirm and
21 help prosecute somebody, they'd surely process that?

22 A I would hope so.

23 Q Okay. Now, you mentioned that Ms. Charlton came to
24 headquarters the night of the arrest, yes?

25 A Yes.

1 Q And the three suspects were there?
2 A Correct.
3 Q And she took photographs, right?
4 A She took photographs one.
5 Q Okay. That's all she did right? She just took
6 photographs?
7 A I can't recall if she did anything else or not. I
8 was writing reports at that time.
9 Q Okay. All the clothes from the suspects were
10 impounded, correct?
11 A Correct.
12 Q And you never requested that the windbreaker be
13 processed, did you?
14 A For DNA? It was on his person.
15 Q So no reason?
16 A It was on his person at the time.
17 Q Not --
18 A He's in possession of it.
19 Q Not worth Crystal May's time to process that,
20 right?
21 A I'd see no need to process it.
22 Q Wouldn't other people's DNA possibly be on that
23 windbreaker? This is the windbreaker --
24 A Um-h'm.
25 Q -- series.

1 A Well, multiple DNA is only going to come out with a
2 majority DNA, and it -- since he's wearing it, he's going to
3 have the majority DNA on it and this he --

4 Q No, I understand, that he --

5 A -- there won't be able to be a positive --

6 Q -- was wearing it.

7 A -- on any other DNA.

8 Q Detective, I understand he was wearing it, but it's
9 your testimony that it wasn't important and not worth the
10 time of the forensic examiner to see if other people's DNA
11 was on that windbreaker?

12 A I didn't see it at that time, no.

13 Q Do you know now change your mind and think it's
14 important?

15 A No, because I -- I got the main players.

16 Q I got the main players.

17 A And there's one -- there's one outstanding, and he
18 wasn't wearing a windbreaker or she.

19 Q Did you ever see anybody's face in any of those
20 video surveillances that you saw --

21 A No, but I seen the body types.

22 Q -- 10 to 20 times?

23 A And I seen the descriptors, and they weren't the
24 same.

25 Q What if that suspect that's out in the wind is the

1 same body type as one of these other defendants?

2 A Well, according to the videos I saw, he's not.

3 Q You never saw the other suspect.

4 A No, you can. You can see him at the backdoor of
5 one of them. The other one you can see him striking the
6 employee.

7 Q CSA Charlton at the time of the stop at Taco Bell
8 did nothing to process the interior of the car, did she?

9 A Not that I'm aware.

10 Q Would it have been worth anyone's time or important
11 to collect blood samples from in there if there were any?

12 A Possibly.

13 Q It wasn't done, was it?

14 A As far as I know, no.

15 Q How about the exterior of the car for latent prints
16 to see if anyone else had been in that car, would that have
17 been possibly important?

18 A Well, the cars were only seen at two scenes and we
19 know the people that were involved with those two scenes, so
20 I mean, it could be, but not so much.

21 Q There were two cell phones located inside that
22 Dodge Charger, correct?

23 A Yes.

24 Q Neither of those were processed for fingerprints
25 were they?

1 A Well, Donte Johns, one of them was his, and there
2 was another --

3 Q Neither of them were processed for fingerprints,
4 were they?

5 A No, not that I'm aware of. I wasn't there.

6 Q You're the lead detective, you would know if
7 something was processed.

8 A I saw the reports when I got them back and I didn't
9 see no processing of --

10 Q And --

11 A -- the phones, correct.

12 Q Right. They weren't processed, were they?

13 A As far as I know they weren't.

14 Q They weren't processed for DNA either, were they?

15 A No.

16 Q And is it your opinion that that wouldn't be
17 important or worth anyone's time to look into in either?

18 A No.

19 Q There was a blue backpack found in the Dodge
20 Charger, correct?

21 A From the still photos, yeah.

22 Q That was neither processed for fingerprints or for
23 DNA, was it?

24 A Why I see a blue backpack in any of the robbery
25 events.

1 Q You saw the bag, right?

2 A Blue Walmart bag, yeah.

3 Q Again, same question -- I don't mean to be too
4 redundant with this, but not worth anyone's time? Not worth
5 the effort to process the blue backpack?

6 A It just wasn't relevant to the investigation
7 because it wasn't seen in any of the crimes.

8 Q It could have been relevant in any other ways,
9 right?

10 A Not that I was aware of.

11 Q Same question for the axe. Excuse me, the pry bar,
12 the pry bar. Do you recall that being found in the Dodge
13 Charger?

14 A Uh-huh.

15 Q Not processed for anything, right?

16 A I believe, I had it processed for DNA through the
17 lab. I think that was one of my requests.

18 Q And if you did, I misspoke and I apologize, but I
19 don't know.

20 A I think I -- I think I had that on the list.

21 Q Okay.

22 MR. MANINGO: Court's indulgence. Court's
23 indulgence, Your Honor. I'll pass the witness, Your Honor.
24 Thank you. Thank you, Detective.

25 THE WITNESS: Um-h'm.

1 THE COURT: Redirect.

2 MS. MERCER: Yes.

3 REDIRECT EXAMINATION

4 BY MS. MERCER:

5 Q Detective, just so we're all clear, there were
6 never four suspects present in any of these robberies?

7 A Not at the same time, no.

8 Q At one time?

9 A No.

10 Q And we've repeatedly heard about this third person
11 that's in the wind that you haven't been bothered to find. I
12 think you said that that person's physical descriptors didn't
13 match any of the three defendants in this case; is that
14 accurate?

15 A Correct.

16 (Pause in the proceedings)

17 MS. MERCER: Your Honor, may I approach and have
18 these marked?

19 THE COURT: Yes.

20 MS. MERCER: Or actually, these are part of the
21 video that's already admitted so may I just publish them for
22 demonstrative purposes, Your Honor?

23 THE COURT: Have they been admitted?

24 MS. MERCER: The stills are not. The videos are.

25 THE COURT: Oh, okay.

1 MS. MERCER: These are from the videos that are in
2 evidence.

3 THE COURT: Okay, all right.

4 MR. MANINGO: I'm sorry, what are these?

5 MS. MERCER: Stills from the video that's already
6 been admitted.

7 MR. MANINGO: Thank you.

8 BY MS. MERCER:

9 Q This is the fourth suspect, right?

10 A Correct.

11 Q You can't tell whether that's a male or a woman?

12 A I cannot.

13 Q What can you tell about this person in relation to
14 the other three people that you arrested in this case?

15 A Well, height is in between the taller suspect and
16 the shorter suspect and the weight is way bigger. Bigger
17 wide and heavier.

18 Q And with regards to the events where this third
19 person was present or this -- did those physical descriptors
20 generally hold to be the same?

21 A Close to the -- the outstanding fourth, yes.

22 Q The fourth suspect?

23 A Either a female or event, yes.

24 Q So in every single event where there's a third
25 person present, the physical descriptors are much larger,

1 much fatter?

2 MR. MANINGO: Objection. Leading.

3 THE COURT: Rephrase. Sustained. Rephrase your
4 question.

5 BY MS. MERCER:

6 Q With regards to the events where there was a third
7 person present, were the physical descriptors consistent with
8 regards to build and weight?

9 MR. MANINGO: Same objection, Your Honor, but it's
10 fine.

11 THE COURT: Go ahead. Can you answer the question,
12 Detective?

13 THE WITNESS: Well, there was a shorter suspect, a
14 taller suspect and a medium suspect was always pretty much
15 the same as far as height and thicker build or bigger.

16 BY MS. MERCER:

17 Q And with regards to that champagne colored Ford
18 that Mr. Tanasi asked you about, was there ever any
19 indication that a champagne colored Ford was involved in this
20 series as far as you were concerned?

21 A No.

22 Q And with regards to the white Dodge Charger that he
23 referenced, what opinions did you reach after you reviewed
24 the surveillance from these incidents?

25 A Well, that's probably because when I initially put

1 it out, I wanted to keep it vague so I put it white/silver
2 because I didn't want a patrol officer passing up any
3 possible vehicle leaving the scene. I didn't want them
4 specifically focusing in on a silver car even though I
5 thought was a silver car.

6 Q So because the series was still ongoing, you didn't
7 want to narrow it too much?

8 A Yes.

9 Q And then with regards to this Ernest Mopkins person
10 that we've heard about, you learned during the course of your
11 investigation that that was Donte Johns' roommate, correct?

12 A Correct.

13 Q You said -- on cross-examination you testified that
14 you pulled up his stuff?

15 A Like the DL, his physical descriptors and stuff
16 like that.

17 Q You pulled up -- I'm sorry, could you repeat that?
18 I couldn't --

19 A Like his driver's license information, his records,
20 stuff like that.

21 Q And when you pulled that information up, were his
22 physical descriptors with -- consistent with any of the
23 suspects in this robbery?

24 A I don't recall, but I don't think so because I just
25 -- I didn't -- at the time I was like that's not going to be

1 one of my guys.

2 Q And then with regards to this blood that was left
3 behind at the scene of the Wendy's robbery in which Juan
4 Mendoza was pistol whipped, you indicated that you -- it's
5 your understanding a crime scene analyst collected the swab
6 of that blood, correct?

7 A Yes.

8 Q Why would you not request that it be amongst the
9 many items that you requested for DNA analysis?

10 A Because it was the victim's blood, and it was where
11 he was hit and it was where he bled.

12 Q With regards to the residence that you searched on
13 East Charleston associated with Tony Hobson and Brandon
14 Starr, publishing 250 on the overhead. What address is that
15 letter addressed to?

16 A 3955 East Charleston Boulevard, Apartment 250.

17 Q And it says, Dear Tony?

18 A Yes.

19 Q I am pleased to offer you the position of sales
20 support associate at the East Charleston location?

21 A Yes.

22 Q And it's from Pep Boys, correct?

23 A Correct.

24 Q And you indicated that when you did a power search,
25 the power became active in his name when?

1 A I believe, it was October 1st.

2 Q So 27 days before the first robbery in this series?

3 A Yes.

4 Q Showing you State's Exhibit 253. Do you recall the

5 line of questioning in which Mr. Tanasi asked you whether you

6 ever requested that the receipts buried in this trash can or

7 that the coin wrappers that were in this trash can be

8 subjected to DNA or latent fingerprint analysis?

9 A Yes.

10 Q Why did you not submit those papers for fingerprint

11 or DNA analysis?

12 A Well, even if it came back to them, it's their

13 apartment.

14 Q Okay.

15 A So it wouldn't --

16 Q And --

17 A -- prove anything.

18 Q -- in looking in this trash can, you can see

19 various items of empty food containers, dirty diaper, things

20 of that nature?

21 A Yes.

22 Q Not exactly the cleanest samples to submit --

23 A Yeah, it was --

24 Q -- for analysis?

25 A -- it was -- it was pretty --

1 MR. TANASI: Objection. Leading.

2 THE COURT: Overruled.

3 THE WITNESS: It was -- it was pretty sticky when I
4 started digging into it. There was stuff everywhere. There
5 was also, I believe, a surgical mask in there as well.

6 BY MS. MERCER:

7 Q And then you were asked -- I can't recall if it was
8 Mr. Maningo or Mr. Tanasi that took up the line of
9 questioning about you feeling under pressure with regards to
10 solving this robbery series. At the time you were a robbery
11 detective?

12 A Correct.

13 Q What is robbery?

14 A Working robbery series and robbery events.

15 Q And it typically involves force used against a
16 victim, correct?

17 A Force, people shot, everything.

18 Q So safe to say that when you were working in this
19 series, all of your other case load was equally as important?

20 A Yes, I was working other cases as well.

21 Q And is it safe to say that you would like to solve
22 all of your cases?

23 A That would be great.

24 Q Were you in any special rush to solve this one?

25 A No. Just that we was trying to get people out

1 there, patrol out there to find them before it got even more
2 violent.

3 Q With regards to the line of questioning that I
4 believe, it was Mr. Tanasi took up with you about going out
5 and conducting surveillance as robbery detectives.

6 A Occasionally we do.

7 Q And when do you typically do that?

8 A On a series related. We know the times and places
9 they're hitting, we may go in that areas and just sit
10 surveillance or roam, watch them.

11 Q And more specifically, what types of series?

12 A Robbery series.

13 Q Are they unsolved robbery series?

14 A Yes.

15 Q Are they robbery series where you have limited
16 information available to identify the suspects?

17 A Yeah, absolutely.

18 Q And that's why you go out and do the surveillance?

19 A It's better if we catch them red handed because
20 then we have them with all the stuff that they're committing
21 the robberies with.

22 Q And with regards to this particular robbery series,
23 when you reviewed all the surveillance videos, you
24 consistently saw that the suspects were wearing gloves,
25 correct?

1 A Yes.

2 Q Which as a detective on the robbery unit explains
3 the absence of DNA or fingerprints at the scenes?

4 A Yes.

5 Q And is that why you had to go -- why other robbery
6 detectives in your unit went out to do surveillance?

7 A Well, I gave them all the information and the times
8 and the locations and what to look for. So it didn't
9 surprise me that they went out.

10 Q And when you were being questioned by Mr. Maningo,
11 he also asked you about whether Donte Johns pled guilty to a
12 burglary.

13 A Correct.

14 Q When you arrested the three suspects in this case,
15 did you book them on charges of burglary while in possession?

16 A I believe so, yes.

17 Q Why do you do that?

18 A Because any time you're committing a robbery, the
19 act of burglary's a different charge. Actually going in the
20 restaurant to commit a robbery is a burglary on top of the
21 robbery. So it's a totally different charge.

22 MS. MERCER: Court's indulgence. No further
23 questions, Your Honor.

24 THE COURT: Recross.

25 MR. TANASI: Briefly, Your Honor. Court's

1 indulgence.

2 RECROSS-EXAMINATION

3 BY MR. TANASI:

4 Q Okay, Detective, let's take a look here real
5 quickly -- because I know it's getting late -- at Exhibit
6 250. When does it say Mr. Hobson's employment will start?

7 A July 18th, 2014.

8 Q Okay. And that's well before the October 2014
9 series and November 2014 date that you actually searched the
10 residence, right?

11 A Correct.

12 Q People can move in between July and October,
13 correct?

14 A Absolutely.

15 Q Okay. And let's talk about the receipts. I'll
16 show you Exhibit 253. Circle the receipts for me in this
17 garbage can, if you can or --

18 A They're below like the diaper area in here.

19 Q Okay. So you don't see them in this picture,
20 right?

21 A No.

22 Q Someone had to go in, go looking?

23 A Yes.

24 Q Right? And I'll show you Exhibit 254. This
25 picture --

1 A Um-h'm.

2 Q -- how many receipts do you see?

3 A I see one.

4 Q Just one in that picture, right?

5 A Um-h'm.

6 Q So the evidence in this case as it was found,
7 right, there's only one picture and one receipt, correct?

8 A No, there's three receipts. I pulled the first two
9 out and didn't realize that they were from that exact
10 Popeye's until I started reading them and then I'm like, all
11 right, there's another receipt in there, take a picture of
12 that one.

13 Q Fair enough. So you actually removed the evidence
14 before you took a picture of it, correct?

15 A Yeah, because they were taking pictures later on --
16 on the counter.

17 Q And you'd agree with me it's always best to take
18 pictures of evidence exactly where you find it?

19 A Or if you know it's evidence at the time, correct.

20 Q You didn't know you were looking for receipts?

21 A I was not looking for receipts at that point. I
22 was looking for the bandanas.

23 Q And then you did end up taking pictures of the
24 receipts. I'll show you State's 259, right? That picture's
25 not in the garbage can, you'd agree with me?

1 A Correct.

2 Q Right there on the counter, right?

3 A Uh-huh, correct.

4 Q And then State's 260, this picture not in the
5 garbage can, on the counter, correct?

6 A Correct.

7 MR. TANASI: Thank you. Nothing further.

8 THE COURT: Mr. Maningo, anything further?

9 MR. MANINGO: Just briefly, Your Honor.

10 THE COURT: Okay.

11 RECROSS-EXAMINATION

12 BY MR. MANINGO:

13 Q Detective, you testified earlier that you didn't
14 have probable cause to execute any additional search
15 warrants, correct?

16 A Not as far as I had or that I thought I had.

17 Q Donte Johns had admitted to five robberies?

18 A Correct.

19 Q That doesn't give you probable cause to search his
20 place?

21 A He wasn't on the lease.

22 MR. MANINGO: No more questions. Thank you, Your
23 Honor.

24 THE COURT: Any redirect?

25 MS. MERCER: No, Your -- no, Your Honor.

1 THE COURT: Any questions? All right. We have a
2 number of questions for you.

3 MS. LOBO: Oh, I believe, Mr. Tanasi had a
4 follow-up.

5 MR. TANASI: I do have one question as a result --

6 THE COURT: Oh.

7 MR. TANASI: -- of Mr. Maningo's.

8 MS. LOBO: As a result of the --

9 THE COURT: What, you want to cross as a result of
10 what Mr. Maningo asked?

11 MR. TANASI: Correct, Your Honor.

12 THE COURT: All right. Have a seat. Go ahead.

13 MR. TANASI: Just last question. Last question, I
14 promise.

15 RECROSS-EXAMINATION

16 BY MR. TANASI:

17 Q And Mr. Hobson wasn't on the lease agreement
18 either, correct, for that apartment?

19 A No, but he was on the Nevada Power for that
20 apartment.

21 Q Okay, but he wasn't on the lease agreement,
22 correct?

23 A He was listed in the lease agreement as a person
24 associated with that person, as an ex-husband, yes.

25 Q Lockout?

1 A Yes.

2 Q As somebody who doesn't live there, but who can
3 have access to get in, if they need to?

4 A It doesn't say --

5 MS. MERCER: Objection. That mischaracterizes his
6 testimony.

7 THE WITNESS: -- he doesn't live there.

8 THE COURT: Hold on.

9 THE WITNESS: It just says he has access to it.

10 THE COURT: Hold on, hold on. There's an
11 objection.

12 THE COURT RECORDER: I cannot hear him.

13 THE COURT: What is your objection?

14 MS. MERCER: I object that it mischaracterizes the
15 detective's previous testimony about the lockout document
16 that Mr. Tanasi's referencing.

17 THE COURT: Just rephrase it, Mr. Tanasi.

18 MR. TANASI: Okay.

19 BY MR. TANASI:

20 Q The lockout document, you'd agree with me, doesn't
21 indicate that the person lives there. It indicates that they
22 have access to the apartment if they want to get in to go see
23 their kid if they're locked out, correct?

24 A It also doesn't indicate that he doesn't live
25 there.

1 Q It's a lockout.

2 A So --

3 Q Wouldn't he be on the lease if he lived there?

4 A Because if she's locked out, he -- she would want
5 him to have access to the apartment and the kid and
6 everything else.

7 Q Right.

8 A Because she's the only one on the lease.

9 Q Right, the person on the lease has clear access,
10 you'd agree --

11 A Right.

12 Q -- right?

13 A Yes.

14 Q Right? So it's important to have a separate
15 section of the lease agreement for lockout authority to give
16 somebody else who doesn't live there the authority to come in
17 if they need to if the door's locked to check on their kid,
18 perhaps, correct?

19 A Possibly.

20 Q Thank you, sir.

21 A Yes.

22 THE COURT: Okay. State, do you have any further
23 direct as a result of that?

24 MS. MERCER: I do not, Your Honor. Well, actually,
25 I do.

REDIRECT EXAMINATION

BY MS. MERCER:

Q Detective, in addition to finding all the paperwork and Brandon Starr's name, his checkbook --

MS. LOBO: Brandon Starr's, objection.

BY MS. MERCER:

Q -- and Tony Hobson's paperwork, you also found male clothing, correct?

A Yes.

THE COURT: Hold on. Ms. Lobo?

MS. LOBO: Court's indulgence.

THE COURT: Could you all approach?

MS. LOBO: Sure.

(Off-record bench conference)

THE COURT: Go ahead, Ms. Mercer.

BY MS. MERCER:

Q Detective, going back to the contents of that apartment, you located a checkbook with Brandon Starr's name on it?

A Yes.

Q You located paperwork in his name?

A Yes.

MR. MANINGO: Your Honor, I'm just going to object that this is outside the scope of the follow-up crosses and everything else.

1 THE COURT: Well, everybody's just --

2 MR. MANINGO: And we've gone over this.

3 THE COURT: -- stepping in on this, I'm going to
4 allow it. You can recross if you need to.

5 MR. MANINGO: Okay, Your Honor. Thank you.

6 THE COURT: Overruled. Okay.

7 BY MS. MERCER:

8 Q And showing you 235. You testified that this was
9 in one of the bedrooms of that apartment?

10 A Yes, it was.

11 Q And that's a picture of Brandon Starr?

12 A Yes.

13 Q Did you also find similar photos of Tony Hobson in
14 that apartment?

15 A I think, yes, there were some on the other bedroom,
16 I believe, of --

17 Q And that's what's depicted in 226, correct?

18 A Yes.

19 Q In addition to the paperwork and the photographs
20 and the gray hoodie and the baseball caps that you've
21 previously identified, did you also find other articles of
22 male clothing in that apartment?

23 A And there was male clothing strewn throughout the
24 apartment, there was in the closets. I mean, I didn't
25 take --

1 MS. MERCER: Court's indulgence.

2 THE COURT: Okay. Any recross?

3 MR. MANINGO: Nothing, Your Honor.

4 MR. TANASI: No, Your Honor.

5 THE COURT: Okay. All right. We got a bunch of
6 questions from the jury. That's all of them?

7 UNIDENTIFIED SPEAKER: There's two more over here.

8 THE COURT: I was going to say you spoke too soon
9 there, sir.

10 (Off-record bench conference)

11 THE COURT: Detective --

12 THE WITNESS: Yes, sir.

13 THE COURT: -- all right. These aren't in any
14 particular order. I'm just going to read them as --

15 THE WITNESS: Okay.

16 THE COURT: -- okay? What was the date on the
17 lease agreement that Tony Hobson was put on the lockout part
18 of the lease of Brianna's apartment?

19 THE WITNESS: Well, without looking at the lease, I
20 wouldn't know the exact date she signed the lease. So I'd
21 have to refer to the lease agreement to get that information.

22 THE COURT: Okay. What do you mean when you say
23 valid or not valid information on the courts?

24 THE WITNESS: Well, a lot of times people will say
25 something and they'll -- it's -- it's something they heard

1 from other people. That's why we try to separate victims so
2 they don't talk to each other. And a lot of times when I go
3 reinterview them, they'll say that and I'll say -- and it
4 gets in the report, and I'll say, okay, did you hear that or
5 did you see that and then say oh, that's what they said. And
6 I'm like, okay.

7 So when I go back and review it, that's really not
8 like a valid statement because they didn't -- they heard it
9 from somebody else.

10 THE COURT: Where was family photo taken of Brandon
11 Starr and lady on dresser wall in bedroom?

12 THE WITNESS: What was it?

13 THE COURT: Where was family photo taken of Brandon
14 Starr and lady on dresser wall in bedroom?

15 THE WITNESS: Where was it?

16 THE COURT: Where was it taken?

17 THE WITNESS: Where was it taken? Oh, I don't
18 know. You mean like a -- like a photo shop or something or
19 photo studio? I don't know. I didn't look at the fine print
20 to see if it was like at a Walmart or something. I'm not
21 sure.

22 THE COURT: Why was the surgical mask in the trash
23 can not processed for DNA taken from the apartment?

24 THE WITNESS: Again, it was filled with slop in
25 there, and even if it came back to the residents of that

1 apartment, they live in that apartment. It would really
2 prove nothing. And we had the two masks that were worn by
3 the two suspects, I felt like I already had in custody so.

4 THE COURT: Were subpoenas, search warrants issued
5 to the wireless carriers associated with the cell phones
6 recovered for sale locate information?

7 THE WITNESS: Say it again.

8 THE COURT: Were subpoenas or search warrants
9 issued to the wireless carriers associated with the cell
10 phones recovered for sale locate information?

11 THE WITNESS: Yes.

12 THE COURT: If so, what were the results?

13 THE WITNESS: I think two of the phones came back
14 to Brianna Rankin and the other one came back to Donte Johns,
15 which he said it was his. The search warrants didn't really
16 reveal nothing. Just text messages back and forth between, I
17 think, Tony Hobson and his girlfriend, but nothing relevant
18 to the investigation.

19 The only cell towers I got back were on Brianna
20 Rankin's and it shows it either off during the whole times of
21 the events or it was at the apartment with her so.

22 THE COURT: Okay. During testimony by Donte Johns,
23 we learned that the red Snap On gloves and white lettering
24 and red/black gloves, Grease Monkey gloves, were used by
25 employees of Pep Boys as were the black boots similar to the

1 ones Mr. Starr was wearing on the night of the arrest.
2 Wouldn't it be important to search Donte Johns' residence to
3 investigate if these items happen to be in his possession,
4 too?

5 THE WITNESS: Well, the gloves were recovered. The
6 DNA came back to the people that were wearing them. And
7 also, you just can't kick in people's doors and look through
8 their stuff. You got to have probable cause to get in there.
9 And I didn't think I had enough to go to his residence since
10 he wasn't on the lease and it was in somebody else's name
11 just for that purpose of we already had those items in
12 custody so I -- I didn't think I had enough to get there.

13 THE COURT: This is a follow-up to that. Since you
14 found all the related items in Donte Johns' car, trunk, the
15 firearms, axe, gloves, et cetera, and he confessed, wouldn't
16 that provide enough probable cause to search his residence to
17 see if you could possibly locate additional evidence?

18 THE WITNESS: Again, most of the evidence seen in
19 the videos we did recover already. So what else we could
20 look for is maybe bandanas, maybe the other windbreaker
21 jacket. But again, you got to have probable cause. You got
22 to explain to a judge that those items not only are
23 outstanding, but they're going to be in his apartment. You
24 got to jump that link and get probable cause. And he was
25 never, my opinion, seen wearing those clothing so it leads to

1 probable cause to get in there.

2 THE COURT: Did you measure the height chart
3 located at the door of the 7-Eleven to verify its accuracy?

4 THE WITNESS: Yes, I did.

5 THE COURT: In the 7-Eleven incident, the shooter
6 -- I'm sorry, I misspoke. The shorter suspect was the
7 aggressor and held the firearm, which is inconsistent with
8 the events that contained only one firearm. Did you consider
9 that a third suspect could have been involved in that event?

10 THE WITNESS: No. If you look at the video, you
11 can see it's plainly him and his descriptors and his height
12 and his weight. He even has his mask off at one point and
13 it's pretty clear. So I didn't consider him being somebody
14 else.

15 THE COURT: One of the pieces of evidence had been
16 addressed to Tony Hobson at an address on South Las Vegas
17 Boulevard. What is at that address?

18 THE WITNESS: I couldn't tell you. I don't know.

19 THE COURT: Is that address residential?

20 THE WITNESS: That I don't know either.

21 THE COURT: And what is the date of the lease of
22 the apartment on East Charleston? It's the same question.

23 THE WITNESS: Yeah, I'd have to -- I'd have to look
24 at the lease. I don't recall what it was.

25 THE COURT: Okay. In regards to the DNA, was the

1 suspect wearing the windbreaker -- was the suspect wearing
2 the windbreaker wearing any other clothing under the
3 windbreaker; i.e., t-shirt or sweatshirt, et cetera?

4 THE WITNESS: Yes. And I believe that that was
5 also impounded.

6 THE COURT: Were the phones ever ID'ed by the
7 owners of the phones?

8 THE WITNESS: Donte Johns identified his phone as
9 the, I believe, Galaxy 4 that was sitting on the center
10 console of the car.

11 THE COURT: Were any cell phones at the residence
12 tracked back to owners at any of the windbreaker series
13 stores?

14 THE WITNESS: No. I ran the serial numbers and
15 they never came up. And a lot of the serial numbers from the
16 victims they didn't know them or we didn't have them. So I
17 couldn't trace them back to the stores.

18 THE COURT: Okay. And the next question for that
19 is did you ask any of the victims if any of the phones were
20 theirs?

21 THE WITNESS: I don't know if the DA showed them
22 the pictures or not, but without an IMEI number or a serial
23 phone, an iPhone is an iPhone. Unless they can identify it
24 as theirs, they -- by the serial number that would be the
25 only way to say positively that's their phone.

1 THE COURT: Is it normal to identify a possible
2 suspect as male or female based on the length of their
3 eyelashes?

4 THE WITNESS: No. No.

5 THE COURT: All right. Thank you, Detective. Do
6 you have any questions as a result of those questions, Ms.
7 Mercer?

8 MS. MERCER: I do, Your Honor.

9 FURTHER REDIRECT EXAMINATION

10 BY MS. MERCER:

11 Q With regards to those phones that you recovered in
12 the residence, you said they were found in the suspect's
13 residence, you would have to have search warrants to go into
14 those phones and get identifying information out of them
15 absent looking at the serial number, correct?

16 A Correct.

17 Q Like, you couldn't just turn it on and go through
18 the photos?

19 A No.

20 Q And you indicated that many of the victims didn't
21 have their serial numbers or the -- I can't remember the
22 other number?

23 A IMEI number, correct.

24 Q Yeah. So there was no way to confirm whether it
25 was theirs or not?

1 A Correct.

2 Q With regards to the masks found in the DNA, why you
3 did you even test it for DNA, I didn't really understand your
4 answer. What --

5 A Well, I mean, it was soaked from all the fluid in
6 the -- in the trash container. And then even if it came back
7 with DNA, they live there. They have residence, they have --
8 so it would prove really nothing that, okay, it's in their
9 residence. It's like you'd come into my residence and
10 testing something of mine. Yeah, my DNA's probably going to
11 be on it.

12 Q So do you --

13 A So, yeah.

14 Q Okay. And then with regards to the cell phone
15 records that you requested -- or actually, never mind. You
16 indicated in response to one of the juror questions that you
17 did not believe that Donte Johns was the gunman in any of
18 these events?

19 A No.

20 Q Why is that?

21 A His descriptors didn't match.

22 Q And was that confirmed by the DNA results?

23 A Yes.

24 Q In particular, the white mask found in the trunk
25 had Brandon Starr's DNA on it?

1 A Correct.

2 Q The gray and red glove in the trunk had his DNA on
3 it?

4 A Correct.

5 Q The red and black gloves also had his DNA on it?

6 A Correct.

7 Q And the red and black gloves with the white
8 lettering had Tony Hobson's DNA, correct?

9 A Correct.

10 Q And the revolver swab also had Brandon Starr's DNA?

11 A Correct.

12 MR. MANINGO: I'm sorry, Your Honor, may with
13 approach?

14 THE COURT: Yes.

15 MR. MANINGO: Sorry to interrupt.

16 (Off-record bench conference)

17 THE COURT: Ms. Mercer.

18 MS. MERCER: Thank you, Your Honor.

19 BY MS. MERCER:

20 Q Detective, with regards to several of these events,
21 can you actually see the back of one of those suspect's neck,
22 correct, when you watch the surveillance video?

23 A Maybe on the inner swim, but I didn't really review
24 that too much. I don't know if any of mine I could --
25 because he had his hood up most of the time.

1 Q On the ones where his hood wasn't necessarily up,
2 you could see parts of his neck, correct?

3 A I don't recall that.

4 Q Okay. In addition, you also found the hats worn
5 during several of these robberies at Tony Hobson and Brandon
6 Starr's residence, correct?

7 A Yes.

8 Q And then you indicated that as far as you were
9 concerned, there was no third suspect on this -- and for the
10 record, I'm publishing 324, this second event. And you said,
11 as far as you were concerned there was -- you -- there was no
12 third suspect, why?

13 A Because that's Tony Hobson there. That's his
14 gloves. That's his jacket. That's his height. That's him,
15 as far as I'm concerned.

16 Q And you can actually see his face?

17 A Yes.

18 MR. TANASI: Objection, Your Honor. Identification
19 but for the jury, best evidence. He just made an
20 identification on his own after being led that way and
21 leading.

22 THE COURT: I'm going to let it stand. You can --
23 it's for argument.

24 MS. MERCER: Court's indulgence.

25 BY MS. MERCER:

1 Q It was the last event in the series, the night
2 before they were arrested that those receipts were taken,
3 correct?

4 A Yeah. Popeye's, yes.

5 Q And in that robbery they were wearing the exact
6 same clothing they had worn in the prior robberies, correct?

7 A Black hoodie and the other -- the tall suspect was
8 wearing the windbreaker, yes.

9 Q And gloves were the same?

10 A Yes.

11 Q And then those receipts were found in Tony Hobson
12 and Brandon Starr's apartment?

13 A Correct.

14 Q And we knew that that was the manager's handwriting
15 on those receipts?

16 A No. I just knew the date and the location
17 coincided with the robbery that occurred on that date.

18 Q Date and location on the receipts?

19 A Yes. Or at least the dates and the Popeye's.

20 MS. MERCER: No further questions.

21 MR. TANASI: No questions, Your Honor. Thank you.

22 THE COURT: Mr. Maningo, do you have any questions?

23 MR. MANINGO: Court's indulgence, Your Honor.

24 Nothing else, Your Honor. Thank you.

25 THE COURT: I have a question, Detective.

1 THE WITNESS: Yes.

2 THE COURT: You testified when Mr. Tanasi
3 questioned you regards to these receipts that there was a, I
4 think you said flipped around, a number from 4 to 5. Is that
5 -- is that --

6 THE WITNESS: That was on the property report.

7 THE COURT: Okay. What did you mean by that?

8 THE WITNESS: Well, if you look at the property
9 report, in the original one that Detective Turner did, if she
10 would have put 4 and 5 reversed, it would have been correct,
11 showing me finding receipts and the other detective finding
12 the stuff in the right location so --

13 THE COURT: What's the other item, do you know?

14 THE WITNESS: It was paperwork in the name of Tony
15 Hobson.

16 THE COURT: Okay.

17 THE WITNESS: Which was found in his bedroom by
18 Detective Flynn.

19 THE COURT: By Detective Flynn?

20 THE WITNESS: Yes.

21 THE COURT: And so --

22 THE WITNESS: I'm pretty sure.

23 THE COURT: -- she put in that the receipts were
24 found by Detective Flynn in the bedroom?

25 THE WITNESS: In the kitchen and the name -- well,

1 the jury. Go ahead and have a seat, Detective. During the
2 cross -- direct examination by State, the State raised some
3 questions with respect to a previous -- well, another
4 incident involving a number of burglaries that Detective
5 Matlock was questioned by the defense about. It was talking
6 about similarities, brought -- I think it was Mr. Maningo who
7 brought it up, based on a news article involving the series
8 of burglaries that happened in 2015.

9 So Ms. Mercer has a number of photographs that she
10 was beginning to talk to the detective that's on the stand
11 now, with respect to these photographs. There was an
12 objection as to foundation. So Mr. Maningo, I'll let you put
13 on the record what your objection is.

14 MR. MANINGO: Thank you, Your Honor. Just to
15 provide the back story for the record. When I requested
16 Detective Matlock when he was on the stand, I merely asked
17 him about a series of burglaries that occurred post these
18 events. He wasn't sure, had no present recollection.

19 I then presented an article from the paper and
20 asked him if that refreshed his recollection as to series of
21 burglaries that occurred. It did for his testimony refresh
22 his recollection. I then went on to ask him a series of
23 questions about those burglaries.

24 Then just now, Your Honor, Ms. Mercer was asking
25 Detective Abell about those same burglaries. No objection to

1 those questions. However, then I believe the State moved to
2 admit still photographs that, I think, are represented by the
3 State to have been associated to a link to the article that I
4 used to refresh recollection.

5 My objection based on foundation is because this
6 witness can offer no foundation with respect to the
7 authenticity or genuineness of those photographs. Simply
8 because they are linked to an article in the Review Journal
9 or any other media source does not make them inherently
10 genuine or authentic.

11 I believe, and correct me if I'm wrong on this,
12 that this detective has no independent knowledge of this
13 burglary series. He never saw these photos before today. He
14 -- I don't believe he took these photos or can establish any
15 sort of chain of custody with respect to the photos.

16 I don't see how a proper foundation could be made
17 for these and that's the basis of my objection.

18 MR. TANASI: Your Honor, I would just join.

19 THE COURT: All right. Ms. Mercer.

20 MS. MERCER: Your Honor, it's the exact same
21 article that Mr. Maningo was questioning Detective Matlock
22 on. I don't see any anything inappropriate about it. If
23 he's using --

24 THE COURT: In the article itself, have you seen
25 that article?

1 MS. MERCER: Yes. I -- I'm the one that found it
2 while he was -- while he was using it with Detective
3 Matlock --

4 THE COURT: Okay.

5 MS. MERCER: -- because he didn't bother to show it
6 to either one of us.

7 THE COURT: Mr. Maningo used it as a result of a
8 article from the Internet himself, right?

9 MS. MERCER: Correct.

10 THE COURT: That was what he used on his phone?

11 MS. MERCER: Correct.

12 THE COURT: Okay.

13 MS. MERCER: And then Mr. Portz approached
14 Detective Matlock and showed him the exact same article, and
15 he looked at those exact same photographs. And quite
16 frankly, Your Honor, I don't even need to get it in through
17 this witness because pursuant to 50.125, which says, "If a
18 witness uses a writing to refresh his or her memory either
19 before or while testifying an adverse party is entitled to
20 (d) to introduce into evidence those portions which relate to
21 the testimony of the witness."

22 THE COURT: Okay.

23 MS. MERCER: So at this point, I would just move to
24 admit it.

25 THE COURT: Mr. Maningo.

1 MR. MANINGO: She can talk about the article all
2 she wants. It doesn't change the fact that --

3 THE COURT: But --

4 MR. MANINGO: -- we don't know the authenticity or
5 the genuineness of these photos.

6 THE COURT: Mr. Maningo, let me ask you this, were
7 these photos -- you looked at them -- are these photos part
8 of that article?

9 MR. MANINGO: No. I can't even -- I never used any
10 photographs whatsoever to simply refresh --

11 THE COURT: Well -- well, I know --

12 MR. MANINGO: -- Detective --

13 THE COURT: -- but you actually had the article.
14 Was -- were any of these --

15 MR. MANINGO: You know what, Your Honor --

16 THE COURT: -- photographs --

17 MR. MANINGO: -- I --

18 THE COURT: -- attached to that article?

19 MR. MANINGO: No. Absolutely, 100 percent no.

20 THE COURT: All right. Okay. Ms. Mercer.

21 MS. MERCER: I distinctly remember him showing
22 photographs to Detective Matlock and pointing out the fact
23 that --

24 MR. MANINGO: That is absolutely false.

25 MS. MERCER: Or at least -- I'm sorry --

1 THE COURT: All right. Hold on. Just let her
2 finish.

3 MS. MERCER: -- I might have -- I was -- he
4 specifically questioned him with regards to the clothing worn
5 by the subjects. So I'm not sure how he did that without
6 these photos in front of him.

7 THE COURT: Well, isn't it part --

8 MR. MANINGO: I'll explain it, Your Honor. I
9 will --

10 THE COURT: Isn't it part of the article?

11 MR. MANINGO: -- show the Court exactly, if you'll
12 allow me --

13 THE COURT: Okay.

14 MR. MANINGO: -- exactly what I showed Detective
15 Matlock, and I believe, Mr. Portz approached with me and
16 looked over my shoulder. If you'll just bear with me, Your
17 Honor. I apologize.

18 (Pause in the proceedings)

19 MR. MANINGO: May I approach, Your Honor?

20 THE COURT: Yes. Ms. Mercer, do you want to --

21 MS. MERCER: Yes.

22 THE COURT: -- come up and see what he's showing
23 me?

24 MR. MANINGO: And I believe, Mr. Portz will verify
25 that this is exactly what I showed Ms. -- Detective Matlock.

1 I had this cutout of a paper article that was provided to me
2 through investigation. That was all I used.

3 MR. PORTZ: That is what I saw.

4 THE COURT: Okay. Now, so -- okay, I understand
5 that. Now, my understanding is, is that you -- is the State
6 did some research with regards to this article?

7 MS. MERCER: Correct.

8 THE COURT: All right.

9 MS. MERCER: With regards to that series.

10 MR. MANINGO: And I don't know --

11 THE COURT: Okay.

12 MR. MANINGO: -- that it's even the same article
13 that I'm using. I --

14 THE COURT: Well, let me --

15 MR. MANINGO: I'm sorry.

16 THE COURT: As a result of to just this article, if
17 you pull this article up in its entirety, I don't know if
18 this is even in its entirety, if you pull it up in its
19 entirety, does it have photographs attached to it?

20 MS. MERCER: Your Honor, the article that -- that
21 Mr. Portz showed Detective Matlock was from which journal?

22 MR. PORTZ: If you'll -- I don't recall, but if
23 you'll recall I did walk up with the computer to show him the
24 photographs that we intended to admit later onto show that
25 these were distinctly different.

1 So I actually walked up with Ms. Mercer's computer
2 to Detective Matlock with those photographs --

3 MS. MERCER: And it was in relevance to the same --

4 MR. PORTZ: -- from --

5 MS. MERCER: -- series.

6 MR. PORTZ: -- the link to that article.

7 MR. MANINGO: And if I may, Your Honor. The way
8 that I was able to ask questions was because within the
9 article, it says -- it says two black males. It says
10 breaking through the front door or entering through the
11 drive-thru. It says in the written text of the article.

12 THE COURT: Mr. Maningo, the article you have
13 there, that's the only thing that you used?

14 MR. MANINGO: This is the only thing --

15 THE COURT: Now, I didn't -- I didn't see it so
16 that's why I'm asking.

17 MR. MANINGO: Absolutely.

18 THE COURT: Okay.

19 MR. MANINGO: On --

20 THE COURT: So there was no photographs --

21 MR. MANINGO: -- my reputation and in my honor --

22 THE COURT: -- or anything, no photographs or
23 anything in your article?

24 MR. MANINGO: This all I was given.

25 THE COURT: Okay. All right. Okay. Ms. Mercer,

1 how do you -- how do you propose to admit these when I
2 understand what you -- you cited to in the statute, and I
3 agree with that. However, how do you establish that these
4 actual photos are something that was --

5 MS. MERCER: Your Honor, I'm move on. I can --

6 THE COURT: Okay.

7 MS. MERCER: -- recall Detective Matlock.

8 THE COURT: Well, I -- even with Detective Matlock.

9 MS. MERCER: Well, he testified that he was
10 familiar with the series after being refreshed -- after
11 having his memory refreshed by Detective -- I mean, by
12 Mr. Maningo.

13 THE COURT: That he is familiar with the series?

14 MS. MERCER: Yes, and that's why he was permitted
15 to question him regarding what the suspects were wearing, et
16 cetera, et cetera. Of.

17 THE COURT: All right. Well, we'll have to see
18 if --

19 MR. MANINGO: He recalled it -- if I may, Your
20 Honor.

21 THE COURT: Well -- go ahead.

22 MR. MANINGO: He recalled the series after
23 refreshing his recollection. My objection with respect to
24 authenticity and genuineness will still apply. I mean,
25 Detective Matlock --

1 THE COURT: Well, will --

2 MR. MANINGO: -- didn't take these photos either.

3 THE COURT: Well, if he's seen them as a result of
4 his investigations for and he's familiar with it, that's a
5 different issue, and I haven't heard that yet. But at this
6 point in time, I'm not going to allow you to admit them with
7 this detective, unless this -- unless you have some further
8 questioning of the detective that can identify these as
9 something that he's --

10 MR. MANINGO: Thank you, sir.

11 THE COURT: Okay? All right. So do you want them
12 back? I mean, they've been marked. Do you want me to leave
13 them --

14 MS. MERCER: You can leave them up there, Your
15 Honor.

16 THE COURT: -- with the Court? Okay. All right.
17 Okay, so other than that, do we have anything -- do you need
18 to use the restroom or anything, Detective?

19 THE WITNESS: I'm good for now.

20 THE COURT: All right. Anyone need -- do you need
21 -- Mr. Hobson, Mr. Starr, do you need to use the restroom?

22 MR. TANASI: Mr. Hobson does, Your Honor.

23 THE COURT: Okay.

24 MR. MANINGO: If we --

25 THE COURT: Okay. All right. We got five minutes.

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MR. TANASI: Okay.

THE COURT: So try to make it fast, guys.

MR. MANINGO: Thank you.

THE COURT: Okay.

(Court recessed at 3:56 p.m. until 4:04 p.m.)

(Outside the presence of the jury)

THE COURT: Okay. We're back on the record in the State of Nevada versus Tony Hobson and Brandon Starr in the Case No. C-303022. I'd like the record to reflect the presence of the defendants and their counsel as well as the State and their counsel. Are we ready to get the jury back in?

MS. MERCER: Yes, Your Honor.

MS. LOBO: Yes.

THE COURT: All right.

MR. MANINGO: Thank you, Your Honor.

(In the presence of the jury)

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

THE COURT: Okay. This is continuation of the jury trial in C-303022, State of Nevada versus Tony Hobson and Brandon Starr. Will the parties stipulate to the presence of the jury?

MS. MERCER: Yes, Your Honor.

1 MR. TANASI: Yes, Your Honor.

2 MS. LOBO: Yes.

3 THE COURT: Okay. Ms. Mercer, you're in the
4 redirecting of --

5 MS. MERCER: Yes.

6 THE COURT: -- or directing the detective.

7 BY MS. MERCER:

8 Q Detective, I sent you an article to look at,
9 correct?

10 A Yes.

11 Q Based upon your review of that article, did you do
12 additional investigation?

13 A I did.

14 Q And as a detective within the Las Vegas
15 Metropolitan Police Department, do you have access to
16 databases that allow you to look up other series and things
17 of that nature?

18 A Yes, I do.

19 Q With regards to your review of that article, were
20 you able to determine that it pertained to a series called
21 the night owl series?

22 A Yes. I sent that article to our ANSEC department
23 and asked them to pull up the events associated with that
24 series, and they sent me back the list of all the events
25 associated with the night owl series.

1 Q And then with those -- when you say events, are you
2 referring to event numbers?

3 A Yes.

4 Q With those event numbers, did you then go and do
5 additional investigation?

6 A I did.

7 Q Specifically, are you familiar with a database
8 called OnBase?

9 A Yes.

10 Q What's (indecipherable) OnBase?

11 A It's the -- all the property reports or any reports
12 we do and also maybe CSI pictures or documentation pictures
13 of the scenes or --

14 Q Sometimes surveillance stills?

15 A Yes.

16 Q When you started doing investigation into the
17 events referenced in the night owl series, were you able to
18 obtain still photographs of surveillance video --

19 A I actually went to --

20 Q -- as to some of the events?

21 A -- patrol briefings. Most of the times when our
22 patrol units go out on a call, they put in patrol briefings
23 that night of what occurred, where it occurred, so all other
24 officers in all the areas know what's going on and they
25 sometimes attach photos of the suspects that they can take

1 snapshots of them from the surveillance.

2 Q Snapshots from the surveillance?

3 A Yes.

4 Q Of the actual incidents?

5 A Yes.

6 Q And the exhibits that I showed you, do you
7 recognize those as being consistent with snapshots of the
8 surveillance from those incidents?

9 A Yes.

10 Q Referencing the night owl series?

11 A Yes.

12 MS. MERCER: Your Honor, at this point, I would
13 move for the admission of 315 to 3 --

14 MR. MANINGO: Same objection, Your Honor.

15 THE COURT: Mr. Tanasi.

16 MR. TANASI: Join, Your Honor.

17 THE COURT: I'm going to admit them, based on that.
18 I you've overcome his -- your objection was foundation, and
19 he said that he's familiar with this, he's observed them and
20 through his investigation, he's familiar that those are
21 photos that were taken for purposes of their investigations
22 at Metro so.

23 (Exhibits 315 to 322 are admitted)

24 MR. MANINGO: This witness, Your Honor, did not
25 take these. He doesn't know the authenticity or the

1 genuineness of these. With that, that's fine.

2 THE COURT: I understand. I understand.

3 MR. MANINGO: Thank you.

4 THE COURT: All right.

5 BY MS. MERCER:

6 Q How is it that an item is entered in to OnBase?

7 A Well, I don't know if those were in OnBase, but
8 OnBase, whoever's taking the pictures will load it up on to
9 the database, and it's stored on to OnBase.

10 Q And how is it that you access these patrol
11 briefings, the prior patrol briefings?

12 A We got a patrol briefing guide and we just go in
13 and search for event, and I pull up the different events and
14 look at the still photos attached to those events, and I've
15 seen some of the still photos from those events.

16 Q Showing you State's 315. Is this a collage of some
17 those surveillance?

18 A Yes.

19 Q And with regards to what they're wearing, is that
20 anywhere similar to your series, the windbreaker series?

21 A No, it's --

22 MR. MANINGO: Objection, Your Honor. Best evidence
23 and argumentative.

24 MR. TANASI: Join, Your Honor.

25 MS. MERCER: I'll rephrase.

1 THE COURT: All right. Okay. I'm going to sustain
2 that objection.

3 BY MS. MERCER:

4 Q What are they wearing?

5 A They're wearing -- well, they're black and white,
6 but it looks like gray type hoodies with letterings on the
7 front, designs and --

8 Q Are their faces concealed?

9 A Not in those.

10 Q No -- are there any masks?

11 A There's one that's concealed. It looks like he's
12 got -- but it looks like one of those full face because you
13 can see the -- the top portion that looks like a full-face
14 mask.

15 Q Are any of them wearing medical masks?

16 A Not that I can tell.

17 Q Are any of them wearing bandanas?

18 A No.

19 Q Are any of them wearing the gray and black
20 windbreaker?

21 A No.

22 Q Are any of them wearing the red and gray glove?

23 A No.

24 Q Are any of them wearing the red and black gloves?

25 A No.

1 Q Are any of them wearing the red and black gloves
2 with white lettering?

3 A No.

4 Q With regards to the research that you did into that
5 series were --

6 THE COURT: Hold on, Ms. Mercer. Just so I
7 understand, with respect to the photos that you've moved to
8 admit that I've admitted, there's a number of them,
9 Exhibits --

10 MS. MERCER: 315 to 322, I believe, Your Honor.

11 THE COURT: Yeah. 3, yeah, 22. Now, it's -- you
12 showed us a collage of them and this is just the photographs
13 from each one of the collages?

14 MS. MERCER: Correct, Your Honor.

15 THE COURT: Okay. Yeah, let's see. All right.
16 Okay. All right.

17 MR. MANINGO: May I see those one more time,
18 please?

19 THE COURT: Yeah.

20 BY MS. MERCER:

21 Q And did you prepare some sort of a synopsis for
22 this entire series?

23 A Yes.

24 MS. MERCER: Permission to approach the witness,
25 Your Honor?

1 THE COURT: Yes.

2 (Pause in the proceedings)

3 BY MS. MERCER:

4 Q Showing you what has been marked for identification
5 purposes as 324 and 323. Can you look at those and tell me
6 whether you recognize them.

7 A These I recognize. A few of these I don't because
8 I don't think I got all the pictures from the Henderson guy,
9 just a few of them.

10 Q Okay. But some of these you recognize as --

11 A Yes.

12 Q -- surveillances from the Henderson event?

13 A Yes.

14 Q And that's 323?

15 A Yes.

16 Q And then 324 is your synopsis of the Las Vegas
17 Metropolitan Police Department events?

18 A Yes.

19 MS. MERCER: Move for the admission of 323 and 324,
20 Your Honor.

21 THE COURT: What are they again?

22 MS. MERCER: Just a --

23 THE COURT: Have you seen these?

24 MR. MANINGO: Ms. Mercer showed them to me
25 yesterday, I believe.

1 MS. MERCER: It's just a synopsis of surveillance
2 stills from each event --

3 THE COURT: Oh, from --

4 MS. MERCER: -- that he compromised --

5 THE COURT: -- this case?

6 MS. MERCER: Correct.

7 THE COURT: Oh, I got you. Okay.

8 MS. MERCER: And then this is the Henderson stills.

9 THE COURT: All right. Any objection?

10 MR. TANASI: No, objection, Your Honor.

11 MR. MANINGO: No, sir.

12 THE COURT: Okay. They'll be admitted.

13 (Exhibits 323 and 324 admitted)

14 BY MS. MERCER:

15 Q I'm not going to go through every single page with
16 the jurors, but just so that they can have it. You listed
17 the event number associated with the surveillance stills on
18 each page, correct?

19 A Yes.

20 THE COURT: Ms. Mercer, just so it's understood
21 better, why don't you have the detective, if you can, on each
22 one of those write down what they apply to. I mean, other
23 than an event number.

24 BY MS. MERCER:

25 Q Well, they're in chronological order of each event,

1 correct? So this is -- the first page is the first event
2 that occurred on 10/28 of 2014?

3 A Correct.

4 THE COURT: Okay.

5 BY MS. MERCER:

6 Q And the second event is the 7-Eleven, which
7 occurred on 10/29?

8 A Correct.

9 Q The third page is the third event, which occurred
10 on November 1st at the Pizza Hut?

11 A Correct.

12 Q Fourth event is the fourth page, which occurred on
13 November 3rd of 2014?

14 A To Pizza Hut, yes.

15 Q And then the fifth page is the fifth event that
16 occurred at Little Caesars on November 4th, correct?

17 A Correct.

18 Q Sixth page, the sixth event that happened on
19 November 15 of 2014 -- November 15th of 2014?

20 A Yes.

21 Q And so on, correct?

22 A Yes.

23 Q They're in chronological order?

24 A Yes.

25 Q And absent from this, though, is the stills from

1 the Henderson event, which are 323, correct?

2 A Correct.

3 Q And that Henderson event took place on November
4 22nd of 2014, correct?

5 A As far as I know it did, yes.

6 Q I'm sorry?

7 A As far as I know it did because their event numbers
8 are different, but it was one day prior to the --

9 Q And so --

10 A -- my 23rd event so it had to have been the 22nd.

11 Q -- with regards to the chronology, it would have
12 been between the event that happened on November 21st of 2014
13 and the event that happened on November 23rd of 2014,
14 correct?

15 A Correct.

16 Q Once the arrests of Donte Johns, Brandon Starr and
17 Tony Hobson occurred, did you have any other robberies
18 occurring that matched the same modus operandi?

19 A No.

20 Q You indicated that you interviewed defendant Donte
21 Johns?

22 A Yes.

23 Q Had you not interviewed Donte Johns, would you
24 still have arrested Brandon Starr and Tony Hobson?

25 A Yes.

1 Q Why?

2 A For all the evidence we found in the car, the
3 matching descriptors of the clothing, the clothes worn at the
4 time they were taken into custody, their heights, their
5 physical descriptors, their race, their age all matched.

6 Q Do you recall what their physical descriptors are
7 specifically referencing Tony Hobson and Brandon Starr?

8 A Yes.

9 Q What are the physical descriptors for Tony Hobson?

10 A Five foot seven, 122 pounds.

11 Q And with regards to defendant Starr?

12 A Six foot four, 200 pounds.

13 MS. MERCER: Court's indulgence.

14 BY MS. MERCER:

15 Q Each video at headquarters -- I'm sorry, each
16 interview room at headquarters is equipped with video
17 equipment, correct?

18 A Yes.

19 Q Recording equipment?

20 A Yes.

21 Q And specifically, with regards to defendant Hobson,
22 the interview room that he was in was equipped with recording
23 instruments, correct?

24 A Yes.

25 MS. MERCER: Your Honor, may I play a portion of

1 310-A for identification purposes?

2 THE COURT: Yes. You have this, Mr. Tanasi?

3 MR. TANASI: I do, Your Honor.

4 THE COURT: Okay.

5 MS. MERCER: May I get it switched over to the
6 computer, I'm sorry.

7 (Video playing)

8 BY MS. MERCER:

9 Q And is that defendant Hobson at headquarters on
10 November 25th or early November 26th?

11 A Yes.

12 Q And does it appear to be from that recording?

13 A It's from the recording from the interview room,
14 yes.

15 MS. MERCER: Your Honor, at this point, I would
16 move for the admission of 310-A.

17 MR. TANASI: No objection, Your Honor.

18 THE COURT: It will be admitted.

19 (Exhibit 310-A admitted)

20 BY MS. MERCER:

21 Q How long were you on robbery after this -- after
22 the arrests of the suspects in this case?

23 A We got decentralized and moved to the units in
24 patrol about July of last year.

25 Q And as a patrol detective, do you still continue to

1 get briefed on robbery series that are occurring within the
2 valley?

3 A Yes.

4 Q And you've never received any information about
5 another robbery matching this --

6 A Correct.

7 Q -- MO?

8 MS. MERCER: I'll pass the witness, Your Honor.

9 THE COURT: Cross.

10 MR. TANASI: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. TANASI:

13 Q Detective, my name is Rich Tanasi. I represent
14 Tony Hobson. I have a few questions for you, okay, sir?

15 A Yes, sir.

16 Q All right. You're familiar, fair to say, with this
17 so-called series, right?

18 A Yes.

19 Q Okay. As you sit here today, you watched video,
20 you've gone through it for a while now so you're familiar
21 with this series, you're familiar with the intricacies of it,
22 you're familiar with the reports in this series, right?

23 A Pretty much.

24 Q All right. You have a pretty much -- you're the
25 lead detective, right?

1 A Yes.

2 Q So if anyone is familiar with this series, it's
3 going to be you in that you're the lead detective most if an
4 am with this series; is that fair?

5 A Yes.

6 Q Okay, sir. So you know that sometimes there were
7 four suspects involved, right?

8 A Three.

9 Q Okay. Sometimes there was four, though. There was
10 fourth sometimes, correct?

11 A I don't recall a fourth one.

12 Q Okay. Would seeing a copy of your search warrant
13 application refresh your recollection?

14 A Sure.

15 MR. TANASI: May I approach, Your Honor?

16 THE COURT: Yes.

17 BY MR. TANASI:

18 Q Sir, if you wouldn't mind just reviewing this
19 synopsis and that search warrant application.

20 A Okay.

21 Q Let me know when you're done.

22 A Okay.

23 Q Thank you. Okay, Detective, same question, how
24 many suspects are you familiar with were part of this at
25 times?

1 A Well, there was three per incident on some of them.
2 There was a mixture of possibly four.

3 Q Okay. So fair to say possibly four suspects --

4 A Yes.

5 Q -- on some of the incidents --

6 A Yes.

7 Q -- right?

8 A Yes.

9 Q But in this case, only three have been arrested,
10 right?

11 A Correct.

12 Q Okay. And one of those potential suspects is a
13 female, you learned, correct?

14 A Could be a female.

15 Q Could be, right? I mean, that's what a victim who
16 was at the scene with the most knowledge told one of the
17 officers in this case, correct?

18 A Yeah, he told one of the officers he thought it was
19 a female.

20 Q Correct.

21 A Yes.

22 Q So there was a potential female in at least one of
23 the robberies, correct?

24 A Yes.

25 Q All right. You also learned that there was a

1 four-door champagne colored Ford, correct?

2 A That was never established as the suspect vehicle.
3 Just a vehicle leaving the Pizza Hut around the time so
4 nobody actually saw the suspects or that vehicle being a part
5 of the robbery series.

6 Q But you learned through one of the reports that you
7 reviewed that there was a witness who identified a champagne
8 colored four-door Ford leaving at least one of the robberies,
9 right?

10 A Yes.

11 Q Okay. And you also learned that there was a white
12 Dodge Charger identified?

13 A No.

14 Q Correct?

15 A It was not white.

16 Q Okay. Do you recall, again, reviewing the report
17 where a white Dodge Charger was identified?

18 A There's surveillance video, looks like it's either
19 white or silver, but I determined by watching it, it was a
20 grayish like silver color car.

21 Q Okay.

22 A But they may have referred to it as white.

23 Q Right. A witness who was there may have referred
24 to it as white and not silver or gray, correct?

25 A It's possible.

1 Q Okay. Okay, so let's go to the search of the 3955
2 East Charleston apartment. In that case, you obtained a
3 search warrant, correct?

4 A Correct.

5 Q Okay. And you had, like I had mentioned before,
6 filled out an affidavit and that -- and application of that
7 search warrant, correct?

8 A Correct.

9 Q Okay. You signed it November 26th, 2014, right?

10 A Right.

11 Q Okay. And in that application you're basically
12 asking the judge permission to go and search that property,
13 correct?

14 A Yes.

15 Q Okay, so you're laying out all the facts that give
16 you probable cause that connects the crimes, in your opinion,
17 to that apartment, right?

18 A Yes.

19 Q Okay. So you want to be thorough, correct?

20 A As much as possible.

21 Q Okay. You want to cover all important facts,
22 correct?

23 A That I know of.

24 Q Okay. And you're connecting the dots for the judge
25 in that case, correct?

1 A Yes.

2 Q Okay. All right. So in that instance, you said
3 that you had actually reviewed a lease, correct?

4 A Lease agreement?

5 Q Yes.

6 A Yes.

7 Q And a lease agreement showed that Brianna Rankin
8 was the person leasing the apartment, correct?

9 A Correct.

10 Q Not Tony Hobson, correct?

11 A Correct.

12 Q In fact, one step further when you reviewed that
13 lease, you learned that he was actual the lockout authorized
14 person on the application, correct?

15 A The lockout?

16 Q Yes.

17 A I know that she listed him as a ex-husband or
18 something like that.

19 Q Okay. You saw the lease, correct?

20 A Yes.

21 Q Okay. Do you recall the lockout authorization
22 section of that lease?

23 A I don't recall it, no.

24 Q No?

25 MR. TANASI: May I approach?

1 THE COURT: Yes.

2 MR. TANASI: Okay.

3 BY MR. TANASI:

4 Q All right. If I showed you a copy here, this
5 lockout authorization, go ahead and read it and let me know
6 when that refreshes your recollection.

7 A Okay.

8 Q Okay. Again, now, have you reviewed a copy of the
9 lease agreement in this case?

10 A Yes.

11 Q Okay. That's what you just looked at. It's the
12 lease agreement with Brianna Rankin is the person leasing the
13 property, right?

14 A Right.

15 Q And you agree with me that Tony Hobson is the
16 lockout -- on the lockout authorization, correct?

17 A Yes.

18 Q Okay. And you'd agree with me that -- what is your
19 understanding of lockout authorization as opposed to somebody
20 who's on the lease?

21 A Well, according to reading that, he's allowed to be
22 -- come into the apartment in case of a lockout.

23 Q Right. Right. So that would indicate that he
24 doesn't live there, right?

25 A Not necessarily.

1 Q Okay. He's allowed to come in the apartment on the
2 case of a lockout, right?

3 A Correct.

4 Q But he's not necessarily named on the lease
5 agreement, correct?

6 A Correct.

7 Q Because if he lived there, he'd be on the lease
8 agreement, correct?

9 A Should be, but not necessarily.

10 Q Okay. Okay, so in this application for a search
11 warrant you list several items that you want to obtain when
12 you get to that apartment, things you want to find, right?

13 A Yes.

14 Q Okay, you list things like \$5,792 in US currency,
15 an Apple iPhone, green Winchester, I mean, you list a whole
16 thing -- a whole slew of things that you're hoping to find
17 there, correct?

18 A Yes.

19 Q All right. Then after you do the search, you
20 prepare a return, correct?

21 A Correct.

22 MR. TANASI: Court's indulgence, Your Honor.

23 (Pause in the proceedings)

24 BY MR. TANASI:

25 Q Okay. Sir, I'm showing you State's Exhibit 262.

1 A Um-h'm.

2 Q Okay. And you testified earlier that this was the
3 return you prepared, correct?

4 A Correct.

5 Q Okay. And so that lists the items that you found,
6 correct?

7 A Correct.

8 Q All right. Now, in addition to this, there's an
9 impound report that's prepared, right?

10 A Correct.

11 Q Okay. So in addition to this document here with
12 the handwritten notes for what you found, there's an impound
13 document that's prepared by another detective, right?

14 A Correct.

15 Q Okay. So would it surprise you to learn that the
16 detective who filled out that impound report, he states that
17 the receipts in this case, Popeye's receipts in this case,
18 okay, were located by Detective Flynn in a nightstand drawer
19 in the master bedroom? Would that surprise you to learn?

20 A No, that wouldn't surprise me.

21 Q No? But I think you had testified earlier that
22 that was just a mistake.

23 A It was incorrectly put on there, correct.

24 Q Okay. Right, because again, your testimony is that
25 you found the receipts inside the kitchen waste barrel,

1 correct?

2 A I did.

3 Q Okay. So that's -- I mean, those are two totally
4 different places --

5 A Yep.

6 Q -- right? That's a pretty compelling mistake,
7 right?

8 A Not if you flip the numbers around, 4 and 5. I
9 mean, if you just transpose the numbers, one's in one
10 location, one's in another location so --

11 Q Sure, but those receipts, I mean, in your opinion
12 those are -- that's important evidence, right?

13 A Yes.

14 Q I mean, you came back and it looks like on this
15 carbon copy here you wrote it in additionally. You didn't
16 write it in the first time, right?

17 A Yeah, I caught that it wasn't written on there, so
18 I wrote it in there to make sure.

19 Q Right. Because it's an important piece of
20 evidence?

21 A Yes.

22 Q That you want to make sure you have right --

23 A Yes.

24 Q -- correct? So whether it's found in the waste --
25 or barrel or whether it's found in the nightstand, I mean,

1 that's an important distinction, fair?

2 A Yes.

3 Q Okay.

4 (Pause in the proceedings)

5 MR. TANASI: Court's indulgence.

6 BY MR. TANASI:

7 Q Okay. One of those other items you found in the
8 apartment is State's Exhibit 251, correct?

9 A Yes.

10 Q You see that there in front of you now, right?

11 A Um-h'm.

12 Q Okay. That appears to be an envelope, right?

13 A Correct.

14 Q And that appears to be an envelope with Tony
15 Hobson's name, correct?

16 A Correct.

17 Q And that appears to have the address 8440 South Las
18 Vegas Boulevard, correct?

19 A Correct.

20 Q Las Vegas, Nevada 89123, correct?

21 A Right.

22 Q Okay. So that would -- that's ordinarily where
23 folks will write where they want to send mail to, right?

24 A If they're living there at that time.

25 Q Right. So again, this is an envelope that shows

1 outgoing mail to a different address than the address 3955
2 East Charleston that you searched, correct?

3 A Correct.

4 Q All right. You also discovered phones in the
5 apartment, correct?

6 A Correct.

7 Q But nowhere in any of the reports that you prepared
8 or you reviewed is there a forensic connection between the
9 phones that were taken, right, from the folks in this
10 so-called series and the phones that you discovered at the
11 apartment, correct?

12 A Correct.

13 Q So it's fair to say that those phones could belong
14 to the occupants of the apartment, correct?

15 A Yes.

16 Q All right. Same thing, you found a bunch of coins
17 and you found some roll wrappers. Again, there's not in any
18 of the reports that you prepared one forensic connection
19 between those wrappers and those coins and that currency that
20 you found in any of the robbery locations in this so-called
21 series, correct?

22 A No, that's incorrect.

23 Q Okay.

24 A The witnesses I talked to said the coins --

25 Q Okay.

1 A -- were taken.

2 Q Again, that wasn't my question.

3 A Okay.

4 Q Not with witnesses are telling you. Forensic
5 connection, fingerprints, DNA, any kind of analysis of the
6 serial numbers on the phones because phones have --

7 A Right.

8 Q -- serial numbers, right? Again, there's no
9 connection between those phones forensically in any of
10 these --

11 A Of the phones.

12 Q -- series? Correct.

13 A Oh, correct.

14 Q Okay. And then also going back to the rolls in
15 this case --

16 A Right.

17 Q -- and the coins in this case, there's no DNA on
18 any of the coins or any of the rolls, correct?

19 A You mean at the apartment?

20 Q Correct.

21 A We didn't take DNA off the coins, no.

22 Q There's in fingerprint evidence, correct?

23 A No.

24 Q So there's no forensic connection between any of
25 the coins, any of the rolls, anything like that between the

1 coins and the rolls and the robberies in this so-called
2 series, fair?

3 A That's fair to say.

4 Q Okay. You -- I want to make sure I have this
5 correct. You didn't impound any of Donte Johns' clothes; is
6 that correct?

7 A That's correct.

8 Q And those were clothes -- where did you find those
9 clothes?

10 A What, Donte Johns?

11 Q Donte Johns' clothes.

12 A They were on his person.

13 Q Okay. You didn't impound any of them. And I think
14 you said because there wasn't a connection to any of this --

15 A I didn't recognize any of those clothes from any of
16 the robbery series that I was investigating.

17 Q Okay. He was wearing dark pants, right?

18 A Dark colored pants, yeah.

19 Q And there were dark color pants --

20 A They were slacks.

21 Q -- in -- there were dark color pants in all the
22 robberies, correct?

23 A Yeah, but they were more of like a cargo type
24 pants.

25 Q Dark color pants though, fair?

1 A Yes, correct.

2 Q You'd agree with me that preparing reports as a
3 police officer is a pretty important thing to do, right?

4 A Yes.

5 Q You got to put down everything that you can
6 remember from every investigation, correct?

7 A To the best of your ability.

8 Q Right, because when you come in here today two
9 years removed from an investigation you want to be able to
10 remember what was -- what occurred, right?

11 A That helps.

12 Q Right. Because again, from 2014 to today, how many
13 robberies would you say you investigated?

14 A Quite a few.

15 Q Could you give me a number?

16 A 50. Don't know.

17 Q 50 to a hundred?

18 A Yeah, could be.

19 Q Okay, the blue bag in this case, you indicated that
20 the blue bag occurred or started occurring in the series on
21 November 17th, 2014.

22 A I think the first one was at the Wendy's. I don't
23 know if it's on the 17th or not.

24 Q On Nellis?

25 A Yes.

1 Q Okay. So that's the first time you see the blue
2 bag, correct?

3 A Correct.

4 Q All right. Let's talk about this other series that
5 we referenced here today. What is the new series or
6 additional series that Ms. Mercer asked you about? What's
7 that called?

8 A Oh, the night owl Asian restaurant series?

9 Q I'm sorry?

10 A The night owl Asian restaurant burglary, commercial
11 burglary series.

12 Q Okay. And that occurred at Asian restaurants,
13 correct?

14 A Mostly.

15 Q All right. Okay, so I'm showing you now State's
16 Exhibit 320.

17 A Um-h'm.

18 Q Okay, is that one picture from that the collage
19 that the State showed you earlier?

20 A Yes.

21 Q Okay. In this case, going back to the robbery
22 series that you investigated in this case, the so-called
23 windbreaker series, were you aware of a witness identifying
24 one of the persons -- one of the suspects as having a yellow
25 cuff on their glove?

1 A No, I don't recall that.

2 Q Okay. Again, if a witness came in here and
3 testified and told this jury that she recalled a yellow
4 glove --

5 A A yellow glove?

6 Q -- would you have any reason to disagree with her?
7 A yellow cuff on the glove.

8 A Oh, cuff on the glove.

9 Q Yeah. Would you have any reason to disagree with
10 that?

11 A No.

12 Q Okay. In this case, what color do those gloves
13 appear to be?

14 A White and yellow.

15 Q Let's take a look at the collage, and we'll look
16 specifically down in the bottom left-hand corner. These two
17 individuals, would you agree with me, one is taller than the
18 other?

19 A Appear to be.

20 Q The Dodge Charger in this case, you believe was
21 linked to three of the 12 events -- three of 12 events,
22 correct?

23 A I know I got video for two events at least and then
24 I think somebody may have said about it on another one about
25 the -- the delivery guy at Little Caesars said something

1 about a Dodge, silver Dodge outside.

2 Q Okay. Three, though, no more, correct?

3 A Correct. There wasn't a CAD on another one, but I
4 don't know if that came from the witness or the police
5 officer.

6 Q Again, going back to your search warrant that you
7 did in November, that search warrant only indicates three
8 references to the Dodge Charger.

9 A Okay.

10 Q Okay? And that search warrant is when, again,
11 dated November 26th, 2014, correct?

12 A Yes.

13 Q And that's when the events of the robberies were
14 closer in time than they are today, right?

15 A Yes.

16 Q Okay. So when you gave this version of the amount
17 of Dodge Chargers that are seen or the amount of times the
18 Dodge Charger is seen, you only said three --

19 A Yes.

20 Q -- three incidents, correct?

21 A That's the only three that I could verify.

22 Q All right. Thank you.

23 MR. TANASI: Nothing further.

24 THE COURT: Okay. Mr. Tanasi. I mean,
25 Mr. Maningo.

1 MR. MANINGO: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. MANINGO:

4 Q Good afternoon, Detective.

5 A Good afternoon.

6 Q The windbreaker series, you named it, right?

7 A Yes.

8 Q It was yours?

9 A Yes.

10 Q And you named it the windbreaker series because the
11 windbreaker that you saw in the surveillance video was the
12 crux of the case, yes?

13 A It linked a lot of them together, yes.

14 Q Okay. And as the detective, you're the main guy, I
15 think we've established that, right?

16 A Yes.

17 Q So if there were any reports they would funnel
18 through you?

19 A They should.

20 Q If there were in any leads, they would come through
21 you?

22 A Hopefully.

23 Q Any associated events, you'd learn of those?

24 A I would hope so.

25 Q And in doing that, you would interface with other

1 patrol officers about the windbreaker series, right?

2 A Yes.

3 Q Other detectives?

4 A Yes.

5 Q CSAs?

6 A Yes.

7 Q Okay. And you would also have direct communication
8 with forensic examiners?

9 A Yes.

10 Q You'd also talk to witnesses if there were any?

11 A As many I can get ahold of, yeah.

12 Q Yeah. You talked informants or cooperating
13 witnesses?

14 A We didn't have any of those.

15 Q You had Donte Johns, though?

16 A Yes.

17 Q Now, you said that you reviewed the surveillance in
18 this case each event 10 to 20 times each?

19 A Approximately.

20 Q Okay. And any -- are you aware of any reports in
21 the windbreaker series that you didn't review?

22 A That I didn't review?

23 Q Yes.

24 A Not that I can recall.

25 Q Now, after the arrests, it's still your series,

1 correct?

2 A Yes.

3 Q I mean, you stay on through all investigation?

4 A I have to stay up with all the forensics and
5 everything and get the requests in.

6 Q And you're the one that makes the call or the
7 determination as to what the forensic examiners do?

8 A With the coordination through the DA's Office, yes.

9 Q Okay. And the DA's Office is working with you on
10 that every step of the way, right?

11 A Pretty much.

12 Q Okay. So and the DA in that regard are a team?

13 A Yes.

14 Q And they're the one who called you here to testify
15 today?

16 A Yes. Well, I did get a subpoena from you all as
17 well.

18 Q And they prepped you for your testimony today,
19 right?

20 A They talked to me about what we'd be going over,
21 yes.

22 Q Now, back in October, November of 2014 when these
23 alleged events were happening, there were 13 violent
24 robberies committed, correct?

25 A Yes.

1 Q And you were tasked as lead detective in solving
2 those crimes?

3 A Yes.

4 Q Did you feel any pressure to solve those crimes?

5 A No, we get them all the time. We got pressure all
6 the time on every robbery we get, you know. It's
7 self-induced pressure. We don't get it from above.

8 Q I don't know, was that a yes or a no?

9 A I don't think it's pressure. It's just wanting to.

10 Q Thirteen violent crimes, 43 victims.

11 A We get violent crimes every night.

12 Q Detectives don't usually go out and patrol, do
13 they?

14 A Not on just normal robberies, but if it's a
15 prolonged series, sometimes we go out.

16 Q Okay. Did you know that Detective Weirauch went on
17 a patrol for this series?

18 A I did when they called me.

19 Q Okay. He wouldn't do that on a normal robbery
20 case, would he?

21 A Not just on a regular robbery, not a series
22 related, probably not.

23 Q So this is heightened to a different level, wasn't
24 it?

25 A Yep.

1 Q Now, your windbreaker series, you connected the
2 separate events through, I think what you called was the MO,
3 right?

4 A Correct.

5 Q What's an MO?

6 A It's like a signature, things they commonly do
7 throughout all the robberies or -- or it's commonly seen.

8 Q Okay. A signature, meaning unique, not ordinary?

9 A Or different, yeah.

10 Q Different from other normal run of the mill
11 robberies?

12 A Yes.

13 Q Now, in this case, your MO included two to three
14 suspects, right?

15 A There was two to three on each case and there was
16 possibly four total.

17 Q But you had four suspects, but two or three of them
18 did each event?

19 A Yes.

20 Q Okay. And only three were arrested, though, right?

21 A Yes.

22 Q You don't know -- I'll get back to that. Back to
23 your MO. Two to three suspects, black males?

24 A Yes.

25 Q Not that those are really unique, right, two to

1 three suspects, black males? Not necessarily unique, right?

2 A Um-um.

3 Q Suspects in their 20s? That was part of your MO,
4 right?

5 A Yep.

6 Q Okay. Fast food restaurants being the target, that
7 was part of your MO?

8 A Yep.

9 Q That's not really unique, is it?

10 A Not in and of itself --

11 Q Okay.

12 A -- but when you put them all together it is.

13 Q Okay. Happened at nighttime?

14 A Um-um.

15 Q That's not really unique for a burglary or robbery,
16 is it?

17 A Around the same time, yeah it would be unique. A
18 lot of times they're spread out all over the place.

19 Q So there's just as many daytime robberies as they
20 are nighttime?

21 A There are quite a few during the day.

22 Q Okay. Suspects were wearing gloves, that's part of
23 your MO, right?

24 A Yep.

25 Q Wearing hoodies or windbreakers, that's part of

1 your MO, right?

2 A Yep.

3 Q Not necessarily unique, though, right?

4 A Those windbreakers were unique, yes.

5 Q They would gain entry by breaking a door or rushing
6 in?

7 A Yes.

8 Q Right? There was money requested or demanded?

9 A Yes.

10 Q Now, we talked about and you testified with Ms.
11 Mercer and Mr. Tanasi about these 75 other burglaries. Do
12 you recall that testimony?

13 A Yes.

14 Q That was, I believe, correct me if I'm wrong, you
15 called it the night owl series?

16 A I believe, that's what they called it.

17 Q Okay. And those were burglaries, right?

18 A Yes.

19 Q Okay. And not necessarily robberies?

20 A They weren't robberies.

21 Q Okay. Now, you didn't know -- well, now, are you
22 familiar with Donte Johns and his involvement in the case?

23 A Donte Johns?

24 Q Yes.

25 A Yes.

1 Q Okay. And you're familiar with the guilty plea he
2 entered?

3 A I don't know the specifics, no.

4 Q But you know that he entered a guilty plea to both
5 burglary and robbery, right?

6 A Yes.

7 Q Okay. Those 75 burglaries, you were shown some
8 photographs of, right?

9 A Yes.

10 Q Okay. And those photographs were of one event out
11 of 75, correct?

12 A Those, yes.

13 Q So 74 other sets of photographs exist, right?

14 A Possibly.

15 Q Okay. And you didn't know -- you weren't involved
16 in that burglary at all, right?

17 A No.

18 Q In that series?

19 A Um-um.

20 Q In fact, you just learned of it within the last
21 probably 24 hours from Ms. Mercer?

22 A Yes.

23 Q Okay. She actually sent you an article?

24 A She sent me a link.

25 Q A link to an article and she sent you this article

1 and this link with the photographs, correct?

2 A Well, the link had the photographs on them.

3 Q Correct. But you didn't anything about it until
4 she sent it to you, right?

5 A Correct.

6 Q And she talked to you about pointing out the
7 similarities between this event, the wind -- your event, the
8 windbreaker series and the night owl; is that right?

9 A She just told me to look at this and see if I see
10 any -- you know, anything different.

11 Q Nothing else, just look at it?

12 A Yeah, look at it and see what you think about if
13 it's related to your series at all whatsoever, and I was like
14 no.

15 Q Okay. You had no dialogue at all about
16 similarities or dissimilarities?

17 A There may have been, but there was -- I don't think
18 there was --

19 Q It was in the last 24 hours, Detective?

20 A Yeah, but it was just an e-mail so I was just --
21 she just sent an e-mail saying, hey, look at this link.

22 Q Isn't it true that the night owl series included an
23 MO, correct?

24 A Yes.

25 Q You read the article, right, that was forwarded to

1 you?

2 A Yes.

3 Q And isn't it true that it said two black males were
4 the suspects?

5 A That's what the article said.

6 Q Right. And it said that they were in their 20s?

7 A That's what the article said.

8 Q And it said that they were break-ins at fast food
9 places?

10 A Yes.

11 Q And it said that the suspects would either break
12 glass to enter or climb through the drive-thru window?

13 A That's what the article said.

14 Q Right. And it said that the crimes happened at
15 night?

16 A Yes.

17 Q Usually around 12:00 a.m.?

18 A I don't --

19 Q Excuse me, I think 12:00 to 4:00 a.m.?

20 A That --

21 Q Does that sound right?

22 A -- may be more correct, yeah.

23 Q Okay. The suspects would go in for money?

24 A If that's what the article said, I'm not sure.

25 Q And that they would wear hoodies, windbreakers to

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 XI

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 A A black hoodie, dark colored pants, gray Reebok
2 shoes.

3 Q Specifically, with regards to the gray Reebok
4 shoes, which are admitted into evidence in this case -- I'm
5 not going to pull them out -- why were those relevant to your
6 investigation in this robbery series?

7 A Because we had a Reebok impression left on the --
8 one of the counters when the shorter suspect jumped over or
9 stood on the counter.

10 Q Did you also observe those shoes in other
11 surveillance videos?

12 A Most of them, actually.

13 Q And which subject was wearing them in the
14 surveillance videos?

15 A The shorter suspect.

16 Q Going back to Brandon Starr's clothing, which is
17 depicted in 203, you indicated that the jacket was relevant
18 to your investigation because you saw it multiple times.
19 What about his shoes and pants?

20 A Well, the taller suspect mostly wore dark colored
21 pants and boots.

22 Q As the lead detective in this case, were you also
23 made aware of evidence recovered during the search of the
24 vehicle?

25 A Yes.

1 Q And actually, before I move on to that, let me
2 publish 309. Do you recognize this to be a still of Tony
3 Hobson in the interview room in that black hoodie?

4 A Yes.

5 Q Showing you 311. This is a photo of him standing
6 up and he's got the gray Reeboks on, correct?

7 A That's correct.

8 Q Okay. And you indicated that you were made aware
9 of several items recovered during the course of that search?

10 A Of the vehicle?

11 Q Yes.

12 A Yes.

13 Q And those were relevant to your investigation?

14 A Yes.

15 Q Specifically, with regards to State's Exhibit 197,
16 what is this a photograph of?

17 A That's a photograph the .45 caliber semi automatic
18 handgun.

19 Q Was that relevant to your investigation?

20 A Yes.

21 Q Why?

22 A You can clearly see that in the left hand of the
23 taller suspect on one of the last robberies.

24 Q Showing you 193. What is this a photograph of?

25 A It's a .38 revolver.

1 Q Was this relevant to your investigation?

2 A Yes.

3 Q Why?

4 A That was used in most of the robberies described by
5 the victims and seen on the video, and I think one of the
6 victims actually described it as having a wood handle.

7 Q Showing you 186. Are the items on the front seat
8 that vehicle relevant to your investigation?

9 A Yes.

10 Q Showing you 1 -- or 214, which is a close-up of the
11 glove recovered from that location. Why is that --

12 A That glove matches the glove I seen the shorter
13 suspect wear on almost all of the robbery with maybe the
14 exception of one.

15 Q With the exception of one?

16 A I think he was wearing black gloves on one, the
17 shorter suspect, but most of them he was wearing the black
18 and red with the white letters on it.

19 Q And you can see the white lettering in the
20 surveillance video?

21 A Yes.

22 Q Showing you 212. Do you recognize this as a red
23 and gray glove recovered from the trunk of the vehicle?

24 A Yes.

25 Q Was this relevant to your investigation?

1 A Yes.

2 Q Why?

3 A The taller suspect wore that. First, he was
4 wearing two gloves that matched the similar glove there, and
5 then on the last couple he was only wearing one of them.

6 Q What was he wearing on the other hand?

7 A A black and red glove.

8 Q Showing you 210. Do you recognize these?

9 A Yes.

10 Q And they were recovered in the trunk as well?

11 A Yes.

12 Q Were these relevant to your investigation?

13 A Yes.

14 Q What are they?

15 A They're black and red gloves worn by the taller
16 suspect.

17 Q And you indicated that at one point he started
18 wearing one red and gray --

19 A He was wearing gray at first and then on a couple
20 in between he was wearing just the red and black ones and
21 then at the very end he was wearing a red and black one on
22 the right hand and the, I believe, the gray and red one on
23 the left hand.

24 Q Showing you 208. Do you recognize this?

25 A Yes.

1 Q Was that relevant to your investigation?

2 A Yes.

3 Q Why?

4 A A similar axe with the same color, same length was
5 seen in the taller suspect's hands on the, I believe, the
6 last robbery.

7 Q The last completed robbery?

8 A Completed robbery, yes.

9 Q And you saw it in the surveillance video?

10 A Yes.

11 Q Showing you 184. Do you recognize that vehicle?

12 A Yes.

13 Q Was that vehicle relevant to your investigation?

14 A Yes.

15 Q Why?

16 A I seen a Dodge Charger on at least two surveillance
17 videos from other businesses around where the robbery had
18 occurred.

19 MS. MERCER: Your Honor, may I approach the
20 witness?

21 THE COURT: Yes.

22 BY MS. MERCER:

23 Q I'm handing you what has been marked for
24 identification purposes as 291 and 292. If you could look at
25 those and tell me whether you recognize them.

1 A Yes.

2 Q How do you recognize them?

3 A Well, the first one is the one from the Pizza Hut,
4 which was captured off the surveillance video from a store in
5 the same complex.

6 Q Okay.

7 A Leaving the -- or dropping the suspects off and
8 then leaving the area.

9 Q And you're referring to 291, for the record?

10 A Yes. The other one, it looks like that was the one
11 from the storage unit which showed the Dodge Charger turning
12 around and parking next to the El Pollo Loco.

13 Q And do you recognize these to be still photographs
14 taken from the surveillance videotape from each incident?

15 A Yes.

16 MS. MERCER: Your Honor, I would move for the
17 admission of 291 and 292.

18 THE COURT: Any objection?

19 MR. TANASI: No objection, Your Honor.

20 MS. LOBO: No objection.

21 MR. MANINGO: No objection.

22 THE COURT: All right. They will be admitted.

23 (Exhibits 291 and 292 admitted)

24 BY MS. MERCER:

25 Q And you said that 291 is from the surveillance at

1 the number 4 Pizza Hut?

2 A Yes.

3 Q And 292 is the still from the number 11 El Pollo
4 Loco?

5 A Yes.

6 Q And that was at Cheyenne and Buffalo, correct?

7 A Correct.

8 Q Across the street from the Magoo's?

9 A It was on the same street, actually. On the same
10 side of the street, just across the -- the little cut out
11 street.

12 Q Okay.

13 A Yeah. I think it was Pioneer Way.

14 MS. MERCER: Your Honor, at this point, I would
15 request permission to publish some still surveillance
16 photographs taken from the video so I don't have to play the
17 entire videos.

18 THE COURT: Is this for identification purposes?

19 MS. MERCER: Yes, Your Honor.

20 THE COURT: Yeah.

21 MS. MERCER: Well, for demonstrative purposes, Your
22 Honor. The entire video's in evidence. I just want to play
23 the stills.

24 THE COURT: It's already been admitted?

25 MS. MERCER: Not the stills, but the videos

1 themselves and these are taken from the videos.

2 THE COURT: Oh, okay, yeah.

3 MS. MERCER: If I can get the computer to turn on.

4 BY MS. MERCER:

5 Q Now, Detective, do you recognize this to be a still
6 photograph taken from the first event in the series?

7 A Yes, it is.

8 Q And what do you observe in this surveillance still
9 that was pertinent to your investigation?

10 A The gray and red glove and the red hat on the
11 taller suspect.

12 Q And this is another angle taken from that
13 surveillance footage. Can you make out a letter on the front
14 of that hat at this point?

15 A Well, there's a white emblem on it, but I think
16 there's other ones where you can actually see the C on it.

17 Q And what do you see in this surveillance still?

18 A You can see both hands with the same type of glove,
19 that red and black -- or red and gray glove. And you can see
20 a revolver in the left hand.

21 Q Okay. With regards to the revolver being in the
22 left hand, when you watched all of the surveillance video
23 from this series, what did you notice with regards to which
24 hand was used on the taller suspect to handle the weapon?

25 MR. TANASI: Actually, Your Honor, best evidence.

1 The videos speak for themselves.

2 THE COURT: Overruled.

3 THE WITNESS: Every time I saw the taller suspect
4 with the actual firearm, it was always in his left hand.

5 BY MS. MERCER:

6 Q And what about with regards to the shorter suspect?

7 A Every time I saw the firearm in the shorter
8 suspect's hand, it was in his right hand.

9 Q And showing you a surveillance still from the back
10 door angle of that first event, the first robbery in the
11 series, what do you observe in the surveillance still that's
12 relevant to your investigation?

13 A I believe, the smaller suspect had a knife or a
14 handgun, I'm not sure which, in the right hand. It's hard to
15 see on that picture.

16 Q And he's wearing a hoodie?

17 A And a hoodie, yes.

18 Q Showing you a surveillance still from that incident
19 and taken from the office footage. What do you observe in
20 this video that's relevant to your investigation?

21 A Well, you can see more of the hat and the C, the
22 round color of the white C on the front of the hat and the
23 handgun in the left hand.

24 Q And the hand's still gloved in that gray and red
25 glove?

1 A Correct.

2 Q And then this surveillance still?

3 A That's the shorter suspect with the gray hooded
4 jacket and he had dark colored gloves and a knife in the
5 right hand.

6 Q Okay. Do you recognize this to be a surveillance
7 still taken from the number 2 of -- in the series of the
8 7-Eleven on Charleston?

9 A Yes.

10 Q What do you observe in this surveillance still that
11 is relevant to your investigation?

12 A The gray jacket, hooded jacket, the red and black
13 gloves with the white lettering.

14 Q Could you circle the red and white glove or the red
15 and black gloves with white lettering for me, please.

16 A Right here. Here and here.

17 Q And which subject was wearing those red and white
18 gloves, the tall or the shorter?

19 A The shorter.

20 MR. TANASI: Your Honor, I'm just going to lodge
21 standing objection so I don't continue to interrupt. I'd say
22 that any description that the officer gives related to what
23 he sees in the video violates the best evidence rule. I
24 believe that for the rest of this questioning.

25 THE COURT: Mr. Tanasi, we have an officer here

1 that's testifying as to what was of concern or of issue for
2 him for his investigation, and right now he's just testifying
3 based on what he's seeing in these videos. So I understand
4 your objection, and I'm overruling it.

5 MR. TANASI: Okay. Thank you.

6 BY MS. MERCER:

7 Q And Detective, what you're identifying for the
8 jurors is also what assisted you in determining that these
9 were, in fact, related robberies, all part of the same
10 series, correct?

11 A Absolutely.

12 Q Actually, I'm going to back up to that still I
13 haven't showed you. Do you recognize anything about the
14 shoes on that suspect?

15 A He's wearing a gray pair of sneakers.

16 Q Consistent with the ones that Tony Hobson was
17 wearing when he was arrested?

18 A Correct.

19 Q And with regards to this surveillance still, what
20 do you observe that's relevant to your investigation?

21 A The black -- the taller suspect was wearing black
22 pants and black boots. In other stills you can actually see
23 the gray and red gloves.

24 Q And what is he wearing on the top part of his body?

25 A He's wearing a black hoodie or what appeared to be

1 a black hoodie.

2 Q Now, this is a surveillance still of the individual
3 that you identified as wearing the red and white gloves and
4 the gray shoes, correct?

5 A Correct.

6 Q Is there something covering his face on this one?

7 A Yes.

8 Q Was that relevant to your investigation?

9 A Yes.

10 Q Why?

11 A Because on multiple events they're wearing the red
12 bandanas.

13 Q Showing you a still from the front door angle of
14 that event. Is this relevant to your investigation as well?

15 A Well, it shows the height difference between the
16 two individuals.

17 Q And in this surveillance still he actually has not
18 placed his bandana over his face, correct?

19 A Correct.

20 Q And what about that jacket?

21 A The jacket was the jacket I recovered during the
22 search warrant, similar jacket that I recovered.

23 Q With regards to the surveillance still is this the
24 second subject coming in?

25 A Yeah, he's probably 7 or 8 inches taller than the

1 -- the other shorter suspect and he's got -- already got the
2 mask and the hoodie up and you can see the -- the gloves on.

3 Q And this is a closer surveillance still of the
4 first subject in the gray hoodie?

5 A Yes.

6 Q And you indicated that that hoodie is consistent
7 with the one that you located in Tony Hobson's apartment?

8 A Correct.

9 Q Tony and Brandon's apartment?

10 A Tony, yeah, both, the apartment, yes.

11 Q How can you make that determination from this
12 still?

13 A Due to it being a zip-up, same color, plaid
14 interior, same hoodie style, it looked like it would be the
15 same exact jacket.

16 Q And with regards to his hands, can you see the red
17 and white on the gloves?

18 A Yes.

19 Q What is significant about this surveillance still?

20 A You can see the gloves in more detail. It looks
21 like the gray and red gloves that were seen actually in the
22 first robbery.

23 Q The number 1 event in the series?

24 A Yes.

25 Q Okay. And do you recognize this to be a

1 surveillance still taken from the third incident?

2 A Yes, that's the one at the Pizza Hut on West Lake
3 Mead.

4 Q And why is this surveillance still relevant to your
5 investigation? Or what in this surveillance still is
6 relevant to your investigation?

7 A Well, the gloves drew me to the attention that it's
8 the same type of gloves that were worn in the -- the first
9 two events.

10 Q And what is he wearing on his head?

11 A A black baseball Pirates hat with a red/brown --

12 Q Consistent with the -- consistent with the one
13 found in the apartment?

14 A Correct.

15 Q And let me back up for a second. When he first
16 walked in, he had that gun in his right hand, correct?

17 A Yes.

18 Q In this still does he appear to shift a bit to his
19 left?

20 A He does.

21 Q Is this another angle of that same subject?

22 A Yes.

23 Q And you can clearly make out the P on the cap?

24 A Correct.

25 Q What is he wearing on his feet?

1 A Appears to be boots.
2 Q What color?
3 A Black.
4 Q What are we looking at here?
5 A This is the shorter suspect.
6 Q At the same event, correct?
7 A Yes.
8 Q And what, if anything, did you observe that was
9 relevant to your investigation?
10 A Well, the gloves were the similar type gloves used
11 in the second robbery.
12 Q The red with the white on the top?
13 A Yes, the red, black with the white lettering.
14 Q And what he is wearing on the top part of his body?
15 A A black beanie.
16 Q And what about over his face?
17 A A red bandana.
18 Q You said black beanie. Is he wearing a hoodie?
19 A Or hoodie, yeah.
20 Q What, if anything, did you observe in this video
21 that was --
22 A He appears to wearing the same gray sneakers.
23 Q And again, you can clearly make out the red and
24 black gloves with the white?
25 A Correct.

1 Q Is this a surveillance still taken from the video
2 looking towards the counter at that event?

3 A Yes.

4 Q And what, if anything, is important to your
5 investigation with regards to this --

6 A Well, you can see more detail of the gloves and the
7 white lettering.

8 Q And what about here?

9 A Here, the -- the shoes stand out and we actually,
10 we've looked at a impression of the shoes where he was
11 standing there.

12 Q And was it you that actually submitted that
13 impression for analysis by the FBI?

14 A Yes.

15 Q Because as the lead detective that would be your
16 responsibility?

17 A Yes.

18 Q What about with regards to this?

19 A You see the revolver in the left hand, the boots on
20 the -- the countertop.

21 Q And what appears to be covering his hands?

22 A The same gray and red gloves.

23 Q With regards to this specific incident, was there
24 also a third suspect?

25 A Yes. A third suspect entered a little after the

1 first two and appeared to be a lookout.

2 Q Were you ever able to identify that person?

3 A No.

4 Q Were the physical descriptors anywhere near the
5 physical descriptors of the two that you consistently saw in
6 the surveillance videos?

7 A No, not close.

8 Q How did they differ?

9 A This person's probably, their height is in between
10 the other two and very large, maybe 200, 300 pounds.

11 Q Did you say 250 to 300 pounds?

12 A Yes.

13 Q Do you recognize this to be a still taken from the
14 fourth incident in the series?

15 A Yes, that's the Pizza Hut off of, I believe,
16 Sahara.

17 Q And what, if anything, did you observe when you
18 watched the surveillance footage from this incident that was
19 pertinent to your investigation?

20 A The windbreaker jacket is why we actually started
21 calling it the windbreaker series. It was very distinctive.

22 Q And is that the jacket depicted in 203?

23 A Yes. The red brim hat, which was consistent with
24 the other hats being worn by the taller suspect. The
25 revolver in the left hand. The red and black gloves, which

1 are different now from the other robberies.

2 Q Why do you say they're different?

3 A Because on the other robberies, he was wearing gray
4 and red.

5 Q The taller suspect was?

6 A Yes.

7 Q And showing you 210, does this appear to be those
8 same gloves?

9 A Yes.

10 Q What, if anything, did you observe in -- or what
11 can you observe that's relevant to your investigation in this
12 still?

13 A The taller suspect is again wearing black pants
14 with boots, appear to be boots. And the shorter suspect is
15 following with a knife in his right hand, red and black
16 gloves with white lettering, a red bandana over his face and
17 he's wearing identical windbreaker jacket.

18 Q Identical to the taller suspect?

19 A Yes.

20 Q What about with regards to his footwear on this
21 one?

22 A That one, he appears to be wearing a black pair of
23 shoes.

24 Q And what, if anything, did you see in this still
25 that's relevant to your investigation?

1 A Again, the red bandana and the gloves which would
2 wear distinctive with the white lettering on the front.

3 Q And that's on the shorter suspect?

4 A Yes.

5 Q And the windbreaker or the hoodie?

6 A The hoodie, yeah, and the windbreaker jacket.

7 Q What, if anything, do you observe in this
8 surveillance still?

9 A Just that the -- again, the gun is in the left
10 hand.

11 Q And with regards to this one?

12 A Again, the revolver's in the left hand and he's
13 appearing to be searching to see if anybody's responding.

14 Q And was this the larger -- or the taller or the
15 shorter suspect?

16 A That is the taller suspect.

17 Q And in this incident it was reported that the
18 victim was pistol whipped, correct?

19 A Correct.

20 Q Is that what you see in this still?

21 A Yeah, he hits him several times in the video.

22 Q With regards to this specific still, was this
23 consistent with the statement of Guy Brown --

24 A Yes.

25 Q -- about when he returned from making a delivery?

1 A Yes.

2 Q And what do you notice that glove that's touching
3 him?

4 A Again, it's got the black and red with the white
5 lettering on the front.

6 Q And what's in his right hand?

7 A It appears to be a knife.

8 Q Do you recognize this to be a still from the fifth
9 incident?

10 A Yes, that was the one shortly after the Pizza Hut
11 on Charleston at the Little Caesars.

12 Q What, if anything, did you observe in this
13 surveillance still that's relevant to your investigation and
14 determination it was a series?

15 A Well, they were wearing the exact -- exact same
16 clothing as the Pizza Hut.

17 Q Okay. So in this one he's wearing that same gray
18 and black hoodie with a red cap?

19 A Yes.

20 Q With regards to the taller subject, did you notice
21 anything about the way that he moved in the surveillance
22 videos?

23 A He always moved with a -- he had -- hunched down
24 and bent over a lot. His gait was always about the same, the
25 way he moved.

1 Q With regards to this still, do you see anything in
2 either of his hands?

3 A He's got the gun in his left hand. And I think
4 later you can actually see the phone that he took in his
5 right hand.

6 Q And with regards to this still, what -- what do we
7 observe here?

8 A That is the shorter suspect leaving the business.

9 Q And what's on his hands?

10 A Black and red gloves with white lettering and --

11 Q And with regards to the taller suspect?

12 A Again, when he moves, he hunches down, bends over,
13 wearing the windbreaker jacket, black clothing, black boots.

14 Q And with regards to the shorter suspect, is he
15 covering his face again in this one?

16 A Yes, with a red bandana.

17 Q And do you recognize this to be a still photograph
18 taken from the fifth event in the series?

19 A Yes.

20 Q Where is this?

21 A I believe, that one's a -- I don't know if that's
22 the Wendy's or the Burger King. I'm not quite sure which the
23 fifth one was.

24 Q With regards to this incident -- or actually, I
25 guess that was the sixth incident was mislabeled. The sixth

1 incident took place at a Popeye's, correct?

2 A Yes.

3 Q What do you observe in this surveillance still that
4 was relevant to your investigation?

5 A Again, you can see the windbreaker type jacket, the
6 red and black gloves.

7 Q And with regards to this still?

8 A The gun in the left hand.

9 Q With regards to this still?

10 A When he's pointing the gun at the -- the manager,
11 he's pointing it with his left hand and he's got the
12 distinctive windbreaker jacket, black pants.

13 Q What about with regards to this one?

14 A Same windbreaker jacket, the red and black gloves,
15 black boots, black pants, gun in left hand.

16 Q With regards to this specific incident, did the
17 second suspect ever enter the store?

18 A He never made entry, no.

19 Q And so the red and black gloves that are on this
20 person are the same red and black gloves you observed in the
21 taller subject in the previous incidents, correct?

22 A Correct.

23 Q What do you observe in this still?

24 A Again, the taller suspect and is carrying something
25 out, a bag.

1 Q A white bag?

2 A Yes.

3 Q And is there a weapon in his hand still?

4 A Yeah, in his left hand.

5 Q Do you recognize this to be a still photograph from

6 the seventh event from the series, the Wendy's?

7 A Yes.

8 Q I'm sorry, the Burger King?

9 A I was going to say it looked like the Burger King,

10 yes.

11 Q And can you actually make anyone out in this still?

12 A Second --

13 Q Can you make anyone out in this still?

14 A There's somebody at the entrance to the door, I

15 believe, back into the kitchen area.

16 Q And can you make any colors that were relevant to

17 your investigation?

18 A The windbreaker jacket, gray and black, and either

19 a red bandana or a red hat. I think it's a red bandana, but

20 I'm not sure from that -- from that angle.

21 Q And do you recognize this as being a still from the

22 back door of that location of the Burger King?

23 A Yes.

24 Q Inside of that door?

25 A Yes.

1 Q What, in anything, do you observe that was relevant
2 to your investigation in this still?

3 A The suspects come in, they knock down one of the
4 employees and they're wearing red and black gloves. That's a
5 better picture of the red and black gloves there. Then the
6 taller suspect actually backs up and the shorter suspect
7 comes in. He's wearing red and black gloves with white
8 lettering and the gray shoes with a black hoodie and black
9 color pants.

10 Q Oh, so with regards to this still, I'm backing up,
11 this is the taller suspect in the red and black gloves?

12 A Yes.

13 Q And he moves out of the way for the shorter?

14 A Yeah, he backs pup and the shorter guy -- shorter
15 suspect comes in.

16 Q And I'm sorry, did you indicate -- you indicated
17 what about his clothing?

18 A He's wearing the gray sneakers, that red and black
19 gloves with white letters and -- and some type of mask over
20 his face.

21 Q And can you make out the taller suspect behind him?

22 A Yeah, he's coming in behind him. As you see, he's
23 always sort of slouched (sic) down.

24 Q And what is he wearing on the bottom part of his
25 body?

1 A It appears to be dark color boots, it looks like.
2 Q Which suspect is this?
3 A That's the taller suspect.
4 Q What is he wearing?
5 A The windbreaker jacket and red and black gloves,
6 dark colored pants.
7 Q The windbreaker jacket with the red zipper?
8 A Yes.
9 Q Depicted in 203?
10 A Yes.
11 Q On Brandon Starr?
12 A Correct.
13 Q What can you observe in this still?
14 A I observe the shoes better. You can see that they
15 have white trim at the bottom, they're gray and maybe have
16 some white markings on the side.
17 Q And with regards to the taller suspect, is he now
18 -- he now has his head turned down. Can you make out
19 anything else on his head in addition to the hoodie?
20 A Yeah, he appears to be wearing a ball cap with a
21 red brim.
22 Q Which suspect is this?
23 A That is the shorter suspect.
24 Q And he's again, wearing the red gloves with the
25 white lettering on top?

1 A Yes.

2 Q Do you recognize this to be a still from the eighth
3 event, which is the Wendy's?

4 A Correct.

5 Q On North Nellis?

6 A Yes.

7 Q Do you see anything on the right part of this still
8 that was relevant to your investigation?

9 A A firearm in somebody's hands.

10 Q What about in this photograph?

11 A A blue bag is introduced to the scene on this first
12 Wendy's where they made them put the money from the safe in
13 the bag.

14 Q So this is the first time that you ever observed a
15 blue bag in any of the surveillance?

16 A Yes.

17 Q And this incident occurred on November 17th of
18 2014? I'm sorry, November -- yeah, November 17th?

19 A Yeah, at 990 North Nellis?

20 Q Yes.

21 A Yes.

22 Q And what do you observe in this still from that
23 same incident?

24 A One of the suspects wearing a dark colored hoodie
25 and a red brim hat.

1 Q Is it that same red -- or gray and black hoodie?

2 A It's the windbreaker jacket, yes.

3 Q And in this one does there appear to be a second
4 suspect behind him now?

5 A Yes, that's the shorter suspect comes up behind
6 him.

7 Q Okay. So the first one in the gray and black is
8 the taller one?

9 A Yes.

10 Q And what is the shorter suspect wearing on his
11 hands?

12 A Red and black gloves with white letters on it.

13 Q Do you recognize this to be a surveillance still
14 taken from the ninth event, which is the Wendy's on West Lake
15 Mead?

16 A Yes.

17 Q And what, if anything, do you observe that was
18 pertinent to your investigation?

19 A Again, there were -- the first taller suspect is
20 wearing the windbreaker jacket, dark pants. This time he's
21 got what appears to be a white type mask over his face.

22 Q And with regards to the taller suspect, what had he
23 been using to conceal his face in previous incidents?

24 A Either bandanas or -- yeah, mostly red bandanas or
25 he did have a darker color bandana at one point. Again, he's

1 hunched down just like the other robberies.

2 Q Is this the first incident where you observed the
3 white medical masks?

4 A Yes.

5 Q And now what do you observe?

6 A The first taller suspect has appears to be a weapon
7 in his left hand, dark colored boots. The shorter suspect
8 comes in after him again wearing a dark hoodie, gray shoes
9 and a white mask on.

10 Q And is this a still taken from the office?

11 A Yes.

12 Q What do you observe in this one?

13 A The taller suspect with the revolver in his left
14 hand wearing gloves.

15 Q And how is it that you can make that out as the
16 revolver?

17 A Just from the -- the cylinder, it looks roundish
18 ain the frame, the barrel's smaller than a semi-automatic
19 would be.

20 Q And what appears to be on his hands?

21 A Black and red gloves.

22 Q And specifically, you can in this still make out
23 the bottom portion of the red and the -- if we look at it
24 (indecipherable) this way? You can make out the bottom
25 portion the red and the black?

1 A Yes, it appears to be the same.

2 Q And what do you observe in this surveillance still?

3 A That's the shorter suspect coming in, the black
4 hoodie, they red and black gloves with the white letters on
5 them, and the gray tennis shoes.

6 Q And is the shorter suspect also wearing the white
7 mask?

8 A Yes.

9 Q And in this robbery they actually use a cardboard
10 box, correct?

11 A I think they got that box from the store and they
12 made them put the money in there.

13 Q And is this a still of them exiting out the back
14 door?

15 A I believe, they tried to go out the back, but I
16 don't think they were successful. I think they couldn't get
17 out the back so they went out the front.

18 Q Which is what's depicted here?

19 A Yes.

20 Q Do you recognize -- were you provided still
21 photographs from the Henderson Police Department with regards
22 to an incident that took place in their jurisdiction around
23 the same time frame?

24 A Yeah, but they were pretty blurry, but yeah, they
25 did provide me with some.

1 Q And with regards to the surveillance stills that
2 you were provided from Henderson Police Department, did the
3 same unique clothing appear in those surveillance stills?

4 A Yes.

5 Q In particular, this is one of those stills and it
6 appears to be a gray and black hoodie?

7 A Yes.

8 Q And is there a weapon in this individual's hand?

9 A In his left hand.

10 Q And what is here?

11 A That's the weapon in the left hand, wearing a dark
12 colored hat, white surgical mask, dark clothing.

13 Q And is this surveillance still depicting that white
14 surgical mask?

15 A Yeah. I think that's from the Henderson one. Yes.

16 Q And this -- with regards to this specific angle,
17 this isn't the actual color of the jacket or anything like
18 that, correct?

19 A No, that's a black and white photo.

20 Q And again, you see the red gloves with the white
21 lettering --

22 A Yes.

23 Q -- on the shorter subject coming in the window?

24 A Yes.

25 Q And once again, the taller subject is wearing the

1 gray and black hoodie?

2 A He's wearing the windbreaker jacket, yes, the gray
3 and black.

4 Q Do you recognize those shoes?

5 A It's the same shoes the smaller suspect was wearing
6 on the prior robberies.

7 Q And you see anything in the taller's suspect's hand
8 that was relevant to your investigation?

9 A There was a blue bag used in my robberies.

10 Q And what about here?

11 A The gloves, the windbreaker jacket, the red and
12 black gloves, the revolver in the left hand.

13 Q And with regards to the revolver in the left hand,
14 does he actually to appear to be wearing the gray and --
15 glove on -- gray and red glove on his left hand?

16 A Yes.

17 Q Moving ahead to the eleventh event in the series.
18 This is from the Taco Bell on West Lake Mead, correct?

19 A I believe so, yes.

20 Q Or wait, no, this is El Pollo Loco, number 10 --

21 A Oh, yeah.

22 Q -- I'm sorry. This is mislabeled.

23 A It looked like a different one, yes. El Pollo
24 Loco.

25 Q What do you recognize -- or what do you observe in

1 this still photograph that was relevant to your
2 investigation?

3 A The smaller subject -- suspect was wearing a black
4 hoodie, the white mask, the black and red gloves with the
5 white letters. He appears to be armed with the revolver in
6 the right hand.

7 Q And can you make out his shoes?

8 A They're gray in color, sneakers.

9 Q And at this point, do you see another set of hands
10 in this surveillance still?

11 A Yes.

12 Q And what do you observe on the hands that was
13 relevant to your investigation?

14 A The gray and red gloves on at least the left hand.

15 Q And what is in his hand?

16 A It looks like a -- another firearm.

17 Q Anything relevant here?

18 A The taller suspect with the windbreaker jacket,
19 dark colored pants, dark boots and the blue bag.

20 Q And this is the shorter suspect standing at that
21 same door?

22 A Yes.

23 Q Significantly shorter?

24 A Yes.

25 Q Do you recognize this as surveillance footage -- or

1 surveillance stills taken from the surveillance footage of
2 the Taco Bell on West Lake Mead?

3 A Yeah, that one's the Taco Bell. Yeah.

4 Q And what do you observe that was relevant to your
5 investigation in this?

6 A The breaking of the glass was just consistent with
7 the later robberies as they made entry into the restaurants
8 with a rock, and then the taller suspect entering,
9 windbreaker jacket, the white mask, dark colored pants,
10 boots, black boots and a firearm in the left hand.

11 Q Do you see anything relevant in this frame?

12 A Again, the blue bag was introduced to put the money
13 in.

14 Q And what's on the hand depicted in the surveillance
15 still?

16 A That's the gray and red glove.

17 Q And that's the left hand?

18 A Yes.

19 Q What do you observe here?

20 A The distinctive windbreaker jacket.

21 Q On which subject?

22 A That's the taller suspect.

23 Q And what do you observe here?

24 A That's both suspects, one at the back door. The
25 taller suspect, again, wearing the windbreaker jacket with

1 the white mask. The red and black glove on his right hand.

2 Q What's in his left hand?

3 A A semi-automatic handgun in his left hand. And
4 then the shorter suspect outside with the black hoodie and
5 white mask.

6 Q And is that semi-automatic handgun depicted there
7 consistent with, in appearance with the semi-automatic which
8 was impounded and depicted in 197?

9 A Yes.

10 Q With regards to the shorter suspect in the
11 background, what is he wearing?

12 A Black hoodie, white mask.

13 Q And I'm sorry, I'm going to back up for a second.
14 What glove appears to be on that left hand holding the
15 semi-automatic?

16 A The gray and red glove.

17 Q Is this the shorter suspect?

18 A It's both of them, but the shorter one is the one
19 with the -- appears to be the revolver in his right hand.

20 Q And what's on his hands?

21 A Black and red gloves with white lettering.

22 Q Which suspect is this standing at the door?

23 A At the back door is the shorter suspect.

24 Q And what does he have on his feet?

25 A Appears to be gray tennis shoes with the white trim

1 at the bottom.

2 Q With regards to specific incident, did you do any
3 follow-up at that location to try and determine how much
4 height difference there was between the two suspects?

5 A I did.

6 Q What did you do?

7 A I reviewed the video to watch them walk past
8 certain items in the store in this back video, specifically
9 the chart on the left part and the back door region.

10 Q Could you circle the chart you're referring to.
11 You measured the height of that chart?

12 A I measured the height of the individuals as they
13 passed because the taller suspect, his height was above that
14 dark line. The shorter suspect, his height was actually just
15 right below that bottom shorter dark line.

16 Q And when you measured, what determinations were you
17 able to reach?

18 A It was approximately, 7 inches at that point.

19 Q Now, do you recognize this to be a surveillance
20 still from the number 12 event at Popeye's on Vegas Drive?

21 A Yes.

22 Q What do you observe in this still that was relevant
23 to your investigation?

24 A Again, the taller suspect wearing a windbreaker
25 style jacket, white mask, appears to be the gray and red

1 glove, semi automatic handgun, black pants, black boots.

2 Q Gray and red glove on the left hand?

3 A Yes.

4 Q And then this surveillance still?

5 A Again, that's the taller suspect wearing the same
6 color.

7 Q And does he appear to have a red and black glove on
8 his right hand?

9 A Yes.

10 Q And is this a closer still of that gray and red
11 glove on his left hand?

12 A Yes, holding the semi-automatic.

13 Q With regards to this, do you recognize it to be a
14 surveillance still from the 13th even in the series?

15 A Is that the Popeye's?

16 Q The last completed robbery.

17 A Yes.

18 Q And do you see anything in the surveillance still
19 that was relevant to your investigation?

20 A Again, the taller suspect wearing the black and
21 gray windbreaker jacket, black pants, black boots. Appears
22 to have the gray and red glove on the left hand.

23 Q And does he have anything in his hands?

24 A It's tough to tell at that point. I believe, he
25 was armed with a -- with a firearm.

1 Q What about in this photograph, do you see anything
2 relevant to your investigation?

3 A Yes. Again, the red and black glove on the right
4 hand, and this time a axe is introduced into the scene.

5 Q And can you actually see part of the axe in this?

6 A You can see most of the axe with the axe and the
7 gray -- I mean, the black handle and the orange bottom --

8 Q Can you circle --

9 A -- part --

10 Q -- it, please?

11 A You want me to circle it?

12 Q Yes, please. Can you see it again in this still?

13 A Yeah, he's holding the axe in his right hand and
14 the firearm in his left hand.

15 Q And so based upon the clothing worn in each of
16 that's robberies as well as the manner in which they were
17 committed, you determined that they were all related in part
18 of the same series?

19 A Yes.

20 Q With regards to the way that the manner in which
21 they were committed, what similarities did they share?

22 A Well, they were all restaurants, except for the
23 7-Eleven. They had the commonality of they would rush in
24 while the employees were there at the late shift or right as
25 closing. They would order people on the ground. They would

1 pistol whip some of them. They would order the safe opened,
2 or who the manager was.

3 Then some -- later on in the series, they started
4 breaking in through the glass front doors or the side doors
5 and -- and rushing in. One in the front and one in the back
6 on occasions.

7 Q And were the manner in which they committed these
8 robberies also unique?

9 A Yes.

10 Q You indicated that as the lead detective, it was
11 your responsibility to submit the footwear impressions left
12 at two of the scenes?

13 A Yes.

14 Q With regards to incidents that occur in Henderson's
15 jurisdiction, they deal with their own forensics, correct?

16 A Yeah, I'm not responsible for their crimes.

17 Q Did you also submit requests for any additional
18 forensic analysis in this case?

19 A Any latent prints from the weapons or any DNA from
20 some of the items recovered from the -- the car.

21 Q With regards to your request for latent
22 fingerprints, they were unable to develop any usable latent
23 fingerprints, correct?

24 A Usable, correct.

25 Q Meaning that there was not enough information

1 available for them to make any comparisons?

2 A Correct.

3 Q And with regards to the DNA that you submitted in
4 this case, you as the lead detective obtained those results,
5 correct?

6 A Yes.

7 Q Did that DNA confirm what you observed in the
8 videos?

9 A Yes.

10 Q In what way?

11 A The DNA on the red and gray gloves came back to
12 Starr. The DNA from the black and red gloves came back to
13 Starr. The DNA from the black and red gloves with the white
14 lettering came back to Hobson. And I believe, the DNA from
15 the revolver came back to Starr.

16 Q And with regards to the DNA returning on those
17 gloves that was consistent with what you observed in terms of
18 the height differences and who was wearing what, correct?

19 A Yes.

20 Q In other words, the taller suspect always wore the
21 gray and red glove or black and red gloves --

22 A Correct.

23 Q -- with no white lettering?

24 A Correct.

25 Q And the shorter suspect always wore the red gloves

1 -- red and black gloves with the white lettering on top?

2 A Or in one instance black gloves, yes.

3 Q With regards to your request for a DNA analysis in
4 this case, you requested analysis of a number of items,
5 correct?

6 A Yes.

7 Q When you submitted that request to the lab, what
8 response did you get from them?

9 A That I couldn't submit that many.

10 Q And did you have to get special permission to
11 submit that many?

12 A Yes.

13 Q Because there's a limit on the item of items that
14 you can have examined in each case?

15 A They limit you to five per -- per robbery case.

16 Q So you got and obtained special permission to have
17 more than that examined in this case?

18 A Yes.

19 Q During the course of your investigation, did you do
20 anything to determine whether or not any of the suspects that
21 were arrested on November 25th, it would have been the early
22 morning of November 26th, were employed?

23 A Yes.

24 Q Specifically with regards to Tony Hobson and
25 Brandon Starr, what did you learn?

1 A Tony Hobson was employed at Pep Boys, and Davonte
2 Starr (sic) had actually put an application in at Pep Boys.

3 Q Brandon Starr?

4 A Brandon Starr I meant, yeah.

5 Q Did you actually go to Pep Boys?

6 A Yes.

7 Q During the course of your investigation?

8 A Yes.

9 Q When?

10 A I went there a couple times, but I don't know exact
11 date after the -- I'm sure it was after the arrest to get
12 their work records.

13 Q Did you notice anything at the Pep Boys that was
14 relevant to investigation?

15 A I noticed that they -- they -- I think they sold
16 the Snap-On gloves there.

17 Q Did you also learn that Donte Johns was employed at
18 Pep Boys?

19 A I actually seen that silver Charger at Pep Boys on
20 a previous stop there, and it caught my eye, and I learned
21 that he did exact work there, yes.

22 Q And so that was before you made any arrests in the
23 series that you observed it there?

24 A Yes.

25 Q And it was -- you were there unrelated to this

1 case?

2 A No, it was related to this case. I was looking for
3 surveillance video around the area.

4 Q So --

5 A So I talked to the manager.

6 Q -- one of these robberies happened in close
7 proximity to --

8 A Right next door, the El Pollo Loco, yeah.

9 Q Which El Pollo Loco, the number 1?

10 A The very -- very first one.

11 Q And did you learn that that Pep Boys is -- or you
12 responded to that Pep Boys, which is on what street?

13 A It's on Charleston.

14 Q And you responded to the location of the search
15 warrant?

16 A Yes.

17 Q How far apart were the Pep Boys and the apartment?

18 A Well, apartments are right behind Pep Boys.

19 Q Did you also do some follow-up investigation with
20 regards to the masks that they were wearing?

21 A Yes.

22 Q What did do you? The -- and specifically the white
23 medical masks?

24 A Well, I was trying to wonder why they changed masks
25 in midstream, and I learned that Tony Hobson's girlfriend,

1 ex-wife, had a child on the 18th at Sunrise Hospital.

2 Q Did you go to Sunrise Hospital?

3 A I did.

4 Q And did you take some photographs while you were at
5 Sunrise Hospital?

6 A Yes.

7 Q Why did you take some photographs there?

8 A Because there was a mask dispenser in the lobby
9 that was free to anybody to take, and they matched the masks
10 that were worn in the last part of the robberies.

11 Q Showing you 267. Is that the mask dispenser in the
12 lobby at Sunrise Hospital?

13 A Yes, it is.

14 Q Showing you 268. Is that the yellow side of the
15 mask?

16 A Yes.

17 Q And showing you 269. Is that the white side of the
18 mask?

19 A Yes.

20 Q You indicated that you learned that Tony Hobson had
21 a baby around November 18th of 2014?

22 A Correct.

23 Q And that's -- showing you 265. That is the birth
24 certificate exhibiting that birth, correct?

25 A Correct.

1 Q Did you have occasion to go snooping around on
2 Facebook during the course of your investigation?

3 A I did.

4 Q And when did you do that?

5 A After the arrest.

6 Q Did you observe anything on Tony Hobson's Facebook
7 page that was consistent with that birth?

8 A Yes.

9 Q What did you observe?

10 A He posted a picture of the newborn baby on --

11 Q Showing you --

12 A -- I believe, the 19th, yeah.

13 Q -- 266. Is that the picture he posted?

14 A Yes.

15 Q Did you also look at Brandon Starr's Facebook page
16 I?

17 A I did.

18 Q And did you see anything that was relevant to your
19 investigation when you looked at his Facebook page?

20 A Yes.

21 Q Showing you 270. Did that come from his Facebook
22 page?

23 A Yes, it did.

24 Q And why is that relevant to your investigation?

25 A Because the hat and the gloves he's wearing there

1 match the hat and gloves wearing -- that the taller suspect
2 was wearing during the robberies and the ones recovered from
3 the vehicle on the stop and in the apartment.

4 Q With regards to this particular series, were there
5 any other similar series going on at the same time as this
6 series?

7 A Not concerning restaurants, no.

8 Q Not concerning robberies --

9 A Right.

10 Q -- at fast food restaurants?

11 A Fast food restaurants, no.

12 Q At my request, did you examine a news article
13 regarding some burglaries -- a series of burglaries that was
14 occurring in the northwest area command in early 2015?

15 A I believe, it was 2015. Yeah, a year after mine.

16 Q And did that article have some surveillance stills
17 attached to it?

18 A Yes.

19 MS. MERCER: Permission to approach, Your Honor?

20 THE COURT: Yes.

21 BY MS. MERCER:

22 Q Showing you what's been marked for identification
23 purposes as State's 315 to 322. If you could look through
24 those for me. And do you recognize those?

25 A I recognize the stills from that series, correct.

1 Q And these are the stills that were attached to that
2 news article referencing those burglaries?

3 A Correct.

4 MS. MERCER: Your Honor, I would move for the
5 admission of 315 to 322.

6 MR. MANINGO: Objection. Foundation.

7 THE COURT: Do you want to approach?

8 (Off-record bench conference)

9 THE COURT: Ladies and gentlemen, we're going to
10 take a break here, a recess. I need to do something -- I
11 need to work on something additional.

12 During this recess, you're admonished not to talk
13 or converse amongst yourself or with anyone else on any
14 subject connected with this trial or read, watch or listen to
15 any report or commentary on the trial, by any person
16 connected with this trial by any medium of information,
17 including without limitation, newspaper, television, the
18 Internet or radio or form or express any opinion on any
19 opinion connected with this trial until it's finally
20 submitted to you.

21 It's a quarter until now. Be back about 4:00
22 o'clock outside here so I can get you back in. Okay?
23 Detective, stay here, okay?

24 (Outside the presence of the jury)

25 THE COURT: Okay. We're outside the presence of