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Steven D. Grierson

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

JAMES COOPER,

Defendant.

CASE NO. C-16-312970-1

DEPT. NO. X

TRANSCRIPT OF
PROCEEDINGS

BEFORE THE HONORABLE JESSIE WALSH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 2

TUESDAY, NOVEMBER 15, 2016

APPEARANCES:

FOR THE STATE:

KRISTINA A. RHOADES, ESQ.
WILLIAM C. ROWLES, ESQ.
Deputy District Attorneys

FOR THE DEFENDANT:

KENTON G. EICHACKER, ESQ.
TALIA L. WALKENSHAW, ESQ.
Deputy Public Defenders

COURT RECORDER:

VICTORIA BOYD
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
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(303) 798-0890

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1 LAS VEGAS, NEVADA, TUESDAY, NOVEMBER 15, 2016, 9:25 A.M.

2 (Outside the presence of the jury)

3 THE MARSHAL: -- session. The Honorable Jessie
4 Walsh, presiding.

5 THE COURT: Good morning.

6 MS. RHOADES: Good morning, Your Honor.

7 MS. WALKENSHAW: Good morning, Your Honor.

8 THE COURT: Please be seated. Okay. Are there any
9 items we need to discuss outside the presence of the jury?

10 MS. RHOADES: Just a couple, Your Honor. First, I
11 do want to make a record about the exhibits because we
12 admitted some of the exhibits in the bad acts hearing
13 yesterday, and we have remarked them at the end of the exhibit
14 list.

15 So our Proposed Exhibit 73, Trial Exhibit 73, was 1
16 and 1A, that was admitted yesterday. And then Cameron's
17 written voluntary statement was admitted as Exhibit 2
18 yesterday. It's now 74. And so they just went in order.
19 Does that make sense?

20 THE COURT: What's the defense's position, Ms.
21 Walkenshaw?

22 MS. WALKENSHAW: That's fine, Your Honor.

23 MS. RHOADES: I just want to make a record we didn't
24 reprint out everything or recopy the 911 to add it as the
25 exhibit. We just used the exhibits from yesterday and are

1 kind of adding them to the end of the list today.

2 THE COURT: So is your position that they're already
3 admitted for trial purposes?

4 MS. RHOADES: No, I don't -- I don't believe so. We
5 would have to admit them for trial purposes here. I just
6 wanted to make a record of what they were numbered as and that
7 we didn't make duplicates of them.

8 THE COURT: I agree that they would have to be
9 admitted for purposes of trial. Yesterday's hearing was
10 separate and apart from the trial.

11 MS. WALKENSHAW: And that's correct. That was the
12 defense's position. Ms. Rhoades had indicated to me yesterday
13 she just figure to be renumbering them, and I didn't have any
14 problem with that.

15 THE COURT: Okay. So we'll address it if and when
16 you seek to admit it.

17 MS. RHOADES: Thank you, Your Honor. The second
18 thing is I have a copy of the Sunrise medical records of
19 Brittney Jensen with the certification affidavit attached to
20 the front. We have Bates stamped them, and I did send a copy
21 to Ms. Walkenshaw.

22 I -- I don't anticipate calling a witness to admit
23 these through so based on the Court's prior ruling and the
24 custodian of records certification, I just want to move to
25 admit them in front of the jury prior to calling Brittney to

1 the stand. And I just wanted to let everybody know that.

2 THE COURT: Ms. Walkenshaw.

3 MS. WALKENSHAW: Thank you, Your Honor. I think I
4 had addressed our position in my written opposition regarding
5 this, and I know that the Court's made a ruling. I would just
6 submit it on my previously submitted opposition.

7 THE COURT: Sure. So given the Court's previous
8 ruling on the motion that was briefed, I would anticipate
9 admitting those items when the State moves to admit them and
10 Counsel can note her objection for the record or note her
11 previous objection for the record.

12 MS. WALKENSHAW: Okay.

13 THE COURT: However you wish to handle it, Ms.
14 Walkenshaw.

15 MS. WALKENSHAW: Thank you, Your Honor.

16 MS. RHOADES: Thank you, Your Honor. And then
17 lastly, scheduling issues with our experts. We plan on going
18 through all of our witnesses action except for the two experts
19 today.

20 THE COURT: Okay.

21 MS. RHOADES: Our two experts, the domestic violence
22 expert, Ellen Greene and Dr. Lisa Gavin, expert regarding
23 strangulation, cannot testify until Thursday, and I'm getting
24 their time frames. One of them can only testify between 9:00
25 and 10:00 a.m., 10:00 a.m. at the latest, and then Dr. Gavin

1 can only testify at 11:30.

2 We don't anticipate them being long, 30 minutes at
3 the most, including cross. So I just wanted to let the Court
4 know that maybe we -- we would ask to be dark tomorrow
5 depending on how it goes today.

6 THE COURT: Really?

7 MS. RHOADES: We don't -- we anticipate going
8 through everyone except for those experts today.

9 THE COURT: Well, I love an optimist. So let's see
10 what we can get accomplished today.

11 MS. RHOADES: Okay, all right. Thank you.

12 THE COURT: Ms. Walkenshaw?

13 MS. WALKENSHAW: Yeah, that's -- that's perfect,
14 Your Honor

15 THE COURT: Do you have any objection to the
16 scheduling issues proposed by the State?

17 MS. WALKENSHAW: I don't, Your Honor. I know that
18 there was going to be a -- we were going to be taking Thursday
19 afternoon off. Depending on how long the experts take, we may
20 go into Friday, depending what witnesses we call. Otherwise,
21 I don't have any problem. I just wanted to make the Court
22 aware of that.

23 THE COURT: Well, I appreciate that. Thank you.

24 MS. RHOADES: Thank you.

25 THE COURT: Anything else?

1 MS. RHOADES: Not from the State, Your Honor.

2 MS. WALKENSHAW: Not from the defense, Your Honor.

3 THE COURT: Okay. I guess we're waiting on our jury
4 panel. I asked them to be prompt. I hope they're here.

5 (Pause in the proceedings)

6 THE COURT: Okay. Oh, I did get the proposed set
7 of defense instructions. There were a few typos on some of
8 those pages.

9 MS. WALKENSHAW: Okay.

10 THE COURT: You might want to take a look at
11 that --

12 MS. WALKENSHAW: Sure.

13 THE COURT: -- before we get to the point where
14 we're actually going to settle them.

15 MS. WALKENSHAW: Sure.

16 THE COURT: But I do appreciate your getting them
17 to me yesterday or today --

18 MS. WALKENSHAW: Yes.

19 THE COURT: -- whenever they came in. All right,
20 thanks.

21 MS. RHOADES: I do have one more thing, Your Honor.
22 I'm so sorry. I discussed this with Ms. Walkenshaw as well.
23 Brittney Jensen does want to be in the courtroom when her two
24 minor children testify. That's fine with the State as long
25 as, you know, Brittney has assured us that she's not going to

1 make any, you know, words to the kids, mouth any words, make
2 any movement, shake her head, anything like that. She just
3 wants to be in here when they testify.

4 THE COURT: Ms. Walkenshaw.

5 MS. WALKENSHAW: That was my only issue was that I
6 just didn't want there to be any communication. I
7 understand, obviously, given the age of the children, that
8 the mother wants to be present. I just didn't want there to
9 be any communication between the witnesses and --

10 THE COURT: And I agree. Have you discussed this
11 particular issue with her, that she's not to try to
12 communicate with the children while they're testifying?

13 MS. RHOADES: Yes, Your Honor, I have. And she
14 assured me that she wouldn't.

15 THE COURT: I see no reason why she shouldn't be
16 present. The children are rather young.

17 MS. RHOADES: Okay. Kaylee is six years old. I --
18 I don't know that she'll understand the entire oath. I think
19 she can promise to tell us the truth so I -- I think that
20 should be enough.

21 THE COURT: Okay then. All right. I think we're
22 ready. It looked like Mr. Diamond --

23 MS. RHOADES: All right.

24 THE COURT: -- was ready as well.

25 MS. RHOADES: Are they coming in through the front

1 or the back?

2 (In the presence of the jury)

3 THE COURT: Please be seated, ladies and gentlemen.
4 Good morning, members of the jury.

5 THE JURY: Good morning.

6 THE COURT: Will counsel stipulate to the presence
7 of our jury?

8 MS. RHOADES: Yes, Your Honor.

9 MS. WALKENSHAW: Yes, Your Honor.

10 THE COURT: Very well. Ladies and gentlemen of the
11 jury, I would like to briefly explain to you the proceedings
12 you are about to witness. You will at the conclusion of the
13 evidence determine the facts in this case, apply to those
14 facts the law, which will be stated to you by the Court, and
15 on that basis reach a verdict consistent with the facts and
16 the law, observe carefully each witness as he or she
17 testifies, and carefully consider all of the evidence as it
18 is presented.

19 For it is you who must determine the credibility of
20 the witnesses and wherein the truth lies. If the Court
21 sustains an objection to the evidence, do not infer any bias
22 of the Court based upon such rulings or speculate about any
23 feelings on the part of the Court for or against either side
24 in this case.

25 If any objection to the testimony of a witness is

1 sustained, you must not guess as to what the answer of the
2 witness what might have been or draw any inferences from the
3 question objected to itself. Remember that questions and
4 arguments of counsel are not evidence. Questions are
5 important only insofar as they give meaning to the answer of
6 the witnesses.

7 Arguments of counsel are only their opinion as to
8 matters and have no evidentiary weight. During the course of
9 the trial, matters may arise which must be determined by the
10 Court outside the presence of the jury as a matter of law.
11 Again, you are to speculate or be concerned in any way as to
12 the reasons for such occurrences. I assure you they will be
13 as limited in frequency and in duration as the law permits.

14 Your verdict in this case is to be based upon the
15 testimony and other evidence that is produced in this
16 courtroom and not on anything that occurs outside this
17 courtroom. Accordingly, you are not to visit any site or
18 location that may be described by witnesses or to conduct
19 experiments or perform any research on any subject connected
20 with this case.

21 If during the examination of a witness some
22 questions occur to you which you would like to see inquired
23 into an answer, please be patient. Your questions will
24 probably be answered before the witness is excused. If not,
25 please write your question on a slip of paper, give it to the

1 bailiff, he will give it to me, I will discuss it with
2 counsel. If the question is a proper one under the law, I
3 will ask that it is asked of the witness.

4 You may individually take notes during the trial,
5 and for that purpose, you've been provided with pencils and
6 notepads. In the event of a conflict between the notes of
7 the individual jurors during your deliberations, you are not
8 to rely upon the notes. You are to rely upon your own
9 recollection of the evidence and the testimony. The court
10 recorder's notes contain the complete authentic record of the
11 trial.

12 You'll be asked to leave your notebooks here every
13 evening after court is over. Ladies and gentlemen of the
14 jury, you're admonished that no juror may declare to his or
15 her fellow jurors any fact relating to the case as of his or
16 her own knowledge. And if any juror discovers during the
17 trial or after the jury has retired that he or she has
18 personal knowledge of any fact in controversy in the case,
19 that juror shall disclose such a situation to the Court
20 outside the presence of the other jurors.

21 If you need anything at all during the course of
22 this trial, please ask the bailiff, Mr. Diamond. He'll make
23 every effort to accommodate you. And on that note, I remind
24 you again that he's the only one in this room that may have
25 individual contact and communication with you. Not I, not my

1 staff, not the attorneys, not the parties may have any
2 contact with you. And if anyone does have any contact with
3 you, you should advise the Court immediately outside the
4 presence of the other jurors.

5 Now I'm going to ask the clerk to read the
6 Information and the defendant's plea to the jury. Madam
7 clerk.

8 (INFORMATION READ BY THE CLERK)

9 THE COURT: Thank you. Ladies and gentlemen, what
10 I will now say or read to you is intended to serve as an
11 introduction to the trial of this case. It is not a
12 substitute for the detailed instructions on the law, which I
13 will give you at the close of the case and before you retire
14 to consider your verdict.

15 This is a criminal matter commenced by the State of
16 Nevada, which I sometimes will refer to as "the State",
17 against James Cooper. This case is based upon the
18 information which has been read to you by the clerk. You
19 should distinctly understand that the Information is simply a
20 charge and that it is not in any sense evidence of the
21 allegations it contains.

22 The defendant has pled not guilty to the
23 Information. He is presumed innocent. The State, therefore,
24 was the burden of proving each of the essential elements of
25 the Information beyond a reasonable doubt. The purpose of

1 this trial is to determine whether the State will meet that
2 burden. It is your primary responsibility as jurors to find
3 and determine the facts. Under our system of criminal
4 procedure, you are the sole judge of the facts.

5 You are to determine the facts from the testimony
6 you hear and the other evidence, including exhibits
7 introduced in court. It is up to you to decide the
8 inferences which you feel may be properly drawn from the
9 evidence.

10 Ladies and gentlemen, we've reached the stage of
11 the proceedings where the attorneys make their opening
12 statements. The law requires that the prosecutor makes their
13 opening statement first. The attorney for the defense may
14 then make his or her opening statement or reserve it until
15 the conclusion of the plaintiff's case in chief. So
16 Mr. Rowles, are you ready to proceed?

17 MR. ROWLES: Yes, Your Honor, thank you. .

18 THE COURT: Very well.

19 MR. ROWLES: Madam court recorder, can we switch to
20 the Power Point, please? May I proceed, Your Honor?

21 THE COURT RECORDER: Of course.

22 STATE'S OPENING STATEMENT

23 MR. ROWLES: In January of 2016, the defendant,
24 James Cooper was dating a woman by the name of Brittney
25 Jensen. They lived at the 356 East Desert Inn Road here in

1 Las Vegas. They lived there with Brittney's two kids;
2 eight-year-old James Cameron Blair, and five-year-old, Kaylee
3 Jensen.

4 And on January 22nd, 2016, the defendant beat and
5 strangled Brittney Jensen in front of her two kids. Now,
6 ladies and gentlemen of the jury, the evidence will show that
7 on January 22nd, 2016, the defendant and Brittney, they got
8 into an argument. The defendant was at home lying in bed.
9 Brittney was in the kitchen on the phone when she decides to
10 approach the defendant.

11 She approaches him in their bedroom, the bed that
12 they share. She begins to yell at him. Accusations of
13 cheating or something to that effect. When the defendant
14 decides to take that verbal argument and turn it physical.
15 He gets out of bed, stands up, approaches Brittney and
16 punches her in the stomach. Knocks her to the floor, begins
17 to yell at her. Now, Brittney's able to get to the kitchen.
18 She's able to make her way to the kitchen.

19 She tries to close the kitchen door that separates
20 the kitchen from the rest of the house. But the defendant
21 follows her, pushes his way through that door, knocks her to
22 the ground in the kitchen, begins to kick and stomp on her
23 while she lays there on the floor.

24 Now at this time, Brittney yells for help. Her two
25 kids are home. James Cameron, you will come to know as

1 Cameron, and Kaylee. She yells for them to call police. She
2 needs help. Cameron grabs the phone, tries to call police.
3 The defendant sees this, and chases Cameron into his bedroom,
4 grabs the phone from him, prevents him from calling the
5 police and throws him on his bed.

6 Now, after this happened, Brittney reapproaches the
7 defendant, trying to prevent the defendant from hurting her
8 kids. Trying to get him out of there, telling him he needs
9 to leave. The fight continues. It spills back into the
10 master bedroom where Brittney falls, hits her head, and the
11 defendant continues to punch and kick her all in front of her
12 children, all in front of Cameron.

13 Now, at this time, the -- or eventually the
14 defendant does stop and he makes his way outside of the
15 apartment. Brittney gets up crying, stumbles into the
16 bathroom, knocks down the curtain rod, sits on the toilet and
17 bleeds.

18 Now, the evidence will show that as the defendant
19 is leaving the apartment, he calls police. And we will hear
20 that 911 call. You will hear in that call Brittney crying,
21 asking the defendant why he did this, why he hit her?
22 Cameron's also able to call police, eventually, and we will
23 hear that call. And we will hear him ask for help, trying to
24 get the police to the apartment, and he's eight years old.
25 He doesn't know the address. All he knows is that they're

1 somewhere in Las Vegas. He needs his mother's help.

2 And Brittney eventually gets on the phone, and we
3 will hear that. We will hear crying, her hysterical, her
4 tell the police what happened. Her tell the police that the
5 defendant hit her. That the defendant choked her, that the
6 defendant was able to call the police before she could.

7 Now, the evidence will also show that the police do
8 respond, and we will hear testimony from Officer Pickens,
9 Officer Sylvia, Officer Kolarik, some of the first responding
10 officers, and they will tell us that as they approached the
11 apartment complex, they hear crying.

12 As they navigate that area, as they come closer to
13 apartment 111, where they live, they hear more crying. That
14 when they entered the defendant's and Brittney's apartment,
15 they see Brittney on the floor crying, bleeding. They see
16 her two kids present. They see Kaylee there, they see
17 Cameron there crying.

18 That when they entered the apartment, Brittney's
19 yelling at them crying, he's outside, he left the apartment,
20 go get him. Now it's at this time that the police sort of
21 divvy up the responsibilities. The defendant's still in the
22 area. He's a couple apartments down and police go and speak
23 with him. Other officers remain in the apartment.

24 And by this time, paramedics have responded or
25 medics, and they're treating Brittney for her injuries. We

1 will hear that when she's been treated for injuries, she
2 tells medics while she's crying, while she's hysterical that
3 she was hit. That that man strangled her. That her head
4 hurts.

5 Police also speak with James Cameron. He walks
6 them through everything that he saw, the attack that he saw
7 right in front of him on his mom. Now, Brittney is taken to
8 the hospital and treated for her injuries. The defendant's
9 placed into custody.

10 Now, I cannot say with any certainty what Brittney
11 or Cameron will say on the stand in front of us during trial.
12 What I've primarily told you today is what's reflected in the
13 911 calls, what's reflected in the body cam, what's reflected
14 in the initial statements minutes after the attack happened.

15 I can tell you that Brittney's written a letter.
16 It's 100 percent her fault. That they're still in contact
17 with each other. And I can tell you the evidence will show
18 that the defendant did suffer some injuries. Bite mark on
19 his hand. A dreadlock pulled out. That does not change the
20 fact that on January 22nd, 2016, the evidence will show that
21 Brittney was beat by that man. Violently attacked by the
22 defendant. Strangled by the defendant.

23 And I can tell you at the end of our time together,
24 the evidence will show beyond a reasonable doubt that the
25 defendant is guilty of battery constituting domestic

1 violence, battery constituting domestic violence
2 strangulation, and child abuse, neglect and endangerment.
3 And I will ask you at the end of our time together that
4 because of the defendant's actions, because of strangling
5 Brittney Jensen, I will ask that you find him guilty of all
6 the counts. Thank you.

7 THE COURT: Thank you, Mr. Rowles. Mr. Eichacker?

8 MR. EICHACKER: Yes, Your Honor.

9 DEFENDANT'S OPENING STATEMENT

10 MR. EICHACKER: Ladies and gentlemen, you're going
11 to hear on January 22nd, that Mr. Cooper was working. He
12 worked a full day and he walked home around 4:00 p.m.

13 Ms. Jensen and her two kids were already home.
14 You're going to hear that Ms. Jensen was sent home early from
15 for being too intoxicated. By the time Mr. Cooper arrived,
16 she had already drank the entire bottle of rum. When
17 Mr. Cooper got home, he entered the apartment, he undressed,
18 started to unwind, tried to help cook. Once dinner was
19 finished, everyone was kind of doing their own thing.

20 Mr. Cooper went into the bedroom to get ready for
21 bed. That's when Ms. Jensen came in, she takes his phone.
22 She starts scrolling through it. It's that point she starts
23 yelling. She walks over to his work bag, she dumps
24 everything out. She tells Mr. Cooper to leave and when he
25 says no is when she jumps on the bed and pounces on

1 Mr. Cooper.

2 She grabs his dreadlocks, she starts twisting and
3 pulling. Mr. Cooper reaches up above his head, but she bites
4 his fingers, she bites his hands. They struggle a bit on the
5 bed until they fall off. It's at that point, Ms. Jensen
6 pulls out a couple of Mr. Cooper's dreadlocks. They make it
7 back on their feet, and the struggle spills out into the
8 hallway.

9 It then spills in front of the kitchen. At that
10 point, Mr. Cooper realizes they're in front of the kitchen,
11 there are knives and other objects in there. He doesn't know
12 what Ms. Jensen's going to do. It's at that point he decides
13 to defend himself, to get out of Ms. Jensen's grasp. You're
14 going to hear once he's separated, he calls 911. You're
15 going to hear that 911 call. You're going to hear his own
16 demeanor, you're going to hear him tell the operator exactly
17 what happened.

18 You're going to hear a second 911 call that's
19 placed by James Cameron Blair, Ms. Jensen's son. At the time
20 he was eight years old. He wasn't present for the beginning
21 of the struggle. He came out at the end. He saw the
22 struggle, he got scared.

23 You're also going to hear evidence, testimony,
24 about a prior incident between Ms. Jensen and Mr. Cooper.
25 However, you're also going to hear evidence, testimony

1 regarding a case of domestic violence with Ms. Jensen. Both
2 cases have been --

3 MS. RHOADES: Your Honor, may we approach, please?

4 THE COURT: Yes, yes.

5 MS. RHOADES: I'm sorry to interrupt.

6 (Bench conference begins)

7 THE COURT: Let's wait for counsel.

8 MS. RHOADES: He just said something about a prior
9 incident of domestic violence against Brittney Jensen. That
10 has not been litigated. That's in no way admissible. I
11 would object to him including it in his opening, and I would
12 object to any intent to try and do it (inaudible) here in
13 trial.

14 THE COURT: Well, that's the first time I've heard
15 of such a thing that, but of course, the Court doesn't have
16 access to any of the criminal records of either -- at this
17 point either the defendant nor the witnesses. Mr. Eichacker?

18 MR. EICHACKER: (Inaudible) is from Henderson. It's
19 admissible (inaudible).

20 THE COURT: She what?

21 MR. EICHACKER: It's admissible (inaudible).

22 THE COURT: It's what?

23 MR. EICHACKER: Admissible for her -- her bias, it
24 goes to defense theory, and it also is not subject to
25 (inaudible).

1 THE COURT: Is it a misdemeanor?

2 MS. WALKENSHAW: It is.

3 MS. RHOADES: It's a bad act, and it is subject to
4 the same analysis as the -- the defendant.

5 MR. EICHACKER: (Inaudible).

6 MS. RHOADES: And I have case law about that it is
7 subject to the same analysis and it is a bad act and it's not
8 admissible. It's not a felony conviction, it's -- I believe,
9 it's a battery domestic violence misdemeanor conviction, if
10 it even is a conviction. It's several years old. It's not
11 against this defendant. It's against a female roommate.

12 THE COURT: Is that true?

13 MR. EICHACKER: (Inaudible) is the same in this
14 case as it is in that case.

15 THE COURT: So I think, frankly, Counsel, you
16 probably should have brought this up probably in a pretrial
17 motion so the Court could have considered it rather than to
18 make this statement in front of the jury. I think at this
19 point, it's probably not admissible unless she gets on the
20 stand and says she's never violent, in which case it could be
21 -- you could impeach her with it, I don't know. In any
22 event, I would have appreciated a heads up before now.

23 MR. EICHACKER: And it's my understanding that it's
24 not the same as the --

25 MS. WALKENSHAW: And I do have a case --

1 THE COURT: It's not the same as what?

2 MR. EICHACKER: The same as the (inaudible)
3 requirement against a bad act against the defendant
4 (inaudible).

5 MS. WALKENSHAW: I do have a case, Your Honor,
6 Daniels versus State, and I can provide the citation if you
7 wanted it, but --

8 THE COURT: It would have been nice to have it
9 before now, but yeah, I'll take it.

10 MS. WALKENSHAW: Certainly it. It's 119 Nev 498.
11 And what that says is that specific acts of violence are
12 admissible under NRS 48.055. Mr. Cooper must have known of
13 that incident prior to this battery because it goes to the
14 theory of self-defense.

15 THE COURT: May I have the name of the case?

16 MS. WALKENSHAW: Daniel v. State. And it's to show
17 the relevance to self-defense and that he acted reasonably
18 because he knew of her tendency of violence, and there will
19 be testimony that he was aware of that case long before this
20 incident.

21 THE COURT: How long ago was that incident?

22 MS. RHOADES: I believe, it was four or five years
23 ago.

24 MS. WALKENSHAW: That's correct.

25 THE COURT: How long have they known each other?

1 MS. WALKENSHAW: They've known each other for five
2 years.

3 THE COURT: So I'll take a look at it, but in the
4 meantime, I'm going to ask you to refrain from anymore
5 comments until I can look at the case, please.

6 MR. EICHACKER: Yes, ma'am.

7 MS. RHOADES: May we strike that last part of the
8 statement because, I mean, it's the State's position it's
9 wholly inadmissible. It's only to smear her name. She's
10 already going to say she's a hundred percent at fault in this
11 incident so that does not need to come in at all. It's a
12 misdemeanor conviction under the impeachment rules, it's not
13 admissible.

14 THE COURT: Then I'd like to look at the law first.
15 I'm going to have to defer ruling on that, but I'll address
16 it with the jury to the --

17 MS. RHOADES: Okay.

18 THE COURT: -- limited extent that I can.

19 MS. RHOADES: Okay.

20 THE COURT: All right?

21 MS. WALKENSHAW: Thank you.

22 MS. RHOADES: Thank you.

23 THE COURT: Thank you.

24 (Bench conference concluded)

25 THE COURT: So members of the jury, I want you to

1 at this point in time to disregard the statement regarding
2 victim/witness being violent person. We may have to do a
3 little research on the subject. Please proceed,
4 Mr. Eichacker.

5 MR. EICHACKER: Thank you. Nonetheless, we are
6 confident once you hear all the evidence in this case, that
7 you'll find Mr. Cooper not guilty. Thank you.

8 THE COURT: Thank you, Mr. Eichacker. May I see
9 counsel at the bench one more time on a different matter?

10 (Bench conference begins)

11 THE COURT: So we were so busy hearing the
12 testimony of the witness yesterday, and although I've been
13 through those jury instructions, I don't see an instruction
14 about prior bad acts.

15 MS. RHOADES: We will include that, and I think
16 they included one --

17 MS. WALKENSHAW: I included one.

18 MS. RHOADES: -- and we'll just make sure it's the
19 same one and we'll include it, too. We didn't know what was
20 happening so we didn't --

21 THE COURT: So -- but it's my opinion that that
22 instruction probably should be given to the jury before you
23 call that particular witness, don't you agree?

24 MS. RHOADES: Oh, okay.

25 MS. WALKENSHAW: Yes.

1 THE COURT: So and I don't have one because
2 usually --

3 MS. RHOADES: Okay.

4 THE COURT: -- the prosecution provides it. So
5 that was one of the things I was asking my law clerk for
6 assistance when first came in the first time. So I don't
7 know if he's had a chance to contact your office. Do you
8 have any you could pull up for me?

9 MS. RHOADES: I will look for it, yes. I'll look
10 for it. You know, this -- Brittney's our first witness so if
11 they think they're --

12 THE COURT: I know.

13 MS. RHOADES: -- going to be able to get into this
14 misdemeanor domestic violence with her, I mean, I think we
15 need a ruling on that before we call her.

16 THE COURT: Well, I need to look at the case
17 because --

18 MS. RHOADES: Right.

19 THE COURT: -- Counsel gave me a citation. I'll
20 have to look at it. I don't see any reason why you can't get
21 started, but I think before you do, I need to provide that
22 (inaudible).

23 MS. RHOADES: (Inaudible).

24 THE COURT: I think that instruction needs to be
25 given each time before some testimony like that is going to

1 be elicited.

2 MS. RHOADES: Yes, I agree with that completely.

3 THE COURT: Do you not agree?

4 MS. WALKENSHAW: I do.

5 MS. RHOADES: I just -- if they're going to be
6 allowed to ask about it, I want to be able to ask about it
7 first.

8 THE COURT: We'll address that when they get their
9 chance to examine the witness, before they examine the
10 witness.

11 MS. RHOADES: Okay.

12 THE COURT: All right? No, this isn't it.

13 MS. RHOADES: I can look for another one. Your
14 Honor, in my e-mail.

15 THE COURT: Okay. Could you do it right now?

16 MS. RHOADES: Yes.

17 THE COURT: Okay.

18 MS. RHOADES: Do you want to keep the jury here?

19 THE COURT: Yes.

20 MS. RHOADES: Okay.

21 (Bench conference concluded).

22 THE COURT: So may I see Ms. Walkenshaw and
23 Mr. Rowles and while the rest of you work on what you need to
24 work on?

25 (Bench conference begins)

1 THE COURT: So I have the case that you cited. Can
2 you tell me where I'm going to (inaudible)?

3 MR. ROWLES: Judge, this was the jury instruction
4 that (inaudible) printed out.

5

6 THE COURT: (Inaudible). Just standby, if you
7 would, members of the jury. There are a couple of legal
8 issues we need to iron out. I think it's really a little too
9 early to take a break or I'd give you one. Did you find it?

10 MS. WALKENSHAW: I did, Your Honor.

11 MS. RHOADES: I'm going to go -- (inaudible). Can
12 we go on to the next (inaudible). I can't find it in my
13 e-mail, but he can pull it. Is that okay?

14 THE COURT: Sure.

15 MS. RHOADES: If he runs to the (inaudible) my
16 office is across the street. So is this the case that --

17 MS. WALKENSHAW: Yeah.

18 MS. RHOADES: -- you cited? I mean, I'd like to
19 read the whole case and analyze it and see if it applies to
20 this. I do have a brief that goes to other bad act law, also
21 applies to victims. It doesn't just apply to defendants.
22 And I have briefed that issue before.

23 THE COURT: Well, I had appreciate I would have had
24 it -- I would have like to have the same -- I probably have
25 seen this. If I read it, I'll probably refresh my

1 recollection, but I want you to point me to the exact
2 (inaudible). It's fairly lengthy.

3 MS. WALKENSHAW: And I do apologize for not
4 bringing this sooner. It's something that we found out about
5 at a little bit of a later time. I did some research and
6 felt that under the research that I found, it would be
7 (inaudible). Otherwise, I do try and early address issues
8 prior to the start. So I do apologize for that, to both you
9 and State.

10 THE COURT: I understand.

11 MS. RHOADES: I just don't see how this is
12 admissible at all. I mean --

13 THE COURT: May I see it?

14 MS. RHOADES: -- this is a shooting.

15 THE COURT: Which paragraph?

16 MS. WALKENSHAW: It's starting right here in the
17 analysis.

18 THE COURT: So I think he not only has to learn
19 about it, but I think (inaudible) have to testify. Because
20 how are you going to -- how are you going to prove that?

21 MS. WALKENSHAW: At this point, we do plan on
22 calling him.

23 THE COURT: Well --

24 MS. WALKENSHAW: If you'd like us to save that for
25 his examination, should he testify, I understand.

1 MS. RHOADES: Well, I think she needs to be given
2 an opportunity to explain that the probative value is
3 outweighed substantially by (inaudible) prejudice. Two, that
4 they're going to -- you know, the credibility they're going
5 to give to the victim. She already is going to say that
6 she's a hundred percent at fault for the January 22nd
7 incident. Something that happened years ago with a female
8 roommate because she was drinking, I think is just --

9 THE COURT: You know what, it may come in. I don't
10 know that it comes in at this point, and that will give me an
11 opportunity to read the whole case (inaudible). I don't
12 think it comes in at this point in time, but it may very well
13 come in, I don't know. I don't know what she's going to --
14 or how she's going to testify. I have my own opinions about
15 the testimony that she gave yesterday. But the jury hasn't
16 seen or heard any of that.

17 Today's a new day. I don't know what she's -- I
18 don't know what we're going to get today.

19 MS. WALKENSHAW: Sure.

20 THE COURT: All right. So --

21 MS. RHOADES: Because, I'm sorry, while we're
22 waiting, I mean, I think then if that comes up, not only
23 does the bad act of Brittney can come in, but that other
24 domestic violence incident and conviction would come in for
25 him, too, and it's just muddying the waters with all of --

1 just -- I don't think either one of those are admissible,
2 whether her four-year-old case or his two-year-old case.

3 THE COURT: Well, what I was hoping was Mr. Rowles
4 (inaudible). So --

5 MS. WALKENSHAW: This is for you. They're not for
6 us.

7 THE COURT: Yeah, we did.

8 MR. EICHACKER: Okay.

9 THE COURT: I thought maybe he was just going to
10 run right up there and --

11 MS. RHOADES: I thought that, too. But he must be
12 finding the instruction. He just has to go, I guess, down to
13 the ninth floor (inaudible) and pull it for us.

14 THE COURT: All right.

15 MS. RHOADES: If we want to start and instruct --
16 like, I'm not going to ask her about that incident until the
17 end, if you want to instruct them right before she testifies
18 about the incident.

19 THE COURT: We could do that. That would save
20 time.

21 MS. RHOADES: Okay.

22 THE COURT: And I'll just have to -- before you ask
23 her -- you better advise her not to get into any of that
24 until --

25 MS. RHOADES: Okay.

1 THE COURT: -- I can (inaudible).

2 MS. RHOADES: She's not very, you know, forthcoming
3 with me so I don't think she'll volunteer any -- any
4 information.

5 THE COURT: Okay. I guess I should remain silent,
6 huh?

7 MS. RHOADES: And I already told her that we are
8 going to talk about it at the end so --

9 THE COURT: Right.

10 MS. RHOADES: Okay.

11 THE COURT: So let's proceed with her testimony
12 (inaudible).

13 MS. RHOADES: And before I ask, I will approach and
14 let you know.

15 THE COURT: Okay.

16 MS. RHOADES: Okay? Thank you.

17 (Bench conference concluded).

18 THE COURT: Okay, back on record. Who is the
19 State's first witness, Ms. Rhoades?

20 MS. RHOADES: Brittney Jensen, Your Honor.

21 THE COURT: Very well. Is she outside in the
22 hallway; do you know?

23 MS. RHOADES: She is, yes. I can go get her. I
24 did tell Mr. Diamond that we needed her. I know there's
25 another jury out there. I don't know if there's traffic or

1 what.

2 THE COURT: Is she not in the hallway?

3 MS. RHOADES: She should be. She might be in the
4 restroom. Here she comes.

5 BRITTNEY JENSEN, STATE'S WITNESS, SWORN

6 THE CLERK: Please be seated, stating your full
7 name, spelling your first and last name for the record.

8 THE WITNESS: Brittney Jensen, B-r-i-t-t-n-e-y.
9 Jensen, J-e-n-s-e-n.

10 THE COURT: Whenever you're ready, Ms. Rhoades.

11 MS. RHOADES: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MS. RHOADES:

14 Q Ma'am, may I call you Brittney?

15 A Yes.

16 Q Do you know James Cooper?

17 A Yes.

18 Q Do you see him in court today?

19 A Yes.

20 Q Can you point to him and tell us something that he's
21 wearing today.

22 A He's wearing a blue shirt and tie in the middle of
23 the defendant table.

24 MS. RHOADES: May the record reflect identification
25 of the defendant, Your Honor?

1 THE COURT: Yes.

2 MS. RHOADES: Thank you.

3 BY MS. RHOADES:

4 Q How is it that you know James?

5 A Relationship.

6 Q A dating relationship?

7 A Yes.

8 Q Okay. Do you want to be here in court today to
9 testify?

10 A No.

11 Q Okay. Do you love James?

12 A Yes.

13 Q Do you have any children?

14 A Two.

15 Q What are their names and ages?

16 A Cameron and Kaylee. Cameron's nine. Kaylee is six.

17 Q And is Kaylee's last name Jensen?

18 A Yes.

19 Q And Cameron, is his full name James Cameron Blair?

20 A Yes.

21 Q But he goes by Cameron?

22 A Yes.

23 Q In January of 2016, where were you living?

24 A January of -- East Desert Inn, 356 East Desert Inn,
25 Unit 111.

1 Q And who were you living with?

2 A My two children and James Cooper, Tuda.

3 Q How long had you been living there with James and
4 your two children?

5 A About a year at that point.

6 Q Okay. Can you just describe the layout of the
7 apartment for us and tell us how many bedrooms it has?

8 A Yes, there was two bedrooms and two bathrooms. You
9 walk into the living room, through the living room and then
10 you turned left. Immediately to your right was our bedroom,
11 and then if you turned left into the hall and walked down,
12 there was a bathroom to your right and then at the end of the
13 hall was the children's room.

14 Q Okay. So Cameron and Kaylee shared one room; is
15 that right?

16 A Um-h'm.

17 Q And then -- is that a yes?

18 A Yes, sorry.

19 Q That's okay. And you shared a room with James; is
20 that right?

21 A Yes.

22 Q Was there a bathroom inside the master bedroom?

23 A Yes.

24 Q And then another separate bathroom in that hallway?

25 A Right.

1 Q And then if you walked through the front door,
2 there's the living room to the right, and if you keep
3 walking, is that the kitchen?

4 A Right, yes.

5 Q Is there a door separating the living room and the
6 kitchen?

7 A Yes.

8 Q On January 22nd, 2016, were you inside that
9 apartment with James and your two kids?

10 A Yes.

11 Q What had you been doing earlier that day?

12 A I was drinking, actually, very heavily.

13 Q Did you go to work that day?

14 A No. I actually ended up having at that day off, and
15 I just decided to drink that day.

16 Q Do you remember what you were drinking?

17 A I think it was rum.

18 Q Did the kids go to school that day?

19 A Yes.

20 Q Do you remember what day of the week it was?

21 A Yeah, only because we went over it, I believe it was
22 a Friday.

23 Q Okay. And when you say we went over it, you mean
24 you talked with me and Mr. --

25 A Right.

1 Q -- Rowles? Okay.

2 A Yes.

3 Q Did James go to work that day?

4 A Yes.

5 Q Do you remember about what time he got home?

6 A 5:00, maybe. 5:00 or 6:00. Sometime during

7 dinnertime.

8 Q Did you have dinner together?

9 A I'm sure. I think he ate in the room and the kids

10 at the table.

11 Q Do you know if James was drinking that night?

12 A Yeah, I -- yes.

13 Q Do you know specifically about how many drinks he

14 had?

15 A Not near as many as I did.

16 Q At some point, were you in the kitchen by yourself

17 on your phone?

18 A Yes.

19 Q Okay. Who were you talking to?

20 A A friend I have in Florida, Sasha (phonetic).

21 Q Were you upset at James about something?

22 A Yes, I was, and I was talking to my friend. And it

23 was kind like the girl power thing. Like, yeah, you tell him

24 I was upset about something that had happened between the two

25 of us, myself and James, a couple weeks prior. And that's

1 kind of why I decided to drink, and that bad, and yes, I was
2 on the phone with my friend, and right after that is when
3 everything kind of started.

4 Q Okay. How did everything start? Like, when you got
5 off the phone with your friend, what happened?

6 A I just remember being like okay, I'm going to talk
7 to him, you know, like hey, I'm going to tell him how I feel.
8 What I remember the most is just talking to him, and he was
9 trying to be so nice and listen.

10 Q Just take your time, Brittney.

11 A I got mad. I just was mad.

12 Q You said you got mad?

13 A Yeah.

14 Q You remember him trying to be nice. What
15 specifically do you remember?

16 A That I was talking to him, and he was just trying to
17 listen to me and telling me not to worry about it, everything
18 -- you know, I just remember being in his face, and I grabbed
19 his hair.

20 Q Do you remember --

21 A And I started tearing his hair out and hitting him
22 and --

23 Q Okay. Do you remember where this happened in the
24 apartment?

25 A In our bedroom.

1 Q Do you remember if James was on the bed or standing
2 up or something different?

3 A He was standing up.

4 Q Do you remember if you were holding anything?

5 A Just his hair.

6 Q So you said you pulled his hair. What, if anything,
7 did he do after you pulled his hair, that you remember?

8 A I was just all over him. What I her is he just --
9 belligerent, I was so -- I just remember attacking him and
10 just kept going. I was so mad.

11 Q Where do you remember hitting him at?

12 A In the bedroom.

13 Q On his body?

14 A Oh, his face, his chest, his -- just I was just
15 going crazy.

16 Q What was he doing while you were going crazy?

17 A Trying to make me stop. You know, I couldn't
18 believe that I did that.

19 Q Were you two standing up facing each other the whole
20 time?

21 A I don't think so, not the whole time. What I
22 remember is, also I remember being in the living room, too.
23 Like he was trying to leave, and I just wouldn't stop. I
24 just followed him and --

25 Q Do you know where the kids were while this was

1 happening in?

2 A In their room.

3 Q Do you remember doing anything with his tool case?

4 A I -- I threw it down.

5 Q You remember specifically throwing it down?

6 A I remember throwing a lot of -- I -- yeah, I
7 remember just yanking his tool bag. I don't even know why I
8 did that.

9 Q So it went to the living room. Did the altercation
10 move anywhere else in the apartment?

11 A I think he tried to go outside. I think I followed
12 him out -- I don't --

13 Q And we just want you to tell us what you remember.

14 A Yeah.

15 Q And if you don't remember something, just tell us
16 that.

17 A And that's the thing is I remember just me going
18 completely crazy, and I also remember he was on the phone
19 with 911, and at that point, I yelled at my kids to call 911,
20 and I was screaming in the background because I didn't want
21 to get in trouble, and I know that sounds stupid. I'm
22 ashamed because --

23 Q So your testimony is that you didn't tell the kids
24 to call 911 until --

25 A I --

1 Q -- and after James was on the phone with 911; is
2 that --

3 A Yes.

4 Q -- your testimony? And your testimony is that you
5 told the kids to call 911 because you didn't want to get in
6 trouble?

7 A Yes.

8 Q Do you remember talking to 911?

9 A No.

10 Q Do you remember if the kids were able to call 911?

11 A Yeah, I do.

12 Q Who was able to call 911?

13 A My son.

14 Q Cameron?

15 A Yes.

16 Q Okay. Do you remember James ever hitting you during
17 this incident?

18 A No. I mean, I know he was trying to get me away
19 from him.

20 Q And Brittney, just answer my question, okay?

21 A Sorry.

22 Q That's okay. Do you remember James hitting you
23 during this incident?

24 A No.

25 Q Do you remember James kicking you while you were on

1 the ground during this incident?

2 A No.

3 Q Do you remember James stomping on your face during
4 this incident?

5 A No.

6 Q Do you remember James wrapping something around your
7 neck during this incident?

8 A Absolutely not.

9 MS. RHOADES: Your Honor, at this point, I am going
10 to play for purposes of identification the 911, unless --

11 (Pause in the proceedings)

12 THE COURT: Does the defense have any objection?

13 MS. RHOADES: I think it's stipulated to. So I
14 would move for the admission of State's Exhibit 2 and move to
15 publish it.

16 THE COURT: Ms. Walkenshaw, do you agree?

17 MS. WALKENSHAW: I don't have any objection.

18 THE COURT: So ordered.

19 (State's Exhibit 2 is admitted)

20 MS. RHOADES: Thank you, Your Honor. Hopefully in
21 works,

22 (Pause in the proceedings)

23 (Playing 911 recording)

24 MS. RHOADES: I'm going to pause this while I think
25 people are being brought in.

1 THE COURT: Sure. Is there anybody left in the
2 school district?

3 THE WITNESS: Seriously.

4 MS. RHOADES: Too much pressure.

5 THE COURT: Okay. Please proceed, Ms. Rhoades.

6 MS. RHOADES: Thank you, Your Honor.

7 BY MS. RHOADES:

8 Q The beginning of that call that we just heard, you
9 heard that it said 18:51, so that would be the call was made
10 at 6:51, would you agree with me?

11 A Yes.

12 Q If that's what it said on the recording?

13 A Yes.

14 Q Okay. And starting it over and playing State's
15 Exhibit --

16 (Playing 911 recording)

17 BY MS. RHOADES:

18 Q Can you hear yourself crying in the background?

19 A Yes.

20 Q Who was that that we hear on the phone?

21 A You heard my daughter.

22 Q You heard your daughter in the background?

23 A Yeah.

24 Q Who's talking to the 911 operator? Is that --

25 A It was hard to hear.

1 Q Okay. When the person said mom, you got to tell
2 them our address.

3 A Can you replay it? I mean, you know --

4 Q I'll replay it.

5 (Playing the 911 recording)

6 BY MS. RHOADES:

7 Q Do you know who that was?

8 A My son.

9 (Playing the 911 recording)

10 BY MS. RHOADES:

11 Q Okay. Just there you said James Cooper hit you with
12 his hands and he choked you; is that right? Did you hear
13 yourself --

14 A That's what I heard, yeah.

15 Q Okay. And you were -- do you call James Cooper
16 something else, you and the kids?

17 A Yes.

18 Q What do you call him?

19 A Tuda.

20 Q Okay.

21 (Playing the 911 recording)

22 BY MS. RHOADES:

23 Q Just pausing it right there, do you hear children
24 crying in the background?

25 A Yes.

1 Q And that would have been Kaylee and Cameron?

2 A Yes.

3 (Playing the 911 recording)

4 BY MS. RHOADES:

5 Q And when you're saying, it's okay, I'm okay, who are
6 you talking to? Would you have been talking to the kids?

7 A Yes.

8 Q Was there anyone else in that apartment besides you
9 four that night?

10 A No. May I say something?

11 THE COURT: No, ma'am, you have to wait for the
12 question.

13 BY MS. RHOADES:

14 Q What do you want to say, Brittney?

15 A I don't even remember that phone call.

16 Q Okay. That's your voice on the 911 call, right?

17 A Yes.

18 Q Okay.

19 (Playing the 911 recording)

20 BY MS. RHOADES:

21 Q Did you hear yourself just say we were happy?

22 A Yes.

23 (Playing the 911 recording)

24 BY MS. RHOADES:

25 Q Did you just hear yourself say that he's going to

1 leave and he's going to come back and kick my ass?

2 A Yes.

3 (Playing the 911 recording)

4 BY MS. RHOADES:

5 Q Okay, Brittney, you -- do you remember that James
6 called 911 also?

7 A Yeah.

8 Q Okay.

9 A Yes.

10 MS. RHOADES: I think this has been stipulated to,
11 Your Honor, State's Exhibit No. 3, Proposed Exhibit No. 3.
12 We would move for its admission. It's the 911 call made by
13 James Cooper.

14 THE COURT: Ms. Walkenshaw?

15 MS. WALKENSHAW: That's correct, Your Honor. I
16 have no objection.

17 THE COURT: So ordered. It will be admitted.

18 (State's Exhibit 3 admitted)

19 MS. RHOADES: Thank you, Your Honor. Permission to
20 publish?

21 THE COURT: Sure.

22 MS. RHOADES: Thank you.

23 (Playing the 911 recording)

24 BY MS. RHOADES:

25 Q And the time on that you just heard is 18:48, so

1 that would have been 6:48 p.m.; does that sound right?

2 A Yes.

3 (Playing the 911 recording)

4 BY MS. RHOADES:

5 Q Brittney, do you hear yourself in the background of
6 his call?

7 A Yes.

8 (Playing the 911 recording).

9 BY MS. RHOADES:

10 Q And I'm just going to pause it there. He said he
11 didn't know your birthday and then you yelled out your
12 birthday into the phone; is that right? Did you hear
13 yourself yell out your birthday?

14 A I heard myself yell out.

15 Q What's your birthday?

16 A December 22nd.

17 Q 1986.

18 A Yes.

19 Q Okay.

20 (Playing the 911 recording)

21 BY MS. RHOADES:

22 Q So you heard him just say, she was on the phone with
23 her friend, Sasha, it was bullshit, she didn't want to talk
24 to me, and then she came and jumped on me on the bed. Did
25 you hear him say that?

1 A Yeah.

2 Q Okay.

3 A Yes.

4 (Playing the 911 recording)

5 BY MS. RHOADES:

6 Q Okay, Brittney, do you remember paramedics arriving
7 at the apartment?

8 A Yes.

9 Q Do you remember talking to the paramedics?

10 A Yes.

11 Q What do you remember telling them, if anything?

12 A Nothing. I don't remember. I remember talking to
13 them. I remember being in the hospital. I imagine, I was --
14 no, I don't remember specifically what I said.

15 Q Do you remember the paramedics asking if he
16 strangled you and you responding, yeah?

17 A No.

18 Q Do you remember saying to the paramedics, he hit me
19 in the face, I don't know why, and they asked, with what, and
20 you said a big object; do you remember that conversation?

21 A No.

22 Q You said you remember being transported to Sunrise
23 Hospital; is that correct?

24 A Yes.

25 MS. RHOADES: Your Honor, at this point, I'd move

1 for the admission of a certified copy of Ms. Jensen's Sunrise
2 Hospital medical records. It's State's Proposed Exhibit No.
3 7.

4 THE COURT: Ms. Walkenshaw.

5 MS. WALKENSHAW: We don't have any objection, Your
6 Honor.

7 THE COURT: It will be admitted.

8 (State's Exhibit 7 admitted)

9 MS. RHOADES: Thank you. And may I approach your
10 clerk with these items.

11 THE COURT: Yes.

12 MS. RHOADES: (Inaudible).

13 MS. WALKENSHAW: And Your Honor, just briefly to
14 clarify, I didn't have any objection given the Court's ruling
15 on this matter that had been previously litigated.

16 THE COURT: Thank you. Noted for the record.

17 MS. WALKENSHAW: Thank you, Your Honor.

18 BY MS. RHOADES:

19 Q Do you remember police officers coming to the
20 apartment?

21 A Yes.

22 Q Do you remember telling the police officers that you
23 don't know what happened?

24 A No.

25 Q Do you remember any injuries that you had that

1 you're aware of that night?

2 A No.

3 Q How about the next day, did you have any injuries
4 the next day?

5 A Yeah. Yes.

6 Q What were those injuries the next day?

7 A I had a black eye, I got a scrape here, I was
8 missing some hair, I had a mark on my throat.

9 Q Anything else that you remember?

10 A No.

11 MS. RHOADES: May I approach the witness, Your
12 Honor?

13 THE COURT: Yes.

14 MS. RHOADES: I'm just showing defense some
15 exhibits that I'm going to approach the witness with, Your
16 Honor.

17 THE COURT: Sure.

18 MS. RHOADES: Thank you. I'm going to move for the
19 admission, Your Honor, I believe, this is stipulated to of
20 State's 41 through 61.

21 MS. WALKENSHAW: That's correct, Your Honor.

22 THE COURT: 41 through 61 are admitted.

23 (State's Exhibits 41 through 61 admitted)

24 MS. RHOADES: Thank you very much. And permission
25 to publish?

1 THE COURT: Yes.

2 MS. RHOADES: Oh, can we switch to this? Thank
3 you. Sorry.

4 BY MS. RHOADES:

5 Q Okay, Brittney, showing you what's been admitted as
6 State's 41. Is that you in that picture?

7 A Yes.

8 Q And is that at the hospital?

9 A Yes.

10 Q Showing you State's 42. Let me try to turn this
11 light on. State's 42, is that the left side of your face?

12 A Yes.

13 Q And was it your left eye that was black?

14 A Yes.

15 Q Showing you State's 44, is that a close-up of some
16 of your hair that was ripped out?

17 A Yes.

18 Q Showing you State's 45. Is that a close-up of your
19 face to include that abrasion that you were telling us about
20 on your forehead?

21 A Yes.

22 Q Showing you State's 48, is that the right side of
23 your face, and are you missing a dreadlock on the right side
24 of your head?

25 A Yes.

1 Q Showing you State's 51. Is that the mark on your
2 neck that you were telling us about?

3 A Yes.

4 MS. RHOADES: And may I approach the witness, Your
5 Honor?

6 THE COURT: Of course.

7 MS. RHOADES: Thank you. I don't think this will
8 show up very well.

9 BY MS. RHOADES:

10 Q This is State's 53. Do you see a scratch on your
11 neck in State's 53 that's separate and apart from that
12 abrasion we're looking at on the monitor?

13 A Yes.

14 Q Publishing 53. You can't see it that well, but
15 where my finger is, is that what we were talking about?

16 A Yes.

17 Q Showing you State's 55. You can see your face in
18 that photo. Fair to say this is your right elbow?

19 A Yes.

20 Q And do you see some abrasions and some bruising on
21 that elbow?

22 A Yes.

23 Q Showing you State's 59, looking at area forehead
24 again, there appears to be two areas on your forehead that
25 were hit, cut or scratched; is that fair to say?

1 A Yes.

2 Q This one that I'm pointing at on the left and then
3 this cut that's kind of right in the middle of your forehead;
4 is that right?

5 A Yes.

6 Q And there's blood dripping down your face on to your
7 nose from that cut in the middle of your forehead; is that
8 right?

9 A Yes.

10 Q And showing you State's 60. Is that a close-up of
11 the left side of your face to show some scratches on your
12 cheek and then that swollen black eye?

13 A Yes.

14 Q And those photos were all taken on January 22nd,
15 while you were in the hospital; is that right?

16 A Yes.

17 MS. WALKENSHAW: Your Honor, if we could just
18 approach briefly.

19 THE COURT: Sure.

20 (Bench conference begins).

21 MS. WALKENSHAW: I just wanted to bring it to the
22 Court's attention, my client indicated to me that one of the
23 individuals observing is kind of a family friend. Given he
24 has an older son, my client does, one of the individual's
25 observing plays on his football team, they know each other,

1 and I --

2 THE COURT: (Inaudible).

3 MS. WALKENSHAW: One of -- my son has an older son
4 -- or my client has an older son. One of the kids that's
5 watching in the courtroom plays on the same football team and
6 knows my client, and I don't know if he knows Brittney, give
7 that they've been together. So I just wanted to bring that
8 to the Court's attention.

9 THE COURT: What does that have to do with -- I
10 mean, I appreciate you bringing it to my attention, but how
11 is that significant?

12 MS. WALKENSHAW: My only concern was that if she
13 did know that individual, I didn't know if it would cause her
14 to be embarrassed regarding her testimony, given that he's
15 friends with Mr. Cooper's son, and any contact that he may
16 have with Mr. Cooper's son regarding this case, I just didn't
17 know if it would affect her testimony, and that's the reason
18 I brought it to the Court's attention.

19 THE COURT: Do you have anything to add?

20 MS. RHOADES: No. My concerns are when the kids
21 come in, I don't want all these people in the courtroom. I
22 think that's too much pressure for them. They're little.

23 THE COURT: Your concern is what?

24 MS. RHOADES: When the kids come in to testify, I
25 would prefer if we didn't have the full audience, but I think

1 this is fine with her right now.

2 THE COURT: All right. Let me ask you this, we did
3 have a question submitted by one of the jurors, since you're
4 up here. I don't know that this is the time to ask it, but
5 I'll give it to you.

6 MS. RHOADES: Okay. We'll talk about that. That's
7 the incident in July, so we'll talk about that, and we have
8 the instruction, too.

9 THE COURT: Um-h'm. And when do we intend to talk
10 about this?

11 MS. RHOADES: After I go through some jail calls
12 and --

13 THE COURT: Oh, you have quite a bit more of this
14 witness?

15 MS. RHOADES: A little bit, yeah.

16 THE COURT: Okay.

17 MS. RHOADES: Yeah, I do.

18 THE COURT: All right. Thank you, counsel.

19 MS. RHOADES: Thank you.

20 (Bench conference concluded).

21 THE COURT: Of the jurors submitted a question,
22 which will be inquired into at a later point in time. So
23 please be patient. Thank you.

24 MS. RHOADES: Thank you, Your Honor.

25 BY MS. RHOADES:

1 Q Okay, Brittney, you are aware that James was
2 arrested that night on January 22nd; is that right?

3 A Yes.

4 Q Do you need a break? Are you okay?

5 A I'm okay.

6 Q Do you remember talking on the phone to James while
7 he was in the Clark County Detention Street?

8 A Yes.

9 Q Do you remember you had several conversations with
10 him?

11 A Yes.

12 MS. RHOADES: Okay, Your Honor, Court's indulgence.

13 THE COURT: Sure.

14 MS. RHOADES: Your Honor, permission to publish a
15 portion of State's Proposed 67 for identification purposes.

16 THE COURT: What is 67?

17 MS. RHOADES: 67 is a jail call that was made
18 January 23rd, at 11:58 a.m., the day after the incident.

19 THE COURT: Any objection by the defense, other
20 than those noted previously?

21 MS. WALKENSHAW: No, Your Honor.

22 THE COURT: Very well. Please proceed.

23 MS. RHOADES: Thank you, Your Honor.

24 THE CLERK: 67, is that admitted?

25 THE COURT: 67 is admitted.

1 MS. RHOADES: I was just going to play it to
2 authenticate their voices just so make sure that it's a phone
3 call between Brittney and James and then I would move for the
4 admission after that.

5 THE COURT: 67 isn't admitted yet.

6 MS. RHOADES: Okay.

7 THE COURT: Thank you.

8 MS. RHOADES: Thank you. Oh, can we switch back
9 over to this? I'm sorry.

10 (Playing recorded phone call).

11 BY MS. RHOADES:

12 Q Okay. Do you recognize the voices on that?

13 A Yeah.

14 Q Is that --

15 A Yes.

16 Q Is that you and James?

17 A Yes.

18 Q Was 702-401-3831 your phone number at that time?

19 A Yes.

20 Q Okay. And you were able to hear -- when the call
21 comes in to you, you're able to hear that the call is
22 recorded; is that right?

23 A Yes.

24 Q And that's for every call that's made from CCDC?

25 A Correct.

1 Q Okay.

2 MS. RHOADES: Permission to -- I'd move for the
3 admission of 67, Your Honor.

4 THE COURT: Any objection other than those noted
5 previously by the defense?

6 MS. WALKENSHAW: No, Your Honor. Thank you.

7 THE COURT: So ordered. It will be admitted.

8 (State's Exhibit 67 admitted)

9 MS. RHOADES: Thank you. And permission to publish
10 the rest of the call?

11 THE COURT: Yes.

12 BY MS. RHOADES:

13 Q So this is January 23rd, 2016 at 11:58 a.m., the
14 very next day, not even 24 hours after the incident; is that
15 right?

16 A Yes.

17 (Playing recorded phone call)

18 BY MS. RHOADES:

19 Q It's kind of hard to hear, but --

20 A Yeah.

21 Q -- did you just say are you coming back here, and he
22 said, yeah, that was my plan?

23 A Yeah, that was hard to hear. Yes.

24 Q Does it sound like that that's what you guys --

25 A Yes.

1 Q -- said?

2 A Yeah.

3 (Playing recorded phone call)

4 BY MS. RHOADES:

5 Q Were a lot of the calls between you and James about
6 his bail and him getting out of jail?

7 A Yes.

8 Q I'm going to go to another call, also made on
9 January 23rd. On that day do you remember telling James that
10 you looked like a fucking clown?

11 A No.

12 Q Do you remember if you looked like a clown on that
13 day?

14 A Yeah.

15 Q You did?

16 A Yeah, I remember realizing and then yes, I didn't
17 appear like I usually do.

18 Q Okay. On one of the -- on another call that day,
19 that January 23rd day, do you remember telling James that you
20 didn't remember going to the hospital?

21 A No.

22 MS. RHOADES: Okay. Your Honor, permission to
23 publish a portion of State's Proposed 68 for identification
24 purposes only.

25 THE COURT: Is this another video?

1 MS. RHOADES: It's another jail call. I won't play
2 that whole entire portion. I just wanted that introductory
3 part so everybody heard that that was what's on the calls
4 when they're made. I just want to -- I want her to identify
5 the voices on the call again.

6 THE COURT: For what -- for purposes of the record,
7 what is the number of this proposed exhibit?

8 MS. RHOADES: 68.

9 THE COURT: 68, very well.

10 MS. RHOADES: Thank you.

11 (Playing recorded call).

12 BY MS. RHOADES:

13 Q Do you recognize the voices on that call?

14 A Yes.

15 Q Okay. Is that you and James Cooper?

16 A Yes.

17 MS. RHOADES: I'd move for the admission of State's
18 68, Your Honor.

19 THE COURT: Any objection other than those noted
20 previously by the defense?

21 MS. WALKENSHAW: No, Your Honor. Thank you.

22 THE COURT: So ordered, 68 will be admitted.

23 (State's Exhibit 68 admitted)

24 MS. RHOADES: Your Honor, please, are you able to
25 hear that okay? If it's just on the laptop, it's a little

1 bit more clear. I don't know, should we turn the TV down?

2 Is it --

3 THE COURT: I can hear it all right. Can the
4 members of the jury hear it? That's the most important
5 question.

6 MS. RHOADES: That is. Okay.

7 THE COURT: Okay. Please proceed.

8 MS. RHOADES: Thank you. And permission to publish
9 a --

10 THE COURT: Yes.

11 MS. RHOADES: -- portions of the call. Okay. For
12 the record, I'm going to go about 3 minutes and 40 seconds
13 into the call.

14 (Playing the recorded call).

15 BY MS. RHOADES:

16 Q Okay, I'm going to stop it there at 7:59. Okay,
17 Brittney, I'm going to move on to another call made on that
18 same day, January 23rd.

19 MS. RHOADES: This is State's Proposed 69, Your
20 Honor. Permission to publish a portion of it for
21 identification purposes?

22 THE COURT: Yes.

23 MS. RHOADES: Thank you.

24 (Playing the recorded call).

25 BY MS. RHOADES:

1 Q Did you hear those two voices on that call?

2 A Yes.

3 Q Is that you and James again?

4 A Yes.

5 Q Okay.

6 MS. RHOADES: Your Honor, I'd move for the
7 admission of State's 69.

8 THE COURT: Any objection by the defense, other
9 than that previously noted?

10 MS. WALKENSHAW: None other, thank you, Your Honor.

11 THE COURT: So ordered.

12 (State's Exhibit 69 admitted)

13 MS. RHOADES: Thank you, Your Honor. And I'm going
14 to go about five minutes in.

15 (Playing the recorded call).

16 BY MS. RHOADES:

17 Q And you just -- you both told each other that you
18 love each other, right?

19 A Yes.

20 MS. RHOADES: Okay, Your Honor, I'm moving on to
21 another call that's made January 23rd. Proposed Exhibit 70.
22 May I publish a portion for identification purposes?

23 THE COURT: Yes.

24 MS. RHOADES: Thank you.

25 (Playing the recorded call).

1 BY MS. RHOADES:

2 Q Do you hear two voices on that call?

3 A Yes.

4 Q And is that you and James?

5 A Yes.

6 Q Okay.

7 MS. RHOADES: I'd move for the admission of State's
8 70, Your Honor.

9 THE COURT: Any objection other than that
10 previously noted?

11 MS. WALKENSHAW: No, Your Honor. Thank you.

12 THE COURT: 70's admitted.

13 (State's Exhibit 70 admitted)

14 MS. RHOADES: Thank you, Your Honor. I'm going to
15 go to 3 minutes and 56 seconds in.

16 (Playing the recorded call).

17 BY MS. RHOADES:

18 Q So at the beginning of the call, did you hear
19 yourself say is there any way that you can turn yourself in?

20 A Yes.

21 Q And then did you hear James just say, you know what
22 you got to do. Just do what you got to do, you know what I'm
23 saying? Did you hear him say that?

24 A Yes.

25 (Playing the recorded call).

1 MS. RHOADES: Okay. Moving on, Your Honor, to a
2 call that was made January 24th. I would move to publish
3 just a portion for identification purposes only State's
4 Proposed 71.

5 THE COURT: Yes.

6 MS. RHOADES: Thank you.

7 (Playing the recorded call).

8 BY MS. RHOADES:

9 Q Did you hear two voices on there or no?

10 A Yes.

11 Q Okay. Was that you and James?

12 A Yes.

13 MS. RHOADES: I'd move for the admission of State's
14 71, Your Honor.

15 THE COURT: Any objection other than that noted
16 previously?

17 MS. WALKENSHAW: No, Your Honor. Thank you.

18 THE COURT: 71's admitted.

19 (State's Exhibit 71 admitted)

20 MS. RHOADES: Thank you. And I'm going to go to
21 about 5:25 in.

22 BY MS. RHOADES:

23 Q And Brittney, these are not all the calls that were
24 made during this time; is that fair to say? There were
25 multiple calls. We're not playing all of them. Is that fair

1 to say?

2 A Yes.

3 (Playing the recorded call).

4 MS. RHOADES: May I approach your clerk, Your
5 Honor?

6 THE COURT: Yes.

7 MS. RHOADES: May I approach the witness?

8 THE COURT: Yes.

9 BY MS. RHOADES:

10 Q Brittney, I'm going to show you what's been marked
11 as State's Proposed Exhibit No. 5. Do you recognize this
12 document?

13 A Yes.

14 Q And how do you recognize it?

15 A This is a statement I gave to his lawyer.

16 Q And when you say his, are you talking about James?

17 A Yes.

18 Q And that's your handwriting on the document and you
19 recognize that handwriting?

20 A Yes.

21 Q Is it dated and signed at the bottom, dated January
22 26th, 2016?

23 A Yes.

24 MS. RHOADES: Your Honor, I'd move for the
25 admission of State's Proposed 5.

1 THE COURT: Any objection by the defense?

2 MS. WALKENSHAW: No, Your Honor.

3 THE COURT: So ordered.

4 (State's Exhibit 5 admitted)

5 MS. RHOADES: Thank you.

6 BY MS. RHOADES:

7 Q I just want to go through a couple of things that
8 you wrote in this letter. Looking at State's 5. At the
9 bottom here you say, I would just like to say that I am 100
10 percent to blame for the events that took place on the
11 evening of January 22nd, 2016. Is that what you wrote?

12 A Yes.

13 Q Okay.

14 MS. RHOADES: May I approach the witness again,
15 Your Honor?

16 THE COURT: Yes.

17 MS. RHOADES: Thank you.

18 BY MS. RHOADES:

19 Q Okay. Going back to State's 5. I just want to find
20 my place here. You wrote that you decided to speak with
21 James about something that I was upset about that happened a
22 couple weeks prior. When we were talking, I started getting
23 upset and when James tried to remove himself from the
24 situation, I followed him and then I attacked him and I
25 proceeded to continue to attack him throughout the house and

1 pulled a lot of his hair out. You wrote that, right?

2 A Yes.

3 Q And then he placed a call to 911, and then I started
4 belligerently yelling profanities and yelled to my son to
5 also call 911. You wrote that, right?

6 A Yes.

7 Q And then you said when 911 did arrive, they just
8 looked at my injuries and saw how intoxicated I was and told
9 me you are going to the hospital, and when I arrived there,
10 they didn't ask me what happened or anything. They just took
11 pictures and started saying what they were going to be
12 charging him with.

13 A Yes.

14 Q You wrote that, right? Okay. Did you appear at
15 Mr. Cooper's very first court date on this case on January
16 27th, 2016?

17 A Yes.

18 Q Were you subpoenaed by the State or anybody to
19 appear?

20 A For that day?

21 Q Yes.

22 A No.

23 Q Okay. Were you there in support of James?

24 A Yes.

25 Q Did you a black eye that day?

- 1 A Yes.
- 2 Q Do you remember being ordered by the Court that day
3 to appear for his hearing on February 10th?
- 4 A Yes.
- 5 Q Did you appear for his hearing on February 10th?
- 6 A No.
- 7 Q Did you also not appear for his court hearing that
8 was continued to February 25th?
- 9 A What was -- how did you question that?
- 10 Q Did you appear for his court day on February 25th?
- 11 A No.
- 12 Q Even though you were subpoenaed to come; is that
13 correct?
- 14 A Right.
- 15 Q And he was out of custody shortly after that January
16 27th, initial appearance date; is that fair to say?
- 17 A Yes.
- 18 Q He was out of custody before the February 10th
19 preliminary hearing; is that right?
- 20 A Yes.
- 21 Q Did he come back to live with you after he got out
22 of jail?
- 23 A Yes.
- 24 Q And the kids?
- 25 A Yes.

1 Q When he came back home, did you see any injuries
2 that he had?

3 A His finger, I -- I remember a little -- I just don't
4 remember any injuries. I just remember a lot of his hair was
5 gone.

6 Q Did you have injuries when he came home?

7 A Yes.

8 Q Do you remember what the injuries you still had when
9 he came home?

10 A The scratch on my head, I'm sure my eye's healing
11 process.

12 Q On January 22nd, were the kids taken away for a
13 couple days and they lived somewhere else?

14 A Yes.

15 Q And then you got them back; is that right?

16 A Yes.

17 Q What day did you get them back?

18 A The following Monday. I believe, it was very -- as
19 quick as I could. It might have been Sunday.

20 Q So from when he bailed out early -- late January,
21 February 1st, 2016 all the way to July 2016, was he living
22 with you and the kids in that apartment?

23 A Yes.

24 Q At some point, did you move to Arizona?

25 A Yes.

1 Q With the kids?

2 A Yes.

3 Q When did you move to Arizona?

4 A I think roughly March, maybe.

5 Q Of 2016?

6 A Yes.

7 Q Well, you just testified that you were living in the
8 apartment with him from February 2016 to July 2016.

9 A Yes.

10 Q Okay. But you moved to Arizona in March?

11 A Right.

12 Q Tell us -- can you explain that?

13 A Yeah, I left because I didn't want to talk to you
14 guys. Nobody wanted to charge me. Nobody wanted to listen,
15 so I thought if I just stayed away that it would go away. So
16 I went to my friend's in Arizona for a while.

17 Q Who's your friend in Arizona?

18 A Her name is Rambo.

19 Q What's Rambo's last name?

20 A Orth (phonetic).

21 Q How long have you known Rambo for?

22 A Since I was four.

23 Q And you stayed with her at her house in Arizona when
24 you were trying to evade service?

25 A Exactly.

1 Q And then did you come back when you thought it was
2 over?

3 A Yeah. I didn't think it was over. I just wanted to
4 come back.

5 Q And when you came back, you lived in that apartment
6 111 with James, Cameron and Kaylee?

7 A Right.

8 Q Going to August, do you remember talking to James on
9 the phone from the detention center on August 10th, 2016?

10 A I don't -- I talked to him a lot.

11 Q Okay. Do you remember on August 10th, whether you
12 told him you were playing dodge ball or something, you were
13 still playing dodge ball?

14 A Yeah, I probably did say that.

15 Q But you don't specifically remember?

16 A Right.

17 Q But it sounds like something, --

18 A Yeah.

19 MS. RHOADES: Your Honor, to publish for
20 identification purposes State's 72.

21 THE COURT: Yes.

22 MS. RHOADES: Thank you.

23 (Playing recorded call).

24 BY MS. RHOADES:

25 Q Do you hear your two voices on that call?

1 A Yes.

2 Q And that's you and James?

3 A Yes.

4 Q Okay.

5 MS. RHOADES: Permission -- or I'm sorry, I move to
6 admit State's 72, Your Honor.

7 THE COURT: Any objection other than that noted
8 previously?

9 MS. WALKENSHAW: No, Your Honor. Thank you.

10 THE COURT: So -- so ordered. 72's admitted.

11 (State's Exhibit 72 admitted)

12 MS. RHOADES: Thank you, Your Honor. And I'm going
13 to play about 13 minutes in.

14 (Playing recorded call).

15 BY MS. RHOADES:

16 Q Okay. Do you and the kids live in Arizona now?

17 A Yes.

18 Q How are you guys doing?

19 A Amazing.

20 Q Does anyone else live with you and the kids?

21 A I have a cat.

22 Q Is its name Chloe?

23 A Yes.

24 Q Okay.

25 MS. RHOADES: Your Honor, may we approach?

1 THE COURT: Yes.

2 (Bench conference begins).

3 MS. RHOADES: Here's the instruction. I'm going to
4 ask about that (inaudible). Do you want to take a break?

5 THE COURT: You've got quite a bit more, I take it.

6 MS. RHOADES: Just that other incident, but --

7 THE COURT: I suppose we probably should take a
8 break. The jury's been sitting here all morning without one.

9 MS. RHOADES: Just like ten minutes?

10 THE COURT: That's -- ten minutes? How about lunch
11 break?

12 MS. RHOADES: Oh, well, I was -- we were hoping to
13 get the kids on before lunch, I don't know that that's going
14 to happen, though.

15 THE COURT: I don't think it's going to happen --

16 MS. RHOADES: Okay.

17 THE COURT: -- because the defense still has to
18 examine this witness.

19 MS. RHOADES: Okay.

20 THE COURT: So let's take our lunch break now.

21 Come back --

22 MS. RHOADES: Okay.

23 THE COURT: -- 1:00 o'clock.

24 MS. WALKENSHAW: Okay. That's great. Thank you.

25 (Bench conference concluded).

1 THE COURT: Okay, members of the jury, you've been
2 sitting over there all morning. It's been a long morning.
3 We haven't given you a break yet. We're going to take a
4 lunch break now.

5 I remind you of your obligation not to talk about
6 this case, not to form or express any opinion, not to do any
7 research on any subject connected with this case, including,
8 but not limited to, newspapers, television, radio, the
9 Internet, and all forms of social media.

10 Please return promptly at 1:00 o'clock so we may
11 resume. Thank you.

12 (Outside the presence of the jury)

13 THE COURT: May I see counsel at the bench, please.

14 (Bench conference begins)

15 THE COURT: So I didn't ask Ms. Walkenshaw,
16 probably we should have asked her. You had indicated you
17 didn't want the children to be called to testify around the
18 students packed in the courtroom.

19 MS. RHOADES: Right.

20 THE COURT: What were your thoughts, Ms.
21 Walkenshaw?

22 MS. WALKENSHAW: I agree, Your Honor.

23 THE COURT: You do?

24 MS. WALKENSHAW: I completely understand,
25 absolutely.

1 THE COURT: Okay. Fair enough. I don't know if
2 they'll still be here at 1:00 or not, but I'll address it if
3 they are.

4 MS. RHOADES: Okay. And we still have a while to
5 go with Brittney, so --

6 THE COURT: We do.

7 MS. RHOADES: -- maybe we won't be dark tomorrow,
8 Your Honor.

9 THE COURT: I know.

10 MS. RHOADES: Can we address something after
11 Brittney gets off the stand?

12 THE COURT: Sure.

13 MS. RHOADES: Or we can do it when we have time to
14 research that domestic violence issue.

15 THE COURT: Is it with respect to that?

16 MS. RHOADES: It's with respect to that and it's
17 with respect to marijuana. Like, there was a portion of the
18 (inaudible) cut out where he says he actually was using
19 marijuana, and we cut that out, because it's a bad act and it
20 hadn't been litigated. And I just wanted to make sure that
21 they don't ask about that in their cross-examination of her
22 because it serves absolutely no value.

23 THE COURT: Well --

24 MS. RHOADES: Because once that question gets
25 asked, I mean --

1 THE COURT: Let's address this issue briefly so
2 that you'll each have an opportunity to do some further
3 research if you think it's necessary because I have some
4 initial thoughts about this --

5 MS. RHOADES: Okay.

6 THE COURT: -- particular evidence that defense
7 seeks to get in.

8 MS. RHOADES: Okay.

9 THE COURT: In the meantime, Ms. Jensen, you may be
10 excused. You understand that you're still under subpoena,
11 and you need to come back at 1:00 o'clock so that counsel can
12 resume examination. Thank you, ma'am.

13 THE WITNESS: Thank you.

14 MS. RHOADES: There was also, Your Honor, a
15 material witness warrant for her in the system that I think
16 we can -- we can quash. Maybe do that after --

17 THE COURT: After she testifies.

18 MS. RHOADES: After her and the kids leave, yeah.

19 THE COURT: All right. Thank you, counsel.

20 MS. RHOADES: Thank you.

21 (Bench conference concluded).

22 (Court/Marshal conferring)

23 THE COURT: So outside the presence of the jury.

24 There was an issue that counsel wanted to address

25 specifically having to do with victim character evidence, and

1 I think we should go on record and make a brief record at
2 this point in time. Ms. Walkenshaw?

3 MS. WALKENSHAW: Thank you, Your Honor. There was
4 some evidence regarding a prior domestic violence that Ms.
5 Jensen had been convicted of previously. Under NRS 48.045,
6 propensity evidence is not admissible unless the accused
7 offers it. And the defense's position is that this evidence
8 would be exempt from a hearing.

9 There is one exception, and that's 48.069, which
10 indicates that propensity is not allowed in sexual assault
11 cases and that's to show that the victim consented before and
12 is now consenting, that type of propensity evidence if
13 offered by the accused does require a hearing. That is a
14 lineated exception. However, that is the only time where a
15 hearing is required where it's the accused who seeks to admit
16 evidence of a bad act.

17 I provided the State with a court case, Daniel
18 versus State, 119 NEV 498, which indicates that specific acts
19 of a victim's violence are admissible under 48.055. The
20 caveat to that is that the defendant must have known of the
21 victim's violent past at the time of the battery, which we
22 would be prepared to establish.

23 It is relevant to self-defense, and it's to show
24 that the defendant acted reasonably given that he knew of a
25 tendency for violence.

1 THE COURT: Ms. Rhoades.

2 MS. RHOADES: Yes, Your Honor. I think that is
3 really, really stretching it. And I did just get this
4 citation to the case today so I haven't been able to read
5 that case. I'm looking at my bad acts motion trying to find
6 the exact language of 48.045.

7 I mean, evidence of other crimes, wrongs or acts is
8 not admissible to prove the character of a person in order to
9 show that he acted in conformity therewith. It doesn't say
10 evidence of other crimes, wrongs or acts is not admissible to
11 prove the character of the defendant only. It's of a person.

12 So it's the State's position that this has to be
13 litigated. A hearing has to be held. It has to be proven by
14 clear and convincing evidence if you're going to try to admit
15 a bad act and there has to be a reason for it. A reason that
16 the probative value outweighs the risk of unfair prejudice,
17 confusion of the issues, which I think is exactly what it is
18 here.

19 I have the report from that incident. I saw that
20 it was -- State felt it was not admissible at all. That it
21 doesn't come in to impeach her. It's not a felony
22 conviction. It's not a crime of moral turpitude, anything
23 like that. But I do have the report. It's from an incident
24 May 8th, 2012, where she was living with her friend, Rambo,
25 that she just testified she had known since she was four

1 years old. Brittney was drinking. Brittney kicked in the
2 door of Rambo's bedroom in the apartment, kicked Rambo and
3 ripped her clothes.

4 So it's a fight between Brittney and Rambo. I
5 mean, it's nothing like she held her down and choked her, she
6 stabbed her, she ripped her hair out so the defendant would
7 be so terrified of Brittney that he acted reasonably and
8 everything that he did and the injuries that he caused on
9 Brittney is the argument.

10 But he knew about this May 2012, and so that caused
11 him to be so scared of Brittney that he reacted the way that
12 he did, which I think is a stretch, unreasonable, hasn't been
13 proven by clear and convincing evidence, confuses the issues.
14 The probative value, you know, there's not much probative
15 value to this when Brittney gets up there and says it's a
16 hundred percent my fault, I started it, I pulled his hair, he
17 was acting in self-defense is basically what she says.

18 So we would object to asking about that.

19 THE COURT: Ms. Walkenshaw.

20 MS. WALKENSHAW: Thank you, Your Honor. And I
21 think that given those facts, they are very similar to the
22 incident that occurred here. Rambo is trying to get away
23 from Brittney. She separated herself. Mr. Cooper was trying
24 to get away from Brittney, he separated himself. In that
25 case, she broke the door down. In this case, she refused to

1 leave Mr. Cooper alone.

2 She ripped Rambo's clothes. She ripped
3 Mr. Cooper's hair. I think that they're very similar
4 incidents and so it is probative. But more importantly, it
5 goes to the defense's theory. And it's not propensity
6 evidence. The issue isn't that this incident occurred and so
7 any other incident must be her fault.

8 The issue is that Mr. Cooper was acted in
9 self-defense. And there's a fact pattern be that exists that
10 is very similar to the fact pattern in our case. He was
11 aware of this incident at the -- he was aware of her previous
12 incident at the time of their incident that's at issue in
13 this trial.

14 And I do think that it's extremely probative in his
15 frame of mind and whether he acted in self-defense. That is
16 obviously the defense's position, as Ms. Rhoades indicated
17 and as Ms. Jensen testified that he was acting in
18 self-defense. But this does give some context into that in
19 that he was aware of how she behaved in similar situations
20 previously.

21 And as I indicated, he was aware of this at the
22 time of this incident, which under Daniel versus State is one
23 of the requirements, and we will be able to establish that.

24 THE COURT: So it's the Court's view that -- and
25 specifically citing to the Daniels case, Daniel v. State of

1 Nevada, 119 Nevada 498. Supreme Court stated, "We conclude
2 that the character of the victim is not an essential element
3 of self-defense."

4 However, the Court does go on to say that, "This
5 Court has held that evidence of specific acts showing the
6 victim was a violent person is admissible if the defendant
7 seeks to establish self-defense and was aware of those acts.
8 The evidence is relevant to the defendant's state of mind."

9 So I think if the defense can lay the proper
10 foundation, that specific act can come in.

11 MS. WALKENSHAW: Thank you, Your Honor.

12 MS. RHOADES: And they would be able to lay -- I
13 mean, they can't ask Brittney what Mr. Cooper knows.

14 THE COURT: Right.

15 MS. RHOADES: I think the only way to lay that is
16 if Mr. Cooper testifies.

17 THE COURT: I can't think off the top of my head
18 any other way that the defense can get it in, but that's not
19 my job to figure out how they do their job. I just know that
20 this particular foundation needs to be laid before the
21 defense can seek to admit this evidence.

22 MS. WALKENSHAW: If Ms. Jensen admitted that she
23 had advised Mr. Cooper of that previous incident, would that
24 be --

25 THE COURT: I'm not saying the defendant has to

1 testify. He doesn't have to testify. He has a
2 Constitutional right not to testify. But the way I read
3 this, somebody has to establish that he was aware of those
4 facts, and I don't think you can -- in the plaintiff's case
5 in chief, I don't think for cross-examination purposes, if
6 you will, you can elicit that testimony from her now.

7 MS. WALKENSHAW: Okay.

8 THE COURT: So having said that, also, if it does
9 come in, a proper jury instruction needs to be fashioned by
10 counsel so that the jury can be instructed they're not to
11 consider this evidence, character evidence, that she has a
12 propensity to violence, but that the evidence is coming in
13 strictly because it relates to defendant's state of mind, if
14 he did, indeed, know about it in advance. So --

15 MS. RHOADES: And Your Honor, if there's anything
16 else that we want to put on the record, because -- about case
17 law regarding the bad act having to have been proved by clear
18 and convincing evidence. We'll bring it when we come back.

19 THE COURT: Sure. In the meantime, we have an
20 audience full of students. We appreciate their presence here
21 today. We're going to break officially, but I'd like to step
22 down and speak to the students, if they want to speak to me
23 or ask any questions. In addition, counsel, I urge counsel
24 to stick around, too, because they quite often want to hear
25 from the attorneys, especially when they've had an

1 opportunity to sit and observe court this morning.

2 So that said, we'll break officially and --

3 MS. RHOADES: Your Honor, I'm so sorry, before we
4 do that, I did make a record of the marijuana issue at the
5 bench. I don't know if that was something they planned on
6 getting into.

7 THE COURT: Very well, let's address it now. Ms.
8 Rhoades.

9 MS. RHOADES: On Mr. Cooper's 911 call he says --
10 they say was she using any drugs, and he says marijuana
11 earlier. We cut that out because it's a bad act. Hasn't
12 been proven, not probative. So I just wanted to make sure at
13 the didn't go up there and ask Brittney were you smoking
14 marijuana that night because the value of that, you know, is
15 to smear her name. I don't think there's any probative value
16 to that. So I just wanted to head that off.

17 THE COURT: Ms. Walkenshaw.

18 MS. WALKENSHAW: Well, Your Honor, I think that it
19 would go to her state of mind, I can refrain from asking it
20 in this way, but I do think that the defense would be able to
21 ask her if she was under the influence of any substances.

22 We've heard testimony and she admitted that she was
23 under the influence of alcohol and had been drinking heavily
24 that evening and that day. And so I do think that we would
25 be able to ask that. Obviously, it goes to her state of mind

1 at the time. It would also go to, you know, explaining why
2 she may have behaved the way that she did, stated the things
3 that she said. And I'll submit it on that.

4 THE COURT: Any further argument, Ms. Rhoades?

5 MS. RHOADES: No, think that's an okay question,
6 were you under the influence of any substances that night to
7 include alcohol? I don't think that were you using marijuana
8 that night is a fair question.

9 THE COURT: Well, you may get that response when
10 Counsel asks were you under the influence of any intoxicating
11 substances, she may offer that up.

12 MS. RHOADES: I think that's fair.

13 THE COURT: I do, too. So it seems to me that you
14 can get into that area, Ms. Walkenshaw.

15 MS. WALKENSHAW: Thank you, Your Honor.

16 MS. RHOADES: And that's all. Thank you.

17 THE COURT: Okay. Thank you.

18 (Court recessed at 11:49 p.m. until 1:16 p.m.)

19 (Outside the presence of the jury)

20 MS. RHOADES: The fact that she has a battery
21 domestic violence conviction, there's no way that that
22 conviction comes in. Maybe the underlying circumstances of
23 the conviction comes in, but not the actual conviction. So I
24 think that that was improper to say in opening because that's
25 not coming in. We still feel that these acts should be

1 proved up, even if the defendant were to get on the stand and
2 say, yeah, she told me about this, and that's based on a
3 couple cases that I have here for the record. And I
4 understand the Court's ruling. I just want to make a record.

5 THE COURT: Sure.

6 MS. RHOADES: Roske v. State (phonetic), 121 Nevada
7 184. It talks about -- it applies to the other bad acts of
8 any person and person is in quotes. Thus, the presumption of
9 inadmissibility attaches to all prior bad act evidence.

10 So the presumption of inadmissibility is, in
11 effect, to this domestic violence act. As well, there's also
12 a federal court case interpreting the federal rule 404(b)
13 that our bad acts statute is essentially based on. That's
14 the United States v. McCourt, 925 F.2d 1229. It's out of the
15 Ninth Circuit 1991. I just wanted to put that on the record.

16 I think that they would still have to prove it up
17 even if the defendant got on the stand and said yeah, she
18 told me about it. I mean, he can get on the stand and say
19 yeah, she told me about anything.

20 THE COURT: Well, it's a good point, one you're
21 raising for the first time. I imagined maybe erroneously
22 that they wouldn't have made that statement if they didn't
23 have the ability to prove it up. Is that not the case, as
24 Walkenshaw?

25 MS. WALKENSHAW: And did you mean prove it up

1 through Brittney's testimony or through Mr. Cooper's?
2 Because I had anticipated, and I had wanted to address this
3 with Your Honor regarding, I know that the Court had
4 indicated that -- and I wrote it down -- that the defense
5 would obviously be required to lay the foundation as to how
6 it was that Mr. Cooper learned about these facts.

7 THE COURT: Right.

8 MS. WALKENSHAW: And my intention was to ask
9 Brittney whether she had advised Mr. Cooper of this incident.
10 And if she had, if they had had a conversation about it and
11 what details that she had provided to him.

12 She obviously would have been a party to that
13 conversation and would be able to say what it was that she
14 told Mr. Cooper, thus I think laying the foundation for what
15 he was aware of regarding the situation.

16 And I wanted to see if that was -- because I didn't
17 -- I didn't want to violate the Court's order in any way, and
18 so I wanted to clarify that with Your Honor first, whether
19 she would be able to testify if she had told him, if she
20 recalls telling him regarding that incident. And then I
21 understand Your Honor indicated, obviously, he has the right
22 not to testify. Should he testify, then I could obviously
23 ask him if he was aware of it. But I wanted to clarify if I
24 could ask her in that way.

25 THE COURT: What about that, Ms. Rhoades?

1 MS. RHOADES: I think that's hearsay. It's an
2 out-of-court statement offered for the truth of the matter
3 asserted. I can tell the Court that the State has made its
4 decision based on the inappropriate statement during opening
5 to ask Brittney about this, because now it's just standing
6 out there, you know, she's got prior battery domestic
7 violence and they're going to be thinking what are they --
8 you know, what's going on?

9 So the State is going to ask some preliminary
10 questions about this.

11 THE COURT: Okay. Well, let me ask you this,
12 you've got the ability to run her SCOPE. Does she have a
13 conviction for battery domestic violence or doesn't she?

14 MS. RHOADES: Yes. Yes. And I have the report. I
15 provided that today. I did not provide it earlier because
16 under the impeachment rules under Giglio (phonetic) that's
17 not -- we're not obligated to turn that over. I believe, Ms.
18 Walkenshaw subpoenaed the report. She never asked me for it,
19 otherwise I would have given it to her. I just -- it's not
20 our obligation because we didn't feel it was appropriately
21 asked about because it's not a felony, it's not a crime of
22 moral turpitude going to honesty. So any of those ways to
23 impeach her that wouldn't come in.

24 THE COURT: Did you run her SCOPE before this
25 trial?

1 MS. RHOADES: Yes.

2 THE COURT: So you knew about it?

3 MS. RHOADES: Yes.

4 THE COURT: But you didn't mention it to defense
5 counsel?

6 MS. RHOADES: No. The battery domestic violence
7 conviction from 2012, no.

8 THE COURT: So, you know, I have to say, with
9 respect to a victim in a case like where it's a crime of
10 violence that's alleged by the State, I would say the
11 victim's character is pretty much going to be an issue.

12 MS. RHOADES: I didn't necessarily think that that
13 was the case under the case law under the statutes. That's
14 why I didn't provide -- I mean, they have the ability to run
15 be SCOPE. She obviously, subpoenaed the records --

16 THE COURT: Oh, they do?

17 MS. RHOADES: -- knew about the case as well.

18 THE COURT: They do? You have the ability to run
19 SCOPE?

20 MS. WALKENSHAW: I don't personally. My
21 investigator does. And I was aware of the incident based off
22 of conversation I -- conversations I had had with Mr. Cooper,
23 and we did subpoena the records. For whatever reason
24 Henderson wouldn't provide them to us.

25 Ms. Rhoades did provide me a copy of it today.

1 Obviously, you know, the defense's position is that it is
2 exculpatory given that it goes to -- I mean, and as Your
3 Honor indicated, the State's charging Mr. Cooper with an act
4 of violence, and this is an incident where the victim was
5 charged with and convicted of a very similar act where she
6 was the aggressor.

7 And so that would just be the defense's position on
8 it. But in regarding to how you wanted me to question her, I
9 wanted to make sure that I didn't, you know, violate any
10 Court order.

11 THE COURT: Defense has asserted a self-defense
12 claim for how long has the State known about their
13 self-defense?

14 MS. RHOADES: Not directly from the defense. I
15 know that Brittney's saying she's a hundred percent at fault
16 based on the conversations that she's had with the defendant.
17 But obviously, you know, we don't know what they're going to
18 bring up.

19 They never specifically requested any of these
20 materials. The State does not feel that this is exculpatory
21 in any way, nor would it be admissible had -- I think the bad
22 act motion should have been brought as well. And they did
23 know about the conviction themselves. They do have an
24 obligation to do their own, you know, due diligence, and they
25 did. They weren't able to get the report.

1 Had that report been requested from me, I would
2 have gotten it from them. I got it late last week, and I
3 just happened to have a copy of it, and I provided that to
4 them today. But the request was never made of me to get
5 that.

6 THE COURT: Okay. So you're planning to explore
7 this issue anyway because the jury heard the statement in
8 opening?

9 MS. RHOADES: Yes, Your Honor.

10 THE COURT: So what are you asking me to do, Ms.
11 Rhoades?

12 MS. RHOADES: I'm just making a record.

13 THE COURT: Not asking me to do anything?

14 MS. RHOADES: No.

15 THE COURT: Okay.

16 MS. RHOADES: I mean, no, I don't think they should
17 be able to well, he knew about it. That would be speculation
18 on Brittney's part.

19 MS. WALKENSHAW: And the question from our position
20 was going to be whether she had told him about it, whether
21 she personally had told him about it. Whether they had had
22 conversations about it. Whether she had described the
23 incident and what had happened. So it would be her --

24 THE COURT: No, I think it's fair game. I think
25 the victim's character in a case like this where the State is

1 alleging some violent acts on the part of the defendant is
2 fair game. So you can go into it, Ms. Walkenshaw can follow
3 up on it.

4 MS. WALKENSHAW: Okay. Thank you, Your Honor.

5 THE COURT: Anything else?

6 MS. RHOADES: I don't believe so. If I could just
7 get some exhibits.

8 (Pause in the proceedings)

9 THE COURT: Can we bring our jury panel?

10 MS. RHOADES: Yeah, yeah. If you want to bring
11 Brittney back in or whichever one.

12 THE COURT: Do you have a lot more of this witness,
13 Ms. Rhoades?

14 MS. RHOADES: No, Your Honor.

15 THE COURT: And at what point are counsel asking me
16 to read this bad act instruction to the jury?

17 MS. RHOADES: I guess right now.

18 MS. WALKENSHAW: Yeah, I would just that it -- I
19 believe Ms. Rhoades intends on getting into that as soon as
20 we resume. And so I would just ask that it be read.

21 THE COURT: Shall I get it out of the way first
22 before you resume your --

23 MS. RHOADES: Yeah.

24 THE COURT: -- examination?

25 MS. RHOADES: And I think it applies to Ms. Jensen

1 as well. Remember you asked them to have an instruction
2 about too? But I think --

3 THE COURT: Well --

4 MS. RHOADES: -- that can be applicable to both of
5 them or is it specific?

6 THE COURT: I mean, at some point before the jury
7 gets the law that the Court's going to read them, we need to
8 have that instruction, Ms. Walkenshaw.

9 MS. WALKENSHAW: I believe I had submitted it with
10 mine last night.

11 THE COURT: You do?

12 MS. WALKENSHAW: I included one in my proposed
13 instructions.

14 THE COURT: I have it in chambers.

15 MS. WALKENSHAW: (Inaudible) bad act.

16 (Court/Clerk conferring)

17 (Bench conference begins)

18 MS. RHOADES: Your Honor, can we see that real
19 quick?

20 THE COURT: Um-h'm, sure.

21 MS. RHOADES: Thank you. So I would want them to
22 be instructed on both because right now we're going to get
23 into that prior. So if we could get that instruction from --
24 that the defense submitted. What does it say?

25 THE COURT: (Inaudible).

1 MS. RHOADES: Can I just read that real quick?

2 THE COURT: (Inaudible).

3 MS. RHOADES: I think it might be the exact same
4 (inaudible).

5 THE COURT: Please be seated.

6 (In the presence of the jury)

7 MS. RHOADES: Because mine says something about
8 like it goes toward motive (inaudible).

9 MS. WALKENSHAW: (Inaudible) defendant or any other
10 person.

11 MS. RHOADES: Yeah. That works (inaudible).
12 Your Honor, I think we have an agreement. If we could just
13 read like that instruction, I think that covers it.

14 THE COURT: Okay.

15 MS. RHOADES: Okay. Thank you.

16 THE COURT: Thank you.

17 (Bench conference concluded)

18 THE COURT: Okay. Good afternoon, members of the
19 jury.

20 THE JURY: Good afternoon.

21 THE COURT: Thank you for returning, each and every
22 one. Will counsel stipulate to the jury's presence?

23 MS. RHOADES: Yes, Your Honor.

24 MS. WALKENSHAW: Yes, Your Honor.

25 THE COURT: So we're back on record. There is an

1 instruction the Court is going to give you now, and you'll
2 also get this instruction at the end of the case.

3 It reads, "Evidence that the defendant or any other
4 person committed offenses other than that for which he is on
5 trial, if believed, was not received and may not be
6 considered by you to prove that he is a person of bad
7 character or to prove that he has a disposition to commit
8 crimes. You must weigh this evidence in the same manner as
9 you do all other evidence in the case.

10 Ms. Rhoades, are you ready to resume your
11 examination of Ms. Jensen?

12 MS. RHOADES: Yes, Your Honor. Thank you.

13 BY MS. RHOADES:

14 Q What are -- well, what's James Cameron's birthday?

15 A 03/05/07.

16 Q And how about Kaylee?

17 A 0 -- sorry. 01/26/10.

18 Q Okay. I'm going to take you a little bit back,
19 well, way back. May 8th, 2012, do you remember who you were
20 living with that at that time?

21 A I -- was I in -- no. I don't remember dates.

22 Q Okay. Do you remember living at the Crescent Ridge
23 Apartments?

24 A Yes.

25 Q Okay. And would that have been in May 2012?

1 A Yeah.

2 Q Who did you live there with?

3 A My friend, Rambo Orth.

4 Q Anyone else?

5 A My two kids.

6 Q In 2012, okay? Both of them were already born?

7 A Yes.

8 Q Okay. Anyone else live there?

9 A Not live there, no.

10 Q When did you meet Mr. Cooper?

11 A During or right before that time, right around the
12 time-ish.

13 Q And did you guys start dating --

14 A Actually, I need to take that back.

15 Q Sure.

16 A I need to think for a minute --

17 Q Okay.

18 A -- about when this was. Yeah, right around --

19 probably a little after this -- that date. I think we met
20 maybe in April.

21 Q April of 2012?

22 A Yeah.

23 Q Okay. But May 2012, you were living with your
24 friend that you've known since --

25 A Yes.

1 Q -- you were four years old?

2 A Yes.

3 Q And that's Rambo Orth?

4 A Yes.

5 Q Do you remember getting into some sort of a physical
6 altercation with her?

7 A Yes.

8 Q In May of 2012?

9 A Yes.

10 Q What happened?

11 A She told me -- we were both out on the porch playing
12 cards and drinking. She told me something extremely
13 upsetting, and I did -- that was the only other time in my
14 life, again, very intoxicated, and I lost control, and I got
15 into a physical altercation with her where I was found
16 guilty.

17 Q Did you kick in the door in the apartment?

18 A Yes.

19 Q And did you kick her?

20 A No.

21 Q Okay. What did you do to her?

22 A I don't really -- not a lot. It might have -- I
23 might have hit her. I just really scared her.

24 Q Did you rip her shirt?

25 A I might have.

1 Q Okay. After that incident, did you continue to live
2 with Rambo?

3 A Yes.

4 Q And you've stayed with her since then?

5 A Yes.

6 Q You told us that you stay with her in Arizona; is
7 that right?

8 A Yes.

9 Q Okay. I'm going to take you back, not that far
10 back, but back to July 2nd of 2015. Where were you living on
11 that date?

12 A 356 East Desert Inn, Unit 111.

13 Q The same apartment that you lived in in January?

14 A Right.

15 Q And in July, about six months earlier than January,
16 who did you live in that apartment with?

17 A Myself, my two children, and James Cooper.

18 Q Do you remember calling the police on July 3rd,
19 2015?

20 A Yes.

21 Q And why did you call police on that day?

22 A Because of an incident the night before and a
23 neighbor kind of convinced me to just make a report of it.

24 Q Okay. What happened the night before?

25 A We were in an altercation. He had a little bit too

1 much to drink that night, and he was very upset. So at the
2 end of all of it, the kids and I were -- we left to go to a
3 neighbor's house, and then I called the cops the next morning
4 to file the report.

5 Q So your testimony is that you got into an
6 altercation and then you and the kids eventually left?

7 A Right.

8 MS. RHOADES: Your Honor, may I approach the
9 witness?

10 THE COURT: Yes.

11 BY MS. RHOADES:

12 Q Brittney, I'm going to show you what's been marked
13 as State's Proposed Exhibit 82. Do you recognize your
14 handwriting on that statement?

15 A Yes.

16 Q And is it dated at the bottom July 3rd, 2015 and
17 signed by you?

18 A Yes.

19 Q And is that the statement you wrote about what had
20 happened the night before when the cops came the next day?

21 A Yes.

22 Q Okay.

23 MS. RHOADES: Your Honor, at this point, I'd move
24 for the admission of State's 82.

25 THE COURT: Any objection?

1 MS. WALKENSHAW: No, Your Honor.

2 THE COURT: 82 is admitted.

3 (State's Exhibit 82 admitted)

4 MS. RHOADES: Thank you.

5 BY MS. RHOADES:

6 Q Brittney, if you can read that into the record for
7 us, please.

8 A I asked to get the keys so I could take the kids to
9 the store, and he refused to give me the keys. He -- or
10 refused to give me the keys and the -- he grabbed me, I maybe
11 meant then. And the -- he grabbed me by the arm and neck,
12 got me to the ground, and I yelled to the kids to call 911,
13 and then he got up and went to the kids' room and was
14 standing on the bunk bed and threatened the kids with a
15 knife. They gave him the phone, and I got behind him and was
16 able to get the knife from him, and we turned around.

17 I was like bear hugging him, and we fell to the
18 ground. I was able to get up, and we ran out of the house.
19 I left the knife where he fell underneath him. We ran
20 upstairs to a neighbor's house in number 209.

21 Q Thank you. And when you say, we left, you're
22 talking about you and Cameron and Kaylee; is that right?

23 A Correct.

24 MS. RHOADES: May I approach the witness again,
25 Your Honor?

1 THE COURT: Yes.

2 MS. RHOADES: Thank you.

3 BY MS. RHOADES:

4 Q Showing you what's been marked as State's 75. Do
5 you recognize this document?

6 A Yes.

7 Q And how do you recognize it?

8 A It was a statement my son wrote --

9 Q Okay.

10 A -- at -- for that incident.

11 Q And it's dated July 3rd, 2015?

12 A Yes.

13 Q And does that look like how his handwriting looked
14 back then?

15 A Yeah.

16 Q And then you signed it at the bottom --

17 A Yes.

18 Q -- is that right? Okay.

19 MS. RHOADES: And Your Honor, permission to publish
20 a portion of the 911 call that she's indicated that she's
21 made for identification purposes. That's State's Proposed
22 73.

23 THE COURT: Yes.

24 MS. RHOADES: Thank you. And I would move for the
25 admission of State's 74. It's the affidavit -- the custodian

1 of record affidavits. That's goes along with this 911 call
2 that was made.

3 THE COURT: Any objection?

4 MS. WALKENSHAW: No, Your Honor.

5 THE COURT: So ordered.

6 (State's Exhibit 74 admitted)

7 MS. RHOADES: Thank you. Well, Your Honor, we
8 almost made it. It's not working, even though this worked
9 yesterday. If I can maybe unplug this --

10 THE COURT: Sure.

11 MS. RHOADES: -- and use it just with the laptop
12 and see if it works that way. May I approach the witness,
13 Your Honor?

14 THE COURT: Yes.

15 MS. RHOADES: Court's indulgence.

16 (Pause in the proceedings)

17 MS. RHOADES: I'll put that on hold for now, Your
18 Honor. We're going to try to restart the computer. May I
19 approach the witness --

20 THE COURT: Yes.

21 MS. RHOADES: -- for some photographs?

22 BY MS. RHOADES:

23 Q Did you have some injuries after this incident on
24 July 2nd, 2015?

25 A Minor.

1 Q I'm going to show you what's been marked as State's
2 Proposed 76 through 81. Can you just look at those and look
3 up at me when you're done.

4 (Pause in the proceedings)

5 BY MS. RHOADES:

6 Q Do you recognize those?

7 A Yes.

8 Q Okay. Is that you in those photographs?

9 A Yes.

10 Q Was this -- were those photographs taken July 3rd,
11 2015?

12 A Yes.

13 Q Okay.

14 MS. RHOADES: I'm going to move to admit 76 through
15 81, Your Honor.

16 THE COURT: Any objection by the defense?

17 MS. WALKENSHAW: No, Your Honor. Thank you.

18 THE COURT: 76 to 81 are admitted.

19 (State's Exhibits 76 through 81 admitted)

20 MS. RHOADES: Thank you, Your Honor. And
21 permission to publish?

22 THE COURT: Yes.

23 BY MS. RHOADES:

24 Q Showing you State's 76. Is that what you looked
25 like that day --

1 A Yes.

2 Q -- when the police came?

3 A Yes.

4 Q Is that the same thing that you were wearing the

5 night before?

6 A I don't remember.

7 Q Do you remember how long -- well, when you left with

8 the kids, where did you go?

9 A Upstairs to a neighbor's that was --

10 Q What's the neighbor's name?

11 A Kevin.

12 Q How long did you stay at Kevin's?

13 A I believe, two nights.

14 Q And then after that, did you go back home?

15 A Yes.

16 Q And did James go back home with you?

17 A Not with me, no.

18 Q When you went back home, was James in the home?

19 A No.

20 Q When did he come back?

21 A Later that day.

22 Q And then you lived there again, you know, resumed

23 back living there with him and the kids?

24 A Yes.

25 Q Showing you State's 78. Do you see sort of a red

1 mark on your face right here?

2 A Yes.

3 Q And that's an injury that you sustained from the
4 July 2nd, incident?

5 A Yes.

6 Q And then showing you State's 8. You can't really
7 see that.

8 MS. RHOADES: May I approach the witness, Your
9 Honor?

10 THE COURT: Yes.

11 BY MS. RHOADES:

12 Q Showing you State's 8. Does that appear to be a cut
13 on your hand?

14 A Yes.

15 Q Do you know how you got that cut?

16 A Not exactly.

17 Q You were trying to get the knife away from James
18 while James was in the bedroom with the kids; is that fair to
19 say?

20 A Yes.

21 MS. RHOADES: Okay, Your Honor, Mr. Rowles got the
22 CD to work. I would move to -- or permission to publish just
23 a portion of 73 again.

24 THE COURT: Yes.

25 MS. RHOADES: Thank you.

1 (Playing the 911 call).

2 BY MS. RHOADES:

3 Q I'm going to pause it there. Do you recognize your
4 voice in that call?

5 A Yes.

6 Q Can you hear it okay from up there?

7 A Yes.

8 Q And is that the call -- you heard the date and the
9 time. Is that the call that you made on July 3rd, 2015?

10 A Yes.

11 MS. RHOADES: Your Honor, I'd move for the
12 admission of State 73.

13 THE COURT: Any objection?

14 MS. WALKENSHAW: No, Your Honor.

15 THE COURT: 73's admitted.

16 (State's Exhibit 73 admitted)

17 MS. RHOADES: Thank you. And permission to
18 publish?

19 THE COURT: Yes.

20 (Playing the 911 recording)

21 MS. RHOADES: Court's brief indulgence.

22 THE COURT: Sure.

23 MS. RHOADES: May I approach your clerk, Your
24 Honor?

25 THE COURT: Yes.

1 MS. RHOADES: Okay. State would pass the witness,
2 Your Honor..

3 THE COURT: Very well. Ms. Walkenshaw.

4 MS. WALKENSHAW: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. WALKENSHAW:

7 Q Good afternoon, ma'am.

8 A Good afternoon.

9 Q Now, I know that we talked about a number of things
10 today. So I'm going to start with the most recent incident
11 in January of this year. And you indicated that you'd been
12 drinking that day, correct?

13 A Yes.

14 Q And you'd been drinking quite a bit, correct?

15 A Yes.

16 Q And do you recall exactly how much you had to drink?

17 A It was close to probably a fifth.

18 Q Okay.

19 A It was a ginormous bottle.

20 Q Okay.

21 A It probably wasn't all the way gone, but very close
22 to it.

23 Q Okay. And you were drinking that by yourself?

24 A Yes.

25 Q Okay. And had you gone into work at all that day

1 earlier?

2 A No.

3 Q Okay. You indicated that at some point James got
4 home, correct?

5 A Right.

6 Q And he had worked a full day, correct?

7 A Yes.

8 Q And you guys cooked dinner together, correct, or --

9 A Like by that point I was -- I remember being in the
10 kitchen and dinner cooked.

11 Q Okay. Whether you cooked dinner, he cooked
12 dinner --

13 A Right.

14 Q -- dinner was cooked?

15 A Yes.

16 Q Okay. Everyone eats dinner?

17 A Right.

18 Q Okay. And the kids at some point after dinner go
19 into their bedroom?

20 A Right.

21 Q Okay. Now, at this point, James was in the bedroom
22 that you guys share together?

23 A Right.

24 Q You were still in the kitchen talking to Sasha,
25 correct?

- 1 A Yes.
- 2 Q You indicated that you were upset at James, correct?
- 3 A Yes.
- 4 Q For something that had happened previously, correct?
- 5 A Correct.
- 6 Q And he had been talking to other women, correct?
- 7 A Yeah. I wish that was it.
- 8 Q Okay. You found things that upset you, correct?
- 9 A Right, right.
- 10 Q Okay. And so you were talking to your friend,
- 11 Sasha, correct?
- 12 A Yes.
- 13 Q Okay. And you had indicated that you were kind of
- 14 on like a girl power trip?
- 15 A Yeah.
- 16 Q Fair to say that maybe you were getting a little
- 17 riled up?
- 18 A That's completely fair to say.
- 19 Q Okay.
- 20 A Yeah.
- 21 Q And I think actually you indicated that that was
- 22 part of why you decided to drink earlier --
- 23 A Yes.
- 24 Q -- in the day, correct?
- 25 A Yes.

- 1 Q So you're talking to Sasha. You indicated you're
2 getting a little riled up, correct?
- 3 A Yes.
- 4 Q And you decide to go confront James?
- 5 A Yes.
- 6 Q Okay. And you're going to tell James how you feel,
7 correct?
- 8 A Correct.
- 9 Q Okay. And this isn't going to be a friendly,
10 pleasant conversation, correct?
- 11 A Yes, correct.
- 12 Q Okay. So he's in the bedroom, right?
- 13 A Right.
- 14 Q And you approach him in there, correct?
- 15 A Yes.
- 16 Q And you'd indicated that he was trying to be nice?
- 17 A Yes.
- 18 Q And he was trying to listen to you?
- 19 A Yes.
- 20 Q And you just kept getting angrier?
- 21 A Yes.
- 22 Q Okay. And you got in his face, correct?
- 23 A Yes.
- 24 Q And you grabbed his hair, correct?
- 25 A Yes.

1 Q And you tore it out, correct?

2 A Yes.

3 Q You have any idea how much you tore out?

4 A A lot.

5 Q Okay.

6 A I have a rubber band full of it still. I would say
7 10, 12, maybe more.

8 Q Ten to 12 dreadlocks?

9 A Yeah.

10 Q Okay.

11 MS. WALKENSHAW: Court's indulgence.

12 MS. RHOADES: May we approach your clerk, Your
13 Honor?

14 THE COURT: Sure.

15 (Counsel/Clerk conferring)

16 MS. RHOADES: Your Honor, I'm sorry to interrupt,
17 but the State's going to move for the admission of its
18 Proposed Exhibits 62 through 66. I believe, they're
19 stipulated to.

20 MS. WALKENSHAW: Yes, that's correct.

21 THE COURT: 62 through 66 are admitted.

22 (Exhibits 62 through 66 admitted, by stipulation)

23 MS. WALKENSHAW: Thank you.

24 MS. RHOADES: Thank you.

25 (Pause in the proceedings)

1 BY MS. WALKENSHAW:

2 Q Do you recognize that man?

3 A Yes.

4 Q Is that James Cooper?

5 A Yes.

6 Q Does this fairly depict what he looked like on the
7 evening of the incident?

8 A Yes.

9 Q Okay. Is this the back of his head?

10 A Yes.

11 Q Where you ripped his dreadlocks out?

12 A Um-h'm.

13 Q Okay. Now, you'd indicated that after you ripped
14 his dreadlocks out, he tried to leave, correct?

15 A Um-h'm.

16 Q And you continued attacking him, correct?

17 A Yes.

18 Q You'd indicated that you bit his finger, correct?

19 A Yes.

20 Q Okay. Do you recall seeing that bite mark on his
21 finger?

22 A Several days later.

23 Q Okay.

24 MS. WALKENSHAW: Permission to approach the
25 witness, Your Honor?

1 THE COURT: Yes.

2 BY MS. WALKENSHAW:

3 Q If you could just look at this picture. Does that
4 fairly depict the bite mark that was on his finger?

5 A Um-h'm.

6 Q Okay.

7 A Yes.

8 Q And it's on this finger right here, correct?

9 (Inaudible). Now, you indicated that he continued to try to
10 leave, correct?

11 A Yes.

12 Q And you continued to attack him, correct? I think
13 you indicated you hit him in the face, correct?

14 A Yes.

15 Q And you hit him in the chest?

16 A Yes.

17 Q And he was trying to make you stop, correct?

18 A Yes.

19 Q And he went outside, correct?

20 A Um-h'm.

21 Q And you followed him out there?

22 A Yes.

23 Q Correct? And at one point you realized that he was
24 on the phone with 911, correct?

25 A Yes.

1 Q And it was at that point that you yelled for your
2 children to call 911, correct?

3 A Yes.

4 Q And that was only after you realized he was on the
5 phone with 911, correct?

6 A Yes.

7 Q And prior to you ripping his hair out, he was not
8 physical with you, correct?

9 A Correct.

10 Q Okay. You used force first, correct?

11 A Correct.

12 Q Okay. And all he did was try and separate you from
13 him, correct?

14 A Yes.

15 Q Okay. So at some point, James called the police,
16 correct?

17 A Correct.

18 Q And fair to say you became worried that you would
19 get in trouble, correct?

20 A Yes.

21 Q And so you yelled for your son to call police?

22 A Correct.

23 Q Okay. And during this time, you knew that James was
24 on the phone with police, correct?

25 A Yes.

1 Q Okay. And you were aware that the calls were
2 recorded, correct? The calls to 911?

3 A Yes.

4 Q Okay. And you began saying things that weren't
5 true, correct?

6 A Correct.

7 Q Okay. And you said those things so that you
8 wouldn't get this trouble, correct?

9 A Correct.

10 Q So that James would get in trouble?

11 A Yes.

12 Q Okay. Now, at the time that this incident started,
13 the kids were in their bedroom, right?

14 A Yes.

15 Q Okay. So they didn't see you pull out his hair?

16 A No.

17 Q Okay. They didn't see you start the fight, correct?

18 A Correct.

19 Q Okay. Cameron only came out at the point that you
20 called him, correct?

21 A Yes.

22 Q Okay. And so it's fair to say he came out after
23 everything had already started?

24 A Yes.

25 Q Okay. And he called 911, correct?

1 A Yes.

2 Q And that was at your direction, correct?

3 A Correct.

4 Q And you indicated that you don't remember James
5 hitting you, correct?

6 A Correct.

7 Q Okay. And you don't remember James ever kicking
8 you?

9 A No.

10 Q You don't remember James ever stomping on you?

11 A No.

12 Q Okay. You don't remember James ever strangling you?

13 A No.

14 Q Okay. And it's fair to say that on that 911 call,
15 your son sounds pretty scared?

16 A Yes.

17 Q Okay. You were yelling, right?

18 A Yeah.

19 Q You were screaming?

20 A Yes.

21 Q Yeah?

22 A Yes.

23 Q Okay. You didn't want to get in trouble, correct?

24 A Correct.

25 Q Okay. And your behavior scared your son, correct?

1 A Correct.

2 MS. RHOADES: Objection. Speculation.

3 THE COURT: Sustained. Ask you to rephrase,
4 please.

5 MS. WALKENSHAW: Okay.

6 BY MS. WALKENSHAW:

7 Q Do you believe your behavior scared your son?

8 A Yes.

9 Q Okay. Now, the State a little bit got into what was
10 said at the hospital. You don't remember specifically
11 anything that was said, correct?

12 A Not specifically, no.

13 Q Okay. In fact, we had heard a jail call earlier
14 when you had indicated you didn't even remember being at the
15 hospital, correct?

16 A Exactly.

17 Q Okay. And do you recall leaving the hospital?

18 A Yes. And I'd like to take back what I previously
19 said. At -- during the conversation between myself and James
20 Cooper, I didn't remember the hospital. At that point, you
21 know, and days or so later, I remember being at the hospital.
22 I remember being non-compliant then as well. I remember them
23 taking pictures and just started saying what their charges
24 were going to be against him. Like, nobody even talked to
25 me. That's about all I remember.

1 Q Okay. So you then did remember it sounds like bits
2 and pieces from being at the hospital?

3 A Yeah.

4 Q Okay. You remember them taking some pictures?

5 A Yes.

6 Q Correct? And you said you remembered them telling
7 you what they were going to charge him with?

8 A Yes.

9 Q Okay. And you felt like they didn't listen to you?

10 A They didn't even bother talking to me.

11 Q Okay.

12 A They just had me turn and look and --

13 Q Okay.

14 A -- and that's it.

15 Q You don't recall anyone asking you what happened?

16 A No.

17 Q Okay. Do you remember leaving the hospital?

18 A Yes.

19 Q Okay. At that point, you were sober, presumably?

20 A Yes.

21 Q Okay. You think, yes?

22 A Sober enough.

23 Q To leave?

24 A Right.

25 Q Okay. I think do you recall if they ever requested

1 that you do any type of follow-up?

2 A I don't remember.

3 Q Okay. Did you do any follow-up?

4 A No.

5 Q Okay. Now, we got into a little bit regarding a
6 previous incident between you and James, correct?

7 A Yes.

8 Q One that occurred in July of 2015, correct?

9 A Yes.

10 Q Okay. And that was a completely separate incident
11 from this one?

12 A Exactly.

13 Q Okay. About six months apart, correct?

14 A Yes.

15 Q Okay. And you'd indicated that there was a struggle
16 over the knife, correct?

17 A Yes.

18 Q And you ultimately got the knife away from him,
19 correct?

20 A Yes.

21 Q Okay. And did you stab James?

22 A No. I had more control of the knife rather than
23 just having it on my own. You know, at the time.

24 Q Okay. So in the 911 call where it indicates that
25 you got it away from him --

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INTENTIONALLY
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1 A Yeah, I -- maybe it was fresher in my head then
2 because now I just remember the struggle over it and then
3 falling, both of us falling.

4 Q Okay.

5 A And then me getting up and the kids off the bed.

6 Q Okay. And was James injured as a result of that?

7 A I believe so. I know after the fact. I didn't know
8 then, though.

9 Q At that time?

10 A Right.

11 Q Okay. You went to a neighbor's house, correct?

12 A Yes.

13 Q Okay. And you didn't call the police then, correct?

14 A No.

15 Q You didn't immediately file any type of report?

16 A No.

17 Q You didn't seek any type of restraining order,
18 correct?

19 A No.

20 Q Okay. Now, you went down to the apartment the next
21 morning, correct?

22 A Yes.

23 Q Before you called 911, correct?

24 A Yes.

25 Q Okay. James wasn't there?

1 A No.

2 Q And did you see some blood?

3 A Yes.

4 Q Did you see a lot of blood?

5 A It was -- yeah, it was present. It was like maybe
6 about that big on the bed as well as some drips throughout
7 the bathroom.

8 Q Okay. And that was on the bed that you and James
9 shared together?

10 A Right.

11 Q Okay. And fair to say that you were worried?

12 A Very.

13 Q Okay. Worried that James was hurt?

14 A Yeah.

15 Q Okay. Were you worried that you'd get in trouble?

16 A No, I was worried that he'd be okay.

17 Q Okay. And it was after that you saw this that you
18 called the police, correct?

19 A Yes.

20 Q Okay. And that was about eight to ten hours after
21 the incident, correct?

22 A Yes.

23 Q Approximately?

24 A Yeah.

25 Q The next morning?

1 A Yes.

2 Q Okay. And I think you'd indicated that it was at
3 the neighbor's encouragement --

4 A Yes.

5 Q -- that you called the police, right?

6 A Yeah.

7 Q Okay. And ultimately, you filed a report, correct?

8 A Yes.

9 Q Okay. And it's fair to say that you didn't mention
10 the blood you had seen in the call, correct?

11 A That's fair to say.

12 Q It's fair to say that you didn't mention all the
13 blood you'd seen in the written report, correct?

14 A That's correct.

15 Q Okay. You didn't mention your concern regarding his
16 injury in the report, correct?

17 A Correct.

18 Q Okay. And you -- there was some comment on the call
19 about a restraining order. You never got a restraining
20 order, correct?

21 A That's correct.

22 Q Okay. You never got any type of protective order?

23 A No.

24 Q Okay. In fact, he returned a day or two later?

25 A I think we were with the neighbor for about two.

1 days.

2 Q Okay.

3 A So the third day, I think, I'm pretty sure, we were
4 back, and it was maybe 20 or 30 minutes later was the first
5 time I seen James Cooper, and that's when he'd come back, and
6 I realized that he was definitely injured on his back.

7 Q Okay. And did you see the injury?

8 A Yes.

9 Q Okay. And had he gotten treated for it?

10 A He told me he had went to the hospital.

11 Q Okay. And we also spoke regarding an incident
12 between you and Rambo, correct?

13 A Yes.

14 Q Okay. And again, on that day you indicated that
15 you'd been drinking too much, correct?

16 A Yes.

17 Q And you got violent, correct?

18 A Yes.

19 Q Okay. And you kicked Rambo's door open, correct?

20 A I kicked a hole through her door.

21 Q Okay. And you ripped her clothes, correct?

22 A Yes.

23 Q Okay.

24 A Yes. That one's so long ago, I do remember the
25 door. I remember her being scared --

1 Q Okay.

2 A -- in the bathroom.

3 Q Okay.

4 A And I was still yelling and yes.

5 Q Okay. And Rambo called the police, correct?

6 A Correct.

7 Q Okay. And you indicated that she was scared?

8 A Yes.

9 Q Okay. Ultimately, you and Rambo continued to live
10 together, correct?

11 A Yes.

12 Q Okay. And did you tell James about this incident?

13 A I didn't -- I told him about the incident, but I
14 didn't tell him who it was against. I was embarrassed.

15 Q Okay. But he was aware of facts of it and --

16 A Yes.

17 Q -- the case? Okay. Now, you indicated that you
18 remembered a hole in the door?

19 A Yes.

20 Q The bedroom door?

21 A Okay.

22 Q Did it kick the door open?

23 A Yeah.

24 Q Okay.

25 A Yes.

1 Q Okay. And you indicated that you don't recall
2 kicking Rambo?

3 A No.

4 Q Okay. In regards to this case, you had written a
5 letter, correct?

6 A Yes.

7 Q And you explained what happened that night, correct?

8 A Yes.

9 (Pause in the proceedings)

10 MS. WALKENSHAW: If I may approach, Your Honor?

11 THE COURT: Yes.

12 BY MS. WALKENSHAW:

13 Q Is this the letter that you wrote?

14 A Yes.

15 Q Okay.

16 A Yes.

17 Q Okay. And in that letter, you indicated that when
18 James tried to remove himself from the situation, you
19 followed him, correct?

20 A Yes.

21 Q And you attacked him, correct?

22 A Yes.

23 Q And he placed the call to 911, correct?

24 A Yes.

25 Q And you started belligerently profanities, correct?

1 A Yes.

2 Q And yelled to your son to also call 911 --

3 A Yes.

4 Q -- correct? You also wrote that you wanted to take
5 a hundred percent responsibility for the events that took
6 place, correct?

7 A Yes.

8 Q And that you were ashamed of your actions, correct?

9 A Yes.

10 Q You and James have been together for approximately,
11 five years?

12 A Yes.

13 Q Okay. And you indicated that you have two children,
14 correct?

15 A Yes.

16 Q Okay. A nine-year-old and a six-year-old?

17 A Yes.

18 Q And is James a loving father figure to them?

19 A Yes.

20 Q Okay. Would you consider him a caring spouse?

21 A Yes.

22 Q Okay. Hardworking?

23 A Yes.

24 Q Okay. He provides for the family?

25 A Yes.

1 Q He's a positive person?

2 A Yes.

3 Q And family oriented?

4 A Yes.

5 Q Okay. And you wrote this in your letter to the
6 judge, correct?

7 A Yes.

8 Q And you didn't think that James should be
9 prosecuted, correct?

10 A Correct.

11 MS. RHOADES: Objection, relevance, Your Honor.
12 Whether she thinks he should be prosecuted. I think the jury
13 can infer what she thinks from her testimony.

14 THE COURT: Sustain the objection. The jury will
15 make their own conclusions.

16 MS. WALKENSHAW: Thank you, Your Honor.

17 BY MS. WALKENSHAW:

18 Q And when -- you indicated that when James returned
19 home, he returned to the residence that you -- the two of you
20 shared together?

21 A Right.

22 Q Correct? Okay. And you guys continued your
23 relationship together, correct?

24 A Yes.

25 Q Still lived together, correct?

1 A Yes.

2 Q Okay. Now --

3 MS. WALKENSHAW: Court's indulgence.

4 MS. RHOADES: May we approach, Your Honor?

5 THE COURT: Yes. Me or the clerk?

6 MS. RHOADES: Well, both.

7 (Bench conference begins)

8 MS. RHOADES: Juror No. I think, it's seat 7,
9 whoever is at the end, is like (inaudible).

10 MS. WALKENSHAW: In the front row?

11 MS. RHOADES: Yeah, he's like sleeping.

12 THE COURT: Hum?

13 MS. RHOADES: Sleeping, 3, 5, 6 in the front all
14 the way to the left.

15 THE COURT: (Inaudible). Well, there's a case in
16 point that says that's not a cause for a mistrial.

17 MS. RHOADES: (Inaudible).

18 THE COURT: Maybe you could speak a little louder
19 next time.

20 MS. RHOADES: I just wanted to make the Court aware
21 of that.

22 THE COURT: Okay. I appreciate that.

23 MS. RHOADES: Okay.

24 THE COURT: Mr. Diamond, may I see you, please.
25 Seems like (inaudible). Did you notice that?

1 THE MARSHAL: (Inaudible).

2 (Pause in the proceedings)

3 (Bench conference concluded)

4 THE COURT: By the way, would counsel agree that
5 the question that was previously submitted from one of the
6 jurors has been answered?

7 MS. RHOADES: Yes. I would. I think so. And if
8 not, they can ask for clarification.

9 THE COURT: Well, then I'll just read it into the
10 record.

11 MS. RHOADES: Okay.

12 THE COURT: James had mentioned on his phone call
13 an incident that happened six months ago prior to January
14 22nd, 2016. That was as mentioned, the same shit. What was
15 that incident? Do you want to answer the question?

16 THE WITNESS: Just can you reread that for me?
17 That six months prior to January?

18 THE COURT: Yes.

19 THE WITNESS: I believe is the incident now we're
20 talking about. I can't answer that. I don't know what he
21 was -- which same shit --

22 THE COURT: Okay.

23 THE WITNESS: -- he was talking about.

24 THE COURT: Well, let this be marked as court
25 exhibit made part of the record.

1 THE CLERK: Okay. No. 1.

2 THE COURT: No. 1.

3 MS. RHOADES: And Your Honor, I know this a little
4 out of order, but just for ease, hopefully, the State would
5 move to admit Proposed Exhibits 8 through 40, and I believe
6 there's no objection.

7 MS. WALKENSHAW: That's correct, Your Honor.

8 THE COURT: 8 through 40 are admitted.

9 (State's Exhibit 8 through 40 admitted)

10 MS. RHOADES: Thank you very much.

11 BY MS. WALKENSHAW:

12 Q Now, going back to the struggle a little bit, you
13 had indicated that you threw some of his things?

14 A Which day are we talking?

15 Q The January incident.

16 A Okay.

17 Q You'd indicated that you'd thrown some of his tools
18 around?

19 A Yes.

20 Q Okay.

21 MS. RHOADES: I would object to that. I remember
22 her testifying to that.

23 THE COURT: She said something about throwing some
24 tools on the floor, I recall. I'm sure the jurors were
25 listening pretty carefully.

1 MS. RHOADES: Okay.

2 MS. WALKENSHAW: Permission to publish State's
3 Exhibit 30, Your Honor?

4 THE COURT: Sure.

5 BY MS. WALKENSHAW:

6 Q Does this accurately depict his tools?

7 A Yes.

8 Q Okay. And did you throw those?

9 A Yes.

10 Q Okay.

11 MS. WALKENSHAW: And permission to publish State's
12 22?

13 THE COURT: Sure.

14 MS. WALKENSHAW: Thank you, Your Honor.

15 THE COURT: You don't have to ask every time, Ms.
16 Walkenshaw.

17 MS. WALKENSHAW: Okay.

18 THE WITNESS: Oh.

19 BY MS. WALKENSHAW:

20 Q Is that upside down for you?

21 A There it is.

22 Q Okay. Is that his work bag?

23 A Yes.

24 Q Okay. And is that what usually contains his tools?

25 A Yes.

1 Q Okay. And there were a few jail calls -- and you
2 know before I got on to that, do you see this? It looks like
3 it's a hole in the closet door?

4 A It is a hole.

5 Q Okay. Was that from another day?

6 A Yes.

7 Q That was a prior incident? Okay. Now, there were a
8 few jail calls that were played, correct?

9 A Yes.

10 Q And you had indicated at some point that you didn't
11 really remember what had happened, correct, when you were on
12 the phone?

13 A Yes.

14 Q Okay. And he encouraged you that you needed to stop
15 drinking, correct?

16 A Yes.

17 Q And you agreed, correct?

18 A Yes.

19 Q Okay. There were -- there was a statement made in
20 the jail call ending with 0899, where you had said something
21 along the lines of not letting them pressure you.

22 A Yes.

23 Q Do you recall that?

24 A Yes.

25 Q What did you mean by that?

1 A We just played that one, correct?

2 Q That's correct.

3 A Okay.

4 Q What did you mean by that?

5 A For people in your positions, to not let the
6 pressure -- because I am a hundred percent, hundred percent
7 to blame for at least the way it started, all of it, and I
8 was very ashamed, and I didn't want anybody treating me like
9 I was a battered woman. I did these thing to this man, not
10 the other way around.

11 Q Okay. And I think later on in that call you had
12 indicated that you felt bad?

13 A Yeah. Are you kidding me? Yeah. It was the worst
14 night of my life. We've all paid dearly for it. All four of
15 us, and especially him.

16 Q Now, there was another call that was played ending
17 in 2506, just for the record, where you had indicated that
18 you didn't really understand why they didn't arrest you,
19 correct?

20 A I didn't understand.

21 Q Okay.

22 A I thought I should have been the one to be placed
23 under arrest that night.

24 Q Okay. And --

25 A Once it -- sorry.

1 Q No, go ahead.

2 A Once it started, once I realized -- you guys didn't
3 play this, I don't think, but -- oh, yeah, you did. Where I
4 asked him, I said, what happened? Did I just attack you?
5 And it started, you know, slowly coming back to me. And it's
6 true. I mean --

7 Q And that's actually what I was going to get to next.
8 In the next call ending in 9204, you were asking him, did I
9 just jump on you in the bathroom, correct?

10 A Yeah.

11 Q And then he had said something that you jumped on
12 him everywhere, correct?

13 A Yeah.

14 Q Were you asking him that because you didn't remember
15 what had happened?

16 A I didn't.

17 Q Okay.

18 A I mean, I kind of did. Once I started realizing and
19 coming home to the mess and seeing his hair everywhere, the
20 flashback I had the most is just being in his face and
21 tearing his hair out and it started kind of coming back.

22 Q Okay. Now, does this depict one of the
23 dreadlocks --

24 A Yes.

25 Q -- that he had pulled out?

1 A Yes.

2 Q Okay. And you indicated that you guessed you
3 believe you pulled out 10 to 12 dreadlocks?

4 A Approximately, yeah. My guess would be --

5 Q Okay. And you had indicated that you have those at
6 home?

7 A Yes.

8 Q Okay.

9 A I also have one in my hair right now that's sewed
10 into my hair and it's folded in half. I can -- I think I
11 know where you're going. I just want to let everybody --

12 MS. RHOADES: Your Honor, I'm going to object at
13 this point. There's no question.

14 THE COURT: Sustain the objection. You need to
15 wait for the question, ma'am.

16 THE WITNESS: Sorry.

17 BY MS. WALKENSHAW:

18 Q Okay. Now, you had indicated that you -- I'm going
19 to show you another picture. Is that one of his dreadlocks?

20 A Yes.

21 Q Is that one of his dreadlocks?

22 A That's exactly where it happened. Yes, it is.

23 Q This is a little bit of a closer up. Right here and
24 right here, correct? Does that look right?

25 A Yeah.

1 Q Okay. There was, on the jail calls -- going back to
2 the jail calls. There was, I'm going to call it 2506, this
3 is going back to the call where you were saying you didn't
4 understand why they didn't arrest you, correct?

5 A Yeah.

6 Q Okay. There was a statement that he made, do what
7 you gotta do, correct?

8 A Yes.

9 Q Okay. Can you explain to me what that meant to you?

10 A That I needed to tell the truth and let these people
11 know -- try to get him an attorney, explain to at least the
12 attorney what happened.

13 Q Okay. And he had said that again in a later phone
14 call, you know what you gotta do, do what you gotta do. You
15 took that to mean the same thing?

16 A Yes.

17 Q Okay. And that was to tell the truth?

18 A Yes.

19 Q Okay. Had James encouraged you to stop drinking
20 previous to this incident?

21 A Yeah.

22 Q Okay.

23 MS. WALKENSHAW: Court's indulgence.

24 BY MS. WALKENSHAW:

25 Q Ma'am, are you afraid of Mr. Cooper?

1 A No.

2 Q Do you love Mr. Cooper?

3 A Yes.

4 Q Okay. Do you want to continue to be in a
5 relationship with him?

6 A I don't know.

7 Q Okay. And during this incident, you were in a
8 relationship, correct?

9 A Yes.

10 Q Okay. And you, based off the letter that you wrote,
11 felt that you were a hundred percent to blame, correct?

12 A Yes.

13 MS. WALKENSHAW: I'll pass the witness, Your Honor.

14 THE COURT: Very well. Any follow-up?

15 MS. RHOADES: Yes, please, Your Honor.

16 THE COURT: Ms. Rhoades.

17 MS. RHOADES: May I approach your clerk?

18 THE COURT: Yes.

19 REDIRECT EXAMINATION

20 BY MS. RHOADES:

21 Q Okay, Brittney, so you said there was hair
22 everywhere, right?

23 A Yes.

24 Q Before I get to that, talking about that jail call,
25 he's feeding you the story, isn't he, on that jail call?

1 A I just asked.

2 Q You asked, did I jump on you in the bathroom and he
3 says everywhere. You tried to bite my fingers off, pulled
4 out half my dreads, I don't know what your problem was. You
5 remember hearing that, right?

6 A Yes.

7 Q Indicating that you jumped on him everywhere, it
8 wasn't just contained to the bedroom?

9 A Right.

10 Q And all the testimony that you've given today is
11 what you remember, you specifically remember happening; is
12 that fair to say?

13 A Exactly.

14 Q And you testified that the only reason you told
15 Cameron to call 911 was because you were worried that you
16 were going to get in trouble; is that right?

17 A Yes.

18 Q Do you remember playing the 911 and James -- we just
19 played it.

20 A Right.

21 Q You remember James called 911, and you screamed your
22 birthday into the phone to the 911 operator; do you remember
23 that?

24 A Yes.

25 Q And you're in and out -- I'm sorry, Brittney, it's

1 just question and answer, okay? You don't get to ask
2 questions of us. Ms. Walkenshaw will be able to follow up
3 with you if she needs to. Your testimony is that you're
4 blacking in and out and you don't remember everything.
5 You're remembering things after, you know, days after it
6 happened, but you have the wherewithal to lie and to cry
7 hysterically and to tell the police on the 911 call that he
8 hit you and he strangled you; is that what your testimony is
9 today?

10 A No.

11 Q Do you remember --

12 A That's --

13 Q -- testifying on cross-examination that you were
14 saying all those things and crying --

15 A Yes.

16 Q -- hysterically so that you wouldn't get it trouble?

17 A Yes.

18 Q Okay. When did you remember that the fight started
19 in the master bedroom and not in the bathroom?

20 A The next -- after I had gotten out of the hospital.
21 I think everything kind of started setting in once I walked
22 back into the house and was looking around, you know. And I
23 specifically remember leaving the kitchen to go talk to him
24 in the bedroom, and I remember standing by the bed, him
25 facing me, when I tore his hair out.

1 Q And you saw him on January 27th in court, right?

2 A Yes.

3 Q He didn't look like a clown, did he?

4 A No.

5 Q Did he have any injuries at all on his face?

6 A Not that I knew, saw, I didn't see anything.

7 Q And your testimony is that you do not believe that
8 Tuda's behavior scared Cameron on January 22nd; is that your
9 testimony?

10 A No, I didn't say that.

11 Q Okay. You didn't say that on cross-examination?

12 A That I don't believe Cameron was scared because of
13 Tuda's behavior?

14 Q Yes.

15 A I believe, I scared my son more than anybody.

16 Q Not Tuda?

17 A Right.

18 Q How about on July 2nd, 2015, do you think Tuda
19 scared your son then?

20 A Yes.

21 Q And your testimony is at the hospital that no one
22 bothered to ask you what had happened; is that correct?

23 A That's how I remember.

24 Q How about at your apartment when medical was there?
25 Did medical bother to ask you what happened?

1 A Yeah, I'm sure they did. I don't remember what I
2 told them.

3 Q How about --

4 A If anything.

5 Q -- the police? Do you remember the police at the
6 scene asking you what happened?

7 A No.

8 Q You don't?

9 A I don't remember them asking.

10 Q Do you remember anyone at the hospital talking to
11 you about the kids?

12 A I remember asking where my kids were, and by the
13 time I was getting ready to release, I remember somebody
14 giving me a card and a phone number to where I could find my
15 own children. That's kind of what I -- basically remember.
16 Just having a card and that my kids weren't at -- with
17 anyone. They were with somebody else. That CPS had taken
18 them.

19 Q Do you remember a police officer coming and taking
20 pictures of you at the hospital?

21 A Yes. I remember pictures being taken. I don't
22 remember if it was a police officer or not.

23 Q Okay. Do you remember telling anyone, can you make
24 sure my kids are okay? Can you tell them that I'm okay? Do
25 you remember --

1 A I don't remember it -- that, no. I imagine I did,
2 but I don't remember.

3 Q And it kind of goes to the question that was asked
4 by the judge, by the jury. The July 2015 incident on
5 cross-examination you said that's completely separate. It's
6 a completely separate incident, right?

7 A Yes.

8 Q And it is.

9 A Yes.

10 Q And just going back to the defendant's 911 call. He
11 said that this was the same shit that happened six months
12 ago, right?

13 A That's what he said, yes.

14 Q Did you feel that Tuda was a loving father figure in
15 July?

16 A Yes.

17 Q You appeared in court on that case, on that July
18 2015 case; is that correct?

19 A I -- I came -- I didn't come into the courtroom.
20 There was a person I talked to in between that door and the
21 other door, there's a couple other doors here to the side, I
22 guess, and I remember being in that room and giving my
23 statement to them on how I felt, and then they walked into
24 the courtroom.

25 Q And you were under subpoena; is that right? You

1 came because you were told to come --

2 A Yes.

3 Q -- before?

4 A I'm sorry, I have to think about this.

5 Q Please don't apologize. Rambo is a female, right?

6 A Yes.

7 Q Is she about your same age?

8 A She -- yeah.

9 Q Okay. And you've known her since you were four?

10 A Yes.

11 Q And the incident that we're talking about, that
12 battery domestic violence incident, you guys were living
13 together as roommates; is that right?

14 A Right.

15 Q And that was May of 2012, so four and a half years
16 ago?

17 A Okay.

18 Q Does that sound right?

19 A Sounds right. Is that all?

20 Q Going back to that July 2015 incident, are you aware
21 whether James went to the hospital, the one with the knife?

22 A I wasn't aware then. Like I said earlier, I -- he
23 told me days later after he had come back, and I went back to
24 the apartment, too. And then he told me he had went to the
25 hospital. I wasn't aware of it at the time.

1 Q Did he tell you went to the hospital and then he
2 left --

3 A Yes.

4 Q -- the hospital? Like, was that before he was seen
5 by medical personnel?

6 A I don't know.

7 Q To your knowledge, did he call 911 for that incident
8 in July?

9 A Not to my knowledge.

10 Q And that letter that you wrote, that was written
11 January 26th, 2016, after you had spoke with the defendant
12 multiple times; is that fair to say?

13 A Yes.

14 Q We saw some pictures -- well, we saw pictures of two
15 of James's dreadlocks on the floor mixed in with his tools;
16 do you remember that?

17 A Yes.

18 Q I'm going to show you State's 29. Does that appear
19 to be one of your dreadlocks?

20 A Yes.

21 Q Is that by the bed in the master bedroom?

22 A Yes.

23 Q Is there also a cord kind of hanging down by the
24 bed?

25 A Yes.

1 Q Showing you State's 16. Is this a rug that's in the
2 kitchen?

3 A Yes.

4 Q Or that was --

5 A Yes, it was.

6 Q -- in the kitchen, I'm sorry. Okay. And is this
7 your dreadlock?

8 A Yes.

9 Q Ripped out of your hair on the rug in the kitchen;
10 is that fair to say?

11 A Yes.

12 Q Showing you 31. This is a close-up of his tools; is
13 that right?

14 A Yes.

15 Q Part of his tools and then there's a long cord
16 connected to this kind of electric equipment. Some piece of
17 electric equipment, correct?

18 A Right.

19 Q And there's a long cord here?

20 A Yes.

21 MS. RHOADES: I'm just going to bring these up to
22 your clerk, Your Honor, and then I would pass the witness.

23 THE COURT: Very well. Any follow, follow-up, Ms.
24 Walkenshaw?

25 MS. WALKENSHAW: If I could just have the Court's

1 indulgence for one moment.

2 THE COURT: Sure.

3 MS. WALKENSHAW: Just very briefly, Your Honor.

4 RECROSS-EXAMINATION

5 BY MS. WALKENSHAW:

6 Q The State had asked you whether you felt like James
7 was a loving father figure in July, correct?

8 A Right.

9 Q And you wavered a little and then you said yes,
10 correct?

11 A Yes.

12 Q Perhaps on that incident you two were arguing.
13 Overall did you feel he was a loving father figure?

14 A That's why I hesitated because I was like, hey, he
15 was. That was just that day --

16 Q Okay.

17 A -- was a bad day, you know.

18 Q Okay.

19 A But, yeah, overall very good with my kids. Never
20 harmful. I mean, supportive.

21 MS. RHOADES: Your Honor, I'm going to object at
22 this point. May we approach?

23 THE COURT: Sure.

24 (Bench conference begins).

25 MS. RHOADES: This is getting into like overbroad

1 territory, and I just want to stop her now. I mean, never
2 harmful, loving father. That's all going to his character so
3 I mean, it kind of puts his other DV at issue that we might
4 be to bring in if she starts talking about how great of a guy
5 he is, and you know, never harmful. So I think we need to
6 stop it.

7 MS. WALKENSHAW: The loving father was in her
8 letter that she wrote to the Court, and that's why I got that
9 from. As far as the never harmful, I can stop the
10 questioning. But that was specifically a phrase she had used
11 her letter.

12 THE COURT: Well, it does seem like she expanded
13 the scope. So perhaps you want to cut it short.

14 MS. WALKENSHAW: Sure.

15 (Bench conference concluded)

16 MS. WALKENSHAW: And the defense has no further
17 questions, Your Honor.

18 THE COURT: Very well.

19 MS. WALKENSHAW: Thank you.

20 THE COURT: Does the prosecution have any further
21 questions?

22 MS. RHOADES: No, Your Honor. Thank you.

23 THE COURT: All right. With the thanks of the
24 Court, ma'am, you may step down.

25 THE WITNESS: Thank you. Do either party

1 anticipate recalling this witness at any point during the
2 course of this trial?

3 MS. RHOADES: Not the State, Your Honor.

4 MS. WALKENSHAW: Not at this point, Your Honor, no.

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

6 THE WITNESS: Thank you.

7 THE COURT: Does anybody need a short break before
8 we continue? No? Very well. Mr. Diamond, I need your
9 assistance with this. Who's the next witness for the
10 prosecution?

11 MR. ROWLES: Your Honor, the State's next witness
12 would be James Cameron Blair.

13 THE MARSHAL: Who?

14 MR. ROWLES: James Cameron Blair.

15 (Pause in the proceedings)

16 THE COURT: Good afternoon. Please remain standing
17 and raise your right hand to be sworn by madam clerk. Please
18 remain standing.

19 THE WITNESS: Oh, yeah.

20 THE COURT: Raise your right hand to be -- there
21 you go.

22 JAMES CAMERON BLAIR, STATE'S WITNESS, SWORN

23 THE CLERK: Please be seated, stating your full
24 name, spelling your first and last name for the record.

25 THE WITNESS: Yeah. James Blair. James,

1 J-a-m-e-s. The last name, Blair, B-l-a-i-r.

2 THE COURT: Whenever you're ready, Mr. Rowles.

3 MR. ROWLES: Thank you, your Honor, please.

4 DIRECT EXAMINATION

5 BY MR. ROWLES:

6 Q James, you introduced yourself to us as --

7 A Cameron.

8 Q -- James Blair, but --

9 A Well --

10 Q -- do you have another name?

11 A Yeah.

12 Q And what's that name?

13 A Cameron.

14 Q Cameron? Is that the name you prefer to go by?

15 A Yeah, I prefer to go by that.

16 Q Do you mind if I call you Cameron today?

17 A Yeah.

18 Q Okay.

19 THE COURT: You do mind?

20 THE WITNESS: Well, I don't mind.

21 THE COURT: Okay.

22 BY MR. ROWLES:

23 Q Don't mind. That old question always trips everyone
24 up. James or Cameron, just a few questions. How old are you
25 today?

- 1 A Nine.
- 2 Q When's your birthday?
- 3 A March 5th.
- 4 Q March 5th?
- 5 A Um-h'm.
- 6 Q Do you remember the year?
- 7 A Yeah.
- 8 Q What's the year?
- 9 A 2007.
- 10 Q 2007? What grade are you in today?
- 11 A Fourth.
- 12 Q Fourth grade?
- 13 A Um-h'm.
- 14 Q Do you have a favorite subject?
- 15 A My favorite subject is football.
- 16 Q Football? I take it you play sports. What position
- 17 do you play in football?
- 18 A I play defensive end.
- 19 Q Defensive end?
- 20 A And a lot of times offensive lineman and second
- 21 string quarterback.
- 22 Q Second string quarterback. So I assume defensive
- 23 end, offensive lineman, big guy. You want to grow up to be a
- 24 big strong guy?
- 25 A H'm?

1 Q You want to grow up to be a big strong guy?

2 A No.

3 Q No? You have a favorite football team?

4 A My favorite football team is the Cowboys.

5 Q Cowboys. Cameron, do you know the difference
6 between a truth and a lie?

7 A Yes.

8 Q If I were to tell you that my tie is hot pink, would
9 I be telling the truth?

10 A No.

11 Q And why I not be?

12 A Because it's not hot pink.

13 Q Thank you. Cameron, I want to turn your attention
14 to January 22nd of 2016. And just January in general. At
15 that time, who were you living with?

16 A Tuda, mom and Kaylee.

17 Q Okay.

18 A And me.

19 Q You were living there, too?

20 A Um-h'm.

21 Q That's good. Your mom, do you know your mom's name?

22 A Yes.

23 Q What's her name?

24 A Brittney.

25 Q Brittney? And you said Kaylee. Who's Kaylee?

1 A My sister.
2 Q How old is she?
3 A Six.
4 Q And you also referenced Tuda. Who's Tuda?
5 A He's right there.
6 Q Okay. Do you know his name?
7 A Um-h'm.
8 Q What's his name?
9 A His real name is James, but I like to call him Tuda.
10 Q Tuda? Okay.
11 A Um-h'm.
12 Q And so he was living with you. Do you see Tuda -- I
13 know you pointed to him. Can you point to him again and can
14 you describe a color of clothing that he's wearing today.
15 A He's wearing a blue shirt and a tie.
16 MR. ROWLES: Your Honor, may the record reflect
17 identification of the defendant?
18 THE COURT: Yes.
19 MR. ROWLES: Thank you, Your Honor.
20 BY MR. ROWLES:
21 Q All right. So around January 22nd, 2016, you were
22 all living together?
23 A Um-h'm.
24 Q Was that here in Las Vegas?
25 A Yes.

1 Q On that day, do you remember anything about that
2 day?

3 A Not much.

4 Q Not much? Okay. If I could turn your attention
5 more towards the nighttime, was everyone home?

6 A Yes.

7 Q Your sister, your mother and Tuda?

8 A Yes.

9 Q Okay. Do you remember hearing anything?

10 A No.

11 Q Do you remember seeing anything?

12 A Yeah.

13 Q Well, what did you see? Let's talk about that a
14 little bit.

15 A Like what do you mean by see something? Like, a
16 couch or --

17 Q That's a fair question. Did you see your mom and
18 Tuda talk to each other or get into any sort of argument?

19 A I didn't see them because they were in their room,
20 but I heard it.

21 Q You heard it?

22 A Yeah.

23 Q What did you hear?

24 A Well, I can't remember what they were talking about,
25 but I know they were talking about something.

1 Q Okay, that's perfect. And if you don't remember
2 anything, that's a perfectly acceptable answer. All we want
3 to do is just ask you a few questions and you tell us what
4 you remember; is that fair?

5 A Yeah.

6 Q Do you remember at any time throughout the night
7 being chased?

8 A No.

9 Q No? Do you remember any point in the night trying
10 to call the police?

11 A No.

12 Q Do you remember at any point in the night calling
13 the police?

14 A No.

15 Q Did the police respond that night?

16 A Yeah.

17 Q How many police officers responded or did you speak
18 with them?

19 A Yeah, I -- I speaked with them.

20 Q Do you remember what you said to them?

21 A No.

22 Q I'm going to go through this one by one here. You
23 remember police officers arriving; is that correct?

24 A Yes.

25 Q And you remember speaking to them?

1 A Um-h'm.

2 Q But you don't remember what you told them?

3 A I don't remember what I told them.

4 Q Do you remember specifically telling police that you
5 overheard Tuda and Brittney arguing in their bedroom about
6 him cheating on her or -- and other relationship issues?

7 A No.

8 Q Do you remember specifically telling police that
9 while this was happening, you saw your mother holding some
10 boxes and you heard her tell Tuda, no, don't do that?

11 A No.

12 Q Do you remember specifically telling police that
13 while that was happening, you saw Tuda get out of bed, punch
14 your mom in the stomach, and at that point, she dropped the
15 boxes and fell to the ground?

16 A No.

17 Q Do you remember telling -- specifically telling the
18 police that after you saw your mom fall to the ground, you
19 saw Tuda yell at her?

20 A No.

21 Q Do you remember specifically telling police that
22 after your mom fell to the ground, you saw her run to the
23 kitchen, Tuda followed her, pushed his way through the
24 kitchen door and began to attack her?

25 A No.

1 Q Do you remember specifically telling police that
2 while your mother was in the kitchen, you saw Tuda kick and
3 stomp on her?

4 A No.

5 Q Do you remember specifically telling police that
6 while your mom was being attacked in the kitchen, she yelled
7 for you to call police?

8 A Um-um. No.

9 Q Do you remember specifically telling police that
10 when after she yelled for you, you told them that you grabbed
11 the phone, attempted to call the police, but Tuda chased you
12 into your room?

13 A No.

14 Q And that's fine. It's perfect. If you don't
15 remember it, just tell us you don't remember it. If you
16 remember it, just let us know. Do you remember specifically
17 telling police that after Tuda chased you into your room, he
18 grabbed the phone from you, threw you down onto your bed and
19 knocked the TV over?

20 A No.

21 Q Do you remember specifically telling police that
22 after he threw you to the bed, you were in pain in the butt
23 area?

24 A No.

25 Q And do you remember specifically telling police that

1 after he threw you to the bed, your mom came towards your
2 room and tried to stop Tuda from hurting you and told him to
3 get out of here?

4 A No.

5 Q Do you remember specifically telling police that
6 after your mother reapproached and told him to leave, that
7 the fight spilled back into the bedroom where you is a your
8 mother fall to the floor, hit her head, and Tuda continued to
9 punch and kick her?

10 A No.

11 Q Do you remember specifically telling police that
12 after Tuda punched and kicked her in the master bedroom, that
13 the second time that he eventually left and your mother
14 stumbled into the bathroom?

15 A No.

16 Q That while she was in the bathroom, she sat there
17 and cried?

18 A No.

19 Q Do you remember at that point in time calling
20 police?

21 A I think so.

22 Q You think so? Cameron, do you remember being
23 punched in the face on that day?

24 A No.

25 MR. ROWLES: Court's indulgence.

1 THE COURT: Sure.

2 BY MR. ROWLES:

3 Q Do you remember Kaylee being there that night?

4 A Yes.

5 Q Do you remember telling police Kaylee was there?

6 A No.

7 Q Do you remember telling police Kaylee was next to
8 you while this happened in your room?

9 A No.

10 Q Do you remember being scared?

11 A Yes.

12 Q Why were you scared?

13 A Because I was -- I was afraid of what was going to
14 happen that night --

15 Q Okay.

16 A -- to all of us. I mean, yeah.

17 Q Now, I talked a little bit earlier about whether you
18 knew the difference between a truth or a lie.

19 A Um-h'm.

20 Q And I asked you if my tie was hot pink, and you told
21 me that's a lie because it's not hot pink.

22 A Yeah.

23 Q Do you know what happens when you tell a lie?

24 A You get in trouble.

25 Q You get in trouble? Is there any reason you think

1 that you would lie to the police on that night?

2 A No.

3 MR. ROWLES: Court's indulgence.

4 BY MR. ROWLES:

5 Q Now, Cameron, just a few more questions. I
6 appreciate it. I'm going to turn your attention to July of
7 2015, July 2nd, and July 3rd. Do you remember that time
8 period? I know it was a long time ago.

9 A Some of it.

10 Q Do you remember who you were living with?

11 A Yeah.

12 Q Who were you living with?

13 A My mom, Tuda and Kaylee.

14 Q Basically, the same people?

15 A Um-h'm.

16 Q Were you living at the same apartment?

17 A Yes.

18 Q But you were for sure living with the same people,
19 right?

20 A Um-h'm.

21 Q Now, on July 3rd, do you remember speaking with
22 police?

23 A No.

24 Q Do you remember the police responding?

25 A No.

1 Q Did you see police at all that day?

2 A I saw them that day.

3 Q And do you remember what they were there for?

4 A Yes.

5 Q What were they there for?

6 A Because Tuda and my mom fought.

7 Q And when did they fight?

8 A July 2nd.

9 Q Do you remember what you saw on July 2nd?

10 A Police --

11 Q Or when your mom and Tuda were fighting, did you see
12 anything?

13 A No.

14 Q Do you remember anything about that other than that
15 they fought?

16 A They talked to the police and, yeah.

17 Q Was that the next day?

18 A No, I think it was the day that they -- like the
19 night.

20 Q Okay. But you remember seeing police the next day
21 as well, right?

22 A Wait --

23 Q You saw police at some point in time during that
24 area when they fought?

25 A Yeah.

1 Q Do you remember writing out a statement?

2 A No.

3 MR. ROWLES: Your Honor, may I approach the
4 witness?

5 THE COURT: Yes.

6 MR. ROWLES: For the record, I'm showing defense
7 counsel what's been marked for identification purposes as
8 State's 2.

9 BY MR. ROWLES:

10 Q Cameron, I want you to take a look at this. Do you
11 recognize this document?

12 A No.

13 Q Okay. Do you recognize the handwriting?

14 A Yes.

15 Q Whose handwriting is that?

16 A That's mine.

17 Q Now, this happened back in 2015. Has your
18 handwriting got a little bit better since then?

19 A Yeah.

20 Q Yeah? What grade were you in back then?

21 A I think third.

22 Q Well, if you're in fourth grade now, you were --

23 A Yeah.

24 Q Okay. And so would you recognize that handwriting?

25 A A little bit.

1 Q A little bit?

2 A Like --

3 Q Does it look like your handwriting?

4 A Yeah.

5 Q Okay. Looking up here, is that your name?

6 A Yes.

7 Q Okay. And looking down here in the bottom right, do
8 you recognize that name?

9 A Um-h'm.

10 Q What name is that?

11 A My mom's.

12 Q Okay. Do you remember writing this statement,
13 Cameron?

14 A No.

15 MR. ROWLES: Your Honor, permission -- well, I'd
16 move for admission of State's 2 and permission to read it
17 into the record.

18 THE COURT: Any objection?

19 MS. WALKENSHAW: Your Honor, my only objection is
20 that -- the objection that he doesn't recall writing it. He
21 has no specific memory of writing that out himself.

22 THE COURT: He stated it was his handwriting.

23 MS. WALKENSHAW: He did, but he has no recollection
24 of writing that.

25 THE COURT: Is that your only objection?

1 MS. WALKENSHAW: It is.

2 THE COURT: Overruled. You may proceed.

3 MS. RHOADES: And Your Honor, I'm sorry to
4 interrupt, but for the record, I don't think it's 2.

5 MR. ROWLES: 75. My apologies.

6 THE COURT: Whoa, that's a big difference,
7 Mr. Rowles.

8 MR. ROWLES: I need to get my glasses checked, Your
9 Honor.

10 THE COURT: I think so.

11 MR. ROWLES: Permission to read it into the record,
12 Your Honor?

13 THE COURT: Yes.

14 MR. ROWLES: State's Exhibit 75. Tuda choked mom,
15 then he let go and mom said call 911, and he said give me the
16 phone. He got the phone by threatening us with a knife. He
17 grabbed it out of my sister's hand. Mom was holding him off
18 and fell on the bed and got this back. Okay. May I
19 approach?

20 THE COURT: Sure. 75's admitted.

21 (State's Exhibit 75 admitted)

22 MR. ROWLES: Thank you, Your Honor.

23 BY MR. ROWLES:

24 Q Now, around that time period, Cameron, in July, July
25 3rd, do you remember going to a friend's house?

1 A No.

2 Q You don't remember staying at a friend's house?

3 A I think -- I think we were staying at my mom's
4 friend's house.

5 Q Your mom's friend's house?

6 A Yeah.

7 Q That was a little confusing on my part. Not your
8 friend but your mom's friend?

9 A Yeah.

10 Q Do you know how long you stayed there?

11 A Two or three days.

12 Q Did you see Tuda during that time period?

13 A No.

14 Q I know this is a little confusing, but I'm going to
15 jump back to January 22nd here. After the night where police
16 came and you spoke, did you stay at a different place for a
17 couple days?

18 A I -- I can't remember that.

19 Q You don't remember?

20 MR. ROWLES: Court's indulgence.

21 BY MR. ROWLES:

22 Q And then, again, I'm jumping back all over the place
23 here and throughout the history of time. In the July
24 incident, were you scared at that period when Tuda had the
25 knife?

1 A I -- I can't remember that he had a knife at all.

2 Q Okay.

3 MR. ROWLES: Pass the witness, Your Honor.

4 THE COURT: Very well. Mr. Eichacker.

5 MR. EICHACKER: Yes, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. EICHACKER:

8 Q Cameron, I have a few questions for you. On January
9 22nd, you said you thought you remembered calling 911?

10 A January 22nd? No.

11 Q You don't remember?

12 A No.

13 Q Do you remember talking to the police that night?

14 A Yes.

15 Q Do you remember what you were doing that night?

16 A Talking to the police.

17 Q Were you watching TV?

18 A Yeah.

19 Q Were you in your room?

20 A Yes.

21 Q Were you with your sister?

22 A Yes.

23 Q And jumping a little further back July of last year,
24 the State showed you a piece of paper with your handwriting.

25 A Um-h'm.

1 Q You said you remembered talking to police in July?

2 A Yes.

3 Q Of last year?

4 A Yes, I remember talking to them.

5 Q And were you with your mom when you talked to the
6 police?

7 A I don't believe so. Like, she was there, but I -- I
8 wasn't like standing right next to her.

9 Q But she was there?

10 A Yeah, she was there.

11 Q And she was with you before then, before you talked
12 to the police?

13 A Um-h'm.

14 Q And the night before?

15 A Yes.

16 MR. EICHACKER: Court's indulgence. No further
17 questions, Your Honor.

18 THE COURT: Very well. Any follow-up, Mr. Rowles?

19 MR. ROWLES: No, Your Honor.

20 THE COURT: With the thanks of the Court, you may
21 step down. State's next witness.

22 MS. RHOADES: Yes, Your Honor. We are going to
23 call Kaylee Jensen. She's six, so if I could go through with
24 her that she promises to tell the truth instead of --

25 THE COURT: Yes.

1 MS. RHOADES: -- swearing her in.

2 THE COURT: Do you agree with that, Ms. Walkenshaw?

3 MS. WALKENSHAW: I do, Your Honor.

4 THE COURT: Very well.

5 MS. RHOADES: I just -- I want to ask you a couple
6 questions before she does that.

7 KAYLEE JENSEN, STATE'S WITNESS

8 DIRECT EXAMINATION

9 BY MS. RHOADES:

10 Q You can sit down, Kaylee, okay?

11 Remember how we talked about before? Can you answer
12 me "yes" or "no" instead of nodding your head? Can you do
13 that? Can you say "yes" or "no"? Are you nervous? Your
14 hair looks very pretty today. Can you -- well, Kaylee, let
15 me ask you this, is the truth a good or a bad thing?

16 A Good.

17 Q I can't hear you.

18 A Good.

19 Q A good thing? Is a truth something that really
20 happened? Are you okay, honey?

21 A I don't know.

22 Q You don't know? Do you get in trouble if you tell a
23 lie?

24 A Yes.

25 Q Can you promise that everything you tell me -- I'm

1 only going to ask you a couple questions, but can you promise
2 that everything you tell me is going to be a truth?

3 A Sure.

4 Q Sure? Okay. Thank you. I quickly just want to ask
5 you about something that happened a while ago. But before
6 that, can you tell us how old you are?

7 A Six.

8 Q When's your birthday?

9 A January 22nd.

10 Q January 22nd?

11 A I forgot.

12 Q It's in January? Is that a yes? Can you say yes?

13 A Yes.

14 Q What grade are you in?

15 A First grade.

16 Q You're in first grade? Do you live in Arizona?

17 A Yes.

18 Q Yeah? I'm going to take you a little bit back when
19 you used to live in Las Vegas where you are now, okay? Do
20 you remember in January that you went and stayed with some
21 people for a couple days?

22 A Yes.

23 Q Was that after the police came to your house?

24 A Yes.

25 Q Okay. On that day, when the police came to your

1 house, do you remember being in your bedroom when Tuda pushed
2 Cameron on the bed? Is that a, yes?

3 A Yes.

4 Q And I guess, I'm jumping ahead of myself. Do you
5 have a brother?

6 A Yes.

7 Q What's his name?

8 A Cameron.

9 Q Is he older or younger than you?

10 A Older.

11 Q Older. And when you were living in Las Vegas, did
12 you guys share a room?

13 A Um-h'm.

14 Q Is that a yes?

15 A Yes.

16 Q In Arizona, do you guys share a room or do you have
17 your own rooms?

18 A We share.

19 Q Okay. Also, going back in January, that night when
20 the police came, did you see Tuda take the phone out of
21 Cameron's hand?

22 A Yes.

23 Q Okay. Do you remember being scared that night?

24 A Yes.

25 Q Yeah? Okay. Do you have a cat?

1 A Yes.

2 Q Yeah? What's your cat's name?

3 A Chloe.

4 Q Okay. I think that's all I have for you, okay,

5 Kaylee? Thank you.

6 MS. RHOADES: I'd pass the witness, Your Honor.

7 THE COURT: Very well. Ms. Walkenshaw.

8 MS. WALKENSHAW: Court's indulgence.

9 THE COURT: Sure.

10 CROSS-EXAMINATION

11 BY MS. WALKENSHAW:

12 Q Hi Kaylee?

13 A Hi.

14 Q I'm Talia. I just have one question for you, okay?

15 Do you love Tuda?

16 A Yes.

17 Q Yeah?

18 MS. WALKENSHAW: The defense doesn't have any other
19 questions, Your Honor.

20 THE COURT: Any follow-up?

21 MS. RHOADES: No, Your Honor.

22 THE COURT: With the thanks of the Court, Kaylee,
23 you may step down now. Ms. Rhoades?

24 MS. RHOADES: Yes, Your Honor. Would you like us
25 to call the next witness?

1 THE COURT: Anybody need a break? Okay, let's
2 press on.

3 MS. RHOADES: Okay. Officer Justin Kolarik.

4 (Pause in the proceedings)

5 MS. RHOADES: May I approach your clerk briefly,
6 Your Honor.

7 THE COURT: Yes. Good afternoon, Officer. Good
8 afternoon.

9 THE WITNESS: Good afternoon.

10 OFFICER JUSTIN KOLARIK, STATE'S WITNESS, SWORN

11 THE CLERK: Please be seated, stating your full
12 name, spelling your first and last name for the record.

13 THE WITNESS: Justin Kolarik, J-u-s-t-i-n,
14 K-o-l-a-r-i-k.

15 THE COURT: Whenever you're ready, Ms. Rhoades.

16 MS. RHOADES: Thank you very much, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. RHOADES:

19 Q Sir, how are you employed?

20 A I'm employed as a police officer with Las Vegas
21 Metropolitan Police Department.

22 Q And are you a patrol officer with Metro?

23 A Yes, ma'am.

24 Q How long have you been with Metro?

25 A Approximately, two years.

1 Q Do you work a certain area command of the valley?

2 A Yes, ma'am. I work convention center.

3 Q What does convention center, like, what does it
4 encompass?

5 A It encompass the Strip area. We go from Sahara to
6 Russell north and south and then from 15 on the west side to
7 Paradise-ish on the west -- or the east side.

8 Q Were you working in your capacity as a patrol
9 officer on January 22nd, 2016?

10 A Yes, ma'am.

11 Q At about 6:55, did you arrive at 356 East Desert Inn
12 on that night?

13 A Yes, ma'am.

14 Q Okay. At about 6:55 p.m.; is that right?

15 A That's correct.

16 Q Were you driving in a police marked vehicle?

17 A Yes, ma'am.

18 Q Were you with anybody or were you by yourself?

19 A I was by myself.

20 MS. RHOADES: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes.

23 BY MS. RHOADES:

24 Q I'm going to show you what's been marked as State's

25 1. Does that appear to be a map of the 356 East Desert Inn

1 address and the two cross streets near it?

2 A Yes, ma'am.

3 Q Does that fairly and accurately depict that area and
4 where you responded on January 22nd?

5 A Yes, ma'am.

6 MS. RHOADES: I'd move for the admission of State's
7 1, Your Honor.

8 THE COURT: Any objection?

9 MS. WALKENSHAW: No objection, Your Honor.

10 THE COURT: So ordered. 1 is admitted.

11 (State's Exhibit 1 admitted)

12 MS. RHOADES: Thank you very much.

13 BY MS. RHOADES:

14 Q And the cross streets are Paradise and Desert Inn;
15 is that fair to say?

16 A Correct.

17 Q Why did you respond to that location on that day?

18 A There was a call of a domestic violence.

19 Q And when you arrived, were there other officers
20 already on the scene?

21 A We got there at the same time.

22 Q When you got there, did you have to wait for a
23 little bit to get into the gate?

24 A Yes, ma'am.

25 Q What happened after you got into the gate?

1 A Well, we were led or instructed how to get to the
2 target apartment.

3 Q Was the target apartment, apartment 111?

4 A I believe so. I don't remember the exact number.

5 Q And that address is here in Las Vegas, Clark County,
6 Nevada; is that correct?

7 A Yes, ma'am.

8 Q Can you describe how the scene was when you arrived?

9 A When we got there, we heard some, I would say -- I
10 wouldn't say yelling or screaming, but we heard some noise
11 coming from the inside of the apartment. It sounded like a
12 female.

13 Q And when you entered the apartment, what did you
14 see?

15 A There was a female in there that appeared to be
16 crying. The room was a mess, stuff scattered about. I did
17 see some what appeared to be hair on the ground, on the
18 floor.

19 Q Did medical arrive as well?

20 A They arrived later. They didn't arrive the same
21 time we did.

22 Q About how long after you arrived until medical
23 arrived?

24 A Several minutes. I'm not sure of the exact amount.

25 Q When does medical -- I guess, did you guys have to

1 like clear the scene and make sure everything was safe before
2 medical came in?

3 A Yes, what we do, we clear to make sure everything's
4 safe for medical, that there's no danger for them to come
5 evaluate the patient.

6 Q What is a body-worn camera?

7 A A body-worn camera is a camera provided by our
8 department, my department that we wear to video record our
9 interactions on these type of calls.

10 Q Not necessarily an investigative tool, but just
11 something that you guys have on you?

12 A Yes, ma'am.

13 Q Okay. Where on your body is it placed?

14 A I wear mine on the right collar.

15 Q Were you wearing one on this day?

16 A Yes, ma'am.

17 Q And did you have it activated?

18 A Yes, ma'am.

19 Q Have you previously had the opportunity to review
20 that body camera in my office?

21 A Yes, ma'am.

22 MS. RHOADES: I'd move for the admission of State's
23 4, Your Honor. It's the body camera.

24 THE COURT: Any objection?

25 MS. WALKENSHAW: No, Your Honor.

1 THE COURT: So ordered.

2 (State's Exhibit 4 admitted)

3 MS. RHOADES: Thank you. And permission to
4 publish?

5 THE COURT: Yes.

6 (Playing video from the body camera).

7 BY MS. RHOADES:

8 Q And do you know whether the audio -- does the audio
9 not start until about 30 seconds in?

10 A That's correct.

11 Q Okay.

12 MS. RHOADES: So just for the record I'm going to
13 go about --

14 (Playing the video from the body camera).

15 BY MS. RHOADES:

16 Q I'm just going to pause it there. Is that you and
17 two other officers walking through the complex getting to
18 that target apartment?

19 A Yes, ma'am.

20 Q Do you know who those other two officers are in the
21 video?

22 A I believe, that is Officer Pickens and Officer
23 Sylvia.

24 MS. RHOADES: And Your Honor, I don't think the
25 speaker's hooked up. I just want to make sure everybody can

1 hear it okay. Okay. Thank you.

2 (Playing video from body camera).

3 BY MS. RHOADES:

4 Q And we just saw a small child. Was that a small
5 female child that was in the apartment?

6 A I believe so. I don't know for sure.

7 Q Okay. Were you aware that there were kids in the
8 apartment?

9 A I don't remember.

10 Q Okay.

11 (Playing the video from the body camera)

12 BY MS. RHOADES:

13 Q And is that Officer Pickens that went out there?

14 A Yes, ma'am.

15 Q Okay.

16 (Playing the video from the body camera)

17 BY MS. RHOADES:

18 Q And fair to say that Officer Pickens is speaking
19 with the defendant right now; is that right?

20 A Yes, ma'am.

21 Q And you're not standing close enough to them that
22 you're capturing the entirety of the conversation on the body
23 cam; is that right?

24 A That's correct.

25 Q What are you doing out there at this point in time?

1 A At this point, I'm just providing cover for both
2 Officer Pickens and Officer Sylvia who's still inside.

3 Q I'm sorry, I should have paused that. You were, I'm
4 sorry?

5 A Just providing cover for both officers, Officer
6 Pickens outside and Officer Sylvia who's inside the apartment
7 still.

8 Q And you can hear the female half crying in the
9 background?

10 A Yes, ma'am.

11 Q And did you just call for medical to come up?

12 A Yes, ma'am.

13 Q And just for the record, she just -- previous to
14 what she's doing with her hands now, the female half -- when
15 medical was talking to her she motioned to her throat like
16 this; is that fair to say?

17 A Yes, ma'am.

18 Q And did we just hear medical say did he strangle you
19 and she responded yeah?

20 A Yes, ma'am.

21 Q And we're about 16 minutes into the video, and
22 that's when the male half is getting placed in handcuffs; is
23 that correct?

24 A Yes, ma'am.

25 Q And about 17 minutes in is the female half getting

1 taken to the hospital?

2 A Yes, ma'am.

3 Q Okay. Thank you, officer.

4 MS. RHOADES: I'd pass the witness.

5 THE COURT: Ms. Walkenshaw.

6 MS. WALKENSHAW: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. WALKENSHAW:

9 Q Good afternoon, Officer.

10 A Good afternoon.

11 Q Now, obviously, we saw the incident was alleged to
12 have occurred at the residence, correct?

13 A Yes, ma'am.

14 Q Okay. And fair to say that you weren't present when
15 the incident occurred, correct?

16 A That's correct.

17 Q Okay. You arrived once you were dispatched there?

18 A Yes, ma'am.

19 Q Correct? Do you recall who's call it was that
20 dispatched then -- do you recall who it was that placed the
21 call?

22 A I do not, no.

23 Q Either party, you don't recall?

24 A I don't know.

25 Q Okay. And so it's fair to say that, obviously, you

1 didn't observe anything occur between James and Brittney,
2 correct?

3 A That's correct.

4 Q Okay. And you didn't personally see any contact
5 between them, correct?

6 A That's correct.

7 Q Okay. And anything you learned about the incident
8 was relayed by Brittney, correct?

9 A That's correct.

10 Q Okay. And that was relayed verbally, correct?

11 A Yes, ma'am.

12 Q Okay. She did not write a statement, correct?

13 A Not when -- not while I was there.

14 Q Okay. And while you were there, you're not aware of
15 her ever providing a recorded interview or anything, correct?

16 A No.

17 Q Okay. When you arrived, it's fair to say that
18 Mr. Cooper was outside, correct?

19 A Yes, ma'am.

20 Q Were you aware he was still on the phone with
21 dispatch?

22 A I was not.

23 Q Okay. He didn't run, correct?

24 A That's correct.

25 Q Okay. He didn't hide, correct?

1 A Nope.

2 Q Okay. And you -- from the video it appears that you
3 didn't personally interact with Mr. Cooper, correct?

4 A That's correct.

5 Q That was Officer Pickens, I believe?

6 A Yes, ma'am.

7 Q Okay. And you obviously, observed several injuries,
8 correct?

9 A Yes, ma'am.

10 Q Okay. But you have no personal knowledge as to how
11 those came to be, correct?

12 A That's correct.

13 Q Okay. Because as you indicated earlier, you didn't
14 actually observe any physical contact between them, correct?

15 A Correct.

16 Q Okay. And prior to this incident, you had never
17 seen Mr. Cooper, correct?

18 A That's correct.

19 Q Okay.

20 MS. WALKENSHAW: I have nothing further, Your
21 Honor.

22 THE COURT: Very well.

23 MS. WALKENSHAW: Thank you. Thank you, Officer.

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Any follow-up?

1 MS. RHOADES: No, Your Honor.

2 THE COURT: With the thanks of the Court, Officer,
3 you may be excused.

4 THE WITNESS: Thank you, Your Honor. Court.

5 MR. ROWLES: Your Honor, the State's next witness
6 would be Officer Nicholas Sylvia.

7 THE COURT: Very well. Thank you.

8 OFFICER NICHOLAS SYLVIA, STATE'S WITNESS, SWORN

9 THE CLERK: Please be seated, stating your full
10 name, spelling your first and last name for the record.

11 THE WITNESS: Nicholas Sylvia, N-i-c-h-o-l-a-s,
12 S-y-l-v-i-a.

13 THE COURT: Whenever you're ready, Mr. Rowles.

14 MR. ROWLES: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MR. ROWLES:

17 Q Sir, how are you currently employed?

18 A I'm a police officer with the Las Vegas Metropolitan
19 Police Department.

20 Q And how long have you been employed with Metro?

21 A For six years.

22 Q Six years? What are some of your responsibilities
23 at Metro? Are you a patrol officer or detective?

24 A Patrol officer. I work in the field, responsible
25 for handling calls as well as conducting proactivity.

1 Q Are you assigned to a specific area in Las Vegas?

2 A Yes, convention center area command.

3 Q And what is -- for the ladies and gentlemen of the
4 jury, what is the convention center?

5 A It mostly consists of the Strip. It runs from
6 Sahara to Russell from the I-15 down to Paradise and Swenson,
7 depending on what part you're at.

8 Q Okay. So basically, the Strip and some close by
9 areas?

10 A To the east, yes.

11 Q Sir, I'd like to turn your attention to January
12 22nd, 2016. On that day were you employed with the Las Vegas
13 Metropolitan Police Department?

14 A Yes.

15 Q And were you at work that day?

16 A Yes, I was.

17 Q Did you have the opportunity to respond to 356 East
18 Desert Inn Avenue or Road?

19 A Yes.

20 Q Yes?

21 A Yes.

22 Q And is that here in Las Vegas, Clark County, Nevada?

23 A It is.

24 Q And did you -- on that day were you working with a
25 partner or were you riding solo?

1 A I was a solo unit that day.

2 Q Black and white?

3 A Yes, in a marked patrol vehicle.

4 Q And do you remember the nature of the call or what
5 the reason for your response?

6 A It came out as a domestic disturbance at that
7 residence.

8 Q And did you respond to the area?

9 A Yes.

10 Q Okay. Can you sort of walk us through what happens
11 when you first respond to the apartment complex?

12 A Arrive with my partner, Officer Pickens. We met up
13 outside of the complex, kind of formulated a game plan going
14 in, figured out how we were going to approach. We entered,
15 and we started walking down the -- the way the apartment
16 complex is set up, there's a long corridor down the middle,
17 and we started walking down that towards the residence.

18 Q Okay. And so you referenced your partner Officer
19 Pickens, he was riding in a separate car that day?

20 A Yes.

21 Q And you guys --

22 A We both -- we both arrived and met up out front.

23 Q Did it take some time to get into the apartment
24 complex?

25 A A little bit. They have a locked door out front. I

1 don't recall if someone let us in or if we got the code from
2 dispatch.

3 Q So what happens as you are approaching the
4 apartment?

5 A We had been working with each other for a while, so
6 we kind of have an idea of what we like to do and where the
7 other person's going to go. But just thinking about the
8 possibilities of who we could run into, if we could run into
9 them outside the apartment, inside the apartment, what could
10 be going on, how we're going to handle things when we get
11 inside.

12 Q You eventually arrive at apartment 111?

13 A Yes.

14 Q Can you talk a little bit about that? What happens
15 when you arrive at the apartment?

16 A As we got close to the apartment, we could hear kids
17 crying as well as a female crying inside. We could see
18 through the open door, went in. When we first went in, we
19 could see them in the hallway. That was a female lying on
20 the ground in the hallway crying with blood on her. And
21 there were two children standing next to her crying as well.

22 Q You know those two kids' names?

23 A It was James Blair and Kaylee Jensen.

24 Q Okay. So you have arrived, you've entered the
25 apartment. You see the female. What's her name?

1 A Brittney Jensen.

2 Q You see on the ground crying, what happens next?

3 A Go in, make contact with her quickly. She had
4 multiple injuries and was bleeding. We had to clear the
5 apartment to make sure there was no one else in there. So I
6 went through, I cleared the apartment. There were -- there
7 was the kitchen right behind them and then this was a short
8 hallway that they were sitting in, and there were two
9 bedrooms to the back.

10 My partner stayed with her and I cleared the back
11 bedrooms.

12 Q You referenced when you made contact with Brittney
13 you saw injuries. What were those injuries?

14 A She had multiple facial injuries, looked like
15 bruising. Her eye was completely swollen, almost shut.
16 Looked like she had some hair missing and she had blood and
17 scratches everywhere.

18 Q Now, you said she was crying. Can you just sort of
19 briefly touch upon what her demeanor like. Was she just
20 crying or --

21 A She was -- she was hysterical. She was crying,
22 tears, snot, everything. She had a pretty pronounced red
23 mark across her neck and she was crying so heavily to the
24 point where we were trying to speak with her and she couldn't
25 -- she couldn't gasp enough air to be able to get many words

1 out.

2 Q You said a red mark around her neck. What do you
3 mean?

4 A Just kind of a red mark straight across the neck,
5 kind of a ligature type mark.

6 Q Now, you referenced -- or you testified that
7 Brittney was sort of crying and hysterical. Did you try to
8 talk to her, try to figure out what was going on?

9 A Initially, yes. We had to clear the apartment. We
10 tried to start talking to her, ask her questions. She didn't
11 give us much. At one point I think she said something about
12 he's outside or he went outside, something to that effect. I
13 stayed in the apartment. The other officers ended up leaving
14 the apartment.

15 Q Is that Officer Pickens?

16 A Yes.

17 Q And was there another officer there, too?

18 A Yes.

19 Q What was his name?

20 A I believe, it was Officer Kolarik.

21 Q So when you arrived, you cleared the scene, Pickens
22 and Kolarik, they go outside, you stay inside. What do you
23 do after you sort of clear the scene? Do you make contact
24 with anyone else?

25 A No. I stayed with her inside -- inside the

1 apartment. We summoned medical because she had multiple
2 injuries so they could come. Continued to try to question
3 her, talk to her, get information about what had happened,
4 about the suspect. Just the basic questions we ask everybody
5 when we go on those calls.

6 Q All right. You said you continued to try to
7 question her. Was she responsive to any of your questions?

8 A We couldn't -- I couldn't really get much out of
9 her. She was just crying hysterically and screaming. She
10 wouldn't really answer anything. I couldn't get much out of
11 her.

12 Q But you were asking her -- or you were trying to
13 figure out what was going on with her, right?

14 A Yes.

15 Q Did you speak with the kids?

16 A Yes, I did.

17 Q Which kid did you speak with?

18 A I spoke with -- I spoke with James, the older child.

19 Q Boy?

20 A Yes.

21 Q Okay. Did he tell you what happened?

22 A He -- they were in the -- at this point, medical was
23 coming, they were doing their thing. I went into the back
24 bedroom in their bedroom. Both the kids were sitting in
25 there. Talked to James, asked him if he knew what happened.

1 He said yes and was pretty adamant that he knew exactly what
2 happened. He saw everything.

3 So I asked him what happened, and he basically ran
4 through the whole entire story of what he saw.

5 Q Is it fair to say that based on your conversation
6 with James, you asked Officer Pickens to follow up with
7 Cameron?

8 A I -- I told -- Pickens was out dealing with other
9 stuff. Before I left to go to the hospital with Brittney, I
10 had relayed what James had told to me.

11 MR. ROWLES: Court's brief indulgence.

12 BY MR. ROWLES:

13 Q You said he told you what he saw. Do you mind
14 walking us through? What did he tell you?

15 A He said that his mother --

16 MS. WALKENSHAW: Your Honor, I'm just going to
17 object at this point as to hearsay.

18 THE COURT: Let's have some foundation, Mr. Rowles.

19 MR. ROWLES: Well, Your Honor, I think if we may
20 approach on this.

21 THE COURT: Sure.

22 (Bench conference begins).

23 MR. ROWLES: Your Honor, I think under Crawley v.
24 State (phonetic) we had Cameron come up on the stand. He
25 remembers some police officers being there. He doesn't

1 remember speaking to police officers. He doesn't remember
2 speaking specifically and what he told the police officers.
3 We confronted him in statements towards those police officers
4 -- I don't know why I'm whispering. Denying those, well, I
5 don't remember is the exact same thing as a denial
6 (inaudible) statements now made to both Officer Sylvia and
7 Officer Pickens come in as prior inconsistent statements.
8 Cameron says he doesn't remember them. He remembers police,
9 he remembers speaking to the police, but he doesn't remember
10 what he told police (inaudible). I don't know, I don't
11 remember is the exact same thing as I never said that under
12 Crawley v. State. I believe it comes in as a prior
13 inconsistent statement with both this officer and Officer
14 Pickens.

15 MS. WALKENSHAW: I don't think that that's
16 appropriate. I haven't had an opportunity to review the case
17 that Mr. Rowles is citing to. That being said, I don't think
18 that it falls within the prior inconsistent statement. I
19 would like an opportunity to review that case, obviously.

20 MR. ROWLES: I have the case now if you'd like me
21 to grab it.

22 MS. RHOADES: It's cited in our jury instructions
23 as well.

24 THE COURT: I don't -- I don't know that it does,
25 but if it can come in an excited utterance you can probably

1 get it in. We haven't heard any testimony about. --

2 MS. RHOADES: Your Honor --

3 THE COURT: -- the child --

4 MS. RHOADES: -- can we review that Crawley because
5 Crawley is directly on point. It's included in our
6 instructions. It says I don't remember is the same as the
7 denial and these are all prior inconsistent statements.
8 That's why we --

9 THE COURT: Let's take a ten-minute break.

10 MS. RHOADES: Okay, thank you.

11 (End of bench conference)

12 THE COURT: Members of the jury, we're going to
13 take about a ten-minute break. There are some issues that I
14 need to discuss with counsel outside your presence as a
15 matter of law.

16 I remind you of your ongoing obligation not to talk
17 about this case, not to form or express any opinion, not to
18 do any research on any subject connected with this case.
19 Thank you. Please return at 4:00 p.m.

20 (Outside the presence of the jury)

21 THE COURT: Counsel, I'm going to step down just
22 for a few moments while you collect that paperwork.

23 MS. RHOADES: Thank you.

24 (Court recessed at 3:47 p.m. until 4:04 p.m.)

25 (Outside the presence of the jury)

1 THE COURT: I have the case. Can you point to me
2 the language that you think is appropriate, Mr. Rowles?

3 MR. ROWLES: Yes, Your Honor. I'm trying to find
4 the specific pin cite. I don't think the copy that I had,
5 but it's on the very last page and a half right before the
6 conclusion of the Supreme Court's opinion. It would be page
7 5 of 6 of an Lexis printout. If I may approach and show you
8 the area?

9 THE COURT: Sure.

10 MR. ROWLES: Does the defense have a copy of it?

11 MS. WALKENSHAW: I was able to review State's copy,
12 Your Honor. Thank you.

13 MR. ROWLES: So it would be, if you look at the
14 conclusion, these last two paragraphs.

15 THE COURT: Beginning with this conclusion or
16 before that?

17 MR. ROWLES: We conclude that --

18 THE COURT: Okay.

19 MR. ROWLES: Do you see it?

20 THE COURT: Yeah. Thank you.

21 MR. ROWLES: Thank you.

22 THE COURT: Give me a moment, please. Okay. So
23 for purposes of making a record, Mr. Rowles.

24 MR. ROWLES: Yes, Your Honor. I believe, the
25 defense's objection to hearsay with regards to my line of

1 questioning on Officer Sylvia about the statements that James
2 Cameron Blair made to him minutes after he responded, I
3 believe that comes in Crawley v. State 120 Nevada 30. And I
4 point you to the area in which the Nevada Supreme Court said
5 that we conclude that when a trial witness fails, for
6 whatever reason, to remember a previous statement made by
7 that witness, the failure of recollection constitutes a
8 denial of the prior statement, that makes it a prior
9 inconsistent statement pursuant to NRS 51.0352(a), and that
10 statement is not hearsay and may be admitted both
11 (indecipherable) and for impeachment.

12 I believe, when you look at the testimony that's
13 been presented before this Court today, State called James
14 Cameron Blair. It asked him if he remembered police
15 responding, if he remembered speaking to police. He said yes
16 and yes. And then we asked if he remembered what he told
17 police? He said no. And then we made a very major aspect of
18 our testimony was to confront him with specific statements
19 made by him on that day in question, and he said to each and
20 each one of those statements is I don't remember.

21 State's position under Crawley v. State is that on
22 I don't remember is the same thing as a denial. It is a
23 prior inconsistent statement. I believe it comes in both for
24 impeachment purposes, but also substantively under Crawley v.
25 State and then through the officer who did make contact, both

1 Officer Sylvia and Officer Pickens, the statements that he
2 made to both those officers since he was very clear that he
3 doesn't remember anything, if anything he said at all to
4 those officers.

5 THE COURT: Ms. Walkenshaw.

6 MS. WALKENSHAW: Thank you, Your Honor. I do agree
7 that that is what the Crawley decision indicated, based on my
8 reading of it. I guess, the only position the defense would
9 take is that in the defense's position, if it is a collateral
10 matter, extrinsic evidence cannot be admitted for those
11 purposes.

12 Given Brittney's testimony and James's testimony, I
13 would submit that James's testimony is collateral and
14 extrinsic evidence should not be admitted for that.
15 Otherwise, though, I will submit.

16 THE COURT: How do you mean collateral in this
17 instance?

18 MS. WALKENSHAW: In that it's not material because
19 we have Brittney's testimony regarding the incident.

20 THE COURT: So you really mean it's cumulative?

21 MS. WALKENSHAW: Certainly.

22 THE COURT: Mr. Rowles, any response?

23 MR. ROWLES: I'm not sure how it's collateral or
24 how it's cumulative at all. You heard the testimony of
25 Brittney Jensen. She did not have any of the same statements

1 with regards James Cameron Blair has. Crawley is quite clear
2 and it's the State's position that once he gets on the stand
3 and says he doesn't remember making a specific statement,
4 then these prior inconsistent statements come in as
5 substantive evidence.

6 I don't see it as collateral or cumulative. This
7 is going to be the first time that we've heard this.

8 THE COURT: So I appreciate the State providing me
9 this law. I didn't know this was the law. That's the great
10 thing about being in law, you get to learn new things
11 everyday, but it seems to me it's pretty straightforward. I
12 think it does represent what the State argues. It represents
13 and it looks to me like the officer can now tell the jury
14 what Cameron told him.

15 MR. ROWLES: Thank you.

16 THE COURT: So --

17 MS. RHOADES: Thank you.

18 THE COURT: All right. Can we bring your jury pool
19 in?

20 MS. RHOADES: Yes.

21 THE COURT: How many witnesses have you got other
22 than this one, Ms. Rhoades?

23 MS. RHOADES: We have two, Your Honor. And we're
24 hoping to get them done by today if we could possibly go to
25 5:15. I know we were here late yesterday, but the witnesses

1 that we have had here have been here since 1:30. Those are
2 our last two officers. If we do do that, we would be able to
3 be dark, if that's okay with the Court, for tomorrow, or if
4 the Court wants to argue jury instructions tomorrow, we could
5 do that and then start back up on Thursday.

6 THE COURT: Well, let's how far we can get. I
7 would prefer to go ahead and finish with these witnesses,
8 especially if they've been here all afternoon.

9 MS. RHOADES: Thank you.

10 THE COURT: But it's hard to anticipate how long
11 it's going to take to examine each one of them. This is a
12 perfect example. We had to take a few minutes out of the
13 examination in order to address this legal issue, which was
14 an important one for the trial.

15 MS. RHOADES: Thank you, Your Honor.

16 (In the presence of the jury)

17 THE COURT: Please be seated, ladies and gentlemen.
18 Will counsel stipulate to the presence of our jury?

19 MS. RHOADES: Yes, Your Honor.

20 MS. WALKENSHAW: Yes, Your Honor.

21 THE COURT: Very well. Mr. Rowles?

22 MR. ROWLES: Thank you, Your Honor.

23 BY MR. ROWLES:

24 Q Sir, when we left off, we were at the point in time
25 when you were speaking with James Cameron Blair.

1 A Yes.

2 Q He -- and you testified previously that he had
3 indicated to you what he saw happened?

4 A Yes.

5 Q Can you sort of walk us through what he told you?

6 A After medical had arrived, I went to the back room
7 to make contact with them. He was the older sibling and he
8 seemed to have a pretty confident idea of what he saw, told
9 me what happened.

10 So I started talking to him, asked him what
11 happened. He said that his mom was in an argument with Tuda.
12 He called James Cooper, Tuda. That's what he referred to him
13 as. He said they were in their bedroom, which was adjacent
14 to theirs, and they were both arguing in there.

15 His mother, Brittney, was mad at Tuda because she
16 said he was cheating on her. And so they were arguing. She
17 had a box in her hands and they were arguing in the bedroom.
18 He heard her say something to the effect of no, don't do
19 that. After that, he said Tuda punched his mom in the
20 stomach. After she got punched in the stomach, it caused her
21 to drop the box that she had in her hands, and then he ended
22 up grabbing her and throwing her to the floor.

23 After she fell on the floor, he said Tuda was
24 standing above her yelling at her.

25 Q You referenced the person by the name of Tuda and

1 you said that's who they refer to James Cooper by?

2 A Yes.

3 Q Okay. At any point in time did you have contact
4 with a man by the name of James Cooper?

5 A I didn't have contact with him. The only contact I
6 had was when I was leaving to escort medical, I could see him
7 outside with the other officers, but I didn't have any actual
8 contact with him.

9 Q Do you see that person here in the courtroom?

10 A Yes.

11 Q Can you please point to him and describe an article
12 of clothing that he's wearing today.

13 A Sitting here at the table in the blue shirt.

14 MR. ROWLES: Your Honor, may the record reflect the
15 identification of the defendant?

16 THE COURT: Yes.

17 MR. ROWLES: Okay.

18 BY MR. ROWLES:

19 Q So after you're speaking with James Cameron, and
20 we'll refer to him as Cameron. I think that's what he likes
21 to go by.

22 A Okay.

23 Q You said that he told you that he saw his mother get
24 punched, get thrown to the floor. What was the next thing he
25 told you?

1 A After she was thrown to the floor, Tuda was standing
2 above her, yelling at her. She got up and started running
3 into the kitchen. He said something about a kitchen door. I
4 don't remember how it was laid out, but she was running to
5 the kitchen trying to shut a door. Tuda went through,
6 slammed the door, chased after her in the kitchen, grabbed
7 her again, threw her to the floor. She slammed into the
8 cabinets before she hit the floor.

9 As soon as she was on the floor, he said that Tuda
10 kicked her all over the body with his foot and was stepping
11 on her face.

12 Q Did he tell you anything that happened after that?

13 A Yeah, at that point in time, after some period of
14 being kicked on the ground, she told him to go call the
15 police. He said at that point in time, he was trying to call
16 the police when Tuda came after him, starting coming down the
17 hallway after him. He said Tuda came and grabbed him,
18 brought him into his bedroom, the kids's bedroom and threw
19 him on the bed.

20 After he threw him on the bed, he took the phone,
21 knocked over the TV and started leaving the bedroom. Cameron
22 at this time, said that his mom yelled to Tuda to just leave
23 the house. She was in the back bedroom at this point. Tuda
24 then went into the bedroom. They started arguing again. He
25 grabbed her, threw her to the ground again. Cameron said

1 that when she fell to the floor, she hit her head on a piece
2 of furniture as she was falling. He said Tuda and his mother
3 then started wrestling on the ground.

4 She was grabbing at his hair while they were
5 wrestling on the ground. And while they were on the ground,
6 Tuda was continuously punching and hitting his mother,
7 Brittney. After this went on for a little while, Tuda
8 finally got up and left the apartment and Brittney went to
9 the bathroom and tried to lock herself in the bathroom.

10 Q Did he mention anything else at that point in time?

11 A I don't recall anything else, no.

12 Q So after you speak with Cameron, what are the next
13 steps you take?

14 A I talk with him, medical was on scene. They were
15 attending to Brittney. They made the decision they had to
16 transport her. At that point in time, I had to go with her,
17 follow her to the hospital. So the scene was left with
18 Officer Pickens at that point in time.

19 Q So you're saying that you -- you followed Brittney
20 to the hospital. Did you ride in the same ambulance or did
21 you take a car?

22 A I took my car and followed the ambulance.

23 Q And when Brittney was in the hospital, did you have
24 an opportunity to -- or did you attempt to speak to her
25 again?

1 A I did. I continued to try to question her about
2 what happened. At that point, she had calmed down a little
3 bit in regards to how she was initially. But she turned
4 towards -- she start the freaking out because she didn't have
5 her kids with her. So instead of kind of breathing hard and
6 not being able to answer, her responses were basically all
7 about her kids. Where's my kids? I want my to see my kids.
8 How are my kids?

9 And I didn't -- I didn't get any questions in
10 regards to the incident.

11 Q But you were trying to determine what happened,
12 right?

13 A Yes.

14 Q Okay. And she was basically just responding by
15 saying where are my kids?

16 A That's what she was concerned with, yes.

17 Q What was her demeanor like when you were at the
18 hospital with her? You said she had calmed down. Was she
19 still crying though?

20 A She was still crying. She started to kind of become
21 upset that her kids weren't there but she still continued to
22 cry and she wasn't answering -- answering the questions I was
23 asking her.

24 Q Were you there whether she was being treated by
25 medical staff?

1 A Yes.

2 Q Did anything unusual happen while she was being
3 treated by medical staff?

4 A Not that I recall.

5 Q Were you there when Officer -- not Officer, excuse
6 me, Amanda Wright, who I believe is a crime scene analyst
7 with Metro. Were you there when she responded?

8 A Yes.

9 Q Okay. And did you see her take pictures of
10 Brittney?

11 A Yes.

12 Q Okay. Was she still just -- while this was going
13 on, was she still acting basically the same way that you've
14 described throughout your entire interaction with her?

15 A Yes.

16 MR. ROWLES: Court's indulgence. I'll pass the
17 witness, Your Honor.

18 THE COURT: Very well. Ms. Walkenshaw.

19 MS. WALKENSHAW: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. WALKENSHAW:

22 Q Good afternoon, Officer.

23 A Good afternoon.

24 Q So we spoke a little bit about -- or you testified a
25 little bit about what Cameron had told you, right?

1 A Yes.

2 Q Okay. So you indicated that the first thing he had
3 told you is that they were -- they, as in his mom and Tuda --
4 were in an argument in their bedroom, correct?

5 A In the parents' bedroom, yes.

6 Q The parent's bedroom, correct. Did Cameron tell you
7 where he was at that point?

8 A He was watching from like the front hallway where
9 his bedroom is. The two bedrooms sit like this, and there's
10 a short hallway in between those and he was kind of standing
11 in the doorway hallway area.

12 Q Okay. And so he was in the doorway of his bedroom?

13 A Yes, which sits --

14 Q In the same hallway?

15 A -- adjacent to the same hallway as the parent's
16 bedroom.

17 Q Okay. And he told you in his own words that his mom
18 was mad because Tuda was cheating?

19 A Yes.

20 Q Okay.

21 A He said that's why she was upset.

22 Q And he used that word "cheating"?

23 A Yes.

24 Q Okay. And then the incident proceeded from the
25 bedroom to, I think, the kitchen you said, correct?

1 A That's what he said.

2 Q Okay. And after they struggled in the kitchen, it
3 went back into the bedroom?

4 A That's what he said.

5 Q What he indicated to you?

6 A That's what he -- he said it went from the kitchen
7 and then Tuda chased him down in the hallway, took him in the
8 bedroom, through him on the bed. At that point in time, Tuda
9 left and he said his mom was in the bedroom and then --

10 Q Okay.

11 A -- Tuda went into the other bedroom.

12 Q So after the kitchen between Cameron -- or between
13 Brittney and James, that's when Brittney asked Cameron to
14 call 911?

15 A During the incident in the kitchen, yes.

16 Q Okay. And were you aware that Mr. Cooper had called
17 911 prior to that?

18 MS. RHOADES: Well, I would object. That doesn't
19 -- that's not the testimony.

20 THE COURT: Sustain the objection. Ask you to
21 either lay some foundation or rephrase.

22 MS. WALKENSHAW: Okay.

23 BY MS. WALKENSHAW:

24 Q Were you aware of either of the parties calling 911?

25 A I wasn't sure who called 911.

1 Q Okay. So your information was from Cameron that his
2 mother had asked him to call 911, correct?

3 A Yes.

4 Q Okay. And it was at that point that Tuda, according
5 to Cameron, chased him into the bedroom, correct?

6 A In the hallway.

7 Q Okay.

8 A He said he was in the hallway, he was trying to call
9 911. Tuda came into the hallway, grabbed him, took him into
10 the bedroom and threw him on the bed, then grabbed the phone,
11 knocked over the TV and left the bedroom.

12 Q Okay. And after that, did Tuda then leave the
13 apartment, according to Cameron?

14 A There was another incident in the parent's bedroom.

15 Q Okay.

16 A And then after that, he said he had left the
17 apartment.

18 Q Okay. And that's what I was getting at. So there
19 was the initial altercation in the bedroom, correct, in the
20 parent's bedroom?

21 A Yes.

22 Q It then moved to the kitchen, correct?

23 A Yes.

24 Q Then there was the incident between Tuda and
25 Cameron, correct?

1 A Yes.

2 Q Then a subsequent incident between Tuda and
3 Brittney?

4 A Yes want.

5 Q Back in the parent's bedroom, correct?

6 A Correct.

7 Q And then Tuda left, correct?

8 A According to Cameron, yes, that's what he told me.

9 Q Okay. And this is all, of course, according to
10 Cameron, correct?

11 A Yes.

12 Q Okay. And he told you this verbally, correct?

13 A Yes.

14 Q Okay. He did not provide any type of written
15 statement, correct?

16 A He didn't because he was so young and shaken from
17 the incident, we didn't have a write out -- him write out a
18 statement just because of --

19 Q Okay. He didn't give any recorded interview,
20 correct? You didn't record the conversation you had with
21 him?

22 A I did not, no.

23 Q Okay. Do you have that capability?

24 A I did not at the time, no.

25 Q Okay. And are you aware whether Brittney ever gave

1 a written statement?

2 A I don't recall. I don't recall her giving a
3 statement when I was there.

4 Q Okay. And are you -- because you indicated you
5 stayed with her for most of the time, right?

6 A Yes.

7 Q Okay. And then are you aware of whether she ever at
8 any point gave a recorded interview?

9 A I don't know.

10 Q Okay. She didn't ever with you, that you're aware
11 of?

12 A A recorded interview?

13 Q With you personally?

14 A No.

15 Q Okay. Now, from what you recall, when you arrived
16 at the scene, Brittney was inside the apartment?

17 A Yes.

18 Q Okay. And James was outside, correct?

19 A I didn't see James initially. I initially came upon
20 the apartment, the door was open, we went inside because we
21 heard the kids and female screaming. I enter the apartment
22 and I saw the female sitting down in the front of the
23 hallway --

24 Q Okay.

25 A -- and the kids standing there next to her want.

1 Q And that was where you and Officer Pickens
2 separated, correct? You went into the apartment, he
3 continued with Mr. Cooper or are you not sure what he did?

4 A Initially, we went in. We made contact with them.

5 Q Okay.

6 A We cleared the apartment. After that I stayed with
7 Brittney and the children.

8 Q Okay.

9 A And then I believe Officer Pickens went outside the
10 apartment.

11 Q Okay. And Officer Kolarik -- I think I said that
12 right.

13 A Yes.

14 Q Okay. He was kind of in between both, right?

15 A Yes.

16 Q Okay. And were you aware of all -- were you aware
17 at all of Brittney being intoxicated?

18 A It appeared that she could be slightly intoxicated,
19 yes.

20 Q Okay. Did she make any statements to you regarding
21 that?

22 A I don't recall anything about drinking, no.

23 Q Okay. But based on your observations, you felt that
24 she appeared to be at least somewhat intoxicated?

25 A Yes.

1 Q Okay. Did you observe any alcohol containers or
2 bottles in the apartment?

3 A I don't recall if there was or not.

4 Q You don't recall. Okay. Now, I understand that you
5 observed several injuries on Brittney, correct?

6 A Yes.

7 Q Okay. But you have no personal knowledge of how
8 those came to be, correct, other than --

9 A I was --

10 Q -- what was --

11 A I was not there --

12 Q -- relayed to you?

13 A -- when it happened, no.

14 Q Okay. And at that's my follow-up question because
15 you didn't physically observe any contact between James and
16 Brittney, correct?

17 A No.

18 Q Okay. Now, you had indicated that you followed the
19 ambulance in your patrol car?

20 A Yes.

21 Q Okay. And approximately, how long after your
22 initial arrival was it until Brittney arrived at the
23 hospital?

24 A I'd have to look at my unit log in the system.

25 Q Okay.

1 A I couldn't tell you.

2 Q Do you know approximately, how long you were on
3 scene for?

4 A I don't.

5 Q You don't recall?

6 A I don't recall the exact time, no.

7 MS. WALKENSHAW: Court's indulgence.

8 THE COURT: Sure.

9 MS. WALKENSHAW: Thank you.

10 BY MS. WALKENSHAW:

11 Q Did you -- Brittney was carried out of the
12 apartment, I think, on a stretcher, correct?

13 A Yes.

14 Q Okay. Did you remain in the apartment and then meet
15 her at the hospital or did you follow her while she was being
16 loaded into the ambulance and then follow directly from
17 there?

18 A I was following medical.

19 Q Okay.

20 A When we were leaving the apartment.

21 Q Okay. And was her behavior or demeanor pretty
22 consistent throughout that entire time?

23 A Yes.

24 Q Okay.

25 MS. WALKENSHAW: No further questions, Your Honor.

1 Thank you, Officer.

2 THE COURT: Any follow-up, Mr. Rowles?

3 MR. ROWLES: Court's indulgence.

4 THE COURT: Sure.

5 MR. ROWLES: Nothing further, Your Honor.

6 THE COURT: Do either party anticipate recalling
7 this officer?

8 MR. ROWLES: No, Your Honor.

9 MS. WALKENSHAW: No, Your Honor.

10 THE COURT: With the thanks of the Court, sir, you
11 may be excused.

12 THE WITNESS: Thank you.

13 THE COURT: Next witness.

14 MR. ROWLES: Yes, Your Honor, State's next witness
15 would be Amanda Wright.

16 THE COURT: Very well.

17 AMANDA WRIGHT, STATE'S WITNESS, SWORN

18 THE CLERK: Please be seated, stating your full
19 name, spelling your first and last name for the record.

20 THE WITNESS: Amanda Wright, A-m-a-n-d-a,
21 W-r-i-g-h-t.

22 THE COURT: Whenever you're ready, Mr. Rowles.

23 MR. ROWLES: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MR. ROWLES:

1 Q Ma'am, how are you currently employed?

2 A I'm a crime scene investigator for the Las Vegas
3 Metropolitan Police Department.

4 Q And how long have you worked with Metro?

5 A Almost ten years.

6 Q Ten years? Have you held any other previous
7 employment in the same -- have you been a crime scene analyst
8 anywhere else?

9 A No.

10 Q No? Okay. Sort of an odd term. What is exactly a
11 crime scene analyst?

12 A We are very similar to the show CSI, except for I
13 don't go to work dressed like this. We respond to crime
14 scenes to investigate the scene. We take pictures, document
15 the scene with notes and photography and collect any print
16 evidence.

17 Q Do you receive any type of training as part of this
18 job?

19 A Yes. Prior to being hired, I received two
20 bachelor's degrees. One is in biochemistry, one's in
21 forensic science, and then being hired by Metro, I went
22 through the crime scene academy that Metro puts on. And then
23 after the academy, I went through ten weeks of field
24 training.

25 Q Is it fair to say that -- do you receive any

1 training from time to time also while still employed with
2 Metro? Any on-the-job training?

3 A Yes, we also have opportunities for continuing
4 education classes in various disciplines of forensic science
5 and crime scene investigation.

6 Q All right, ma'am. I'd like to turn your attention
7 to January 22nd, 2016. On that day, were you employed with
8 Metro as a crime scene analyst?

9 A Yes, I was.

10 Q Okay. And did you have the opportunity to respond
11 to Sunrise Hospital?

12 A Yes.

13 Q Okay. And why did you respond to Sunrise Hospital?

14 A I was called there reference a battery domestic
15 abuse related.

16 Q Okay. You went to the hospital. Did you make
17 contact with anyone?

18 A Yes.

19 Q Who did you make contact with?

20 A A Metro officer, but I don't recall his name. I
21 don't recall the one that was at the hospital, and there was
22 also a female victim there.

23 Q And you remember her name?

24 A I'd have to look at my report. I think it was -- is
25 it Brittney?

1 Q Yeah. Would Brittney Jensen sound familiar?

2 A Yes.

3 Q And so when you responded to this area, you make
4 contact with the Metropolitan police officer that was there.
5 Was that basically, just to sort of get a feel for what was
6 going on?

7 A Yes.

8 Q He directed you towards Brittney Jensen?

9 A Yes.

10 Q Okay. Can you talk a little bit about your
11 interaction with Brittney Jensen? When you first encountered
12 her, what was her demeanor like?

13 A She was very upset.

14 Q Okay. Was she crying?

15 A Yes.

16 Q Okay. Was she saying anything to you?

17 A She was very concerned about her children. She just
18 wanted to go home and see how they were.

19 Q What did you say or what did you do as a result of
20 that?

21 A I knew that when I left the hospital, I had to go to
22 the apartment where the incident took place so told her that
23 I would speak with her children and let her children know
24 that she was okay and check on them for her.

25 Q Okay. So you arrive, you make contact with

1 Brittney. She's concerned with her kids and you sort of calm
2 her down saying don't worry, I'm about to go out there, I'll
3 let them know you're okay?

4 A Yes.

5 Q Did you do anything else with Brittney or did you
6 just take photographs?

7 A Yes, I did.

8 Q Okay.

9 MR. ROWLES: If I may approach, Your Honor?

10 THE COURT: Yes.

11 MR. ROWLES: And for the record, I'm showing
12 defense counsel what's been previously admitted as State's 41
13 through 61.

14 THE COURT: Very well.

15 BY MR. ROWLES:

16 Q Ma'am, I'm just going to ask that you flip through
17 these individually and let me know (inaudible). Do you
18 recognize these photographs?

19 A Yes.

20 Q And these are the photographs you took of Brittney?

21 A Yes.

22 Q Now, as a crime scene analyst you referenced that
23 one of your responsibilities is to sort of document the
24 scene. Is it also one of your responsibilities to document
25 any injuries you see?

1 A Yes.

2 Q Okay. And when you made contact with Brittney, did
3 you document any injuries?

4 A Yes, I did.

5 Q And was that one of the reasons why, I guess, I
6 would say is, there's a reason behind every photograph; is
7 that --

8 A Yes.

9 Q And that because of those injuries you observed?

10 A Yes.

11 Q Let's start with State's Exhibit 42. What are we
12 looking at here?

13 A That's the side of her face, and you can see here.
14 It's hard to see on this screen, but there's an abrasion to
15 her cheek there.

16 Q And you saw that when you were there --

17 A Yes.

18 Q -- on January 22nd?

19 A Um-h'm.

20 Q Taking a look at State's 44, what are we looking at
21 here?

22 A Could you flip it the other way?

23 Q Sure. Would this help? I think it's kind of --
24 there's a glare.

25 A Yeah. I think this is her neck here and that's an

1 area where it looks like --

2 Q Would it be easier if I approached you with it?

3 A Yeah, sorry. It's hard to orient on the screen.

4 Q Do see hair in the photograph?

5 A Yeah. So this should be where part of her hair was
6 pulled out.

7 Q Okay. You said you -- part of her hair was pulled
8 out?

9 A Yeah.

10 Q And we have a court recorder taking everything down.
11 If you don't mind speaking up a little bit.

12 A Oh. That was on area where part of her hair was
13 pulled out.

14 Q State's 46. What are we looking at here?

15 A You can see an abrasion here and then her eye here
16 is bruised and swollen.

17 Q Okay. And is there anything more towards the center
18 of her?

19 A This is -- it looks like an injury, but I don't
20 believe there was an injury there. I think that was just
21 blood that was dripping from up here.

22 Q Okay. And if we're looking at State's 50, are we
23 just sort of seeing another picture of Brittney where her
24 hair was pulled out?

25 A Yes, right here.

1 Q And these are all injuries that you're seeing as
2 you're taking photographs of her at the hospital?

3 A Yes.

4 Q State's 45. What are we seeing here? Is this just
5 a close-up of her right eye -- left eye?

6 A Yes, it shows her eye again here and then this area
7 is another area where she had some injuries.

8 Q State's 52. What are we looking at here?

9 A That is a linear abrasion across her neck.

10 Q And you saw this when you arrived?

11 A Yes.

12 Q State's 53, and I'm not sure with the glare you
13 might see it, but do we see anything here?

14 A Yeah, there's a little mark there right above her
15 chest.

16 Q State's 55. What are we looking at here?

17 A More injuries around her elbow area there.

18 Q Now, during your photograph of -- photographing of
19 Brittney, was -- were you trying to see if she could explain
20 where these injuries came from?

21 A I don't usually ask them where or who. Sometimes
22 the officers will tell me.

23 Q And is mainly part of -- because your primary
24 responsibility is to just document the scene and collect the
25 evidence?

1 A Exactly.

2 Q Not really an investigator?

3 A Correct.

4 Q Now, you referenced earlier a -- sort of another
5 mark to around the right side of her head, when we were
6 looking it at the black eye. Showing you State's 59. Is
7 that a better shot of that area?

8 A Yes.

9 Q What were we talking about earlier?

10 A So there's sort of an abraded area here. This is
11 the one here that was bleeding down to her nose and you could
12 see more scrapes here.

13 Q Just one last photograph of the hospital. State's
14 61. Are we looking just at a real close-up of that eye?

15 A Yes.

16 Q And --

17 A It's bruised there and then this area have very
18 swollen. She couldn't open her eye very well.

19 Q Okay. And these photographs, they fairly represent
20 Brittney's condition when you responded to the hospital; is
21 that correct?

22 A Correct.

23 Q Now, you referenced earlier in your testimony that
24 when Brittney arrived, she was very concerned for her kids
25 and you told him you sort of -- you tried to calm her down

1 and say that you were going to respond to the scene and go
2 talk to them. Did you eventually respond to 356 East Desert
3 Inn Road?

4 A Yes.

5 Q Okay. And walk us through what you did at the
6 apartment. What did you do when you got there?

7 A I made contact with Officer Pickens, and he walked
8 me through the apartment scene, told me where there were
9 areas of disturbance throughout the apartment so then I
10 photographed that.

11 Q Let's talk a little bit about the master bedroom of
12 the area. Does Officer Pickens direct you to that area?

13 A Yes.

14 Q Okay. Was anything of note in the master bedroom?

15 A There was, I believe, it was close to the entry door
16 like a rolling bag that had some tools in it. It was knocked
17 over. The handle was bent. There were multiple tools strewn
18 about the floor. The closet door was off the track and
19 bent, and there were two dreadlocks on the floor.

20 Q Do you remember the color of the dreadlocks?

21 A I believe, one matched her hair color and one was a
22 different color.

23 Q Anything else of note in the master bedroom?

24 A No.

25 Q And why were the -- why was the tool bag, the tool

1 thing or the tools -- the commotion in the apartment or the
2 back bedroom, why was that of note for you?

3 A The abrasion on her neck looked like it could have
4 been made possibly from a cord, and I didn't know what cord,
5 so I had to take pictures of the tools on the floor because
6 some of them had wires attached, and there was like an alarm
7 clock in the bedroom, so we were just focusing on anything
8 that could have possibly made that mark on her neck.

9 Q And so anything you saw in the bedroom, you sort of
10 documented it, took a photograph of it?

11 A Exactly.

12 Q Okay. Did you make your way into the kitchen?

13 A Yes.

14 Q Okay. Anything of note in the kitchen?

15 A The trash can was knocked over, there was a pillow
16 on the floor and there was another dreadlock on the floor.

17 Q And why was that stuff of note?

18 A Because it was disturbed. People don't usually have
19 their trash can knocked over, pillows not usually on the
20 kitchen floor.

21 Q Sort of an indication of an -- of a struggle --

22 A Exactly, yeah.

23 Q -- or something?

24 A Yes.

25 Q Okay. But it's also fair to say that you weren't

1 present during any of this? You responded well after to the
2 scene, right?

3 A Yes.

4 Q The alleged scenes?

5 A Yes.

6 Q Did you document the living room?

7 A Just as I walked in the front entry door opened in
8 the living room, so I just took a picture -- overall pictures
9 showing that.

10 Q Did you document a bathroom?

11 A Yes.

12 Q Could you walk us through that?

13 A The bathroom shower curtain and rod was pulled down,
14 and there were areas of blood on the floor and door handle, I
15 think.

16 MR. ROWLES: Court's brief indulgence.

17 BY MR. ROWLES:

18 Q And I want to go back to the master bedroom just
19 real quick. You referenced that you saw a couple dreadlocks
20 on the floor, right?

21 A Um-h'm.

22 Q Showing you State's Exhibit 25, which has previously
23 been admitted. What are we looking at here?

24 A There's two dark colored dreadlocks there.

25 Q And it's fair to say those are relatively dark

1 colored; is that correct?

2 A Yes.

3 Q Showing you State's Exhibit 29. What are we looking
4 at here?

5 A That's a lighter colored one back by the head of the
6 bed.

7 Q Okay. Is that in the bedroom as well?

8 A Yes.

9 Q The master bedroom?

10 A Yes.

11 Q Okay. And so you saw three different dreadlocks
12 pulled from someone's head or --

13 A Yes.

14 Q -- what would result as that?

15 A Yes.

16 Q Two were dark colored, one was blonde?

17 A Yes.

18 Q And you also referenced a little bit of the
19 bathroom. State's Exhibit 38. What are we looking at here?

20 A The shower curtain here and the rod here pulled
21 down, and I was told that this here was all previous
22 unrelated damage on the wall.

23 Q But you were -- you were told something about the
24 curtain rod and the --

25 A Yeah, that that was pulled down and then you can see

1 a little bit of the blood there on the floor.

2 Q Okay. You also referenced blood on a -- so let's go
3 to State's Exhibit 37. You referenced some blood. Is that
4 is better shot of that?

5 A Yeah. You can see it -- blood drops on the floor
6 there.

7 Q Okay. And State's Exhibit 40. Is this the door
8 handle you were talking about or knob?

9 A Yeah. And there's blood there on the doorknob.

10 Q You documented it?

11 A Yes.

12 Q Now, did you take pictures of the kids' room?

13 A I did not.

14 Q Okay. Did you particular pictures of the male
15 individual that was there?

16 A Yes, I did.

17 Q Okay. Do you see that person here in the courtroom
18 today?

19 A Yes.

20 Q Can you please point to him and describe an article
21 of clothing?

22 A He's wearing a blue button-up shirt.

23 Q And when you were taking photographs --

24 MR. ROWLES: Or Your Honor, may the record reflect
25 identification of defendant?

1 THE COURT: Yes.

2 BY MR. ROWLES:

3 Q Ma'am, when you were taking photographs of the
4 defendant, is one of your primary concerns to document any
5 injuries he had on him?

6 A Yes.

7 Q Okay. State's 62, what are we looking at here?

8 A That's just an overall photo showing Mr. Cooper.

9 Q State's 64. What are we looking at here?

10 A That's an area on his head where he had hair pulled
11 out as well.

12 Q And then State's 65. What are we looking at here?

13 A That's showing his hands and he had an injury right
14 there on his -- wrong hand. This finger, sorry.

15 Q Could you sort of determine what type of injury it
16 looked like to you?

17 A It looked like it could have possibly been a bite
18 mark.

19 Q And then State's 66. Is that just a closer up view
20 of that bite mark?

21 A Yeah. And you can see on this one and this one it's
22 slightly curved so it could have possibly been from like
23 front teeth.

24 Q Okay. And while you were taking photographs of the
25 defendant, you testified one of your primary goals was to

1 document the injuries?

2 A Yes.

3 Q Were those the only injuries you saw on the
4 defendant?

5 A Yes.

6 Q If you had seen other injuries, would you have taken
7 photographs of them?

8 A Yes.

9 Q Now, you referenced when you made contact with
10 Brittney Jensen at the hospital, you told her you were going
11 to tell her kids where she was at. Did you end up speaking
12 with the kids?

13 A Yes.

14 Q And did you tell them that everything was going to
15 be okay and where their mom was?

16 A Yes.

17 MR. ROWLES: I'd pass the witness, Your Honor.

18 THE COURT: Very well. Any questions, Ms. --

19 MR. EICHACKER: Yes, Your Honor.

20 THE COURT: -- Mr. Eichacker?

21 CROSS-EXAMINATION

22 BY MR. EICHACKER:

23 Q Now, you said your job includes documenting crime
24 scenes?

25 A Yes.

1 Q But it also includes collecting evidence?

2 A Yes.

3 Q Collecting items?

4 A Yes.

5 Q In this case, you only took photos?

6 A Yes.

7 MR. EICHACKER: Court's indulgence.

8 THE COURT: Sure.

9 BY MR. EICHACKER:

10 Q Showing you State's 40. This is a photo you took of
11 the doorknob?

12 A Yes.

13 Q And you took it because there was blood on the
14 doorknob?

15 A What appeared to be blood, yes.

16 Q You didn't collect that blood?

17 A No.

18 Q You didn't test it?

19 A Nope.

20 Q Showing you State's 37. Again, you took this photo
21 because there's blood on the floor?

22 A Yes.

23 Q And you didn't collect --

24 A No, did I not.

25 Q -- a sample of that blood?

1 A Nope.

2 Q And nothing was tested?

3 A No.

4 Q Now, when you arrived at the scene, do officers
5 instruct you where to go?

6 A They show me an overall like here's the apartment,
7 here's areas of disturbance, and then I do my own walk
8 through as well.

9 Q All right. So you do your own walk through?

10 A Yes..

11 Q You take in what you feel needs to be photographed?

12 A Yes.

13 Q And you said you didn't go to the kids' room in
14 this? There's no photos?

15 A I was in the doorway of the children's room when I
16 was speaking to them.

17 Q But you didn't take any photos inside the --

18 A Yeah, I was --

19 Q -- bedroom?

20 A No one had made me aware that everything had
21 happened in there, and it didn't show any signs of
22 disturbance other than being the children's room.

23 Q Okay. And you never spoke with Mr. Cooper?

24 A No, I spoke with him when I took his injury --
25 injury photos.

1 Q Did you talk to him about holes or damages in the
2 walls?

3 A No.

4 Q Did you talk to Ms. Jensen about any holes or damage
5 to the walls?

6 A No, that's beyond of scope of my job.

7 Q So any damage if there, you wouldn't be able to tell
8 when it occurred?

9 A No. The damage I mentioned in the bathroom around
10 the -- like the shower spout --

11 Q Right.

12 A -- I'd asked the officer if he was told anything
13 about that and he was -- his response was he believed it was
14 unrelated. Like it looked more like it was plumbing related,
15 not --

16 Q But if there's a hole in the closet you wouldn't
17 know when that occurred?

18 A Exactly.

19 Q Or if you -- the closet being off the rails, you
20 wouldn't know when that occurred?

21 A Right. Like the one in the -- in the master. It
22 was -- it was disturbed, but I couldn't tell you when it
23 happened.

24 MR. EICHACKER: Your Honor, may I approach the
25 witness?

1 THE COURT: Yes.

2 BY MR. EICHACKER:

3 Q Do you recognize these photos?

4 A Yeah.

5 Q How do you recognize these? How do you -- do you
6 recognize these photos?

7 A Yes.

8 Q How do you recognize these?

9 A I took them.

10 Q All three?

11 A Yeah. Well -- yeah.

12 MR. EICHACKER: Your Honor, move to admit Defense
13 Exhibits -- the three photos that weren't part of the State's
14 photos and permission to publish.

15 THE COURT: Any objection by State?

16 MR. ROWLES: No, Your Honor.

17 THE COURT: What are numbers, Mr. Eichacker?

18 MR. EICHACKER: They haven't been marked yet.

19 THE COURT: Oh, let's have them marked.

20 THE CLERK: They're going to be letters A, B and C.

21 THE COURT: So they are admitted, and yes, you may
22 publish them.

23 (Defense Exhibits A, B and C admitted)

24 BY MR. EICHACKER:

25 Q Showing you what's been marked as Defense Exhibit A.

1 And this is a photo you took of Mr. Cooper, correct?

2 A Yes.

3 Q And it does show hair missing?

4 A Yes.

5 Q Where dreadlocks should be?

6 A Yes.

7 Q Showing you Defense Exhibit B. Again, this is a
8 picture of his hands?

9 A Yes.

10 Q And there's an injury?

11 A Yes.

12 Q And there's blood?

13 A I'm not sure what you're seeing.

14 Q Is there blood? Oh, you're not sure what I'm
15 seeing?

16 A I didn't -- I didn't see blood on his hands.

17 MR. EICHACKER: Your Honor, may I approach?

18 THE COURT: Yes.

19 MR. EICHACKER: We have just a little bit of a
20 glare.

21 BY MR. EICHACKER:

22 Q Do you see blood in this picture?

23 A Are you talking about this?

24 Q That and --

25 A Oh, the --

1 Q -- (inaudible).

2 A Yes, the blood here and then yeah, that could be
3 blood. It's hard to see on the screen, sorry.

4 Q So you do see blood on both hands?

5 A Um-h'm, yeah.

6 Q And showing you Defense Exhibit C, that's his hand,
7 correct?

8 A Yes.

9 Q And a close-up of the injury on his finger?

10 A Yes.

11 Q And it appears to be a bite mark?

12 A Yes.

13 Q Now, you were at the hospital before you went to the
14 apartment?

15 A Correct.

16 Q Did you see Ms. Jensen being uncooperative with the
17 staff?

18 A All's I recall is that she was saying she wanted to
19 go home to be with her kids. But I don't recall her being
20 blatantly uncooperative.

21 MR. EICHACKER: Court's indulgence.

22 THE COURT: Sure.

23 MR. EICHACKER: Nothing further.

24 THE COURT: Any follow-up?

25 MS. RHOADES: Just briefly. We just want to look

1 at those pictures real quick.

2 MR. ROWLES: Nothing further, Your Honor.

3 THE COURT: Very well. Do either party anticipate
4 recalling this witness?

5 MR. EICHACKER: No, Your Honor.

6 MS. RHOADES: No, Your Honor.

7 THE COURT: With the thanks of the Court, ma'am,
8 you may be excused. Ms. Rhoades?

9 MS. RHOADES: Thank you, Your Honor. Officer
10 Benjamin Pickens is the State's next witness.

11 THE COURT: Is this the last witness for the day?

12 MS. RHOADES: This is the last witness for the day,
13 yes.

14 THE COURT: Very well.

15 OFFICER BENJAMIN PICKENS, STATE'S WITNESS, SWORN

16 THE CLERK: Please be seated, stating your full
17 name, spelling your first and last name for the record.

18 THE WITNESS: My name is Benjamin Pickens,
19 B-e-n-j-a-m-i-n, P-i-c-k-e-n-s.

20 THE COURT: Whenever you're ready, Ms. Rhoades.

21 MS. RHOADES: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. RHOADES:

24 Q Sir, how are you employed?

25 A I'm a police officer with the Las Vegas Metropolitan

1 Police Department.

2 Q And how long have you been with Metro?

3 A As of today, about six and a half years.

4 Q Are you a patrol officer?

5 A Yes, I am.

6 Q And what area of the valley are you assigned to?

7 A I'm currently assigned to the southeast area
8 command.

9 Q Directing your attention to January 22nd, 2016, were
10 you working in your capacity as a patrol officer?

11 A Yes, I was.

12 Q Was that in the southeast area command or A
13 different?

14 A It was in the convention center area command.

15 Q And on that occasion, did a call come in around 6:52
16 p.m. about an incident at 356 East Desert Inn?

17 A Yes.

18 Q What was the nature of that call?

19 A It was -- the call was a domestic call in nature. A
20 little bit of chaos over the phone. There was some
21 conflicting reports, in my opinion, that was coming from
22 dispatch that was being broadcast about panic and chaos that
23 was happening. I'm not sure what was going on, but where I
24 was currently at, it was approximately two blocks from my
25 location.

1 Q So you were close to that location?

2 A I was very close.

3 Q Is that on the corner of Desert Inn and Paradise or
4 near that kind of cross street?

5 A Yeah, it's just a little bit, a little bit west of
6 that on the north side of Paradise or of DI.

7 Q When you said there were conflicting calls, was it
8 your understanding that the male half and the female half had
9 called in?

10 A There were -- I wasn't sure what parties had called
11 in, but there was one of hysteria. Someone -- there was some
12 hysteria and some yelling going on in the background, and
13 there was something else that was being broadcast where
14 someone was, you know, real calm.

15 So there was two different types of calls. What I
16 could ascertain from my training and experience was something
17 wasn't right at that location.

18 Q And when that call came over, did you immediately go
19 to that location?

20 A I did.

21 Q About how many minutes did you arrive from when that
22 initial call came out?

23 A Seems like it was maybe three minutes from the time
24 I was dispatched to the time that I arrived.

25 Q Were you the first officer on scene?

1 A I was.

2 Q Were you able to get into the gate into the
3 apartment complex?

4 A Not immediately. There were two locked gates that
5 would take around to the parking garage, and then there was
6 a, like a courtyard, a vestibule off the front entrance that
7 you needed a keypad. We didn't have any of those key codes.
8 Our emergency vehicles weren't able to get through those --
9 through those other gates.

10 Q About how many minutes passed until you were able to
11 get through the gate?

12 A It seems like it was about another maybe three to
13 five minutes until someone had come just to check their
14 mailboxes -- all the mailboxes and whatnot were up in the
15 front there. I was able to signal them. They let me in.
16 There was other officers had arrived by then as well.

17 Q Do you know the officers' names that were with you?

18 A Officer Sylvia, Officer Kolarik.

19 Q And did you and those two other officers walk
20 through the complex to the apartment where the call
21 originated?

22 A Yes.

23 Q Is that apartment 11?

24 A Yes.

25 Q As you're walking up to the apartment, describe the

1 scene for us.

2 A As I approached, there were several courtyards. It
3 seems like there was two or three different courtyards with
4 entrances that would lead into another courtyard. We weren't
5 quite sure where this apartment was located. I knew I was
6 getting close when in the last courtyard that I entered, I
7 could start hearing some crying.

8 As I approached the apartment, which I believe that
9 the disturbance could be coming, it was -- there was some
10 lights that were out. It was very dark. It just happened to
11 be dark in that area. I could see a window, a bedroom window
12 was open, and I could hear crying, I could hear children, I
13 could hear a woman crying inside. There was a front door
14 that was -- that was open as well. I didn't see anybody else
15 in the area, hear anything else. I heard the crying. I
16 heard, you know, with the lights out, I approached the door,
17 shined my flashlight inside and I saw a lady that later
18 identified herself as Brittney, who was sitting on the ground
19 in the hallway, approximately 15, 20 feet, you know, from the
20 entrance of the apartment from the doorway.

21 Q You said you heard children. Did you hear those
22 children crying?

23 A It sounded hysteria. They were -- all -- the
24 children that I could hear, I could hear multiple. I didn't
25 know at that time what it was. I could just crying and

1 screaming. It just -- it just didn't sound like anything was
2 right inside that -- that apartment.

3 Q Were you able to observe any injuries when you first
4 came into contact with Brittney?

5 A When I first entered the apartment -- when I first
6 entered the apartment, I could see her sitting. She was
7 crying. The children were standing right in this little
8 short hallway to the sides of her. They were crying. I
9 could see -- it was dark. There was no lights on in the
10 apartments. We had our flashlight. I could see it looked
11 like she had a bloody nose at that point.

12 I was also concerned if anybody else was in the
13 apartment at that time. I didn't do a, you know, a big
14 visual inspection. I was concerned for officer safety as
15 well as, you know, for others at that point.

16 Q And so what did you do based on that concern?

17 A Officer Sylvia, he went off towards the -- down the
18 hallway where the children were standing, there was some
19 bedrooms and some bathrooms, and he went out, he cleared
20 those areas. I quickly stepped into the kitchen so see if
21 anybody was in the kitchen. I came out and a young boy
22 started, you know, pointing -- you know, pointing at the
23 door.

24 You know, I said, you know, what happened? You
25 know, what's going on here, and he started pointing at the

1 door, and he said he went outside, he went outside. And I
2 asked him, who? And he said Tuda, he's outside, he's
3 outside.

4 And so at that point, Officer Sylvia cleared
5 through those bedrooms, and I went to step outside to see who
6 exactly was outside and piece together, you know, some more
7 pieces of the puzzle.

8 Q Did you see someone outside?

9 A I exited -- I exited the apartment. I didn't see
10 anybody. I mean, it was -- it was really dark right in that
11 courtyard. Several lights -- you know, several lights were
12 out. And then about two -- two doors down, I could see a lit
13 cigarette. You know, someone was taking a drag from a
14 cigarette and I could see the burning embers off of the end
15 of it, and he was standing there, you know, facing me.

16 He didn't really say anything, and I was perplexed,
17 you know. You know, I walked over -- I walked over to him a
18 little confused and asked him if he lived in this apartment,
19 and he said yes, he did.

20 Q Was there anyone else in the courtyard?

21 A Nobody else was in the courtyard. No other noises,
22 nothing else that I observed.

23 Q And when you say two doors down, he wasn't inside
24 another apartment two doors down, he was just in that general
25 area two doors down?

1 A Yeah, he was -- yeah, just in the courtyard just
2 standing there. I wouldn't say he was hiding. I wouldn't
3 say he was trying to, you know, do one thing or another. He
4 was standing there smoking a cigarette.

5 Q Do you see that person that you saw in the courtyard
6 here in court today?

7 A I do.

8 Q Can you point to him and tell me something he's
9 wearing today?

10 A He's wearing a blue shirt sitting at that desk over
11 there.

12 MS. RHOADES: May the record reflect identification
13 of the defendant, Your Honor?

14 THE COURT: Yes.

15 MS. RHOADES: Thank you.

16 BY MS. RHOADES:

17 Q And did you learn that his name is James Cooper?

18 A Yes, I did.

19 Q When you saw him, did you talk to him?

20 A I did.

21 Q What did he say?

22 A He expressed to me he -- he told me he didn't want
23 to let this happen again. How -- he told me he called the
24 police. You know, he didn't want to get in any trouble. He
25 didn't want to have any trouble, you know, come his

1 direction. He knows better than that so he called the
2 police.

3 Q What was his demeanor when you came into contact
4 with him?

5 A He was intoxicated, and he was very calm. Very
6 steady.

7 Q And at this point, when you're talking to him, it's
8 my understanding that you're still doing your investigation?
9 You don't necessarily know that he's a suspect at this time;
10 is that fair to say?

11 A Yes, in fact, something that I don't -- I wouldn't
12 do with a suspect and something I, you know, did with him, I
13 -- he had a cell phone sitting on a ledge right off to the
14 side of him. I actually grabbed his cell phone. I, you
15 know, gave it to him. I really wasn't sure who he was. I --
16 how he was related to what was going on at that point.

17 Q Did he tell you that he didn't know what this was
18 all about?

19 A No. I mean, he -- he -- he explained to me. He
20 told me from his perspective, you know, from -- from his --
21 his side of the story. He gave me the events of what -- what
22 happened.

23 Q Okay. Was it kind of your understanding that he was
24 saying he doesn't know what all the hysteria's about, you
25 know, what Brittney's crying about, anything like that?

1 A Yeah, he -- he had -- he had told me that, you know,
2 she's just crazy and, you know, just, you know, blowing
3 things out of -- you know, out of proportion and that kind of
4 stuff, and you know, she's just really amping it up.

5 He had told me he had been in a relationship with
6 her, you know, for years. It seems like it was, you know,
7 maybe four or five years, something like that and how she's
8 just making a big deal out of nothing, and so that's why, you
9 know, he's just getting away so he didn't want to, you know,
10 get blamed for something he didn't do.

11 Q Did he tell you that he was in the bedroom eating
12 and that Brittney came in the bedroom from the kitchen and
13 was mad because she went through his phone?

14 A Yes.

15 Q And did he tell you that she started pulling out his
16 hair and so he pushed her off of him?

17 A Yes. He said she got on him, started pulling on his
18 hair. He showed me a part where his hair was pulled out.
19 And she said she then, well, on top of him bit his finger,
20 and he showed me his finger, which had some blood on it. I
21 don't remember which finger. Showed me his finger which had
22 some blood on it, and said he was in his bedroom, and he --
23 enough was enough. He specifically told me he didn't, you
24 know, punch her, kick her, anything like that.

25 He was just like no, I don't want to get blamed for

1 anything so I left, called you guys so we can get it taken
2 care of.

3 Q Okay. He didn't tell you anything about a knife; is
4 that correct?

5 A He did talk to me about a knife. There is nothing
6 in -- he didn't refer to the knife as in this incident. He
7 -- he told me about a knife in a previous incident.

8 Q Okay. But nothing about a knife in the January 22nd
9 incident?

10 A Yeah, there was nothing with a knife at all that
11 night. Nothing at all.

12 Q And was it his story that the fight was contained to
13 the master bedroom? Was that your understanding?

14 A Yes.

15 Q And did you see those injuries on him?

16 A I did.

17 Q You saw that his hair was pulled out?

18 A I saw the hair that was pulled out.

19 Q And you saw the bite mark?

20 A I saw the bite mark.

21 Q Or what appeared to be a bite mark?

22 A Yes, I saw the bloody finger with a fresh injury.

23 Q Did he have any other injuries at all?

24 A No.

25 Q No injuries on his face?

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vi.

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