

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID MURPHY,

No. 72103

Appellant,

V.

THE STATE OF NEVADA,

Respondent.

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APPELLANT’S APPENDIX

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1 bed and a desk.

2 Q And then if we were to turn and 61 -- well, let me
3 back up for just a second here. You said the desk is -- what
4 I just circled there is sort of a desk area off to the side of
5 the master beds?

6 A That's correct.

7 Q And then there's a closed foot locker at the base of
8 the bed?

9 A Correct.

10 Q 61. Are we still within the master?

11 A We are. We've moved to the side of the bed. We're
12 looking towards the back. There's an attached bathroom and
13 closet area.

14 Q So while we're still in the master bedroom, I want
15 to focus in on that desk we showed you before, State's Exhibit
16 No. 66. Did you take some close-ups of the items that were
17 contained on this desk?

18 A Yes, there were some closer photographs, yes.

19 Q And let's start with 67. What is that item on the
20 left side of the desk?

21 A It's like a vacuum type food sealer machine.

22 Q And 68. What is it you're attempting to document in
23 that photograph?

24 A Here, we found a residue of a green leafy substance.

25

1 Q Now, did you do any actual testing on that green
2 leafy substance?

3 A We did not.

4 Q Did it appear to be consistent with anything you've
5 seen before in your career?

6 A Yes.

7 Q And what did it appear to be consistent with?

8 A It was consistent with marijuana.

9 Q Other than on this desk, was there some on the floor
10 as well?

11 A There was.

12 Q Let's go to that foot locker, State's Exhibit 69.
13 What's contained within that foot locker?

14 A Inside is some ammunition and, I believe, a gun
15 case.

16 Q And I'll just quickly through the rest of this. If
17 you come out of the master bedroom, State's Exhibit No. 72,
18 you're now on just -- well, what are we looking at?

19 A Here you're standing in the doorway to the master
20 bedroom looking to the northwest-ish, and directly across from
21 the -- this will be straight across the hallway from the
22 master bedroom doors is another bedroom door, and then you
23 have a closet, small closet here, a bathroom here and then
24 another bedroom all the way on the lefthand side.

25 Q So item 74, the one directly across the way, is that

1 the bedroom we're talking about?

2 A Correct.

3 Q And did there appear to be anything of evidentiary
4 value within that room?

5 A No.

6 Q I'll put up the hallway for -- so they can -- so now
7 if you're at the top of the stairs, where is the master
8 bedroom if I'm the cameraman right now?

9 A Here, the master bedroom would be on the left-hand
10 side of the photograph and the bedroom that we just looked at
11 would be on the right-hand side.

12 Q And you said there's a bathroom and then there is
13 two more bedrooms?

14 A Correct.

15 Q So, State's Exhibit No. 78, is -- which bedroom is
16 this? Is this the first one or the last one?

17 A This will be the -- the -- the northwest bedroom,
18 the one that you could see in that previous photo, the
19 doorway.

20 Q And then 79.

21 A And this is the west bedroom, which is next to the
22 -- the northwest bedroom, the south side of that picture.

23 MR. DiGIACOMO: May we approach, Judge?

24 THE COURT: Yes.

25 (Off-record bench conference)

1 THE COURT: Ladies and gentlemen, we're going to
2 take our afternoon break, 15 minutes, until 3:30, around the
3 witness will also be able to take a break. And -- but he'll
4 come back to the stand to continue. He's not done yet.

5 So ladies and gentlemen, during this recess, it is
6 your duty not to converse among yourselves or with anyone else
7 on any subject connected with the trial or read, watch or
8 listen to any report of or commentary on the trial by any
9 person connected with the trial or by any medium of
10 information, including without limitation, newspaper,
11 television, radio or Internet. You are not to form or express
12 an opinion on any subject connected with this case until it's
13 finally submitted to you. We'll be in recess until 3:30.

14 THE MARSHAL: All rise for the jury, please.

15 (Jury recessed at 3:12 p.m.)

16 THE COURT: All right, the record will reflect the
17 jury has departed the courtroom. And any matters outside the
18 presence?

19 MR. DiGIACOMO: Not from the State.

20 MR. LANDIS: No, ma'am.

21 MS. McNEILL: No, Your Honor.

22 MR. WOLFBRANDT: No.

23 THE COURT: We'll be in recess until 3:30.

24 (Court recessed at 3:13 p.m. until 3:34 p.m.)

25 (In the presence of the jury)

1 THE MARSHAL: Your Honor, all jurors and alternates
2 are present.

3 THE COURT: Thank you. Please be seated. And the
4 record will reflect that we are in the presence of all 12
5 members of the jury as well as the 4 alternates. All three
6 defendants are present with their respective counsel. The
7 Chief Deputies District Attorney prosecuting the case are
8 present, as are all officers of the court.

9 And Mr. DiGiacomo, you may resume your direct.

10 MR. DiGIACOMO: Thank you. And for the record,
11 right now on the top half of the screen is State's Exhibit No.
12 13, and I'm going to --

13 BY MR. DiGIACOMO:

14 Q Now, during the course of your processing of the
15 scene, did you notice what appeared to be defects in the -- in
16 various locations associated with what appeared to be gunfire?

17 A We did.

18 Q Okay. And did you document that in some manner?

19 A We did.

20 Q I'm going to show you State's Proposed Exhibits 80
21 through 140. I'm not going to ask you to look at every one of
22 them, but if you'd just briefly flip through them. Having
23 previously shown counsel, I think they'll agree those were, in
24 fact, the photographs showing the various defects concerning
25 the various gunshots.

1 THE WITNESS: Correct.

2 MR. DiGIACOMO: Okay. I'd move to admit 80 to 140.

3 MR. LANDIS: No objection.

4 THE CLERK: What? sorry.

5 THE COURT: 80 through 140.

6 MR. DiGIACOMO: 80 through 140.

7 MR. WOLFBRANDT: No objection.

8 MS. McNEILL: No objection.

9 THE COURT: They'll be admitted, 80 through 140.

10 (State's Exhibits 80 through 140 are admitted)

11 BY MR. DiGIACOMO:

12 Q So in order to -- so we don't have to go through
13 whatever that is, 60 some odd photographs --

14 A Um-h'm.

15 Q -- I'm going to put up maybe we just start with A
16 since it's simple, so you can sort of describe how this works
17 and then the jury can sort of figure it out and then maybe
18 we'll just go through each one of the trajectories you were
19 able to find.

20 A Okay.

21 Q So let's start with State's Exhibit 80, which is
22 going to look very similar to something that was put up
23 before. And of course, I made the mistake of not putting that
24 one on the -- so let me just put this one on the bottom and
25 we'll leave it there so that the jury can see it. So on the

1 bottom is State's Exhibit No. 13 and on the top is State's
2 Exhibit No. 80. And if I were to zoom in on something --
3 well, let me ask you this, are the cones at all associated
4 with firearms?

5 A No, those are marking some areas of blood.

6 Q So when they go through the crime scene diagram --
7 or the crime scene photographs, what are these little pink
8 things that we're going to see throughout the crime scene?

9 A When we're documenting bullet holes, we typically
10 will use these little colored stickers and on the stickers are
11 an arrow and a scale so that when you're looking at the
12 photograph, you can have a reference to how big the hole
13 actually is. And then we'll mark on the sticker itself
14 giving it a unique letter and number to denote what series we
15 believe the bullet holes are all a part of.

16 Q So if I were to put up State's 82, what is it that
17 we're looking at?

18 A Here, we're looking at the east side of the little
19 pillar that's on the south end of the -- of the porch area, so
20 right here, sort of. Right in there. We found a bullet hole
21 there. And I described, you have the arrow sticker with the
22 scale and the unique letter and number of A1 denoting the
23 series.

24 MR. DiGIACOMO: Because these screens are not very
25 accurate when you put your fingers on it, can I ask witness to

1 step up and use the large screen?

2 THE COURT: Sure, but we'll give him a handheld
3 microphone so we'll be able to pick him up.

4 MR. LANDIS: Can I reposition to see what he's --

5 THE COURT: Of course.

6 (Pause in the proceedings)

7 BY MR. DiGIACOMO:

8 Q So if you're looking at 13 on the bottom here and
9 you want to show the jury sort of the direction that the
10 bullet traveled and what it struck in A1, could you just kind
11 of show that to them?

12 A So on A1, it struck right down here on the front
13 side of this pillar, this black -- this black block here is a
14 pillar that supports the roof over the -- over the porch area.
15 It struck that pillar, but because we only had one hole there,
16 you can't draw a straight line through just one point of
17 reference. You have to have two points of reference to be
18 able to get a line.

19 So we couldn't really put a trajectory rod in there
20 to get a reference from what angle it came at, but it
21 obviously had to come somewhere from the east side of this
22 pillar because there was no hole on the backside of the
23 pillar.

24 Q So generally, it came from the front yard, street,
25 that direction? It couldn't have come from inside the house

1 out?

2 A Correct.

3 Q Okay. Now, A1, did you -- or did you make a
4 decision as to whether or not you were going to tear that
5 pillar apart to find that particular bullet?

6 A We chose not to. It would have caused significant
7 damage to the house to destroy that pillar to find the bullet
8 because we didn't know if it was right behind there or did it
9 fall down to the bottom, in which case we would have been
10 knocking off all the stucco and ripping it apart.

11 Q And did you recover a number of other pieces of
12 firearms related evidence from inside the house?

13 A We did.

14 Q And in your experience, is the representative sample
15 of evidence sufficient for to you draw certain conclusions
16 later on?

17 A Correct. It's sort of a balance between how much
18 damage are you going to do to the property versus the
19 evidentiary value of that one specific item.

20 Q And ultimately, at the end of the day, if there were
21 some really significant evidentiary value that later came up,
22 it's locked within that cement thing that you could go back
23 later and grab it?

24 A Correct. Any repairs, most likely, this would just
25 patch the hole. They wouldn't actually try to recover the

1 bullet out of it.

2 Q So let's move inside Exhibit No. 83. Maybe this is
3 a little small and maybe for some of these we don't have to
4 worry about the bottom, so let's just make it a little bit
5 bigger, and show us, do you see essentially, what you guys
6 marked off as B?

7 A B, I believe, is this one right here. You can see
8 the sticker and you can actually see some little bit of --

9 Q The bottom one that I'm do here with? This one?

10 A Correct.

11 Q Okay. And the path of that bullet, did you guys try
12 and determine what that path was?

13 A We did. We eventually ended up pulling the carpet
14 up and tried to look for the bullet, and you could actually
15 see the path it took underneath the carpet.

16 Q So then we stick up State's Exhibit No. 86. What
17 are with he looking at there?

18 A Here you're looking -- the carpet has been pulled
19 back. The padding is still down, and then you can actually
20 see where there's some damage to the -- to the padding here
21 and you can see some more stickers down there in the back.

22 Q And then if we were to go to -- you actually found
23 the bullet underneath that carpet?

24 A We did. We found the bullet. It was between -- it
25 was on top of the padding but underneath the carpet, and it

1 was that little sticker that you saw in the background of that
2 previous photograph.

3 Q And thus, that --

4 THE COURT: And for the record --

5 BY MS. LEXIS:

6 Q -- bullet also came --

7 THE COURT: For the record, which photo is this
8 because you didn't say.

9 MR. DiGIACOMO: Did I not say it was --

10 THE COURT: The close-up.

11 MS. LEXIS: 87.

12 MR. DiGIACOMO: 87.

13 THE COURT: 87, thank you.

14 BY MR. DiGIACOMO:

15 Q On 87, the bullet, B3, as I'll call it, was that
16 also apparently from the front of the house towards the back
17 of the house?

18 A Correct.

19 Q So now, C, and I will put up 88, is this similar to
20 the trajectory pattern for B?

21 A It is. It's along the same angle. It appeared to
22 be coming from the front entry doorway in towards the back of
23 the house. And you can see there's a couple areas of defect
24 involved in this specific letter.

25 Q Now, when you first marked that item as C, did you

1 intend to keep that path C and travel as far as you could
2 until you either found the bullet or couldn't go any farther?

3 A We did.

4 Q And initially, what was your belief as it related to
5 that bullet pattern?

6 A Initially, we felt that the bullet was most likely
7 going to be under the carpet as well, but that turned out to
8 not be the case.

9 Q And thus, had you already marked where you believed
10 to be this bullet ricocheting too within the seam?

11 A We had. We had already marked all of the other
12 bullet holes and what we determined happened was the bullet
13 actually ricocheted off the floor, underneath the carpet, came
14 out and struck another hole on the west wall of the weight
15 room area, and we had already marked that and photographed it
16 as E1, so we chose rather than redoing all the photographs, we
17 just chose to note that.

18 Q So if I were to follow C along, and now jump it into
19 E, when you're talking about the wall, that pink sticker right
20 there, is that the E1 sticker that we're talking about?

21 A It is. And then basically, all the weight room area
22 would be back basically, where you're all sitting right now.

23 THE COURT: And which photo is that?

24 MR. DiGIACOMO: And that is 90.

25 BY MR. DiGIACOMO:

1 Q And so if I were going to follow E, and then I'd
2 stick up State's Exhibit No. 96, where are we now?

3 A So now we're in the kitchen, but on that wall that
4 had the E1 on the backside -- on the kitchen side was a pantry
5 area. So what you're looking at is your standing in the
6 kitchen, the kitchen area is basically back behind where I'm
7 at, and this is the wall in common with that weight room area.
8 And the bullet has come all the way through and it's come in
9 through the pantry area.

10 Q And then State's Exhibit 98, if we keep following
11 that bullet, what happens to it?

12 A So if you remember on the diagram there was that
13 kitchen island in the center of the kitchen. That was right
14 next to the pantry. So the bullet traveled across the kitchen
15 through the pantry and then actually struck the island and it
16 went through the door. There's actually another sticker on
17 the other side of this door, but it goes all the way through
18 the door and then it goes into this NuWave hot plate.

19 Q And eventually, we get to State's Exhibit No. 101.
20 Was that recovered?

21 A It was. This is actually the inside of that hot
22 plate. Once it's out of the bag, the -- the glass cover of it
23 was shattered. We picked the piece out, dumped it out, and we
24 found this bullet inside among all the -- all the innards of
25 it.

1 Q And the trajectory of C and E, is that consistent
2 with the same as A and B being front of the house, the back of
3 the house?

4 A Correct.

5 Q So let's move on to F, and that's State's Exhibit
6 No. 95. Is F contained on -- or sorry, let me jump back. Let
7 me jump back to D since I'm going in alphabetical order here
8 and do 91. So where does D strike?

9 A So D again, strikes down in the carpet, like B and C
10 did. And you can see where the E is up there at the top.

11 Q And then 94, do you recover a firearms related
12 evidence associated with D?

13 A We did. Again, we pulled the carpet and we're
14 looking. We didn't find it, so we pulled up the padding and
15 underneath the padding, this is the little tack strip that
16 your carpet gets tacked down to, and this is that wall right
17 below where the E hole was, the E1, and we found a bullet on
18 the -- on the -- on the base floor.

19 Q Once again, maybe obvious, consistent with front of
20 the house to back of the house?

21 A Correct.

22 Q That would be the fourth shot front to back?

23 A Correct.

24 Q Now I'm going to jump to F, and I think since the
25 jury has seen one overall of that, let's just jump to 102.

1 What are we looking at?

2 A This is that west wall of the weight room area. So
3 the -- the E1 marker is over in this area, and then this is an
4 F1 marker. It's on the -- to the north of the E1 marker.

5 Q And if you go to 103.

6 A So again, this is the pantry. We're looking --
7 we're in the kitchen. We're looking at that wall in common
8 with the weight room, and down here you can see the E2 hole
9 where the bullet came through from the E series. And then up
10 at the top here, you can see where the F2 is on the opposite
11 side of that wall.

12 Q State's Exhibit 105, it's mashed as F3, why is that?

13 A This is the island countertop inside the kitchen. I
14 don't know if you noticed it on the photograph where we were
15 showing the NuWave, but this is that cabinet door right down
16 here where the E bullet went through the door and hit the
17 NuWave. So right above that, this is that -- that northeast
18 corner of that island. The bullet struck here and basically
19 bounced off after damaging that countertop.

20 Q And 106, was the F bullet recovered?

21 A Correct. And this is on the floor right at the --
22 by the northeast corner of that island countertop.

23 Q And I'm not going to go through all of these, but
24 where you could, did you put trajectory rods in so you could
25 sort of see the trajectory of the bullets?

1 A We did.

2 Q And for 107, State's Exhibit 107, is there a
3 trajectory rods there for both the E and the F holes that were
4 in that west wall?

5 A There are.

6 Q So let's move on to G, State's Exhibit No. 108.
7 What are we looking at?

8 A So you're standing in that entryway hallway area.
9 Off to the right is that carpeted weight room area. You have
10 the stairway over here on the left, and then you have what
11 normally would be a wall, but they've obviously, opened it up
12 so you can get into the dining room, the kitchen area. And on
13 this little drop down area from the ceiling, we found a bullet
14 hole.

15 Q And that's marked by G1?

16 A Correct.

17 Q And on the backside of that, if I were to put up
18 State's Exhibit No. 110, what are we looking at?

19 A Now, we're standing in the dining room area and
20 we're looking back towards the front door. The -- you can
21 actually see a little bit of the -- the hole -- or the -- the
22 sticker from the G1. It's hanging down here. And the bullet
23 came all the way through that little support beam or drop down
24 wall and came out through the other side into the dining room
25 area.

1 Q And 113. What do we got?

2 A So here we're standing back a little bit. We're in
3 the dining room area. We're facing the west. This is that
4 sliding glass door that was in the dining room area. And this
5 is where the bullet that went through that beam above the
6 doorway, it came through and struck the ceiling and went into
7 the ceiling of the dining room area.

8 Q And eventually, in 115, were you able to dig that
9 item out?

10 A We were.

11 Q And like all the ones we've talked about previously,
12 is this from front of the house to back of the house?

13 A Correct.

14 Q And H, I'll start with 112. And I may have to zoom
15 in, about you just as sort of to orient us first, and then
16 I'll zoom in sort of to this area here. What are we looking
17 at?

18 A This is that back wall of the dining room area
19 between the -- between the kitchen and the sliding glass door.
20 You could see the -- the -- the G series hole in the ceiling.
21 You could see the kitchen to the -- to the right-hand side and
22 just in that back wall we found another bullet hole in that
23 west dining room wall.

24 Q Now, did you make some efforts to see if you could
25 recover that bullet?

1 A We did. We initially knocked out a part of this
2 wall up here to find if -- if it had gone in and fallen or if
3 it was still in there maybe in the insulation or like that.
4 We didn't see it up in the top, so then we went down to the
5 baseboards. We knocked more of the wall down at the bottom
6 and we couldn't find it there either.

7 Q And so at least when you left after processing the
8 scene, H had yet to be recovered?

9 A Correct.

10 Q Once again, though, there's no hole in the exterior
11 wall of the home, so this firearm -- or this shot must have
12 occurred from front of the house to back?

13 A Correct. And in the backyard we did look at the
14 exterior of the wall. There was no hole. So the bullet
15 didn't pass through and it didn't come through from the west
16 side.

17 Q I, State's Exhibit No. 118. Maybe if I turn this
18 slightly. Well, no, I guess that's oriented correctly.

19 A Yeah, that's fine.

20 Q Can you tell what we're looking at?

21 A So now we're standing, basically, with the doorway
22 will be behind where I'm at, and you're looking down. Down in
23 here would be the dining room. The kitchen is off to here.
24 The weight room is off to where you're -- you're sitting. And
25 we found a bullet in the -- or a bullet hole in the ceiling

1 right above the -- the entry walkway, that tiled entry
2 walkway.

3 Q And then following it up, 121. Did you find an exit
4 wound on the carpet below?

5 A Correct. We're now up on the second floor in the
6 hallway on the second floor. The bullet actually went all the
7 way through the floor and actually came out right here. You
8 can see a little bit of the carpet fiber defects.

9 Q Following that trajectory 122, do you follow where
10 it goes?

11 A So we're still standing in that hallway. We're
12 facing west. So the master bedroom would be over here off to
13 our left. And down here would be the doorway to the west
14 bedroom, and you can see up here where we've marked the
15 bullets continued going at an upward angle through the floor
16 and then went into the bedroom door.

17 Q For orientation purposes, 124. And it's hard to
18 see. Could you see it on that photograph or do you know the
19 trajectory of that bullet from the door that's in the hallway
20 to the --

21 A Yeah.

22 Q -- rest of the room?

23 A Yeah, I can see it. Now we're inside that west
24 bedroom and we're looking north. So on the left-hand side you
25 have a little closet area and you have that doorway to the

1 hallway that we just showed with the bullet hole in it. And
2 right up in here, you can see where the bullet actually came
3 through the door and we have that marked with a little pink
4 arrow, and it traveled across -- up and across this little
5 entryway and went into the -- the closet wall.

6 Q Did you make efforts to recover the "I" bullet as
7 well?

8 A I believe, we did.

9 Q Now -- oh, I guess I should ask for the record, I,
10 once again, it's front to back of the house, but at a steeper
11 angle, I guess?

12 A Correct. It was at a -- it was at an upward angle,
13 which is why it went through the floor, and then continued
14 upward, and hit the top of the door and then went into the
15 closet.

16 Q So now I want to go from back of the house to front.
17 And I'm going to start with J, which is 127. Can you see J on
18 there? Do you want me to put up a close-up of it?

19 A No, I see it. So J, we're standing, basically,
20 here's what little archway between the entryway and the dining
21 room, which is where we would all be right now. And this is
22 the stairway leading up, and you can see the hole right here
23 next to those steps.

24 Q And so, 128. That is a close-up of that particular
25 hole, correct?

1 A Correct.

2 Q And was there a trajectory rod placed to see if it
3 was sort of from back of the house to front of the house in
4 State's Exhibit No. 129?

5 A Correct. This is where we placed a couple more
6 trajectory rods, yes.

7 Q And so that gunshot appears to have occurred from
8 sort of somewhere in the area of the kitchen towards the front
9 of the house or maybe a little bit to the side because it
10 wound up in the side of that stairs?

11 A Correct. It would be -- it would have come
12 somewhere from the -- most likely the -- the west end of the
13 -- of the residence.

14 Q So let me jump to K, which is 131. What are we
15 looking at here?

16 A So here we're standing in the entryway. You have
17 the front door right here. And this is actually a little
18 closet that goes underneath the stairway, and you can see
19 right here we found a bullet hole and it's just to the -- to
20 the right side or the west side of that closet door.

21 Q And 132 is a close-up of an effort to try and
22 recover that bullet. Were you ever able to -- or did you
23 decide to recover that bullet?

24 A Once we saw that it went into the door frame and the
25 stud, we decided that it could cause too many damage to -- to

1 cut into that to recover that bullet.

2 Q Based upon the entrance at K1 and the striking of
3 that stud, though, were you able to make a determination if
4 that's, once again, from back of the house to front of the
5 house?

6 A Correct.

7 Q State's Exhibit No. 135, what are we looking at?

8 A So now we're standing in that entryway, that tiled
9 entryway. You have the carpeted weight room over here to the
10 left and you have the stairway over to right. You have the
11 front door right there. So right to the left-hand or the
12 north side of the doorway we found a bullet hole and we
13 labeled that L1.

14 Q 136, was there an exit wound or an -- I guess, exit
15 wound -- but an exit point for that shot?

16 A Correct. So this is we're on the opposite side of
17 that wall that we just looked at and we're standing on the --
18 the little porch area and can see where it has come out
19 through the -- the wall and disrupted all this stucco around
20 that area.

21 Q And if you were to follow the path of that
22 particular bullet, did it appear to be consistent with 138, M,
23 on the wall across the street?

24 A Correct. Across the street from the residence there
25 were more houses, and their -- their backyards had walls, the

1 cinder block walls all the way around. So this is, we're
2 looking straight out from the residence basically from the
3 front of the residence across the street and we found two
4 bullet strikes up here in the wall.

5 Q And the one that's on that column, M, the one
6 that's, I guess, lower on that wall, did you draw any
7 conclusions about L2 and M?

8 A After sticking a trajectory rod through the L1 and
9 be L2 hole on the side of the doorway there, we saw that it
10 pointed fairly consistently with -- with this impact over in
11 M1, so we were fairly certain that M1 was actually a
12 continuation of the L series.

13 Q And then 140. That's N?

14 A Correct.

15 Q Which appeared to be consistent with a bullet
16 strike?

17 A Correct. And that was the one that was higher up on
18 the wall to the right of the M series that we just looked at.

19 Q Now, we talked briefly about sort of there's
20 physical evidence there at the scene. Do you mark the
21 photographs of the physical evidence with any sort of
22 identifying feature after now you've done overalls and now
23 you've shot trajectories, do you then start marking or maybe
24 in between start marking pieces of evidence?

25 A Correct. We have little tent markers. They have

1 numbers on them so that they correspond with whatever we're
2 going to number the items of evidence and they also have a
3 scale to -- so that when we take pictures, we have a reference
4 to -- to how big they -- the items that we're looking at
5 actually are.

6 Q And these items should be consistent with the crime
7 scene diagram, these placards that we're looking at?

8 A Correct.

9 Q I'm going to show you -- State's Proposed Exhibit
10 141 through 169 and ask you if this appears to be placards for
11 -- (inaudible) for you.

12 THE MARSHAL: Sir, we we need a mic on you.

13 MR. DiGIACOMO: I'm going to talk into this one.

14 THE COURT RECORDER: Oh, he's got that one.

15 THE MARSHAL: Thank you.

16 THE COURT RECORDER: He just took it.

17 THE COURT: Are we looking at 141 through 160?

18 MR. DiGIACOMO: 169, I believe.

19 THE COURT: Oh, 169.

20 THE CLERK: Oh, 141?

21 THE COURT: Yep. Thank you.

22 MR. DiGIACOMO: (Inaudible) back here.

23 BY MR. DiGIACOMO:

24 Q So now looking at 141 through 169, does that appear
25 to be true, fair and accurate pictures of basically the

1 locations of the yellow placards marking your evidence?

2 A It does.

3 MR. DiGIACOMO: Move to admit 141 to 169.

4 THE COURT: Any objection?

5 MR. LANDIS: No objection.

6 MR. WOLFBRANDT: No objection.

7 MS. McNEILL: No objection.

8 THE COURT: Those will be admitted.

9 (State's Exhibits 141 through 169 are admitted)

10 BY MR. DiGIACOMO:

11 Q So let's start with -- let's also orient it with
12 142. Do you see item placards 1, 2 and 3 in that photograph?

13 A I do.

14 Q And those two orange cones that are kind of the
15 larger cones, do you know what those are?

16 A Those are traffic cones. When the first responding
17 officers arrived, they found these cartridge cases in the
18 street, and part of their responsibility is just to preserve
19 the crime scene until others can arrive.

20 So in order to preserve these cartridge cases, make
21 sure no one ran over them, no one kicked them or anything like
22 that, they place these traffic cones on both sides to warn
23 people that there's something on the ground because they can
24 be small and not easily visible at times, especially at night.

25 Q Instead of putting up one of each one, but 1, 2 and

1 3 and I'm going to put up State's Exhibit 144, those are all 9
2 millimeter cartridge cases?

3 A They are.

4 Q So let's jump forward to 4, 5 -- just 4, 5 right
5 now. So, 145. So as you walk closer into the location, you
6 now have 4, 5 and I guess you could see 8 on this photograph
7 as well; is that correct?

8 A Correct. 7 is there as well, but because of the
9 position of it, it -- the marker couldn't fit where it needed
10 to be, so we just kind of placed it there. But you can see 7
11 is right there. So we have 4, 5, 7 and 8.

12 Q And 4, 5, 7 and 8 are all 9 millimeter cartridge
13 cases as well?

14 A They are.

15 Q And, 147, we can show where 6 is. Where is 6?

16 A 6 is on the inside of this little planter area,
17 which is why you couldn't see it in the previous photo. You
18 have these little decorative concrete things blocking the
19 view. But from this view you can see its orientation to 5, 7
20 and 8. And 5 is actually down in between these two blocks
21 here.

22 Q So before I get to 9, I'm going to jump to 10 for
23 just a second, and that's 152. It's Exhibit 152. 10 is
24 actually inside the residence?

25 A It is.

1 Q And 10 is what?

2 A 10 is also a 9 millimeter cartridge case.

3 Q So let me jump back to 9 on State's Exhibit 141. Do
4 you see where 9 is located in this photograph?

5 A I do. Number 9 is down here at the bottom
6 right-hand side of the screen. So we're basically on the
7 opposite of the street to 1661 Broadmere. We're looking
8 across the street. You can see the 1, 2 and 3 cartridge cases
9 over here. You have the front of the residence here. You
10 have the number 9 here, which is a bullet fragment, and then
11 like right behind us where the block wall would be is where
12 you would have the -- the bullet strikes that we marked as M1
13 and N1.

14 Q So there's a small bullet fragment there consistent
15 with the bullet strikes that you had right behind you?

16 A Correct.

17 Q Okay. So now let's jump to 11 and 12 and it's 154.
18 11 and 12 are within the residence and closer now to the
19 kitchen area?

20 A Correct. So we're standing in the entryway tiled
21 area again. And you have the -- the carpeted weight room area
22 over here to the right, the stairway's here to the left. Back
23 here you have the -- the dining room area and you have two .40
24 caliber cartridge cases marked by numbers 11 and 12 here on
25 the floor.

1 Q And, 157. We have items 13 and 14. What do we got?

2 A So now we're standing in the living room area.
3 That's where the carpeted area is. And we're looking into the
4 kitchen and the dining room area. Over here they're side way
5 to us now, but those are the previous two markers with the .40
6 caliber cartridge cases that we found. And we now have 13 and
7 14, which are also .40 caliber cartridge cases.

8 Q So, 11 through 14 are four .40 caliber cartridge
9 cases?

10 A Correct.

11 Q And the 9 millimeters, 1 through 8 and 10 there are
12 basically nine 9 millimeter cartridge cases located at the
13 scene that is the house?

14 A Correct.

15 Q And then number 15, and I'm going to put up for you
16 161, that is the .38 caliber revolver?

17 A Correct. This is, if you remember from earlier, on
18 the kitchen island next to call the food and drink, it was on
19 the north side of the island.

20 Q 162, did you check if the gun was loaded?

21 A We did.

22 Q And what did you find?

23 A We found that it was loaded with two cartridge
24 cases. You can see they've both been fired and then one
25 cartridge and it has two empty cylinders.

1 Q So it's a five shot revolver?

2 A Correct.

3 Q And then if I go to 163, are those the two cartridge
4 cases and the cartridge that was found within that weapon?

5 A Correct. This is where we've -- we've removed those
6 three items to just ensure that they actually were cartridge
7 cases and that they had actually been fired.

8 Q 164, item 16 is inside the residence next to sort of
9 the weight room?

10 A Correct. So the weight room over -- be over here on
11 the left. You have the stairway over on the right-hand side
12 and then 16 is on the floor right here on the tile floor and
13 it turned out to be a tooth.

14 Q 165, looks like a tooth within the residence?

15 A Correct. This is a closer view just to show the
16 size. You have the little scale here. These are centimeters.
17 And it's just a top down view of it.

18 Q I don't have a close-up of item number 17, but do
19 you recall what item number 17 is?

20 A I believe, that was the molding from the doorway.

21 Q Correct. That -- well, I guess I could show you 13
22 so I don't testify, but in State's Exhibit 13 if I were to
23 inform you that, sorry, item 17 is identified as broken
24 molding, is that that piece of wood that we saw lying over the
25 blood pool at the front door?

1 A Correct.

2 Q So now I'm going to go sort of outside and put up
3 166. Well, maybe I'll put up 167 instead, and we can do it
4 all with one photograph. Is there an item number 18 inside
5 this photograph?

6 A There is. It's right over here on the left-hand
7 side of the screen. It's a little hard to read these signs,
8 but this here is Broadmere going this direction and this
9 street here, I believe, is Long Cattle.

10 Q Okay. Did you collect a .40 caliber Glock firearm
11 somewhere within the neighborhood crime scene?

12 A We did.

13 Q And showing you State's Exhibit 170, what are we
14 looking at?

15 A This is a Dodge Challenger parked in front of the
16 residence, and you can -- you can see the entryway door here.
17 The garage door's been opened, and you can see some of those
18 smaller orange cones that -- that were visible in some of the
19 previous photos.

20 Q And 171.

21 THE COURT: Okay, wait a minute. I don't think
22 we've -- we had admitted --

23 MR. DiGIACOMO: Oh, did I not offer this?

24 THE COURT: -- beyond 169.

25 MR. DiGIACOMO: I'd better do those three then.

1 BY MR. DiGIACOMO:

2 Q Sir, I'm going to show you 170, 171 and 172 and ask
3 you if those appear to be photographs taken of a Glock .40 in
4 a vehicle that was associated with the scene.

5 A They are.

6 THE COURT: All right.

7 MR. DiGIACOMO: Move to admit 170 to 172.

8 MR. LANDIS: No objection.

9 MR. WOLFBRANDT: No objection.

10 MS. McNEILL: No objection.

11 THE COURT: All right. But we couldn't hear what
12 those were when you said that because the microphone was away.

13 THE WITNESS: My apologies.

14 THE COURT: That's all right.

15 (State's Exhibits 170, 171, and 172 are admitted)

16 BY MR. DiGIACOMO:

17 Q So why don't I go back to 170 just for the record.
18 Is that a Dodge Charger that was located at the scene?

19 A Correct. We're at the front of the residence. You
20 can see the front entryway with some of the smaller orange
21 cones that were mark the blood trail in the driveway.

22 Q Then throwing up 171, that's in the trunk of that
23 vehicle. Did you recover a .40 caliber Glock firearm?

24 A I did.

25 Q Now, some but not all of these have been previously

1 admitted.

2 MR. DiGIACOMO: I have to get to your microphone
3 before I talk.

4 THE COURT RECORDER: It doesn't pick both of you up

5 MR. DiGIACOMO: I'm going to do one at a time.

6 THE COURT RECORDER: Okay, thank you.

7 BY MR. DiGIACOMO:

8 Q I'm going to show you what's been marked as -- well,
9 I think were admitted for some of these. How about marked as
10 180 through 198, with the exception of anything else that's
11 been admitted previously, which I think there's three of them.
12 But go ahead and flip through those. And now I'm going to
13 show you what's previously been admitted as 173 through 179
14 just so you can briefly look at those.

15 I'm going to stand here by this mic so that you can
16 hold that mic and ask you; does this appear to be photographs
17 taken of a secondary scene down on Long Cattle that involved a
18 rifle as well as some bloody items?

19 A Correct.

20 Q As they've already seen these, they haven't seen the
21 diagram, though, so let me put up first Exhibit No. 12 and ask
22 you -- after I flip it over -- to just, for the ladies and
23 gentlemen of the jury so they understand what we're looking at
24 when they're looking at State's Exhibit 12.

25 A This is a enlarged version of that larger

1 residential map. If you remember there were the two circled
2 areas. This is that second circled area that was south and to
3 the east of the original scene. This is Long Cattle Avenue
4 right here along the top and then we have two residences,
5 10013 and 10019, which is on the east side. And there were
6 also two vehicles involved, a Honda Accord parked in the
7 driveway and a Ford F150 in the street.

8 MR. DiGIACOMO: And Judge, I'm going to offer the
9 remaining unadmitted exhibits from 180 to 198, which I believe
10 there's one or two within there that have been previously
11 admitted, but I'd offer them all.

12 MR. LANDIS: No objection.

13 MR. WOLFBRANDT: No objection.

14 MS. McNEILL: No objection.

15 THE COURT: Those will be admitted.

16 (State's Exhibits 180 through 198 are admitted)

17 BY MR. DiGIACOMO:

18 Q I'm not going to go back and show the jury the
19 pictures of the items within the truck, but just so that we
20 know what we're talking about here, 179, those are the gloves?

21 A Yes, there were a pair of gloves in the truck bed
22 that -- that we found back there.

23 Q And then item 19, it doesn't have a placard, but it
24 may be self-explanatory. I'm going to put up 181. I guess we
25 could rotate it if we had to here.

1 A This is a Hi-Point rifle that we found in the truck
2 bed as well along with the gloves, and it's a 9 millimeter.

3 Q And the work shirt that's item 21 found on the
4 ground, State's Exhibit 184, did you lay it out and photograph
5 it?

6 A Correct. This we found on the ground, on the street
7 right at the back of the truck by the truck bed door.

8 Q And if I were to zoom in on it, it looks like it's
9 an electrician's work shirt?

10 A Correct. That appeared to be some form of a uniform
11 type shirt.

12 Q On the ground near the black vehicle, State's
13 Exhibit 187, were there some bloody clothes?

14 A Correct. The vehicle that was parked in the
15 driveway just at the end of the driveway there was a pair of
16 pants here, which is marked as item 22 as well as a pair of
17 shoes.

18 Q And did you document whether or not there was any
19 defect in the pants consistent with the bullet hole?

20 A We did.

21 Q And is that indicated on this photograph?

22 A Correct. Again, we used the little sticker with the
23 arrow on it and a little scale here. And if you look kind of
24 closely this little really dark area, you can see that's
25 actually a hole in the fabric.

1 Q And I want to jump inside that black vehicle that's
2 in the driveway, 192. Within the vehicle first, when you guys
3 arrived is that seat leaned down like that when you were
4 processing the scene?

5 A Yes, this is how we found the car. It's -- the door
6 was open, the seat was laid back like that, and you can see
7 some of the -- the blood on the door handle.

8 Q And did there appear to be a significant amount of
9 blood within that vehicle, and I'll put up 193 as sort of a
10 representation of it. This area here, what are you attempting
11 to document?

12 A This we believed to be blood kind of wiped off a
13 little bit onto the fabric. They're fabric seats, they're not
14 leather, so they kind of absorb.

15 Q And then 194, what is that item there?

16 A That item there is actually a sock, and it's red
17 because it's got a bunch of -- it soaked up a lot of blood.

18 Q On the floor of this vehicle down here, do you
19 collect that item and lay it out in State's Exhibit No. 198?

20 A I do. That's a ski mask. That was that orange ski
21 mask which was on the floor board of the vehicle, and we found
22 it, and it -- it was like this. We found it inside out.

23 Q My final area of pictures for this afternoon is
24 State's Proposed Exhibits 199 to 216. Did you document with
25 both photography and swabbing the blood trail all the way from

1 Broadmere all the way to the end of Shifting Winds when the
2 blood trail ran out on our diagram?

3 A We did.

4 Q And showing you 199 to 216, is that a true, fair and
5 accurate depiction of the blood trail?

6 A Yes, it is.

7 MR. DiGIACOMO: I'd move to admit 199 to 216.

8 MR. LANDIS: No objection.

9 MR. WOLFBRANDT: No objection.

10 MS. McNEILL: No objection.

11 THE COURT: Those will be admitted as well.

12 (State's Exhibits 199 to 216 are admitted)

13 BY MR. DiGIACOMO:

14 Q And I'm certainly not going to put up the entire
15 blood trail here, but let's start with 200 just so you can
16 sort of describe. We those two -- those are the same two
17 orange cones that had the cartridge cases by them; is that
18 correct?

19 A That is correct. We're -- we're standing in front
20 of the Broadmere address. You can see the -- the driveway
21 here with the smaller cones that were visible in some of the
22 other photos. Then you have the two larger traffic cones that
23 were placed there. The only thing that's missing is we
24 haven't placed out the -- the small numbered yellow placards
25 yet.

1 Q As you turn to your left in 201, and if I were to
2 zoom in on these, those cones don't appear to be standing up.
3 Why is that?

4 A Typically, if we are looking at a blood trail and we
5 can determine by the shape of the blood drops which direction
6 the trail is traveling, we will tip the cones over in the
7 direction that it's traveling. It gives you a nice visual
8 representation. Whereas, if you just had a bunch of standing
9 cones, you wouldn't necessarily be able to determine whether
10 it's going north to south, south to north.

11 Q And that blood trail, does it turn down at Long
12 Cattle on State's Exhibit No. 204?

13 A It does. Here we're standing basically in the
14 intersection. This is Broadmere at the bottom of the screen
15 and then Long Cattle is going down this direction, and all the
16 way back here you can see the -- the truck and then the car
17 parked in the driveway.

18 Q And when you get down Long Cattle -- 206 -- is there
19 not just the trail, but there appears to be sort of a section
20 off to the left of where those cones are. Did you mark that
21 and take a swab of that location?

22 A We did.

23 Q And if we do a close-up of that swab, 207, does that
24 reference BT10 for later on if a crime scene analyst were to
25 -- or sorry, a DNA analyst were to testify, I processed

1 Mr. Felabom's BT -- item BT10 from this particular event
2 number 3020 on September 21st of 2014, we'd know it's that
3 blood spot?

4 A Correct. The marker number in the photograph is the
5 same item number that I gave it on the evidence impound
6 report. It's the same that you see in the photographs. It
7 keeps it all consistent. It makes it a lot simpler to be able
8 to track.

9 Q At some point, on the blood trail -- and I think
10 it's item 12 -- or Exhibit -- nope. Let's try Exhibit 15, and
11 I'm going to actually flip it just once so it's sort of
12 consistent with the way we see, but at the top here is the
13 Broadmere address up on top?

14 A Correct.

15 Q And then this is the blood trail that runs down Long
16 Cattle. Is there a break at the end of sort of whatever Long
17 Cattle here turns into without my glasses on, but is there a
18 break between sort of this corner and then the -- a blood
19 trail that starts down on this corner and runs down Shifting
20 Winds?

21 A Correct. We were able to track the blood trail down
22 Long Cattle. It was along the sidewalk and then it curved
23 south along Walrus. It crossed the street and then right
24 around in here, right at the -- the northeast corner of the
25 intersection here, because north is this way. This is north

1 -- the north side of the resident area -- it disappeared, and
2 we weren't able to find any other blood until we came down
3 here at the -- what would be the -- the northwest corner of
4 Shifting Winds, which is this street running north/south down
5 here, and this is Ranch Hand right here running east/west.

6 Q And when you got to that location, 215, where the
7 blood trail appears to pick back up, there's sort of a large
8 splotch of blood that's on that sidewalk there?

9 A Correct.

10 Q And that splotch was sampled, State's Exhibit 216,
11 as BT20?

12 A Correct.

13 Q Now, prior to -- you can retake your seat now.
14 Prior to coming here to court today, were you requested to
15 bring -- not just yours, but did you bring essentially all of
16 your firearms related evidence that you collected?

17 A Correct.

18 Q Did I ask you to leave behind the items of bloody
19 stuff, like clothing and gloves and that kind of stuff?

20 A Correct.

21 MR. DiGIACOMO: If I could grab the rifle.

22 (Mr. DiGiacomo/Clerk conferring)

23 BY MR. DiGIACOMO:

24 Q When you brought all these items down to here today,
25 were they all still sealed in the condition you picked them up

1 at the vault either today or yesterday in?

2 A They were.

3 Q Okay. And so I'm not going to do this with every
4 single one of these, but I'm going to ask you to sort of
5 explain some of the items of evidence that we have here. So
6 let me start with -- I'm just going to start with 221 and ask
7 you, do you recognize this package?

8 A I do.

9 Q What is it?

10 A This is the package that I impounded some of the
11 cartridge cases from the scene, from the original shooting
12 scene.

13 Q And that label that's affixed to it, what kind of
14 information can you gather from that label?

15 A On this label it has a lot of pertinent information.
16 It has the date, the time that we arrived at the scene. It
17 also has that event number that I explained, too, at the
18 beginning. The -- with the date at the beginning and then the
19 individual four numbers at the end so that we can track it and
20 associate everything inside this package with this -- with
21 this shooting.

22 It also has my -- my initials and P number as well
23 as my signature to show that I'm the one that impounded this
24 evidence.

25 Q And when you do a package like this, do you do any

1 sort of security measure in sealing it to determine so that
2 someone can later on determine whether or not it's been opened
3 since you sealed the items in it?

4 A Correct. On the backside we actually -- there's a
5 little metal clasp that holds the flap down, but then over
6 that we put evidence tape, which it's fairly fragile, you can
7 tear it, but it just shows that no one's opened up the package
8 through -- through breaking the seal. And on the top I date
9 when I actually sealed the package and I initial on it to show
10 that no one pulled the tape off and just put another piece
11 down.

12 Q Now, there's some, looks like, bar codes on here.
13 Do you have any idea what the bar codes are?

14 A Those bar codes are from our evidence vault. They
15 have their own tracking system. And so for every piece of --
16 every item of evidence within that package they put a little
17 bar code sticker and that way when they're transferring it
18 from one person to another, they can just scan it. It's a lot
19 faster than them having to type out everything for the
20 paperwork that they need to do.

21 So it's just a tracking system for the evidence
22 vault.

23 Q And then on the bottom of this kind of seal that you
24 have here, out of the label on front, is there sort of an area
25 to track anybody who opened this, kind of like a chain of

1 custody?

2 A There is. There's a chain of custody section at the
3 bottom of the label where whenever someone receives that
4 package, they have to sign it, say that they -- that he had it
5 and whether they opened it and when they returned it.

6 Q And I'm going to just make an assumption here, but
7 that blue label was not on here when you put this into the
8 vault a day or two after you collect it at the crime scene?

9 A Correct. We typically use red crime -- or not crime
10 scene tape, but evidence tape and then typically, the forensic
11 lab, they'll use a blue tape a lot of times to -- to seal up
12 after they've opened up the package.

13 Q Is it unusual for you to come to court and see a
14 blue seal on the bottom of a package that indicates where
15 there may be forensic processing done?

16 A Not at all.

17 Q Okay. With the exception of the blue seal that's
18 placed upon here and the fact that the Clerk opened these at
19 this point, is this package in substantially the same or
20 similar condition as when you picked it up or when you put it
21 into the vault as well as I guess, when you pick it had up?

22 A It is.

23 Q Okay. And if you were to open this package, what
24 would you expect to find inside?

25 A I would expect to find cartridge cases, 9 millimeter

1 cartridge cases.

2 Q How many?

3 A In this package there would be eight.

4 MR. DiGIACOMO: Judge, I move to admit 221 and its
5 content, which would be A through H.

6 THE COURT: Any objection?

7 MR. LANDIS: No objection.

8 MS. McNEILL: No objection.

9 MR. WOLFBRANDT: No.

10 THE COURT: Those will be admitted.

11 (State's Exhibits 221, 221-A through 221-H are admitted)

12 BY MR. DiGIACOMO:

13 Q So now we can quickly do each one of the other
14 packages. So, 222, assuming that all those predicate
15 questions I asked you on the last one are the same, what would
16 you expect to find inside there?

17 A Inside this package I would expect to find one more
18 9 millimeter cartridge case and four .40 caliber cartridge
19 cases.

20 MR. DiGIACOMO: So I offer 222 and its contents
21 which is 222-A through E.

22 MR. LANDIS: No objection.

23 MR. WOLFBRANDT: No objection.

24 MS. McNEILL: No objection.

25 THE COURT: That will be admitted.

1 (State's Exhibits 222, 222-A through 222-E are admitted)

2 BY MR. DiGIACOMO:

3 Q 220, is that package in the same or similar
4 condition as the other packages --

5 A It is.

6 Q -- that you brought down here?

7 A It is.

8 Q And what would you expect to find inside there?

9 A Inside of here I would expect to find two Glock
10 pistol magazines, .40 caliber magazines as well as some
11 cartridges.

12 Q And now this has a big thing on the front that says
13 chem processed, what does that mean?

14 A That's just a warning for people to let them know
15 that I've chemically processed the items inside this package.
16 We'll chemically process items, but then we won't clean them
17 up so it's just a warning for them you probably don't want to
18 handle it without gloves on.

19 Q And --

20 MR. DiGIACOMO: Well, I'll move to admit 220 and its
21 contents, which should be 220-A through D.

22 MR. LANDIS: No objection.

23 MR. WOLFBRANDT: No objection.

24 MS. McNEILL: No objection.

25 THE COURT: That will be admitted as well.

1 (State's Exhibits 220, 220-A through 220-D admitted)

2 BY MR. DiGIACOMO:

3 Q 223, what is in there?

4 A In this package I would expect to find a bullet
5 fragment and six bullets.

6 Q And one again, all my predicate question that I --
7 first time I went through all those questions apply to 223?

8 A Correct.

9 MR. DiGIACOMO: I offer 223 and its contents, which
10 would be 223-A through G.

11 MR. LANDIS: No objection.

12 MR. WOLFBRANDT: No objection.

13 MS. McNEILL: No objection.

14 THE COURT: That will be admitted.

15 (State's Exhibits 223, 223-A through 223-G admitted)

16 BY MR. DiGIACOMO:

17 Q Now, I'm going to give auto box, but it is no
18 different, I guess, than the bag, which is marked as 219.
19 This one is open so you can pretty much tell us what is in
20 there.

21 A This one has a Glock 27. It's a .40 caliber pistol
22 as well as a -- the magazine for the pistol and nine
23 cartridges.

24 Q And once again, the predicate questions I asked for
25 the first package is the same for 219?

1 A Correct.

2 MR. DiGIACOMO: Move to admit 219 and its contents
3 and I believe, it's going to be marked A through D so --

4 MR. LANDIS: No objection.

5 MR. WOLFBRANDT: No objection.

6 MS. McNEILL: No objection.

7 THE COURT: So 219.

8 MR. DiGIACOMO: 219 and 219-A through D because
9 there appears to be four items inside.

10 THE COURT: And that will be admitted.

11 (State's Exhibits 219, 219-A through 219-D admitted)

12 BY MR. DiGIACOMO:

13 Q Now, you've got gloves. I probably should have told
14 you that that was processed. The item you have in your hand,
15 did it come in a box just like we've been, sort of a bigger
16 box version of this?

17 A Yes, a much bigger box. Yes.

18 Q Okay. And contained within that box, was there
19 something other than just that rifle?

20 A Yes, there was the magazine for the rifle.

21 Q And that still remains within the box or apparently
22 it's not here, correct?

23 A That is not in the -- in the rifle, correct.

24 Q And that weapon has been rendered safe by way of a
25 zip tie through the receiver?

1 A Correct. There's a zip tie going through so you
2 can't even get the magazine in and the bolts won't function.

3 Q And that is the 9 millimeter firearm that you
4 recovered down out of the bed of that pick-up truck off Long
5 Cattle?

6 A It is.

7 MR. DiGIACOMO: And I'm sorry, Judge, but I think
8 the evidence marker was on the box so I need the number.

9 THE CLERK: It was 217.

10 MR. DiGIACOMO: Oh, there it is. I'm sorry, I
11 didn't see it on the bottom. So I would offer 217 and its
12 contents, which would be 217-A and B in for the record. A is
13 the rifle, B is the magazine.

14 MR. LANDIS: No objection.

15 MR. WOLFBRANDT: No objection.

16 MS. McNEILL: No objection.

17 THE COURT: That will be admitted.

18 (State's Exhibits 217, 217-A and 217-B admitted)

19 BY MR. DiGIACOMO:

20 Q My final question is, is I know I've spent a better
21 part of probably two hours asking you questions. How long did
22 it take you, your three partners and your supervisor, how long
23 were you out at the scene?

24 A At the scene it took over ten hours. We got there
25 -- well, some of us got there shortly before 11:00 and we

1 didn't leave until after 9:00 a.m.

2 Q And then even after you leave the scene, how much
3 time do you have to spend to get all of this in a condition
4 where I only spend a few minutes talking about it?

5 A For me, personally, it took me, I believe, two days
6 to impound all of the evidence, to get it all packaged up,
7 processed, what I needed to process and everything signed off
8 on.

9 Q Thank you, sir.

10 MR. DiGIACOMO: Judge, I'd pass the witness.

11 THE COURT: Thank you. Mr. Landis?

12 CROSS-EXAMINATION

13 BY MR. LANDIS:

14 Q Fair for me to assume that amounts to a detailed and
15 thorough investigation in your eyes?

16 A Yes.

17 Q You weren't rushed in any way?

18 A No.

19 Q You weren't prevented from examining or looking at
20 something that in your judgment you should?

21 A Not that I recall, no.

22 Q Sometime during your direct testimony you talked
23 about the integrity of a crime scene or preserving a crime
24 scene, if I can use those terms. In any crime scene analyst
25 perfect world, a crime scene would freeze the moment the

1 criminal activity's over, correct?

2 A Absolutely.

3 Q In the real world, almost never happens, fair?

4 A Correct.

5 Q In this case, when you arrive on scene, are there
6 any cars, vehicles in the garage of 1661 Broadmere?

7 A Not that I recall.

8 Q Same question about the driveway of 1661 Broadmere?

9 A I do not recall there being any cars in the driveway
10 either.

11 Q In one of the pictures the State showed you, I
12 recall, I think it was a Dodge Charger parked in front of the
13 residence at six sick; do you remember that picture?

14 A I do.

15 Q Was that there when you arrived on scene?

16 A Yes, it was parked in the street.

17 Q And that became a location of some evidence, did it
18 not?

19 A Correct.

20 Q Specifically what did you find there?

21 A The Glock 27 -- Glock 27 pistol as well as the
22 magazine and the cartridges were found in the trunk.

23 Q Did you at any point determine whose vehicle that
24 was?

25 A I -- I'm sure someone did, but I didn't have any

1 knowledge of that.

2 Q That's an understanding answer. Much of the things
3 you've testified, such as the blood trails, bullet holes, were
4 in plain view as you entered the residence, right?

5 A Correct.

6 Q There was that time when they showed you a foot
7 locker at the base of the bed in the master bedroom; do you
8 recall?

9 A Yes.

10 Q And that was opened, correct, in the picture?

11 A Eventually, it was opened. It was found closed,
12 yes.

13 Q What I'm getting at is this search went into
14 different containers in the house, correct?

15 A Correct. They -- the detectives and the crime scene
16 analysts went through and were searching for further evidence
17 throughout the night.

18 Q And so the thorough search would apply to every
19 drawer in the house, every closed container in the house?

20 A It depends on what they were searching for. We were
21 primarily focused on the firearms evidence and the -- the
22 shooting evidence, the bullet holes and whatnot. I can't say
23 what -- how thorough the other searches were or what they were
24 looking for.

25 Q Homicide detectives led that aspect of the

1 investigation; is that true?

2 A Typically, they will go through the other areas
3 searching for evidence that may not be directly related to the
4 shooting, but may play a part in the shooting, I guess.

5 Q And obviously, crime scene analysts aren't always on
6 scene when a detective does a search, right?

7 A Correct.

8 Q Not always? But in cases like this where there were
9 crime scene analysts on the scene, if a detective found
10 something that you hadn't previously found, would they call
11 you over to document it?

12 A Ideally, yes.

13 Q And preserve it, obviously?

14 A Correct.

15 Q You say, ideally. Do you have any concerns that
16 detectives did not do that in this case?

17 A I'm not aware of them not doing that in this -- in
18 this case, no.

19 Q Despite those few crumbs of substance consistent
20 with marijuana that we saw on that desk, are you aware of any
21 other marijuana being found in that residence?

22 A I am not.

23 Q How about currency, U.S. currency?

24 A I'm in the aware of any currency being found in the
25 residence.

1 Q Did you gain information during your investigation
2 that the scene may have been partially altered before you
3 began your investigation?

4 A Not that I recall specifically.

5 Q Did you ever determine how that pistol ended up in
6 the back of that truck -- or that car?

7 A I don't recall specifically any information about
8 that.

9 Q You penned, you wrote a number of reports in this
10 case; is that fair, at least three?

11 A Me personally?

12 Q Yes, sir.

13 A I only -- oh, if you're including the firearms, yes,
14 three.

15 Q Do you date your reports when you write them?

16 A Yes.

17 Q You've been trained to do that, yes?

18 A Yes.

19 Q Why is that important?

20 A So that it just shows when we were at the scene and
21 it corresponds with what is in our notes.

22 Q Impossible for you to independently memorize every
23 date you do something in your job because you do too many
24 cases and too many things?

25 A Correct.

1 Q You testify years after, like we're seeing here?

2 A Correct.

3 Q Without dates in some of these reports, you'd be at
4 a loss as to exactly when you did things --

5 A Correct.

6 Q -- is that fair? The two handguns that were found
7 in or near 1661 Broadmere, there was the revolver on the
8 kitchen island, yes?

9 A Correct.

10 Q That was impounded by you?

11 A Correct.

12 Q And you did some investigation and some forensic
13 analyzation of that gun, right?

14 A I did process it for fingerprints, yes.

15 Q But first did you investigate its history, its
16 owner, whether or not it was registered?

17 A I did.

18 Q Do you recall the results of that investigation?

19 A I don't recall who it was registered to, but if I
20 remember correctly, it was not reported as stolen.

21 Q And just to make sure your memory's refreshed, would
22 looking at your impounded firearms information sheet refresh
23 your memory?

24 A It could, yeah.

25 MR. LANDIS: May I approach the witness?

1 THE COURT: You may.

2 BY MR. LANDIS:

3 Q After having looked at that, was your memory correct
4 that it wasn't reported stolen?

5 A Correct.

6 Q Did you determine a registered owner?

7 A It was registered to an individual named Michael
8 John.

9 Q And when you register it, do you provide an address?

10 A We do.

11 Q And what was the address provided for Michael John?

12 A 861 Mountain Ridge Court.

13 Q And you mentioned some testing. Swab DNA was one of
14 the testing that was conducted on that firearm, right?

15 A That's not a test. I -- I merely collect any
16 potential DNA that might be there. I don't do any testing.
17 That would be left to the forensic scientists over at our DNA
18 lab that would do that testing.

19 Q Understood. You take the sample, put it in an
20 envelope for the later work?

21 A Correct. It's the same as with the bloodstains.

22 Q How about CA testing, as it's abbreviated? Is
23 that --

24 A That's -- that's an abbreviation for cyanoacrylate
25 or super glue. It's a process of the fingerprint processing

1 that allows us to look for fingerprints on the firearm.

2 Q Performed on that revolver?

3 A Correct.

4 Q R6G testing?

5 A That is the name of a chemical dye stain that we use
6 to enhance any fingerprint detail that we find on the gun with
7 the super glue. We're able to shine a laser on it and it
8 glows. It just makes it a lot more visible.

9 Q Finally, laser testing.

10 A The laser is also part of the -- of the fingerprint
11 processing. It's -- it's what we use to excite the -- the
12 R6G, which will allow it to glow.

13 Q All of those testing conducted on that revolver,
14 correct?

15 A Correct.

16 Q Did you procure any usable results?

17 A No.

18 Q A lot of the same questions now turning to the Glock
19 that was found in the trunk in front of the house. That was
20 impounded and investigated similarly, right?

21 A Correct, the same process.

22 Q Do you recall independently whether or not that was
23 reported stolen?

24 A I do not believe it was reported stolen either.

25 Q Do you recall the registered owner of that gun?

1 A I do not.

2 Q Would approaching with your impounded evidence
3 report on that refresh your memory?

4 A Yes.

5 MR. LANDIS: May I approach the witness?

6 THE COURT: Yes, you may.

7 BY MR. LANDIS:

8 Q I'll trade you. Thank you. After looking at that,
9 does it refresh your memory as to the registered owner?

10 A Yes.

11 Q And who was that?

12 A Anthony Del Grasso.

13 Q And his reported address?

14 A It is 9016 Ballad Avenue.

15 Q Conducted all the same tests on that gun, yes?

16 A Correct.

17 Q And also no results?

18 A Correct.

19 MR. LANDIS: If I may approach the witness to get
20 that, and I have no further questions.

21 THE COURT: Yes, you may.

22 MR. LANDIS: Thank you, sir.

23 THE COURT: Thank you, Mr. Landis. Mr. Wolfbrandt?

24 MR. WOLFBRANDT: Thanks.

25 CROSS-EXAMINATION

1 BY MR. WOLFBRANDT:

2 Q Good afternoon. Is it Officer Felabom?

3 A No, just Felabom. I'm not an officer. I'm a
4 civilian.

5 Q At one point you were a police officer, weren't you?

6 A Yes.

7 Q Okay. All right, let's talk about the 9 millimeter
8 casings that you found in the doorway and in the street.

9 A Okay.

10 Q Numbered 1 through 8, and 10. Is there -- there's
11 no real particular significance for the numbering of the
12 casings that you found, is there?

13 A No. Typically, when -- just for ease of writing the
14 report, for ease of understanding the report, we'll try to
15 group stuff together as much as we can after we found it.
16 It's not always possible, so we will number similar items
17 consecutively whenever possible.

18 Q Well, in this case, you started with the casings
19 that you found in the street and worked your way towards the
20 house?

21 A Correct.

22 Q So the numberings of the -- on the cones or whatever
23 identifier has no bearing at all on the sequence that each of
24 those shots were fired?

25 A No.

1 Q In other words, number 1 doesn't mean that was the
2 first shot fired?

3 A No, that's -- that's just simply, in this instance,
4 most likely, we just started outside and worked our way inside
5 so we started with 1 outside and worked our way in.

6 Q Okay. Now, there was the bullet hole that went
7 through the -- what do you call that -- the pillar, the front
8 doorway. They were labeled L1, L2.

9 A Correct.

10 Q It was just off -- just to the side of the door --

11 A Yes.

12 Q -- that then when went across the street --

13 A Yes.

14 Q -- to the wall across the street. Okay. Were you
15 able to determine that the two, what do you call them,
16 blemishes or marks on that wall identified as M1 and N1?

17 A Yes.

18 Q Were they both related to the bullet that went
19 through the doorway, L1 and 2? So in other words, did you
20 determine if that bullet fragmented as it went through the
21 house and then hit multiple spots on the other side of the
22 street?

23 A Based on our use of the trajectory rods, we -- we
24 determined that most likely it was just one bullet coming out
25 and striking M and then another one striking N.

1 Q Do you think there were two different bullets that
2 struck that wall across the street?

3 A That's -- that's what we believed.

4 Q Did you find any mark on the house or any other
5 evidence within the house to indicate which -- whether there
6 was a second bullet that went from the house to that wall, if
7 you understand what I'm saying? I mean, as I was listening
8 through all of this, you found a number of bullets and
9 trajectories inside the house, but you found where all of them
10 stopped, and the only one you found went through the house was
11 just that one at the door, L1 to L2 exit?

12 A Do you mean through the exterior of the house?

13 Q Yeah.

14 A Yes, that's the only one we found to go through --
15 through a wall and the exterior.

16 Q All right. Now, there was a fragment of a bullet,
17 it was found in the street along that same trajectory, wasn't
18 there?

19 A Yes. That was item number 9.

20 Q Now, you don't do any processing of any of the --
21 other than the chemical testing you were talking about, you
22 don't do the firearms examination try and match casings with
23 particular weapons?

24 A No, we have people -- we have a firearms unit. They
25 specifically work with firearms. That's pretty much all they

1 do, and they're the ones that do all the testing on firearms
2 to compare cartridge cases with firearms with bullets.

3 Q So let's go back, then, to M1 or N1, the two
4 markings on the wall across the street.

5 A Yes.

6 Q Is it likely that the other one came from perhaps, a
7 projectile that came from the interior of the house, went
8 through the open door?

9 A That was our belief, yes.

10 Q Okay. Did you have any way, or did you have any way
11 of identifying which shell casing retrieved inside the home
12 may have been the one that might have gone through that door
13 and hit the wall?

14 A Did I have a way of determining which cartridge case
15 created the mark in the wall?

16 Q Was -- did you have any indication of which casing
17 that was retrieved inside the home was -- when it was a full
18 cartridge when fired, had the projectile that went through the
19 door into the wall? Do you understand what I'm getting at? I
20 mean, you're finding a case -- that's what's left over when
21 it's --

22 A Yes.

23 Q -- expended out of --

24 A Correct.

25 Q -- out of the weapon once the bullet's been fired

1 from the gun?

2 A Correct.

3 Q Okay. Were you able to -- you no idea which, if
4 any, of the casings might have been the bullet that hit
5 the wall? Associated with the bullet that hit the wall?

6 A Correct. That would be something that if the
7 firearms examiner could look at the bullet or the bullet
8 fragments that we found, they might be able to determine
9 whether or not that bullet was originally a .38 or a .40 or a
10 9 mill. But out at the scene, no, there's no way for us
11 to determine that.

12 Q But I'll ask you, there's no question that that
13 second mark on that wall across the street was associated with
14 this event, and it was from a bullet that came from inside the
15 house going, what was that northbound -- north out towards
16 that wall?

17 A The wall is on the east side of the street so it
18 would have been going east.

19 Q Would you agree with that?

20 A That was -- that was -- that was what we were
21 working under.

22 Q Okay. That's all I have.

23 THE COURT: Thank you. Ms. McNeill.

24 MS. MCNEILL: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MS. McNEILL:

2 Q I'm going to be pretty brief, Mr. Felabom. I just
3 wanted to follow up on questions that Mr. Landis asked you.
4 He had asked you about if you had found any marijuana in the
5 house; do you remember that line of questioning?

6 A Yes.

7 Q Okay. And you indicated that you did not. And he
8 indicated to you that you would have been kind of directed by
9 the detectives as to what you were looking for, right?

10 A Typically, in larger scenes like this, while we're
11 working on what evidence we know we have, detectives will be
12 off searching like for the trunks and the -- the desk with the
13 -- with the leafy substance that we found.

14 Q And that's kind of where I wanted to focus your
15 attention was that desk. So you would photograph items that
16 you believed might be of some importance, correct?

17 A Correct.

18 Q Correct. And so on that desk you did photograph the
19 food saver because you believed that might be related in some
20 way, correct?

21 A Yes, it was photographed.

22 Q Okay. And then Mr. Landis asked you about the Glock
23 that you found in the trunk of that Charger; remember that?

24 A Yes.

25 Q Okay. That was a .40 caliber gun, correct?

1 A Correct.

2 Q And inside the house you did find some .40 caliber
3 cartridge casings?

4 A We did. We found four.

5 Q Okay. And I know you have no way of knowing if they
6 came from that gun, but those were the only .40 caliber
7 casings that you found, correct?

8 A Correct.

9 Q Okay.

10 MS. McNEILL: Nothing further.

11 THE COURT: Any redirect?

12 MR. DiGIACOMO: No, Your Honor.

13 THE COURT: And any questions from the jury? Seeing
14 none, may this witness be excused?

15 MR. DiGIACOMO: He may, Your Honor.

16 THE COURT: Thank you very much for your testimony.
17 Would counsel approach regarding scheduling.

18 (Off-record bench conference)

19 THE COURT: So, ladies and gentlemen, we were just
20 discussing when we would be ready to start on Monday
21 afternoon. I do have a pretty lengthy calendar on Monday
22 morning, 27 pages long, and so I think that it's -- the safest
23 bet is to have you come in at 1:30. I don't want you waiting
24 around any more than is necessary. Juries have to do enough
25 waiting as it is.

1 And so ladies and gentlemen, we're going to take a
2 recess for the weekend. I'll see you back on Monday at 1:30.
3 And during this recess, it is your duty not to converse among
4 yourselves or with anyone else on any subject connected with
5 the trial or to read, watch or listen to any report of or
6 commentary on the trial by any person connected with the trial
7 or by any medium of information, including without limitation,
8 newspaper, television, radio or Internet. And you are not to
9 form or express an opinion on any subject connected with this
10 case until it's finally submitted to you.

11 Once again, no investigation over the weekend
12 regarding firearms, anything like that. See you Monday
13 afternoon.

14 THE MARSHAL: All rise for the jury.

15 (Jury recessed at 4:57 p.m.)

16 THE COURT: And the record will reflect that the
17 jury has departed the courtroom. Are there any matters
18 outside the presence?

19 MR. DiGIACOMO: No, Your Honor.

20 MR. WOLFBRANDT: No.

21 MR. LANDIS: No.

22 THE COURT: We'll be in recess until 1:30 on Monday.

23 MR. LANDIS: Thank you, Your Honor.

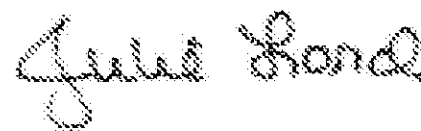
24 THE COURT: Thank you.

25 (Court recessed at 4:58 p.m. until Monday,

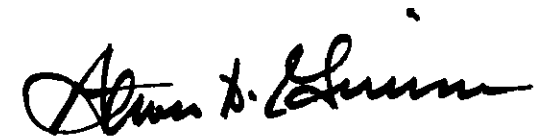
26 September 19, 2016, at 1:46 p.m.)

* * * * *

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



JULIE LORD, INDEPENDENT TRANSCRIBER



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-15-303991-1
	.	CASE NO. C-15-303991-4
Plaintiff,	.	CASE NO. C-15-303991-5
	.	
vs.	.	DEPT. V
	.	
JORGE MENDOZA,	.	TRANSCRIPT OF
DAVID MURPHY, a/k/a	.	PROCEEDINGS
DAVID MARK MURPHY,	.	
JOSEPH LAGUNA, a/k/a	.	
JOEY LAGUNA,	.	
Defendants.	.	
.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 6

MONDAY, SEPTEMBER 19, 2016

APPEARANCES:

FOR THE STATE:	MARC P. DiGIACOMO, ESQ. AGNES M. LEXIS, ESQ.
FOR DEFENDANT MENDOZA:	WILLIAM L. WOLFBRANDT, ESQ.
FOR DEFENDANT MURPHY:	CASEY A. LANDIS, ESQ.
FOR DEFENDANT LAGUNA	MONIQUE A. McNEILL, ESQ.

COURT RECORDER:

LARA CORCORAN
District Court

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1 LAS VEGAS, NEVADA, MONDAY, SEPTEMBER 19, 2016, 1:46 P.M.

2 (Outside the presence of the jury)

3 THE COURT: All right. So this is the continuation
4 of Case No. C-303991, and it's State of Nevada versus Jorge
5 Mendoza, Joseph Laguna and David Murphy. The defendants are
6 not present yet. We're waiting on Mr. Murphy's transport.
7 And all three counsel are present as are the Deputies District
8 Attorney prosecuting the case and all officers of the court.

9 Mr. Landis, you had something outside the presence?

10 MR. LANDIS: I anticipate based on the State's
11 representations that Summer Rice will testify today.
12 Obviously, she entered that Guilty Plea Agreement, and as part
13 of that, I think it was filed with the Guilty Plea Agreement,
14 was the Agreement to Testify.

15 By statute, that has to be admitted when she
16 testifies for the jury to inspect. Also, by statute, the
17 State needs to redact or omit any references to testifying
18 truthfully. So I just wanted to make clear that that needed
19 to be admitted, number one. And number two, it needed to be
20 redacted.

21 THE COURT: And the State has the proper paperwork
22 ready?

23 MR. DiGIACOMO: Judge, the way I normally handle the
24 situation is I put the witnesses up on direct, I wait for the
25 cross-examination because it's not statute, it's case law,

1 it's Sessions that talks about whether or not it needs to be
2 redacted. And it's all dependent on the nature of the
3 cross-examination.

4 I have yet to have a co-defendant cross-examined in
5 such that way that the entire GPA does not come into evidence.
6 We can obviously, address it after cross because I usually
7 wait until redirect. If it becomes the point where it needs
8 to be redacted, we can redact it, but I don't -- actually, I
9 just had your Clerk, because for some reason I couldn't find
10 my copy, print me the sealed GPA of Ms. Larsen. And
11 obviously, we know what the rules are, and if it needs to be
12 redacted at that point, we will redact it and offer it after
13 her testimony.

14 MR. LANDIS: First, I'm talking about the Agreement
15 to Testify, not the Guilty Plea Agreement. Number two, I
16 don't think it's Sessions. It's Acuna that says the
17 obligation's on either the State or the Court to admit it.
18 There's no way that's after she testifies. And I also
19 disagree with the idea that the truthfulness part of the
20 Agreement to Testify can become relevant somehow.

21 MR. DiGIACOMO: That's exactly what Sessions says.
22 If she's cross-examined on motivations related to this causing
23 her to change a story and to tell a different version of
24 events, that the jury gets to find out that she's required to
25 tell the truth and the Judge makes the determination as to

1 whether or not she is, in fact, telling the truth. That's
2 directly what Sessions says.

3 MR. LANDIS: Oh, I agree as far as her deal goes
4 down the road, but if terms of what the jury gets to know, I
5 mean, of course, she's going to be crossed in her credibility
6 as to what she's saying is going to be questioned, as with any
7 case that presents a scenario.

8 That doesn't mean that that comes in, and there's no
9 case law that says that. There's not.

10 MR. DiGIACOMO: Well, Sessions says it directly that
11 unless it happens -- if this happens, it has to be redacted.
12 That's what Sessions says.

13 THE COURT: All right. What's the citation to the
14 case law you're citing, you two?

15 MR. DiGIACOMO: Do you have Sessions?

16 MR. LANDIS: I don't have Sessions, but I can give a
17 Court a cite that I think solves it.

18 THE COURT: Okay.

19 MR. LANDIS: Sorry, I only have the P.2d site, but
20 it --

21 THE COURT: That's all right.

22 MR. LANDIS: -- 819 P.2d 197. The year is 1991.
23 The defendant's name is Acuna, A-c-u-n-a.

24 MS. LEXIS: What's that cite again?

25 THE COURT: 819 P.2d 197, 1991.

1 MR. LANDIS: I can even just give you the case, if
2 that would make the Court's --

3 THE COURT: Well, I'm going to get on Westlaw and
4 then --

5 MR. LANDIS: Okay.

6 THE COURT: And the Sessions case that you're
7 citing, is that newer, older, do you know?

8 MR. DiGIACOMO: I don't know, Ms. Lexis is pulling
9 it up right now.

10 MS. LEXIS: That cite was for Acuna.

11 MR. DiGIACOMO: Correct.

12 MS. LEXIS: Okay.

13 MR. DiGIACOMO: Just run Sessions.

14 MS. LEXIS: Okay.

15 And the citation for Sessions is 111 Nevada 328.

16 (Off the record at 1:53 p.m. until 2:07 p.m.)

17 (Outside the presence of the jury)

18 THE COURT: All right. So we're back on the record,
19 still outside the presence. Defendants are still not here.
20 Are you waiving their presence for the purpose of this legal
21 argument or do you want them -- your clients here?

22 MS. McNEILL: We can waive their presence for the
23 legal --

24 MR. WOLFBRANDT: Yeah, we can waive it.

25 MS. McNEILL: -- argument. I'll let Mr. Laguna know

1 what happened.

2 THE COURT: Okay. And Mr. Landis as well?

3 MR. LANDIS: I will waive, yes.

4 THE COURT: All right. So the Court had the
5 opportunity to read the Sessions case, which is the newer law
6 on the matter, and it seems clear that if on cross-examination
7 the witness's credibility is attacked on the basis of the
8 credibility, vis-a-vis the Plea Agreement, then no redaction's
9 required and the State can -- will have to admit the Plea
10 Agreement without the redaction.

11 If her credibility is not attacked, but, you know, I
12 -- I'm concerned about how that's going to happen given the
13 fact that in opening statement Mr. Landis said that -- several
14 times that her testimony was purchased, and so, but whatever.
15 We'll have to see how it goes before I make that final ruling.

16 But I don't think that there's any requirement that
17 the State put the agreement in redacted before that happens
18 because whether it gets redacted or not is dependent upon the
19 cross-examination. It does have to come in, but we won't know
20 until cross, and then I would assume there's going to be some
21 -- probably some redirect, or at any rate if, in fact, there
22 is requirement for redacting, that can be done afterward.

23 Now, were you planning on in cross trying to show
24 her the Plea Agreement?

25 MR. LANDIS: To the extent she doesn't remember the

1 details of it.

2 THE COURT: All right. But that's different than
3 giving it to the jury and admitting it as evidence, right? I
4 mean, you could show it to refresh her recollection. Things
5 that are shown to a witness to refresh their recollection are
6 not necessarily in evidence.

7 MR. LANDIS: I don't think I will need it as an
8 admitted exhibit during any cross-examination.

9 THE COURT: Okay. All right/ And we are still
10 awaiting the presence of Mr. Murphy, who refused to transport
11 this morning, so I signed an order having him to be
12 transported by any means necessary because I didn't want there
13 to be an issue with him later saying oh, I never refused, I
14 just wasn't brought to my trial. So, I need to actually hear
15 from him if he was not wanting to be present.

16 MR. LANDIS: Yeah, and I don't have any information
17 for the Court. But I do have one separate issue, if I can put
18 it on the record.

19 THE COURT: Sure.

20 MR. LANDIS: Today the State provided via e-mail a
21 new set of cellular phone records for my client. I haven't
22 really looked through them so I can't tell you too much
23 detail, but they're beyond what I received before. I believe,
24 they contain text message that is were not in their original
25 disclosures.

1 And it's my opinion that that's late and should be
2 excluded.

3 MS. McNEILL: And I'll join that as well because
4 obviously, one of the inferences that affects my client based
5 on whatever text messages may have been sent to my client,
6 from my client. So I'll join in that motion to exclude.

7 MR. DiGIACOMO: So the Court is aware, and I
8 appreciate the fact that they made a motion to exclude. I'd
9 like them to tell us what statute they are relying upon for
10 that because we didn't have any of these records before this
11 morning when I forwarded them to them.

12 When I went into my -- when I began preparing it and
13 provided it to my expert, I began noticing that there's text
14 messages from Mr. Murphy -- or sorry, yeah, from Mr. Murphy on
15 Mr. Laguna's phone, and Mr. Mendoza's phone, but there were no
16 text messages associated with Mr. Murphy's phone that I had in
17 my records.

18 So I contacted the custodian of records and said,
19 hey, what's the problem here? Here's the court order that you
20 received that said text messages. Are there no text messages
21 or is there something else going on? And they said, we'll
22 rerun it and send them to you. They sent them to me this
23 morning, and I forwarded it immediately to these individuals
24 saying hey, this is what the custodian of records is going to
25 show up and testify to. Here you go. I don't have -- I never

1 had these records before, and that's how I wound up getting
2 them.

3 So, I mean, in order to exclude I would have had to
4 have had something in my possession and failed to provide it
5 to them. If they're making some other request of the Court, I
6 guess, theoretically they could saying we need more time, but
7 I don't know how this prejudices them as the text messages,
8 for the most part, are on Laguna's and Mendoza's phone. For
9 just whatever reason they weren't on the T-Mobile phone, and
10 there is now location information for the text messages from
11 Murphy on these phones.

12 MR. LANDIS: And in response, the statute would be
13 the expert witness notice statute, which is 174.234. That's
14 raw data their expert's going to use to render an expert
15 opinion.

16 More importantly, it's the substance of their expert
17 opinion's testimony, which doesn't matter when they get it,
18 they have to provide 21 days before trial. The only way I can
19 test their evidence is try to employ my expert mid-trial to
20 look at it. But they're not getting it in unless it comes
21 through their expert, and as such, it's undisclosed expert
22 testimony and it's not admissible.

23 THE COURT: Well --

24 MR. DiGIACOMO: Well, it's coming through a -- I'm
25 sorry, Judge, just for the record, it's the underlying data

1 which, as you know, the statute says shall be -- may not --
2 does not need to be disclosed prior to cross-examination, but,
3 I mean, I don't think that's the issue. It's not coming in
4 through Detective Gandy, who's the expert who's going to be
5 testifying to this. It's coming from a custodian of records
6 from another company who's going to say, these are the phone
7 records associated with my company and these are true, fair
8 and accurate business records. I mean, that's the testimony
9 it's coming in as.

10 MR. LANDIS: And then they'll need further testimony
11 to date them and for the location. I'm sorry, by date them, I
12 mean set the time because some of these records come in GMT,
13 some of them come in UTC, some come in Pacific time. They're
14 going to need an expert up there to do that. Same with the
15 location data for the text.

16 And more importantly, I have the right to have my
17 expert look at the location data for the text.

18 THE COURT: Well, I'm not sure that we need an
19 expert to testify what Greenwich Mean Time means.

20 MR. LANDIS: I'll tell you this, my expert -- just I
21 can't tell you exactly why -- would not analyze any phone
22 records unless he had the key that told him exactly what time
23 they were, and --

24 THE COURT: Well, and I'm assuming that experts are
25 going to do that if there's -- I thought you meant you need

1 somebody to explain what Greenwich Mean Time is.

2 MR. LANDIS: No, no, no.

3 THE COURT: Okay. I'm like, because I can judicial
4 notice of that.

5 MR. LANDIS: Yeah, no, no, no.

6 THE COURT: But, okay, so custodian of records is
7 going to come in and get the records themselves in. Expert
8 can offer an opinion that is based upon any kind of hearsay
9 that he's looked at. Anything that he's based his opinion on.
10 And if there -- if it's requested then -- by the other side,
11 then we can have him state what he -- you know, show anything
12 he's based that on.

13 But you're going to -- you're going to have the
14 records in the same way that State just got the records, so I
15 don't see how --

16 MR. LANDIS: My objection, the statute specifically
17 says 21 days before trial you must disclose the subject matter
18 and the substance.

19 THE COURT: And they did. It says a brief, right?
20 A brief -- and are you saying that --

21 MR. LANDIS: I'm saying they disclosed some
22 substance of what their expert would testify to through the
23 discovery, not the expert notice. But definitely not any of
24 this information we're going to hear based on these records.

25 THE COURT: Well, I haven't seen because there was

1 no -- I mean, other than the one motion we discussed where you
2 said it was late, otherwise, the substance of the testimony of
3 the expert, what did the notice say?

4 MR. LANDIS: Nothing. It said it's in the
5 discovery.

6 MR. DiGIACOMO: No, it says what every notice of
7 cell phone expert is. He's going to analyze -- we can read it
8 into the record what the substance is, but it's pretty much
9 the same notice they provided me for their experts that
10 they're going to call on the cell phones, that he's going to
11 analyze and render opinions related to and -- here, I can read
12 it into the record.

13 Will testify -- well, each of these are -- there's a
14 whole lot of them noticed. So let me go to the one who's
15 actually going to testify.

16 MR. LANDIS: Will you identify the witness notice?

17 MR. DiGIACOMO: Yes. It's the expert notice that
18 was filed on 8/22. He will testify as an expert how cellular
19 phones work, how phones interact with towers and the
20 interpretation of that information.

21 MR. LANDIS: Which is subject matter.

22 MR. DiGIACOMO: Sure.

23 MR. LANDIS: And then same notice, page 5, it says
24 the substance of each expert witnesses's testimony and a copy
25 of all reports made by or at the direction of the expert

1 witness has been provided in the discovery. That's what I'm
2 talking about is the substance, not the subject matter.

3 MR. DiGIACOMO: Detective Gandy did not create these
4 records. These are just records. Their Mr. Murphy's records.

5 THE COURT: So here's the thing; do I think that the
6 typical notice that is provided in criminal cases by either
7 side complies with the statute? No, I've never seen one that
8 has, but you didn't file a motion beforehand to complain about
9 that. So --

10 MR. LANDIS: I didn't have an issue until I got
11 those records today. I wasn't complaining about any --

12 THE COURT: Why? It doesn't say anything --

13 MR. LANDIS: It has location data that I didn't
14 previously have.

15 MS. McNEILL: And because the notice says that the
16 substance of the what expert is testifying to is in the
17 discovery and now we have new discovery so it's --

18 THE COURT: Do you want a continuance?

19 MR. LANDIS: That's my request, if it's not going to
20 be excluded, yes.

21 THE COURT: How long do you need because, you know,
22 I mean, I'm not giving you a long time. How much -- how much
23 additional data? It's not the text messages themselves,
24 correct?

25 MR. DiGIACOMO: No, it's just --

1 THE COURT: It's just --

2 MR. DiGIACOMO: It's just tower location information
3 for the text messages that relate to Mr. Murphy.

4 THE COURT: And he'll --

5 MR. DiGIACOMO: They've had the tower location
6 information from the call detail records, just not the text
7 messages that are on there. And I can tell the Court because
8 I just downloaded them of -- there is really not that many
9 text messages being sent in relationship to some of the other
10 defendants that is we have records for, but I can tell the
11 Court that it is less than a megabyte of information. It's
12 686 kilobytes of information.

13 It is text messages that begin Greenwich Mean Time
14 on September 17th of 2014 at midnight. So, I guess, that
15 would be about seven hours before, so we're talking 5:00 p.m.
16 on the 16th of September. And they run all the way to October
17 2nd of 2014. Although, the time period we're talking about
18 here is from midnight on the 21st to maybe midnight -- so it's
19 one day. It's a 24 hour time period that we're actually
20 talking about that these records are related to. They just
21 did a court order that's longer than that.

22 THE COURT: And have you seen them? I mean --

23 MR. DiGIACOMO: I forwarded them immediately to
24 them.

25 THE COURT: Well, I know, but how many text messages

1 are we talking about?

2 MR. DiGIACOMO: I can tell you right now. Let's
3 see, it's seven hours so --

4 MR. LANDIS: Seven hours?

5 MR. DiGIACOMO: Seven hours off Greenwich Mean Time.

6 MR. LANDIS: Oh, okay.

7 MR. DiGIACOMO: So I got to subtract by seven hours.
8 250 text messages.

9 MR. LANDIS: And to answer the Court's question, I
10 don't know how long my expert will want. Assuming they're not
11 getting into it today, which is my assumption, I'll query my
12 expert tonight and report back tomorrow morning.

13 MR. DiGIACOMO: I mean, the custodians are from out
14 of state. They're going to testify to the records on
15 Wednesday, but I don't anticipate our experts up until
16 Thursday or Friday at the earliest.

17 MR. LANDIS: Well, I mean, by tomorrow whenever we
18 convene, I'll have talked to my expert.

19 THE COURT: All right. So what's happening? I'm
20 hearing shouting and yelling from the in-custody holding --

21 THE MARSHAL: Still waiting on Mr. Murphy and the
22 other two are just being loud.

23 THE COURT: All right, well, I'm not going to
24 exclude that information when there was a court order that
25 ordered the custodians to provide it and it wasn't received

1 now until the last minute, but we'll see after you've
2 consulted with your expert how much time.

3 I mean, we've got all of this week and a whole other
4 week for trial. So that should be enough time. This isn't --

5 MR. LANDIS: I'll talk to him tonight. I will. And
6 I -- I'm reading case law, just so you know. I -- I mean, I
7 am. I --

8 THE COURT: No, I didn't think you were playing
9 games on your phone or anything.

10 MR. LANDIS: I avoid phones.

11 THE COURT: Got the computer in your pockets, great.
12 All right. So we'll go off the record because we can do
13 nothing.

14 (Off the record at 2:21 p.m. until 2:41 p.m.)

15 (Outside the presence of the jury)

16 THE COURT: All right. We are back on the record.
17 We are still outside the presence of the jury who has now been
18 waiting an hour and a quarter to get started and that's
19 because of you, Mr. Murphy. You did not get dressed
20 apparently, and I had to, you know, have a call from the jail,
21 do a separate court order to get them to transport you. Why
22 is it that you didn't want to come to court?

23 THE DEFENDANT: That is -- that's not true that I
24 did not want to come to court, ma'am.

25 THE COURT RECORDER: Can you have him stand up

1 (inaudible), Mr. Landis.

2 DEFENDANT MURPHY: I wasn't sure which one. They
3 came shortly after 11:00, telling me that I need to dress out.
4 I'm in max unit so they keep me shackled, my ankles, my feet
5 and they put me in these tiny cages about the size of a porta
6 potty with the heat blowing directly on me. I said, I don't
7 want to be in there for two hours heat blowing on me in my
8 dress attire sweating and then have to come and look
9 unpresentable in front of a jury.

10 They said, well, then we're going to tell the Judge
11 you're refusing to go to court. I said, I'm not refusing to
12 go to court. I said, if something else can be made, some
13 other arrangement, then that's fine, but I'm not refusing to
14 come to court. I just want to make sure I look presentable
15 when I am in front of the jury. That's my only problem.

16 THE COURT: Well, okay. So the thing is that the
17 jail is not going to like have all kinds of special
18 arrangements for you, so that they can accommodate your
19 perspiration needs. So you just need to get dressed when they
20 tell you, because now the jury's been waiting outside for an
21 hour and a quarter for no reason. So now we're behind and
22 witnesses are going to have to be dismissed. It's going to
23 make the trial go longer.

24 Jurors get really irritated when they're kept
25 waiting and so --

1 DEFENDANT MURPHY: And I apologize to the Court.
2 That was never my intention and --

3 THE COURT: Okay. All right. Well, just don't do
4 it again.

5 DEFENDANT MURPHY: -- it wouldn't have -- it
6 wouldn't have took all this time. The court order was
7 unnecessary. All they had to do was come tell me, all right,
8 you know, an -- even an hour before court, let's get dressed.
9 But two hours, two -and-a-half hours, that I'm going to sit --
10 I am not making it up that the heat is blowing in them little
11 cages. It's like being in a porta potty in the middle of
12 summer stuck like that for two hours and then supposed to come
13 into court all sweaty and --

14 THE COURT: All right. Well, your co-defendants
15 managed to comply.

16 DEFENDANT MURPHY: Well, they didn't do that today
17 to him from what they tell me.

18 THE COURT: I don't want to hear anything more. I
19 just don't want there to be a delay because you're not getting
20 dressed when they tell you to get dressed. All right.

21 DEFENDANT MURPHY: Yes, ma'am.

22 THE COURT: So let's get the jury in here.

23 THE MARSHAL: All rise for the jury.

24 (Jury reconvened at 2:44 p.m.)

25 THE MARSHAL: Your Honor, all members of the jury

1 are present and accounted for.

2 THE COURT: Thank you. Please be seated. And the
3 record will reflect now that we are in the presence of all 12
4 members of the jury as well as the 4 alternates. All three
5 defendants are present with their respective counsel, and the
6 chief Deputies District Attorney prosecuting the case are
7 present, as are all officers of the court.

8 Ladies and gentlemen, I apologize profusely for
9 keeping you waiting for the last hour-and-a-quarter. It was
10 not my choice to have you wait, but it was unavoidable, and so
11 I apologize and we're just going to get moving right now.

12 All right. So you may call your next witness,
13 State.

14 MR. DiGIACOMO: State would call crime scene analyst
15 Joe Szukiewicz.

16 JOSEPH SZUKIEWICZ, STATE'S WITNESS, SWORN

17 THE CLERK: Please be seated and then please state
18 and spell your first and last name for the record.

19 THE WITNESS: It's Joseph Szukiewicz, J-o-s-e-p-h.
20 And the last is S-z-u-k-i-e-w-i-c-z.

21 THE CLERK: Thank you.

22 THE COURT: Proceed.

23 DIRECT EXAMINATION

24 BY MR. DiGIACOMO:

25 Q Sir, how are you employed?

1 A I'm a senior crime scene analyst with the Las Vegas
2 Metropolitan Police Department.

3 Q How long have you been so employed?

4 A Nineteen-and-a-half years.

5 Q I'm going to direct you to an event number that is
6 140921-3020. Were you asked to conduct some follow-up
7 investigation as it relates to crime scene evidence
8 preservation in this case?

9 A Yes, I was.

10 Q Let's talk about the first location that you went to
11 as part of this investigation.

12 A The first location I went to was on September 22nd,
13 and that was to UMC's operating room.

14 Q And what was the reason that you went to UMC's
15 operating room?

16 A I was requested to go there to recover a bullet that
17 was removed from an individual.

18 THE COURT: What year was that?

19 THE WITNESS: That was 2014.

20 THE COURT: Thank you.

21 BY MR. DiGIACOMO:

22 Q And when you went there, did you actually physically
23 recover a container containing a bullet from personnel at UMC?

24 A Yes, I did.

25 MR. DiGIACOMO: May I approach, Judge?

1 THE COURT: Yes, you may.

2 BY MR. DiGIACOMO:

3 Q First I'm going to show you what's been marked as
4 State's Proposed Exhibit 267 and 268 and ask you if you
5 recognize those two photographs?

6 A Yes, I do.

7 Q And what are they?

8 A One photograph is the container that I recovered,
9 and the second photograph are the bullet fragments within the
10 container.

11 Q And they're true, fair and accurate depictions of
12 the container and the bullet fragments?

13 A Yes, they are.

14 MR. DiGIACOMO: I'd move to admit 267 and 268.

15 MR. LANDIS: No objection.

16 MR. WOLFBRANDT: No objection.

17 MS. McNEILL: No objection.

18 THE COURT: Those two will be admitted.

19 (State's Exhibits 267 and 268 admitted)

20 BY MR. DiGIACOMO:

21 Q Now, once you photographed that item, what did you
22 do with it?

23 A When I photographed the item, they were brought back
24 to the -- our crime lab and I later impounded them into our
25 evidence vault.

1 Q And showing you what's been marked as State's
2 Proposed Exhibit 225, and it looks like the label might be
3 over some of that, but looking at that, does that appear to be
4 the package that you created for the item which is reflected
5 in 267 and 268?

6 A Yes, it does.

7 Q Okay. And we've kind of gone over this last week
8 with a different crime scene analyst. With the exception of
9 that blue tape that's at the bottom, does that appear to be
10 substantially the same or similar condition as when you
11 impounded it?

12 A Yes, it does.

13 Q And does that blue tape indicate to you that someone
14 from the forensic lab has opened and done some testing on it?

15 A Yes, that's correct.

16 MR. DiGIACOMO: I'd move to admit 225.

17 MR. LANDIS: No objection.

18 MR. DiGIACOMO: And its contents, which will be
19 225-A.

20 MR. LANDIS: No objection.

21 MR. WOLFBRANDT: No objection.

22 MS. McNEILL: No objection.

23 THE COURT: All right, so it be admitted. The
24 package is 225 and the contents is 225-A.

25 (State's Exhibits 225 and 225-A admitted)

1 MR. DiGIACOMO: Thank you, Judge. And then if I can
2 publish first 267.

3 THE COURT: Yes.

4 BY MR. DiGIACOMO:

5 Q If you could, could you tell me the name that is on
6 the container that contained this bullet?

7 A The name is Jorge Mendoza.

8 Q And the admission date for Mr. Mendoza?

9 A Admission date would be 9/21 of 2014.

10 Q And then State's Exhibit No. 268. Those are the
11 fragments that was provided to you in that container from UMC?

12 A Yes.

13 Q Did you have any information as to where it is that
14 that bullet was recovered from Mr. Mendoza?

15 A I was told by surgical staff that it was recovered
16 from Mendoza's left leg.

17 Q After UMC, did you -- or maybe, I guess, after UMC,
18 did you respond to the autopsy of an individual by the name of
19 Monty Gibson?

20 A Yes, I did.

21 Q And when a crime scene analyst goes to an autopsy,
22 this is the first they've sort of heard about it, could you
23 just generally describe what your role is at that autopsy?

24 A Sure. Our responsibility at autopsy is to process
25 the victim's body before they actually get autopsied. So we

1 need to take photographs of them, showing their condition,
2 what they're wearing. We need to collect evidence from the
3 victims and we need to show by photographic evidence what
4 their injuries are and recover everything that is associated
5 to that.

6 Q Now, in addition to you taking photographs, are
7 there people at the medical examiners office or the coroner's
8 office that also document the course and scope of the autopsy?

9 A Yes. I work in conjunction with a coroner
10 technician down at the coroner's office.

11 Q And they take their own photographs as well?

12 A They do.

13 Q When you went to the autopsy of Mr. Gibson, during
14 the time period the autopsy's going on, is there x-rays taken
15 of various portions of Mr. Gibson's body?

16 A Yes, there is.

17 Q And do you then photograph those x-rays in order to
18 document them?

19 A Yes, I do.

20 Q Eventually, during the course of the autopsy, did
21 coroner's office personnel provide you an item of evidence
22 that you impounded related to some sort of firearms related
23 evidence?

24 A Yes, I was given bullet fragments from the victim's
25 body.

1 Q And then do you document that both with photography
2 as well as impound those items?

3 A I do.

4 Q I'm going to start with State's Proposed Exhibit 235
5 and ask you do you recognize that photograph?

6 A Yes, I do. It's the x-ray of the victim's head from
7 the x-ray from his autopsy.

8 Q And that fairly and accurately depicts the x-ray
9 that occurred during the course of the autopsy?

10 A Yes.

11 Q And then I'll show you 242 and 243 and ask you do
12 you recognize what's depicted in those photographs?

13 A Yes, I do.

14 Q And what is it?

15 A It's the bullet and bullet fragments or basically
16 the bullet fragments that were removed from the victim's head
17 by Dr. Dutra given to me.

18 Q And I'm assuming those fairly and accurately depict
19 the bullet and bullet fragment that was collect?

20 A Yes.

21 MR. DiGIACOMO: I'd move to admit 235 as well as 242
22 and 3, I think, it is. 242 and 243.

23 MR. LANDIS: No objection.

24 MR. WOLFBRANDT: No objection.

25 MS. McNEILL: No objection.

1 THE COURT: All right, so 235, 242 and 243 are
2 admitted.

3 (State's Exhibits 235, 242 and 243 admitted)

4 MR. DiGIACOMO: Thank you.

5 BY MR. DiGIACOMO:

6 Q While I'm up here, I'm going to show you what's been
7 marked as -- well, what will shortly be marked, I believe.

8 MR. DiGIACOMO: May I approach the Clerk for just a
9 moment?

10 (Mr. DiGiacomo/Clerk conferring)

11 MR. DiGIACOMO: Let me try this again.

12 THE CLERK: Do you need the scissors?

13 MR. DiGIACOMO: No, I won't -- I'll open them with a
14 different witness.

15 BY MR. DiGIACOMO:

16 Q I'm showing you what's been marked as State Proposed
17 Exhibit No. 224. Do you recognize that?

18 A Yes, I do.

19 Q And what do you expect to be in that package?

20 A I expect to have the bullet fragments that I
21 photographed in those photos in the vial in this package.

22 Q And once again, much like the last package with the
23 exception of that blue tape at the bottom, does that appear to
24 be in substantially the same or similar condition as when you
25 impounded it?

1 A Yes, it is.

2 Q Okay. Move to admitted 224 and contents, which I
3 believe, would be 224-A.

4 MR. LANDIS: No objection.

5 MR. WOLFBRANDT: No objection.

6 MS. McNEILL: In objection.

7 THE COURT: 224, the package will be admitted and
8 its contents is 224-A.

9 (State's Exhibits 224 and 224-A admitted)

10 BY MR. DiGIACOMO:

11 Q So let me first put up State's 235. And I'm going
12 to orient it for you so that -- and I will zoom in a little
13 bit on it here. Can you describe to the ladies and gentlemen
14 of the jury what we're looking at.

15 A It's the -- the x-ray photograph of Mr. Gibson, and
16 in the bottom area of his skull you can see a -- a mass, which
17 is the majority of the bullet, and then all the lighter areas
18 that are towards the bottom is the fragmentation of the bullet
19 going -- or inside of his head.

20 Q And so Dr. Dutra during the course of the autopsy
21 would have taken that mass out and that's what's included
22 within this exhibit?

23 A Yes.

24 Q Now, I want to show you 242 and then 243, but let's
25 start with 242. That appears to be a bullet core or fragment,

1 correct?

2 A Yes, it is. I think it's the larger mass that was
3 in the x-ray.

4 Q And then 243, when you flip that fragment over --
5 let me ask this question, that larger fragment on the top, is
6 that the same as in 242?

7 A Yes, it is.

8 Q Okay. And what about that smaller fragment, is --

9 A If I believe correctly from when I recovered it,
10 it's a smaller fragment that was -- that either broke off from
11 the main fragment or was another fragment from inside that
12 they brought to me. I don't really remember, though.

13 Q But ultimately, you put all those items within 224
14 so that a firearms analyst or somebody else can look at it
15 later on?

16 A Yes.

17 Q Did there come a point in time when you were
18 requested to go back to the crime scene at 1661 Broadmere?

19 A Yes, there was.

20 Q Okay. And can you tell me approximately what date
21 that was?

22 A That was October 1st around 10:30 -- or I'm sorry,
23 11:30 in the morning.

24 Q And what was the purpose of you going back to the
25 crime scene?

1 A My purpose was to recover bullets that were in walls
2 that were not recovered at the primary time of the incident.

3 Q And when you got there, did you make an assessment
4 of some of those bullets and ultimately recover some?

5 A Yes, I did.

6 Q And did you document that with both photography as
7 well as your impound --

8 A Yes, I did.

9 Q So I am going to start with State's Proposed Exhibit
10 244 through 252 and just flip through those briefly, and I'll
11 ask you if those are photographs that appear to have been
12 taken during the course of your recovery at 1661 Broadmere.

13 A Yes, these are the photographs that I took.

14 Q And they -- they're true, fair and accurate
15 depictions of the processing of that scene on October 1st?

16 A Yes.

17 MR. DiGIACOMO: Move to admit 244 to 252.

18 MR. LANDIS: No objection.

19 MR. WOLFBRANDT: No objection.

20 MS. McNEILL: No objection.

21 THE COURT: Those will be admitted.

22 (State's Exhibits 244 through 252 admitted)

23 BY MR. DiGIACOMO:

24 Q While you were there, were you able to recover any
25 firearms related evidence?

1 A Yes, I was.

2 Q And how many bullets did you recover?

3 A I recovered three.

4 Q Okay. Showing you what's been marked as State's
5 Proposed Exhibit No. 226, do you recognize that package?

6 A Yes, I do. It's the package containing the three
7 bullets that I recovered from this location.

8 Q And similar to the other two packages we've talked
9 about, with the exception of that blue forensic tape, does it
10 appear to be in substantially the same or similar condition as
11 when you impounded it?

12 A Yes, it does.

13 MR. DiGIACOMO: Move to admit 226 and its contents,
14 which I believe is going to be in separate containers as 226-A
15 through C.

16 MR. LANDIS: No objection.

17 MR. WOLFBRANDT: No objection.

18 MS. McNEILL: No objection.

19 THE COURT: Those will be admitted. 226 is the
20 package. The contents will be A, B and C respectively.

21 (State's Exhibits 226, 226-A, B and C admitted)

22 BY MR. DiGIACOMO:

23 Q So let me go through sort of which one of the --
24 which one of the three bullets or the three bullets that you
25 were to recover on the 1st. So let's start with State's

1 Proposed Exhibit No. -- or State's Exhibit No. 244. And give
2 me just one second to rotate it left for you. What are we
3 looking at here?

4 A We're looking at the west kitchen wall, and where
5 you see the -- the label tag, that's where the original bullet
6 hole from the scene would have been located.

7 Q And some of that damage that's there to that wall,
8 was that already there when you arrived?

9 A Yeah. Yes, the damage that you see was like a
10 recovery attempt that was -- that occurred prior to my
11 arrival.

12 Q And did you attempt to do -- well, I think I can
13 skip 245 and just jump into 246 here. When you looked at that
14 top hole and sort of rummaging around in there, what were you
15 able to find?

16 A I was able to find a bullet that you see right there
17 underneath that drywall flap.

18 Q And then 247, did you document that bullet as H1?

19 A Yes, that's the same bullet from that hole.

20 Q Then I'm going to move upstairs, State's Exhibit
21 248. Is that a photograph of -- looks like efforts to open up
22 the upstairs eye ceiling, wall area?

23 A Yeah, this was the second level and southwest
24 bedroom's exterior closet wall, and there was a hole in there
25 that they labeled as I5 for the bullet hole and there was an

1 attempt to try to recover that bullet. So that's the --
2 that's also damage that was done prior to -- to my arrival.

3 Q And then skipping over to 250, were you able to
4 recover that bullet and photograph it to document it?

5 A Yes.

6 Q Lastly -- or last is State's Exhibit No. 251.

7 A The hole that's labeled J1 was the bullet hole, and
8 above that location -- and this is going to be the south
9 stairwell wall going upstairs. And the hole that you see
10 above it is the hole that I created to locate the bullet
11 that's in that insulation material, and that's what I
12 photographed there.

13 Q And then in 252 you documented that bullet as the J
14 bullet?

15 A That's correct.

16 Q Thank you, sir.

17 MR. DiGIACOMO: Judge, I'd pass the witness.

18 THE COURT: Thank you. Cross?

19 MR. LANDIS: I don't have any questions for this
20 witness.

21 MR. WOLFBRANDT: Your Honor, I have no questions.

22 MS. McNEILL: I have no questions, Your Honor.

23 THE COURT: All right, thank you. May this witness
24 be excused?

25 MR. DiGIACOMO: He may.

1 THE COURT: Thank you very much for your testimony.

2 THE WITNESS: Thank you very much.

3 THE COURT: You may call your next witness.

4 MS. LEXIS: Yes, Your Honor, the State calls Ron
5 Theobald.

6 OFFICER RONALD THEOBALD, STATE'S WITNESS, SWORN

7 THE CLERK: Please be seated. And then please state
8 and spell area first and last name for the record.

9 THE WITNESS: I will. Ronald J. Theobald,
10 R-o-n-a-l-d. Theobald is T-h-e-o-b-a-l-d.

11 THE CLERK: Thank you.

12 THE COURT: Proceed.

13 MS. LEXIS: Thank you.

14 DIRECT EXAMINATION

15 BY MS. LEXIS:

16 Q Sir, how are you employed?

17 A As a police officer with the Las Vegas Metropolitan
18 Police Department.

19 Q How long have you been so employed?

20 A Since 1999. Almost 17.

21 Q Seventeen years?

22 A Yeah, 17 years.

23 Q Okay. Are you assigned to a patrol unit?

24 A A patrol unit, yes.

25 Q Were you employed as a patrol officer back on

1 September 21st, 2014?

2 A Yes.

3 Q At some point, around 8:00 o'clock that night, were
4 you dispatched to a call near the area of Hualapai and
5 Homestretch?

6 A Yes.

7 Q Okay. What was the nature of that call, Officer?

8 A It -- well, the code that we use would be a 415-A,
9 so I know that it's a serious violent call that comes out.
10 Assault and battery with a deadly weapon.

11 Q Okay. Were you working in a marked patrol unit at
12 that time?

13 A I was.

14 Q Okay. Were you working alone or with a partner?

15 A I had a -- well, a partner. It was a rookie, a field
16 -- he was in field training.

17 Q Were you the field training officer at that time?

18 A I was.

19 Q Okay. At some point, do you all arrive to the area
20 of Homestretch and Hualapai?

21 A We do.

22 Q Okay. When you arrive, what do you find?

23 A Well, there was a lot of broadcasting. As we're
24 arriving to the scene, there was people calling on the phone
25 911. So as they're getting calls from 911, the 911 center

1 goes to our dispatcher, and then they get updated. So these
2 telling us about there's numerous people calling in because
3 they're hearing gunshots and stuff. So we know that it's
4 actually would be more of a legit call because a lot of times
5 we get these type of calls and it's only one person in the
6 middle of a park or something, and it's not, you know, only --
7 it wouldn't make sense for one person to call.

8 So now that we're getting numerous people, we know
9 that it -- the possibility of it to be real is highly more
10 probable.

11 So as we arrive, like you asked, I parked on the --
12 on the south side of -- near where the address is. And then I
13 -- we waited to go up to the house because we didn't know if
14 it was still like an active shooter or anything up there, so
15 we waited for an arrest team and then the air unit was
16 arriving in the area and set up and then our patrol sergeant,
17 who's in charge of the span of controls like 12 people out
18 there to set up an arrest team for us to go up to the house in
19 case -- we did encounter somebody else with -- who was
20 shooting.

21 Q Okay. So let me stop you right there. At some
22 point after 911 calls are being updated and information is
23 being dispatched to you --

24 A Uh-huh.

25 Q -- do you come to find out that the particular house

1 of interest is 1661 Broadmere?

2 A Yes. Yeah, it was.

3 Q And when you say you staged at a particular
4 location, where were you in relation to 1661 Broadmere?

5 A Me and my partner and one other officer, I think, it
6 was a motor officer, to the south of the house, and we were
7 near the front garage so we could see the front of the other
8 house, 661, but we did not make entry yet. We were waiting
9 for a team to come together.

10 Q Okay.

11 MS. LEXIS: Your Honor, may I approach the witness
12 with what's been previously marked and admitted as State's
13 Exhibit 6?

14 THE COURT: You may.

15 MS. LEXIS: Thank you.

16 BY MS. LEXIS:

17 Q Officer, I'm showing you State's Exhibit No. 6. Do
18 you recognize what's depicted in this photo?

19 A Yes.

20 Q Okay. What is it?

21 A It's a aerial photograph of the neighborhood of
22 where the call came out.

23 Q Okay. Would looking at this particular exhibit and
24 referring to it during your testimony aid you?

25 A Yeah. It's where I was saying just to the south of

1 Broadmere, right there.

2 Q Okay. But would it aid your testimony if we
3 referred to this particular exhibit?

4 A Yes.

5 Q Okay.

6 MS. LEXIS: Mr. DiGiacomo, can you please get at
7 006.

8 BY MS. LEXIS:

9 Q Okay. In this State's Exhibit No. 6, Officer, do
10 you see 1661 Broadmere?

11 A Yes.

12 Q Okay. So where were you staged?

13 A To the south of it. It doesn't have the street
14 number, but just to the -- the number just to the south of
15 1661.

16 Q Okay. So you had visual of what was occurring over
17 at 1661 Broadmere?

18 A I saw the front of the -- where someone would walk
19 into the front door, yeah.

20 Q Okay.

21 A Yes.

22 Q And at some point, you mentioned that your sergeant
23 put together an arrest team?

24 A Correct.

25 Q What is that and what is the purpose?

1 A Well, the -- what is it, is it would be more than --
2 like if I arrived on the call with just my partner, if we were
3 going up there and we encountered how it was coming in on the
4 -- on the radio, we'd want to set ourselves up for success of
5 being able to win in the situation that was there. And an
6 arrest team would mean that we were able to have more officers
7 than we're able to -- how many like the -- suspects there are
8 in case we needed to be able to detain one and then take the
9 other into custody and then be able to clear a residence. So
10 it's more than just the car that you're arriving in.

11 Q Okay. Approximately, when you arrived on scene and
12 as the arrest team was being formed, how many patrol units do
13 you estimate were present at this particular location?

14 A Oh, wow, on at that type of call, and like I said,
15 because we knew it was a real one because it kept getting
16 updated, I don't know, 15.

17 Q Okay.

18 A Fifteen patrol officers showed up.

19 Q Okay.

20 A Patrol cars and a lot of us were field training so I
21 don't know, maybe 20.

22 Q Okay.

23 A Plus the lieutenants came and patrol sergeant so --

24 Q Okay. Were you part of the arrest team that was
25 formed?

1 A I was.

2 Q Okay. And was one of the tasks of that particular
3 arrest team to make entry into 1661 Broadmere?

4 A Yes.

5 Q And also to secure that particular residence?

6 A Correct.

7 Q Okay. And can you explain to the ladies and
8 gentlemen of the jury how it is that you and your team entered
9 this particular residence.

10 A From the south, like I said, I came up and then our
11 sergeant said okay, the three officers that were on the south,
12 like I told you I was, with my trainee and two other -- or
13 another motor officer, and then there was two other officers
14 with him that were to the north of that house. We merged into
15 the middle. They walked up, I went along the garage of 1661
16 Broadmere, and the other two officers -- you see how it's more
17 like a curve, kind of a cul-de-sac? You know, it's curved
18 right in the middle. They came up right there and we met
19 going towards the front door of this house.

20 Q Okay.

21 A So the three came in -- the three and two came into
22 one unit.

23 Q Okay. And as you approached that particular
24 residence towards, were you trying to go towards the front
25 door?

1 A That's right where we were going to.

2 Q Okay. And as you approached the front door, did you
3 see anything in the doorway?

4 A Yeah, the -- right -- I mean, right as you -- we
5 walked up there, we could -- the air unit was calling it out
6 before, and I saw that there was a -- a male down laying
7 halfway in the -- the doorway and halfway out on the sidewalk.

8 MS. LEXIS: Your Honor, may I approach with what's
9 been previously marked and as admitted as into evidence as
10 State's Exhibited 18 and 19?

11 THE COURT: You may.

12 MS. LEXIS: Thank you.

13 BY MS. LEXIS:

14 Q Officer, I'm going to show you State's Exhibits 18
15 and 19. Do you recognize what's depicted in these
16 photographs?

17 A That's the house.

18 Q Okay.

19 A That's 1661.

20 Q Okay.

21 A Yeah.

22 Q And also State's Exhibit No. 19?

23 A Well, that's the same house, just closer from a
24 different angle.

25 Q Okay. Do these photographs fairly and accurately

1 depict what you saw prior to making entry on September 21st,
2 2014?

3 A Yeah, exactly.

4 Q Thank you.

5 MS. LEXIS: Mr. DiGiacomo, could we please publish
6 019?

7 BY MS. LEXIS:

8 Q Okay, Officer, so you were telling the ladies and
9 gentlemen of the jury about finding a body in the doorway.
10 Could you circle the area where you saw the body, please. And
11 you can circle on your screen.

12 A Oh, can I? I think --

13 Q Okay. And so upon encountering this body, do you
14 also make exit that way anyway?

15 A Do we make what?

16 Q Do you make entry, I'm sorry.

17 A Oh.

18 Q Do you make entry into that home through the front
19 door?

20 A Yeah, we had to. That was the only thing open.
21 And, you know, as it's taught and the whole time, I mean, as
22 sad as the situation is we see him laying there, our job isn't
23 to render first aid.

24 Q Okay.

25 A So we don't know what else is going bad on the

1 inside of the house so --

2 Q Okay.

3 A -- we walked --

4 Q So secure it first?

5 A Yeah, we had to.

6 Q Okay.

7 A We walked right over him and to go inside.

8 Q Okay. And as you did that, did you or any of the
9 other officers you were with make contact with any individuals
10 in the home?

11 A Well, there was another male that was there that --
12 that I didn't, but it was the first entry person, they took
13 him into custody.

14 Q Okay. I'm going to --

15 MS. LEXIS: Your Honor, may I approach with what's
16 been previously marked as State's Exhibits 16 and 17?

17 THE COURT: Yes.

18 BY MS. LEXIS:

19 Q Officer, I'm going to show you State's Exhibit No.
20 16 first. Do you recognize this photograph?

21 A Yeah. Well, the person, not the photograph.

22 Q Okay.

23 A Yeah, the person. Yeah, uh-huh.

24 Q Okay. And State's Exhibit No. 17, do you recognize
25 that individual?

1 A I don't remember that one too well.

2 Q Okay.

3 A Right there, yeah.

4 Q Okay. So let's just talk about State's Exhibit No.
5 16. Do you recognize this individual?

6 A I do.

7 Q Okay. Who do you recognize that to be?

8 A Well, it was a person that I was describing earlier.

9 Q That was pulled out of the home?

10 A That was pulled out by the first officer, yeah.

11 Q Okay.

12 MS. LEXIS: Mr. DiGiacomo, 016.

13 BY MS. LEXIS:

14 Q Okay. And so this individual was encountered from
15 inside the home and taken out; is that right?

16 A Yeah.

17 Q And was he detained by certain other officers?

18 A Yeah, he -- yeah, the first officer who was -- he
19 was taken into custody by.

20 Q Okay. At some point, Officer Theobald, do you and
21 your entry team or your arrest team actually get a chance to
22 clear the residence?

23 A We did, uh-huh. Like I said, once -- that's why we
24 have the arrest team because we don't know how many people are
25 inside the house. So the first person who finds a person and

1 they go outside and they take him into custody and then the
2 rest of the officers continue to clear. So we still had four
3 officers left so we did clear the rest of the house.

4 As I walk in, I -- was the first person then because
5 I was the second. I made my trainee go first so he can get
6 experience and see how it is, and that's who took him into
7 custody. And then I walked in, there was a tile ground,
8 walked in, there wasn't really much to the right but then --
9 so that was easy to clear.

10 Like I said, we're not like searching a house for
11 like if there's anything illegal there. We're searching the
12 house for people. So that was easy to clear because there
13 wasn't much there. So we kept going straight through the
14 house and then there was, I think, two guns sitting on a like
15 a counter inside of the house.

16 Q Okay.

17 A And I just left that and then that was the kitchen
18 and then there was a stairs up -- or to go upstairs and then
19 -- then we challenged the upstairs because we don't know so
20 we, you know, identify ourselves as police and then there was
21 a lot of -- a large dog barking in the garage --

22 Q Okay.

23 A -- also.

24 Q What do you mean when you say you challenge?

25 A Oh, we would -- because we can't see it so that

1 time, you know, we give them a chance to, you know, so we
2 don't get shot or they don't shot, you know, if they're making
3 movements or something like that. So we would say, you know,
4 Metro Police, Metro Police, you know, and as we're doing that,
5 we're going upstairs. We're identifying ourselves so there's
6 no question, you know.

7 Q Okay.

8 MS. LEXIS: Your Honor, may I approach with what's
9 been previously marked and admitted into evidence as State's
10 Exhibit 54?

11 THE COURT: Yes.

12 MS. LEXIS: Thank you.

13 BY MS. LEXIS:

14 Q Officer, showing you State's Exhibit No. 54. Do you
15 recognize what's depicted in this photograph?

16 A That looks like the kitchen counter from that same
17 house.

18 Q Okay. Does it look to -- does it fairly and
19 accurately depict the kitchen counter as you encountered it --

20 A Yeah, I remember exactly. Yeah, the pizzas were
21 there and everything. Yeah, with the guns.

22 Q Okay.

23 A Yeah.

24 Q Okay.

25 MS. LEXIS: Mr. DiGiacomo, please publish 054.

1 BY MS. LEXIS:

2 Q Okay. You mentioned seeing two guns, but does
3 looking at State's Exhibit No. 54 refresh your memory as to
4 the number of guns that was located on the kitchen counter?

5 A Yeah, I see the one revolver that was sitting right
6 there. Yeah, I don't know where -- I thought there was the
7 two, but, you know, we were gone -- I don't remember. Like I
8 said, there was the guns or the gun, yeah.

9 Q Okay. Let me ask you this, earlier I asked you
10 whether certain individuals were taken into custody from
11 outside of the home.

12 A Right.

13 Q Do you recall how many individuals were located in
14 the home and brought out?

15 A I thought there was the two that was finally found,
16 but that -- the picture of the one middle-aged
17 (indecipherable) is the first -- because that -- I mean, I
18 remember walking right up and seeing him.

19 Q Okay.

20 A So --

21 Q Okay.

22 A -- like I said, there's the five that go in.
23 There's a lot of moving things going on at the same time.

24 Q Very dynamic?

25 A Dynamic, right, yeah.

1 Q Okay. So after the home is cleared, what do you do
2 next?

3 A Well, we cleared -- like I said, we challenge it
4 when we went upstairs, check the rest and came down. We never
5 got to -- as I was there, we didn't get to because there was a
6 large dog inside of the garage. I knew it was large. I
7 didn't want to open the garage at that time because he sounded
8 upset, but we had to wait for animal control. Then there was
9 another officer that stayed with the -- to stay on the inside
10 to make sure there was -- because we don't know if there is
11 somebody in the garage or not because --

12 Q Okay.

13 A -- we didn't -- didn't clear it. And for our safety
14 we can't leave our backs to the area if we didn't clear it
15 so --

16 Q Okay.

17 A So I just didn't want you to think we cleared the
18 whole house yet, you know. So the whole inside living area is
19 cleared except for the garage.

20 Q Okay.

21 A And then I went outside and -- and we -- we all have
22 tasks and stuff to do because, like you said, it's a dynamic
23 scene right there, and, you know, we've got -- we've got
24 medical coming. Now that we know it's clear, we can have
25 medical come up because, you know, they're -- medical's job

1 isn't to be in the harms way. It's there to render aid so now
2 that it's clear, that picture where I circled earlier, we
3 still had him laying there, so we want to see if he's alive,
4 if he can get transported, whatever can happen.

5 So we had to call medical up and -- and then we had
6 to start setting up crime scene tape and we had to start
7 canvassing the area because there was a dispatch that was
8 still updating, you know, people were still -- there was other
9 callers saying, you know, like a 404, things like that. That
10 means --

11 Q What's a 404?

12 A It's like a unknown trouble or like a prowler, and
13 so a lot of people call and stuff a lot of times because they
14 even call for us because like, canine will jump in the
15 backyard, things like that. So in that whole neighborhood
16 right there, there's more calls coming off of people jumping
17 over walls and things like that.

18 Q At some point, do you locate a blood trail?

19 A Yeah, actually, right when we went out, my trainee,
20 I was showing him how to -- you know, where to set up the
21 crime scene tape and everything, and we saw a blood trail that
22 was coming out, but it was going south past our -- the -- on
23 that street. It was going towards the south.

24 Q Okay. And do you recall which street that was?
25 Long Cattle?

1 A The street south of Broadmere right there. The
2 first one to the -- go to your left. Go back towards east.

3 MS. LEXIS: Mr. DiGiacomo, can we publish 006?

4 BY MS. LEXIS:

5 Q Okay, Officer, do you see the street where you
6 located the blood trail? I'm sorry, the lettering is in
7 white.

8 A Oh, yeah, it looks like it's Long Cattle.

9 Q Okay. And could you just draw a mark on Long
10 Cattle.

11 A Yeah, he walked all the way up right here. Oh, it
12 was off a little bit.

13 Q That's okay.

14 A Not through the --

15 Q But that particular street?

16 A Yeah. I walked up and when the to the left like
17 that.

18 Q Okay.

19 A Um-h'm.

20 Q At some point, did you follow that blood trail?

21 A Yes, ma'am.

22 Q Okay. At some point, do you get called back to an
23 area near 10009 Long Cattle?

24 A If that's what it says on the CAD, the number. I --
25 it -- like I said, it's been a while. I don't remember the

1 exact number.

2 Q Okay. Were you brought to a location where there
3 was a black Honda?

4 A Yeah, absolutely. Officer Yarphe --

5 Q Okay.

6 A -- called it out.

7 Q Okay.

8 A Um-h'm.

9 Q And what was the call out?

10 A Like I said, we were canvassing that area because of
11 that blood trail and people calling in stuff and everything,
12 it's still dynamic, you know. And he called out he thought he
13 saw movement in -- in a black Honda Sedan in front of the --
14 in front of that address that you said.

15 Q Okay. And so do you respond to that location?

16 A Yeah, I just hustled down because, like I said, I
17 was parked just to south there. My police cruiser was to the
18 south like right over there.

19 Q Okay.

20 A And then I -- we -- I ran back over there.

21 Q And so what did you do once you got to that
22 location?

23 A It was just me and Officer Yarphe at that time, and
24 then we had two other officers come, and I mean, the -- it was
25 completely dark tinted windows, almost illegal if I had a tint

1 meter, but it was just real dark, the -- the tint on the
2 windows so I couldn't see in neither, and Officer Yarphe1 was
3 like I know I saw movement.

4 You know, we were debating back and forth so then we
5 just do what -- what I do, and I just was -- I challenged the
6 vehicle, like I was telling you earlier about challenging
7 upstairs. We were doing the same with the --

8 Q So you were calling out for --

9 A Calling out to the vehicle.

10 Q Okay. Did someone come out eventually or did you --

11 A Someone was helped out of the car.

12 Q Okay. And who helped this person out of the car?

13 A I helped out of the -- the person out of the car.

14 Q Okay. I'm going to show you what's been marked as
15 -- and admitted as State's Exhibits 185, 191 and 192.

16 THE CLERK: They've already been admitted?

17 MS. LEXIS: Excuse me?

18 THE CLERK: Did you say they've already been
19 admitted?

20 MS. LEXIS: Yes.

21 BY MS. LEXIS:

22 Q Officer, I'm going to show you first 185. Do you
23 recognize what's depicted there?

24 A Yeah, that's the same house we were just talking
25 about.

1 Q Okay. And State's Exhibit No. 191, do you recognize
2 what's depicted there?

3 A Absolutely. That's that car --

4 Q Okay.

5 A -- with the door open.

6 Q And State's Exhibit No. 192, do you recognize what's
7 depicted there?

8 A A hundred percent.

9 Q Okay. And what's that?

10 A That's the same car that -- but just a closer
11 picture that was in front of that house that I helped that guy
12 out of the car of.

13 Q Okay.

14 MS. LEXIS: Mr. DiGiacomo, can we publish 185.

15 BY MS. LEXIS:

16 Q Okay, Officer, can you circle the black car that you
17 were drawn to? Where you challenged an individual out of the
18 car.

19 A (Witness indicates).

20 Q Okay.

21 MS. LEXIS: And Mr. DiGiacomo, can we please publish
22 192.

23 BY MS. LEXIS:

24 Q So Officer, tell us about this particular picture.

25 A That's just a closer picture of that same car.

1 Remember how I was telling you how the windows were super dark
2 and tinted windows? And you see how the seat is all the way
3 leaned back? So it was real hard to see, and, you know, you
4 were talking about the time it was 9:00 o'clock at night by
5 the time we got over there so -- and it almost made it just
6 impossible.

7 And you'd have to see barely movements and stuff,
8 and we were able to see.

9 Q Okay. And so you mentioned to the ladies and
10 gentlemen of the jury how the front -- front driver's seat was
11 reclined all the way. Is this where the individual was pulled
12 out from that vehicle?

13 A He was.

14 Q Okay. And at some point, as this individual was
15 pulled out, did you notice -- did you notice the orange item
16 on the bottom of the driver's side floor board?

17 A Uh-huh.

18 Q Okay. And what was that?

19 A It was -- I didn't go back into the car right then
20 to get it.

21 Q Okay.

22 A Yeah.

23 Q Do you recall what that is?

24 A I thought it was that -- the vest mask thing that
25 was described in the details.

1 Q Okay. And --

2 A But like I said, I didn't go in there, but that's
3 what it looked like to me.

4 Q Okay.

5 A That's what I -- from my experience and stuff and
6 looking at it right then. I -- I didn't -- I wasn't the run
7 recovered it, but that's what it looked like to me.

8 Q Okay. And so this is a photograph of how you left
9 the car after taking this individual into custody?

10 A I just -- I took custody of the -- of the man. I
11 didn't -- I didn't go in the car, yeah.

12 Q Okay. That man that you took into custody, do you
13 see him here in court today?

14 A Yeah, I do.

15 Q Could you please point to him and describe something
16 he's wearing.

17 A A -- a blue shirt.

18 Q Okay. Where?

19 A Sitting right at the -- behind the desk right here.

20 Q Okay. How many individuals are there?

21 A Three.

22 Q Okay. So let's go right, middle, left.

23 A From mine? Oh, okay. It would be number two.

24 Q Okay.

25 A Yeah.

1 Q So the middle?

2 A Correct, yeah.

3 Q Okay.

4 MS. LEXIS: Your Honor, please let the record
5 reflect identification of Mr. Mendoza.

6 THE COURT: Yes. Are you talking about the -- the
7 jacket that he's wearing?

8 THE WITNESS: Yeah.

9 THE COURT: Okay.

10 THE WITNESS: He's writing on a notepad.

11 THE COURT: All right. Thank you.

12 MS. LEXIS: Thank you.

13 THE COURT: It does look -- appear to be blue to me,
14 but it's not a shirt. That's the only --

15 THE WITNESS: Oh, the guy's -- or I mean, in front.
16 I can move over and see. There, he looked -- there, he's got
17 a white shirt on with a gray sport coat.

18 MS. LEXIS: Your Honor, please let the record
19 reflect identification of the defendant --

20 THE COURT: It will.

21 MS. LEXIS: -- Mendoza.

22 THE COURT: Thank you.

23 THE WITNESS: Sorry.

24 BY MS. LEXIS:

25 Q That's okay.

1 A I just didn't -- I just -- the brown jacket was in
2 front. I didn't see it was a sports coat.

3 Q Okay. Officer, at some point, did you try to
4 identify the individual that you pulled out of the vehicle?

5 A I did, yeah.

6 Q Okay. Were you successful in doing that or did that
7 particular suspect make certain statements to you?

8 A I don't know if I -- he wasn't really saying much to
9 me about what his name was. He was just saying -- he was just
10 making spontaneous and sporadic statements about what -- how
11 ended up in a car.

12 Q So what did he tell you?

13 A Like I said, I wasn't questioning him about any --
14 any crime, Miranda, anything like that. I was just trying to
15 figure out who he was. He was in a car and was injured.

16 And --

17 Q Where was he injured?

18 A -- he told me -- what was that?

19 Q Where was he injured?

20 A In his leg.

21 Q Okay.

22 A Yeah.

23 Q So what did he tell you?

24 A He told me that his car got stolen from him and that
25 he was just in the neighborhood walking and two people came up

1 and stole his car and shot him.

2 Q Okay. Did he indicate to you specifically what type
3 of car it was that he came into that neighborhood with that
4 was stolen from him?

5 A I mean, I think that he did. I don't remember
6 exactly what car. I was --

7 Q Okay. At some point, after this conversation with
8 the defendant Mendoza, who you just identified, did you brief
9 homicide concerning his statements?

10 A Yeah, I did right away.

11 Q And so would looking at page 8 of the officer's
12 report refresh your memory?

13 A Yes.

14 MS. LEXIS: Your Honor, may I approach? Page 8,
15 second to the last photograph.

16 THE COURT: Yes.

17 MS. LEXIS: Thank you.

18 BY MS. LEXIS:

19 Q So I'd like to turn your attention to page 8 of this
20 report. Please let me know -- read it silently. Please let
21 me know if it refreshes your memory concerning the type of
22 vehicle that the suspect told you --

23 A It does.

24 Q Okay. And what type of vehicle was it?

25 A The Nissan Maxima.

1 Q Okay. Did he indicate to you what he did with that
2 Nissan Maxima? Did he park it? Was it driving around in it?
3 What was he doing with it prior to it being taken?

4 A I don't remember. I might have briefed the
5 detectives right away.

6 Q Okay. Would looking at page 8 of the officer's
7 report refresh your memory again?

8 A Yeah.

9 Q Okay.

10 A I didn't get a chance to read all the way down. I
11 just looked --

12 Q That's okay.

13 A -- and saw what car.

14 Q Okay. Please read pretty much that paragraph.

15 A Okay. (Witness reading) Yeah.

16 Q Okay. What did he say?

17 A He said he -- he parked the car into the
18 neighborhood just to get out to walk around.

19 Q Okay.

20 A That's right, I -- I do remember that now. That
21 seems -- yeah, I remember that exactly.

22 Q Okay.

23 A Right. Because I was just trying to figure out for
24 the paramedics and everything his name and stuff and he was
25 telling me this story.

1 Q Okay. So he indicated that he parked the car in
2 that neighborhood and then how many individuals went up to
3 him?

4 A Two of them.

5 Q Okay. And they took his car and shot him?

6 A Yes.

7 Q Okay. Did he indicate to you whether he made any
8 attempts to get help?

9 A He said that he was walking around trying to knock
10 on doors.

11 Q Okay. And did he indicate to you why it is that he
12 hid in the car where you ultimately took him out of?

13 A Why he hid -- no, he just found an unlocked car.

14 Q Okay. And did he indicate to you hearing officers
15 ordering him out?

16 A No.

17 MS. LEXIS: Court's brief indulgence. I have no
18 more questions for this witness. Thank you.

19 THE COURT: Thank you. Cross.

20 CROSS-EXAMINATION

21 BY MR. LANDIS:

22 Q Hello, sir.

23 A Hi.

24 Q Just so it's clear to me, the trainee you were
25 working with that day and yourself are in one patrol unit,

1 right?

2 A Yeah, one car. One police cruiser, yeah.

3 Q You're considered a single patrol unit?

4 A Yes, sir.

5 Q In that capacity, you guys were one of the first, if
6 not the first, patrol unit assigned to this call?

7 A Yes, sir.

8 Q Were you the first, do you recall?

9 A That I don't recall. I -- I -- because you always
10 get dispatched in two, especially to a violent call and then
11 everybody -- all the other cops are going to get on the radio
12 at the same time and say oh, I'll be en route on -- because if
13 you're doing just a regular traffic stop, it's not as
14 important as going to a life-saving call.

15 Q Understood. And when dispatch contacts available
16 officers and you indicate availability, they technically
17 assign you to whatever the call is, right, if --

18 A Yes, sir.

19 Q -- you going to respond?

20 A Yes, sir.

21 Q Do you recall when it was that you were assigned to
22 respond to this neighborhood for that incident that night?

23 A It was around 8:00 p.m. or 20:00 hours or so.

24 Q You don't remember the exact time, which is
25 understandable today, correct?

1 A No, I don't. No.

2 Q Would looking at the CAD unit log refresh your
3 memory as to when it was you were actually assigned to the --

4 A Yeah, because it -- they keep it -- track of the --

5 MR. LANDIS: May I approach?

6 THE WITNESS: -- time assigned.

7 MR. LANDIS: Can I approach the witness?

8 THE COURT: Yes.

9 THE WITNESS: Oh, okay. Okay. My name is not on
10 there because it's -- it says officer number one, but I know
11 my call sign that night. It was 3 Robert 2, the first one.
12 Charles Travis, he was logged in there as number one. I'm in
13 there as just number two.

14 BY MR. LANDIS:

15 Q Sure.

16 A Yeah.

17 Q So what time were you guys assigned, if that
18 refreshes your memory?

19 A Yeah. 20:11 hours so yeah, right at 8:00, like I
20 was saying.

21 Q 8:11?

22 A Yes, sir.

23 Q And obviously, you weren't right there so it took a
24 while before you actually arrived. And does -- do you
25 remember when it was you arrived on the screen?

1 A No, but it shows on the computer right here when we
2 arrive. 20:20, it looks like.

3 Q Which would be 8:20, correct?

4 A Oh, sorry, yeah.

5 Q Just making sure they can understand.

6 A Yes, sir.

7 MR. LANDIS: Can I approach the witness?

8 THE COURT: Yes, you may.

9 THE WITNESS: You want this? Oh, okay.

10 BY MR. LANDIS:

11 Q Do you recall how it is you entered that subdivision
12 that's shown on the screen, State's Exhibit 6, that night?

13 A I'm looking -- yeah.

14 Q If you would draw it, that would be helpful.

15 A Oh, okay. I remember because it was one of his
16 first times driving code, which would be lights and sirens, so
17 made it memorable for me. So we -- well, we came in off of
18 Desert Inn that way and then we were going north, and then we
19 came up and around and went down here and then came up and
20 around. Because we wanted -- like I was telling you, we
21 wanted to set up south because other officers, they came in
22 and they went this way and would set up north. But we don't
23 want to drive in front of the house.

24 Q Understood. If you remember or if you knew or if
25 you know now, were you the first patrol unit actually in this

1 subdivision?

2 A No, there was one right here first.

3 Q By the time you get to the position that you were
4 at, south of the 1661 Broadmere address, you're keeping
5 constant visuals on the address until you go inside of it,
6 right?

7 A Until that arrest team -- yes, sir.

8 Q Do you see any persons enter or exit the residence?

9 A Do I see anybody? No, uh-uh. Yeah, we would have
10 challenged them. That's one of our first things. We would
11 have made sure, you know, Metro Police, get on the ground,
12 yeah.

13 Q How about vehicles? Any vehicles come to or leave
14 1661 Broadmere?

15 A From when I got there?

16 Q Yes, sir.

17 A No, none.

18 Q In one of pictures the State previously showed you,
19 I saw, I think, it was a Dodge in front of the residence. Do
20 you remember seeing that?

21 A Yeah, I think a Challenger or Charger, something
22 like that, yeah.

23 Q To the best of your memory, that was there when you
24 arrived?

25 A I do remember it was there, yeah, um-h'm.

1 Q Do you remember any other cars being in the
2 driveway?

3 A In the driveway?

4 Q Correct.

5 A No, I don't think there was any in the driveway.

6 MR. LANDIS: Court's brief indulgence. I have no
7 further questions. Thank you, sir.

8 THE WITNESS: Yes, sir.

9 THE COURT: Mr. Wolfbrandt.

10 CROSS-EXAMINATION

11 BY MR. WOLFBRANDT:

12 Q Good afternoon, Officer.

13 A Hi. How are you?

14 Q Pretty good. I'm going to direct your attention to
15 that black Honda with my line of questioning.

16 A Oh, okay. I'm sorry, I looked at the screen.

17 Q Oh.

18 A Oh, okay.

19 Q I don't have an pictures. No, my line of
20 questioning is all going to be surrounded with at that black
21 Honda.

22 A Oh, yes, sir.

23 Q Uh-huh. All right. As you -- did you start -- I
24 believe, you said you started yelling at the instructions at
25 the car before opening the door?

1 A Right, yeah.

2 Q Okay. Did you get a verbal response?

3 A No. I couldn't hear anything right then. No.

4 Q And do you recall whether you opened the door or
5 another officer or did it open from inside?

6 A It was cracked to open from inside so then we
7 definitely knew that there was a person that was inside there.

8 Q Okay. So then at some point, the door was opened
9 all the way?

10 A I -- yeah, I -- I opened all of the way. It was --
11 like I said, we were back -- we were challenging the car and
12 then it was cracked open. So obviously, there was somebody
13 inside there. And now, I don't know if they're cracking it
14 open because it's a gun call, if they've got weapons to shoot
15 back at me or if they're -- why they're opening it just to get
16 out of the car.

17 But after we challenge it, nobody was doing anything
18 so -- so that was the time for me -- you know, you have to
19 make split second decisions and that's when I went up to the
20 car.

21 Q Okay. So when you got the door wide open, you
22 realized there's somebody in that front seat?

23 A Yes, sir.

24 Q Okay. Do you reach in and extract him immediately?

25 A I made sure there was nothing in his hands and then

1 pretty much.

2 Q Sure.

3 A Yeah.

4 Q And then you reached in and extract him?

5 A Correct.

6 Q Okay. And he had nothing in his hands, did he?

7 A He didn't have a weapon in his hands.

8 Q When you pulled him out of the car, did you get him
9 on the ground facedown?

10 A No, uh-uh. He was on his back and -- oh, the
11 picture. The seat was pulled back all the way.

12 Q All right.

13 A So it was like he was basically in the back seat of
14 the car and -- and we could tell there was visible injury to
15 his leg. I didn't want to create more, and I saw his hands
16 were clear of weapons so I -- you know, I wasn't too worried
17 about my safety and stuff at that time. I just wanted to get
18 him out of the car.

19 So as we pulled him out -- pulled him from him --
20 like his arms over top and put it to where his back was on the
21 grass.

22 Q Okay. Was this the picture you were --

23 A Yeah, exactly. You see how that seat's leaned back
24 all the way?

25 Q Right, right. But for identification it's State's

1 Exhibit 192. You should have it up there.

2 A Okay.

3 Q Okay. So you got him out in a -- I think you said
4 was in a seated position on the ground?

5 A No. Laying, but he was laying on his back. I
6 didn't throw -- I didn't throw down -- throw him onto his --
7 like flip him over on to his tummy, on his stomach.

8 Q Okay. At some point, did you handcuff him?

9 A He was handcuffed. I didn't handcuff him, yeah.

10 Q Okay. What was his demeanor when I first pulled him
11 out of the car?

12 A Uncooperative, I guess. It would be the best word
13 -- I mean, visibly pain, uncooperative.

14 Q Okay. Well, let's get into that. You could tell
15 right away that there was an injury to his leg, couldn't you?

16 A Yes.

17 Q Okay. And then was he complaining of pain or, I
18 guess, demonstrating it by wincing?

19 A Yes.

20 Q Okay. And every time you would move him in any way,
21 it would -- he would wince harder?

22 A No. Not in that -- when he was sitting in the car,
23 he was yelling about the leg. Then when -- but he wouldn't
24 try and help himself out of the seat. You know, I've never
25 been shot in the leg like that, you know, so I can't describe

1 and say I understand, but he -- but my thing is, is that he --
2 somebody was able to get into that car. I mean, we were
3 trying to help him at that time. He wasn't under arrest or
4 anything.

5 We were trying -- you know, and he was -- he just
6 didn't want to give a name or anything. He -- you know, like,
7 if we were trying to pull him out of the car, he was pulling
8 the other way. Instead of someone -- as long as I have like,
9 people when they get in traffic accidents and stuff, they try
10 to help, you know, when I -- they're stuck in a car and I've
11 gone up there, they try to help, but -- but if I'm trying to
12 pull you out of the car to help you, don't pull against me, if
13 it's just for hurting. I don't know. I don't know how to
14 compare a gunshot in the leg to see if it -- that's the
15 reaction, I don't know. But it was uncooperative to me.

16 Q Did he appear to you to be in shock?

17 A No. I mean, the whole -- when I was in the Army and
18 stuff, the -- again, I'm not a doctor, I don't know. I -- I
19 think everybody has different types of shock so I don't even
20 know how to answer that question.

21 Q Fair enough. Let me ask you this, now going to go
22 back. When you first arrived in the neighborhood of Hualapai
23 and Homestretch --

24 A Um-h'm.

25 Q -- did you -- were you directed to stage outside of

1 the neighborhood first?

2 A The next units were. I got there quick enough to
3 that I was able to get on the inside of that.

4 Q And I -- you said it so quick at the beginning.
5 Were you in a marked patrol car or --

6 A Yes, sir.

7 Q -- unmarked?

8 A Marked. Uh-huh, black and white with the police
9 logo on the side, yeah.

10 Q All right, so you're part of the arrest team. Your
11 trainee was the first one -- your rookie was the first one to
12 take entry to the home?

13 A Yes, sir.

14 Q And then you were the second one right behind him?

15 A Yes, sir.

16 Q Okay. How long did it take you to clear the
17 interior of that home, do you think?

18 A Two minutes max. Minute more likely.

19 Q All right.

20 A Yeah. Besides the garage, okay? We still had --
21 yeah.

22 Q Understood. It took a little time to get the garage
23 cleared?

24 A Yeah.

25 Q Okay.

1 A But, I mean, like I said, we're not searching. It's
2 a pretty fast thing. We go in there, we're looking to the
3 left, we're look to the right. We're looking for people so
4 yeah, it's pretty -- it was pretty quick.

5 Q How much time passed from the time you exited the
6 house --

7 A Okay.

8 Q -- okay, because -- now did you detain anybody
9 inside the house?

10 A No.

11 Q All right. So your rookie trainee has the one guy
12 detained that you described, right?

13 A Yes, sir.

14 Q All right. And when you come out of the house, do
15 you get back together with him to --

16 A No, he --

17 Q -- monitor and assist what he's doing?

18 A -- went over to that staging area.

19 Q Okay. How much time had passed until you were
20 called to the area there on Long Cattle where the black Honda
21 was?

22 A I don't know. I think your partner would have CAD
23 -- it -- it would say on the -- the time with the radio
24 because, you know, when we talk on there, it would say. I
25 don't know.

1 Q Do you remember it being a pretty long amount of
2 time?

3 A I don't know what long means to you or me. I don't
4 -- you know, I think I've been sitting up here a long time so,
5 I mean, I don't know what long -- you know. I don't know,
6 five minutes, ten.

7 Q Would approximately, 40 minutes be a long time?

8 A Yeah, it would be a real long time.

9 Q Okay.

10 A Yeah.

11 Q You don't think it took that long?

12 A I mean, it could have. Like I said, we were all
13 setting up the tape and we're doing stuff. Sergeant pulls you
14 here, lieutenant wants the crime scene set up. You've got a
15 log running. We've got a detective started on the way.

16 Q Okay. You got others kind of following blood
17 trails, too?

18 A I think there was only the one. I don't know what
19 everybody's doing, sir, to tell you the truth. I mean, like I
20 said, there was 15 cops and stuff out there, at least, and
21 then you got lieutenant -- I -- I've got a watch -- I'm
22 listening to the radio doing that, my trainee's asking me
23 questions, there's other ones coming up and saying we're doing
24 this. So really time eludes me on that.

25 Q Okay.

1 A You know, I mean, I --

2 Q Fair enough.

3 A -- I don't want to -- I don't know.

4 Q Fair enough. All right, thank you.

5 MR. WOLFBRANDT: That's all I have.

6 THE COURT: Ms. McNeill.

7 MS. MCNEILL: I have no questions, Your Honor.

8 THE COURT: Thank you. Redirect?

9 MS. LEXIS: No redirect. Thank you.

10 THE COURT: Does the jury have any questions of this
11 witness? No. May he be excused, then?

12 MR. DiGIACOMO: Yes.

13 THE COURT: Thank you very much for your testimony.

14 THE WITNESS: Thank you.

15 THE COURT: How's my jury doing? Need a break? No,
16 they're all -- everybody else, counsel, you doing okay? All
17 right.

18 MR. DiGIACOMO: We have a quick witness --

19 THE COURT: We'll press on.

20 MR. DiGIACOMO: -- and then we'll have to take a
21 break so --

22 THE COURT: Okay. Call the next witness.

23 MR. DiGIACOMO: I have no idea what his name is, but
24 he's the custodian of records from EZ Pawn.

25 AARON CATTOIR, STATE'S WITNESS, SWORN

1 THE CLERK: Please be seated. And then please state
2 your first and last name and spell it for the record.

3 THE WITNESS: My name is Aaron Cattoir, A-a-r-o-n,
4 C-a-t-t-o-i-r.

5 MR. DiGIACOMO: May I proceed?

6 THE CLERK: O-i-r?

7 THE WITNESS: O-i-r.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MR. DiGIACOMO:

11 Q Sir, how are you employed?

12 A I am a assistant store manager for EZ Corps, which
13 runs pawnshops under the trade name EZ Pawn.

14 Q And were you asked to come here and authenticate
15 some records from one of your stores on North Rancho Road?

16 A Yes, I was.

17 Q Is that the store you work at?

18 A Currently, yes.

19 Q Were you also asked to provide the internal customer
20 details for an individual that was on some pawn receipts?

21 A Yes, I was.

22 MR. DiGIACOMO: May I approach, Judge?

23 THE COURT: You may.

24 BY MR. DiGIACOMO:

25 Q I'm going to show you what's been mashed as State's

1 Proposed Exhibits, first we'll start with 277 and 278.

2 A Okay.

3 Q Do those appear to be two pawn receipts from your
4 location?

5 A Yes, they do.

6 Q And are these business records kept in the ordinary
7 course of business at EZ Pawn?

8 A Yes, they are.

9 Q And I assume that the information that's on there is
10 entered by an individual at the time that they receive the
11 information or do the pawn?

12 A That is correct.

13 MR. DiGIACOMO: I move to admit 277 and 278.

14 MR. LANDIS: No objection.

15 MR. WOLFBRANDT: No objection.

16 MS. McNEILL: No objection.

17 THE COURT: They'll be admitted.

18 (State's Exhibits 277 and 278 admitted)

19 BY MR. DiGIACOMO:

20 Q Now I'm going to show you 279. Do you recognize
21 that?

22 A Yes, I do.

23 Q What is that?

24 A That's a customer detail printout. It has all the
25 information about the customer that was inputted into our

1 system.

2 Q And once again, that's a business record
3 manufactured at the time that the customer is engaging in the
4 transactions and their business records kept in the ordinary
5 course of your business?

6 A Correct.

7 Q Okay. And is that the customer record that is the
8 customer that's assigned to the records from 277 and 278?

9 A Yes, it is.

10 MR. DiGIACOMO: Move to admit 279.

11 MR. LANDIS: No objection.

12 MR. WOLFBRANDT: No objection.

13 MS. McNEILL: No objection.

14 THE COURT: It will be admitted.

15 (State's Exhibit 279 admitted)

16 BY MR. DiGIACOMO:

17 Q So let me start with 277 so that I can have you sort
18 of explain to the ladies and gentlemen of the jury and why
19 this is, I don't know, but 277 is going to come up upside down
20 so just give me one second.

21 So will you just explain, sort of, to the ladies and
22 gentlemen of the jury what information is on 277? How does it
23 get there?

24 A Okay. So this is a receipt from a pawn ticket. The
25 -- it prints up at the time of the transaction after the

1 transaction is completely finished. In the upper left-hand
2 corner we have the store logo. Underneath that is the store
3 address and kind of our information about where we're located.

4 Directly under that is the customer's name. So
5 that's their name and address. And underneath that is the
6 item that was left in collateral for the pawn loan.

7 Q So if I were to pull up, sort of, this is middle
8 information here, your customer's name was David Mark Murphy?

9 A Correct.

10 Q And he had an address at 6637 Delphinium.

11 A That's what we input into the computer at the time.
12 It would have been either on his ID or collected from that
13 person himself.

14 Q Okay. So when a person does a pawn, they actually
15 have to show an identification?

16 A Yeah, they have to have a valid state issued ID.

17 Q So either that address is on that state issued ID or
18 he provided it to you as an updated address?

19 A Correct.

20 Q Okay. And now, if you notice, it says date made,
21 9/11/2014. Is that the date that --

22 A Yeah, that is the date he was physically in the
23 store.

24 Q Now, are your employees trained to make sure that
25 the identification being shown to you is, in fact, the person

1 that's on the identification?

2 A Yes, they are.

3 Q Okay. And likewise, 278, I'll put that up there and
4 flip it around. I'll zoom into that same information. This
5 appears that on the same date a David Mark Murphy pawned a
6 Dell computer as well.

7 A Yes, that is correct.

8 Q Now, when this person is pawning these items, do you
9 collect other information that's not necessarily on the pawn
10 receipt itself?

11 A Yes. We -- we collect their phone number. We
12 collect their e-mail address from time to time, and we collect
13 some vital statistics about them such as height, weight, color
14 of hair.

15 Q So let me pull up 279 for you. And showing 279,
16 it's really hard to read, so I'm probably going to put the
17 exhibit in front of you and then I'll zoom into the various
18 areas that --

19 A Okay.

20 Q We'll start with that. Is the information on 279,
21 is it updated chronologically?

22 A Yeah, it's updated each time they come to the store.

23 Q And did you check your records to see that the top
24 information that's contained on here is the last time you had
25 pawn activity from Mr. Murphy on September 11th?

1 A That is correct.

2 Q Okay. So there may be some historical information
3 down here, but this is the information that would have been
4 acquired on November 11th, 2014?

5 A Correct.

6 Q Okay. And in addition to name and address, did he
7 provide a phone number associated with himself on that day?

8 A Yes, he did.

9 Q And can you read that into the record.

10 A Certainly. It's 702-542, sorry, 1558.

11 Q 702-542-1558, correct?

12 A Yes, that is correct.

13 Q Okay. And this individual is six foot, three; 300
14 pounds, hazel eye, and does that say blond hair or --

15 A That should be blond.

16 Q Blond hair, okay. And race, white. I assume that
17 means Caucasian, right? W means Caucasian?

18 A Correct.

19 Q And sex, male.

20 A Correct.

21 Q But it's the same address, 6637 Delphinium?

22 A Yes, it is.

23 Q Thank you very much.

24 MR. DiGIACOMO: That completes my questions for the
25 witness.

1 THE COURT: Cross?

2 CROSS-EXAMINATION

3 BY MR. LANDIS:

4 Q What -- if you know, what specific employee inputted
5 that information?

6 A His name is Justin Brening.

7 Q Nevada law requires EZ Pawn and every pawnshop to
8 keep pretty detailed records, it sounds, of the people who
9 come in and sell things.

10 A Yes, we do.

11 Q At least in part, you'd agree that's done to prevent
12 the buying and selling of stolen goods?

13 A That's a big part of it, yes.

14 Q And to that end, there is rules that require
15 pawnbrokers on the floor who are dealing with customers to
16 screen for potentially stolen items, right?

17 A Yes.

18 Q In other words, if I came into the store to you and
19 said hey, I just stole this out of a car, what will you give
20 me for it, you guys would kick me out?

21 A We would deny the pawn loan, yes. We would say no.
22 No, thank you.

23 Q And it's not even just direct specific knowledge
24 like that. If you have reason to believe it could be stolen,
25 what's the rule?

1 A To not take the merchandise.

2 Q And is there any indication in any of the records
3 that you've reviewed that there was any suspicions about the
4 things David Murphy pawned?

5 A There's no indication in the records.

6 Q And they were actually pawned so whoever did the
7 transaction accepted them?

8 A Yes, they did.

9 MR. LANDIS: No further questions.

10 MR. WOLFBRANDT: Excuse me. I have no questions.

11 MS. McNEILL: No questions.

12 THE COURT: Thank you. Any redirect?

13 MR. DiGIACOMO: Just one thing I may have forgot.

14 THE WITNESS: Yeah.

15 REDIRECT EXAMINATION

16 BY MR. DiGIACOMO:

17 Q Those detailed records that you got, in particular,
18 279, that's entered into your computer system and your
19 computer system is connected to the police so that they can
20 search your records?

21 A That is correct.

22 MR. DiGIACOMO: Nothing further. Thank you.

23 MR. LANDIS: No recross.

24 THE COURT: Any questions from the jury? Seeing
25 none, may -- oh, we do have one.

1 (Off-record bench conference)

2 THE COURT: All right. Thank you. And you may be
3 excused.

4 THE WITNESS: Thank you.

5 MR. DiGIACOMO: I think we need a break.

6 THE COURT: All right. And this is a good time to
7 take one. And so, ladies and gentlemen, we're going to take
8 our break for the afternoon and it will be 15 minutes.

9 During this recess, it is your duty not to converse
10 among yourselves or with anyone else on any subject connected
11 with the trial or to read, watch or listen to any report of or
12 commentary on the trial by any person connected with the trial
13 or by any medium of information, including without limitation,
14 newspaper, television, radio or Internet. You are not to form
15 or express an opinion on any subject connected with this case
16 until it's finally submitted to you. We'll be in recess until
17 10 after 4:00.

18 THE MARSHAL: All rise for the jury, please.

19 (Jury recessed at 3:54 p.m.)

20 THE COURT: And the record will reflect that the
21 jurors have departed the courtroom. So let's make a record
22 while they're gone. So Juror No. -- well, seated in seat 10,
23 I believe. (To the Clerk) Let's see, do you have the list of
24 the jurors?

25 I'm looking at -- okay. Let's see, I'm looking at

1 the signature, and it doesn't seem to --

2 THE CLERK: I think it's Juror No. 12.

3 MR. DiGIACOMO: It's Juror No. 12.

4 THE COURT: It's Juror No. 12, which is -- oh, Thad.
5 Okay, he makes his T's like an F. Thad Simmons. Now I can
6 read it. And he's seated -- his badge number he put as 10.
7 So he gave us this note.

8 It wasn't a question so at the bench we discussed
9 that what he said was, the witness from EZ Pawn, he says, I
10 think that I knew this witness as a young boy. His mother and
11 my wife worked at the same credit union. Says his mother's
12 name is Debbie. So I suppose we can bring him in and outside
13 the presence of the other jurors to see if that affects his
14 ability to be fair and impartial. He's just, I think, being
15 very responsive to the admonition of the Court at the
16 beginning of the trial.

17 So do you have a preference as -- shall we do that
18 just before we bring the rest of them in?

19 MR. DiGIACOMO: That would be fine. The only issue
20 is the reason I wanted to break is because we're going to
21 Summer in, and she's in custody so I thought the jury should
22 be out when they put her up.

23 THE COURT: Okay. So we'll -- just before we put
24 her up, we'll bring Mr. Simmons in to canvass him, make sure
25 everything's still fine. And so I'll mark this as Court's

1 exhibit next in order, and we'll be in recess in the meantime.

2 MR. DiGIACOMO: Thank you.

3 (Court recessed at 3:57 p.m. until 4:12 p.m.)

4 (Outside the presence of the jury)

5 MR. DiGIACOMO: -- juror question.

6 THE COURT: Okay.

7 MR. DiGIACOMO: Or the issue.

8 (Juror No. 12 is present)

9 THE COURT: Actually, Mr. Simmons, you can just have
10 a seat in one of those front chairs is fine and we'll give you
11 the hand-held mic. Where is that?

12 THE MARSHAL: Right here, ma'am. I'll get it.

13 THE COURT: Just have a seat. And the record will
14 reflect that we're outside the presence of the jury save and
15 except Mr. Simmons, who we had discussed earlier outside the
16 presence of the jury that he had sent the note as he was
17 instructed to do at the beginning of the trial during the
18 admonition.

19 So Mr. Simmons, you sent a note to me indicating
20 that you thought you may have known the last witness when he
21 was a young boy in that -- are you certain of that or you just
22 think it might be?

23 JUROR NO. 12: The -- yeah, I'm fairly certain that
24 the name is -- I remember when he was born his wife -- excuse
25 me, his mother and my wife were tellers at the same credit at

1 the time.

2 THE COURT: How long ago was that?

3 JUROR NO. 12: Late 1980s.

4 THE COURT: Okay. And you haven't seen him since
5 that time?

6 JUROR NO. 12: No.

7 THE COURT: Okay. So there would be no reason, I
8 assume, that that would change your ability to be fair and
9 impartial in this case?

10 JUROR NO. 12: I think I could still be an impartial
11 juror. I just wanted to notify the Court and yourself that of
12 the connection. I wasn't real sure what the legal
13 ramifications were.

14 THE COURT: Thank you. I appreciate your bringing
15 that forward. Are there any questions by any counsel?

16 MR. DiGIACOMO: No, Your Honor.

17 MR. LANDIS: Other than thanking him for being
18 cautious, I don't have any questions.

19 MS. McNEILL: No, Your Honor, I have no questions.

20 THE COURT: Yes. And so you did exactly what we
21 told you to do and so I really appreciate your bringing that
22 to the Court's attention immediately and did it just the right
23 way. So thank you very much. You can rejoin the rest of the
24 jury.

25 (Juror No. 12 is not present)

1 THE COURT: All right. So where are we at bringing
2 in the next --

3 (Pause in the proceedings)

4 MR. DiGIACOMO: They can bring her in right now.
5 She's just in the ante room right here. Would you like me to
6 bring her in?

7 THE COURT: Yes. Let's get her settled.

8 (Off the record at 4:15 p.m. until 4:15 p.m.)

9 (Outside the presence of the jury)

10 THE COURT: Okay, go ahead. We're back on the
11 record outside the presence.

12 MR. DiGIACOMO: Thank you. During our most recent
13 conversation with Ms. Rice, she mentioned something about
14 Mr. Murphy when he got out of federal prison. We've
15 instructed her the -- we can't time things by whenever got out
16 of federal prison so, you know, you can't mention that and so
17 she's been instructed that way.

18 I would like the Court to just remind her of that
19 fact. The other thing is, is that she uses the term -- and I
20 think a lot of people do -- that Mr. Murphy is from the
21 neighborhood being the trailer park where they lived and grew
22 up. She is also aware, though, that Mr. Murphy is associated
23 with the Little Locos gang.

24 I've instructed her that that's not to come up
25 unless directly asked by somebody in this courtroom about his

1 gang affiliation. So I'd like the Court to admonish her as
2 well just so she could be reminded that those are areas that
3 no matter what question's being asked, are not areas to which
4 she's supposed to be going into.

5 And I couldn't think of any other area that she
6 should be admonished for, and I didn't know if Mr. Landis had
7 anything else that she might need to be admonished that she
8 might know about Mr. Murphy. I haven't asked her that much,
9 but she's known him since he was a little kid so there may be
10 other things that she knows that I don't know.

11 MR. LANDIS: I don't have any specifics. I'm sure
12 she does have knowledge of unrelated bad acts. I again, don't
13 know what, but I have no reason to be concerned that my
14 questions are going to cause her to answer in that fashion.

15 THE COURT: All right. Well, I'll admonish her that
16 she's to listen to the questions carefully and answer those
17 questions and not to volunteer things, and that we -- if she
18 had any knowledge of other crimes, she's not to mention those.
19 You know, we're just speculating, obviously.

20 MR. LANDIS: And can I quickly? Since her Guilty
21 Plea Agreement's still sealed, I have no intention -- I'm
22 talking not about the Agreement to Testify, just the Guilty
23 Plea Agreement. I have no intention to admit it.

24 However, if I need to refresh her recollection just
25 to make sure we're all on the same page, I can do that without

1 violating the Court's seal?

2 THE COURT: Correct. I mean, if --

3 MR. DiGIACOMO: I believe that, you know, I don't
4 have a problem at all if the Guilty Plea Agreement gets
5 admitted as a Court exhibit because someone would have to
6 actually physically go to the court and make a request for it
7 and it's just we didn't want it online on Odyssey, which was
8 the whole purpose of that happening.

9 I may very well, if I admitted the Agreement to
10 Testify as it is an exhibit to the Guilty Plea Agreement, I'll
11 be admitting the entire packet.

12 THE COURT: Do we have a copy available if he needs
13 to refresh?

14 MR. DiGIACOMO: I do. I have marked as State's
15 Proposed --

16 THE CLERK: I think 275.

17 MR. DiGIACOMO: -- 276. 276 is right now marked for
18 identification purposes. If he needs to use it, we can use it
19 and refer to it and throughout her testimony and then
20 ultimately, we can make a decision as to what portions of it
21 come in or if it comes in in its entirety.

22 MR. LANDIS: The State did provide it to me. I just
23 wasn't clear as to exactly what the sealing order specified.
24 That's why I was asking you.

25 THE COURT: It's just so it would not be a public

1 record.

2 MR. LANDIS: Understood.

3 THE COURT: All right. All right, so shall we go
4 off the record while we're waiting for Ms. Larsen to be
5 brought in and seated in the witness stand?

6 MR. DiGIACOMO: I think she's standing right there.

7 THE COURT: Oh.

8 MR. DiGIACOMO: I can see them in custody.

9 THE MARSHAL: Just waiting on your call, ma'am.

10 THE COURT: Oh, okay.

11 THE MARSHAL: Ready to go.

12 THE COURT: Well, then let's not go off the record,
13 then because it takes a while to spool up. Let's bring her
14 in.

15 THE MARSHAL: Do you want to have her sworn in?

16 THE COURT: In front of the jury --

17 THE MARSHAL: Okay.

18 THE COURT: -- we can have her sworn in.

19 THE MARSHAL: Okay.

20 THE COURT: All right. Are we ready to bring the
21 witnesses -- or, I mean, the witnesses -- the jury in?

22 MR. DiGIACOMO: Well, are you going to admonish her
23 first and then --

24 THE COURT: Yeah, we will.

25 MR. DiGIACOMO: -- bring the jury in?

1 THE COURT: But are we otherwise ready to go after I
2 admonish her?

3 MR. DiGIACOMO: Yes.

4 THE COURT: Okay. All right. So Ms. Larsen, we're
5 going to be taking your testimony soon in front of the jury,
6 and I know that Mr. DiGiacomo has indicated to you that there
7 are some things that you need to not talk about in front of
8 the jury, and that is two things: Any reference to any gang
9 affiliation or activity by Mr. Murphy. There was some
10 reference to Little Locos or you're not to talk about that,
11 all right?

12 THE WITNESS: Um-hum.

13 THE COURT: Also, any reference to him being in
14 federal prison, you know, as that -- as you were trying to
15 recollect times, don't make any reference to that because the
16 jury is not allowed to know about that. Also, just listen
17 carefully to the questions by counsel.

18 It's my understanding you've known Mr. Murphy a long
19 time so what we don't want is that you talk about something, a
20 crime or some bad act that he did in the past that doesn't
21 bear any relationship to this case and you've mentioned it and
22 that causes a problem. So listen carefully to the questions
23 that are posed on direct and on cross-examination and answer
24 those questions. Don't just volunteer things.

25 THE WITNESS: Okay.

1 THE COURT: All right? Okay. Anything else?

2 MR. DiGIACOMO: Scheduling-wise, I imagine that I
3 probably can get through direct, but I don't know about cross
4 and I don't know what the Court's intent is to break for the
5 night or are you going to try and go through the witness
6 completely?

7 THE COURT: I'm not going to rush counsel on cross
8 so you tell me after direct is done, I'll have you approach --

9 MR. LANDIS: Thank you.

10 THE COURT: -- on scheduling. Okay.

11 MR. DiGIACOMO: Perfect.

12 THE COURT: All right, let's bring them in.

13 THE MARSHAL: All rise for the jury.

14 (Jury reconvened at 4:22 p.m.)

15 THE MARSHAL: Your Honor, all members of the jury
16 are present.

17 THE COURT: Thank you. Please be seated. And the
18 record will reflect that we've now been rejoined by all 12
19 members of the jury as well as the four alternates.
20 Defendants are all present with their respective counsel.
21 Chief Deputies District Attorney prosecuting the case are
22 present as are all officers of the court. The State's next
23 witness is already seated in the witness box and the Clerk
24 will now swear her in.

25 THE CLERK: Please stand and raise your right hand.

1 SUMMER LARSEN, STATE'S WITNESS, SWORN

2 THE CLERK: Please be seated. And please state your
3 first and last name and spell it for the record.

4 THE WITNESS: Summer Larsen, S-u-m-m-e-r,
5 L-a-r-s-e-n.

6 THE COURT: You may proceed.

7 DIRECT EXAMINATION

8 BY MR. DiGIACOMO:

9 Q Ma'am, do you have another last name that sometimes
10 you're referred to?

11 A Yes.

12 Q And what is that?

13 A Rice.

14 Q Okay. And where did Rice come from?

15 A It's my maiden name.

16 Q So as a child, you were born Summer Rice?

17 A Yes.

18 Q Where did you grow up?

19 A In Las Vegas.

20 Q And is there a particular neighborhood in Las Vegas
21 you grew up in?

22 A Jay Park.

23 Q Jay Park? And where is that?

24 A On Craig and Rancho.

25 Q And what kind of place is that?

1 A Trailer park.

2 Q Did you meet an individual by the name of Joseph
3 Larsen at some point?

4 A Yes.

5 Q About how old were you when you met him?

6 A Fourteen.

7 Q What about an individual by the name of David
8 Murphy?

9 A Yes.

10 Q When did you meet him?

11 A Roughly, around 18.

12 Q Eighteen years of age?

13 A Um-h'm.

14 Q Is that a yes?

15 A Yes.

16 Q Okay. And when you met Mr. Murphy, did he go by
17 another name? Did he have a nickname?

18 A Yes.

19 Q What is that?

20 A Duboy.

21 Q Do you see Mr. Murphy or Duboy here in court today?

22 A Yes.

23 Q Can you point him out and describe something he's
24 wearing.

25 A He's in a gray long-sleeved shirt.

1 Q Okay. And you pointed in this general direction.
2 Can you tell me whether or not there's -- kind of six people
3 over here. Can you tell me where in the six people he is?

4 A He's the first one.

5 Q In the back row?

6 A Yeah.

7 Q Okay.

8 MR. DiGIACOMO: May the record reflect the
9 identification of defendant Murphy?

10 THE COURT: It will.

11 BY MR. DiGIACOMO:

12 Q What kind of relationship -- well, let me ask you
13 this, you've known Mr. Murphy since you were 18 years of age.
14 At any point in time, were you in a dating relationship with
15 him?

16 A No.

17 Q Okay. What about with Joey Larsen?

18 A Yes.

19 Q Obviously, at some point you married him.

20 A Yes.

21 Q When did you marry him?

22 A 2012.

23 Q In the time period that you were with -- or prior to
24 2012, did you ever have any sort of non-platonic relationship
25 with Mr. Murphy?

1 A What's non-platonic?

2 Q Did you ever have a sexual relationship with him?

3 A Yes.

4 Q Okay. When did that occur?

5 A On and off since I've been 18.

6 Q On and off since you were 18 years of old --

7 A Um-h'm.

8 Q -- of age?

9 A Yes.

10 Q I want to sort of jump forward to 2014 or maybe a
11 little bit into the latter part of 2013. Did there come a
12 point in time when you moved into the 1661 Broadmere here in
13 Clark County, Las Vegas, Nevada?

14 A Yes.

15 Q And who did you move in with?

16 A Joseph Larsen.

17 Q And who actually owns the house?

18 A I'm not sure who owns it, but we were renters.

19 Q And who did you rent it from?

20 A I think it's Tellas Estates (phonetic).

21 Q And who was on the lease?

22 A Me and Joseph's father.

23 Q You and Steve Larsen?

24 A Yes.

25 Q Okay. And I apologize, I guess, I didn't ask you

1 that. What's Joey's dad's name?

2 A Steve Larsen.

3 Q In 2013, did you and Joseph start having some
4 issues?

5 A Yes.

6 Q And eventually, do you move out of the Broadmere
7 address?

8 A Yes.

9 Q And approximately, when did you do that?

10 A The end of 2013, the beginning of 2014.

11 Q And do you remember approximately, when you moved
12 in?

13 A I don't.

14 Q Are we talking a month, a year, two years, three
15 years?

16 A Three months, maybe.

17 Q Three months? Now, during the time period that you
18 were actually in -- living in Broadmere, did you ever -- did
19 Mr. Murphy ever come over to the residence?

20 A Yes.

21 Q How many times?

22 A Once.

23 Q What does Joey Larsen do for money?

24 A Sells weed.

25 Q How much does he sell?

1 A About 20 pounds a week.

2 Q When he sells weed, does he have regular customers?

3 A Yes.

4 Q And these regular customers, are some of them
5 friends with Mr. Murphy?

6 A Yes.

7 Q Now I want to jump forward to sort of the end of
8 2013. When you move out of Broadmere, what's your
9 relationship with Joey like?

10 A Just on and off.

11 Q Did it ever get contentious?

12 A What's --

13 Q All right. Did you ever fight?

14 A Yes.

15 Q Did you ever do anything to that house?

16 A Yes.

17 Q Describe kind of the things you did to the house?

18 A I used to go and throw rocks at all the windows and
19 break all the windows out, destroy the front yard and then
20 I've broken or went into the house and took Joseph's weed and
21 money.

22 Q Approximately, when it you do that?

23 A July. Mid-July.

24 Q Of 2014?

25 A '13.

1 Q '13 or '14?

2 A '13.

3 Q Okay. If I told you the crime occurred in 2014, how
4 long prior to the crime that we're here to talk about did you
5 go into the house?

6 A I'm sorry, it was 2014, yes.

7 Q Okay. So two months, not a year and two months?

8 A Right, yes.

9 Q So you break into the house? How do you get in?

10 A I open the front door with my key.

11 Q And when you go inside, what do you take?

12 A \$12,000 and 12 pounds of weed.

13 Q Did you have anybody with you when you did that?

14 A Yes.

15 Q Who?

16 A Snoop.

17 Q And describe Snoop for us.

18 A He's a Hispanic male.

19 Q As you sit here today, do you know his real name?

20 A Yes.

21 Q What is it?

22 A Isaac Rodriguez (phonetic).

23 Q So in July you and Snoop go in and take Joey's weed
24 and his money?

25 A Yes.

1 Q You're still lawfully married to him at this point?

2 A Yes.

3 Q Do you have -- does Joey learn that you did this?

4 A Yes.

5 Q And do you get into arguments over that as well?

6 A Yes.

7 Q Does there come a point in time when you have a
8 conversation with Mr. Murphy about the fact that you had gone
9 in there and stolen Joey's weed and money?

10 A Yes.

11 Q And describe for us what that conversation is.

12 A Just that I went in there because I was mad and what
13 I took.

14 Q And what was Mr. Murphy's reaction so that?

15 A Why didn't I do it with him.

16 Q Why didn't you do it with him? And did he know
17 about Snoop?

18 A Yes.

19 Q And what did he say about the fact that it was Snoop
20 and not him?

21 A It was an outsider.

22 Q In response to him not being happy that you had done
23 this without him, did you guys have a conversation about
24 something else you could do?

25 A Yes.

1 Q And what was that?

2 A Rob Joseph's weed supplier.

3 Q And did you know where Joseph's weed supplier was?

4 A Yes.

5 Q Where is it?

6 A Jones and 215.

7 Q Had you ever been there before?

8 A Yes.

9 Q And was there a procedure in order for your husband
10 to re-up the drugs that he's selling out of the house?

11 A Yes.

12 Q Describe that for us.

13 A We go there on Sundays and we pick up on Sundays and
14 leave there with large quantities of weed.

15 Q Before you were able to go on Sunday, did the dope
16 dealer or the dope supplier have to have some money?

17 A Yes.

18 Q And when was that money given to him?

19 A Thursdays.

20 Q And did you know the procedure, what happened
21 between Thursday and Sunday when you showed back up to get the
22 weed?

23 A Yes.

24 Q And what was that?

25 A They would take off on Thursdays to go and get the

1 weed in vans and then come back on Saturday nights.

2 MR. LANDIS: I'm going to object to foundation.

3 THE COURT: All right. If you can lay a better
4 foundation as to how she knows.

5 MR. DiGIACOMO: Okay.

6 BY MR. DiGIACOMO:

7 Q How many times have you been over there to get the--

8 A More than 20.

9 Q And how is it you learned about the procedure? Were
10 you with Joseph when this was -- the plan was being discussed?

11 A Yes.

12 Q Okay. Had you been there when he had given the
13 money over to the individual?

14 A Yes.

15 Q And had you been there when you went back to get the
16 drugs on Sunday?

17 A Yes.

18 Q Okay. Had you ever actually been there when the van
19 showed up?

20 A Yes.

21 Q And what are we talking about vans? How much weed
22 are we talking about or marijuana showing up at this house?

23 A Anywhere from a hundred to 200 pounds.

24 Q And what kind of vans are we talking about?

25 A Like white cargo vans.

1 Q And so they would have a hundred to 200 pounds of
2 marijuana in them?

3 A Yes.

4 Q Okay. And when you say Saturday night and then
5 you'd go on Sunday, are we talking early evening Saturday?
6 Early morning Sunday? What are we talking about?

7 A I know that the vans would get there later Saturday
8 night, early Sunday morning, and then whenever he was ready,
9 he would call Joey to go over there.

10 Q And then Joey would go over and buy the weed?

11 A Yes.

12 Q Did you describe this sort of scenario you talked
13 about, about how it is have you to give the money and then
14 you'd go back on Sunday and get the marijuana? Did you tell
15 Mr. Murphy that that's how the procedure worked?

16 A Yes.

17 Q Okay. Do you do anything to help him identify where
18 this location is?

19 A Yes.

20 Q And what do you do?

21 A I showed him where it was.

22 Q You showed him where the drug supplier's house was?

23 A Yes.

24 Q Now, the first time you have this conversation with
25 Mr. Murphy, how long before the homicide that occurs do you

1 think this happened?

2 A Three weeks.

3 Q Somewhere in that range? And after the first
4 conversation, how long is it until you show him where the
5 house is?

6 A It was in days.

7 Q Do you talk to Murphy about this more than those two
8 occasions?

9 A Yes.

10 Q Okay. And for how long are you talking to him for?

11 A Just a couple minutes. Not --

12 Q That was a terrible question. I guess, maybe how
13 many times do you and Murphy have a conversation about the
14 drug supplier house?

15 A No more than three.

16 Q Now, do you -- are you still at this point in time
17 while you're talking to Mr. Murphy about the drug supplier's
18 house, are you still in a relationship with Snoop?

19 A Yes.

20 Q And maybe I didn't get that out. Snoop, what was
21 his relationship to you at this time period?

22 A We were just sleeping together.

23 Q Now I want to direct your attention towards the
24 August, the beginning of September. Does there come a point
25 in time when you injured?

1 A Yes.

2 Q And how does that come about?

3 A I got shot.

4 Q By who?

5 A Snoop.

6 Q And approximately, what is the date of that?

7 A August 31st.

8 Q Of 2014?

9 A Yes.

10 Q Do you have a conversation about the fact that you
11 got shot by Snoop with Mr. Murphy?

12 A Yes.

13 Q And tell me what Mr. Murphy's reaction was.

14 A Just that I was stupid for keep going back.

15 Q Now I want to fast forward sort of coming up to the
16 time period the homicide occurs. Do you talk to anybody else
17 about the drug supplier's house?

18 A Yes.

19 Q Who?

20 A Twisted.

21 Q Describe Twisted for us.

22 A Black male.

23 Q Do you know his real name?

24 A Robert Mead (phonetic).

25 Q And who's Twisted? Like, what's his relationship to

1 you?

2 A I've just -- I recently met him because he was
3 dating a friend.

4 Q Who was he dating?

5 A Ashley Hall.

6 Q And why do you talk to Twisted about this?

7 A Just so we could come up.

8 Q What do you mean by come up?

9 A Get money.

10 Q So you want Twisted to go rob this house?

11 A Yes.

12 Q Why is it that you're not still talking to Murphy
13 about robbing this house?

14 A Because we got into an argument in my car, and we
15 weren't talking anymore.

16 Q When you say you weren't talking anymore, does that
17 mean you had no contact with him?

18 A For -- briefly, yeah.

19 Q When you say you're not talking to him, do you still
20 maybe have texts, calls, whatever?

21 A Yeah.

22 Q Okay. And when you're texting Murphy, what do you
23 want from David?

24 A Like, I'd ask him for gas money or money or stuff.

25 Q You said you knew Mr. Murphy for a long time. In

1 September of 2014, where was Mr. Murphy living?

2 A In the trailer park.

3 Q In whose house?

4 A His brother's.

5 Q And what's his brother's name?

6 A Mike.

7 Q Does he have a nickname?

8 A Yeah.

9 Q And what's that?

10 A Cornbread.

11 Q Is cornbread here today?

12 A Yeah.

13 Q Okay. Where is he?

14 A In the back row.

15 Q And which individual? Well, I assume he's not the
16 officer. I assume it's the guy who just waved, right?

17 A Yeah.

18 Q Okay.

19 MR. DiGIACOMO: May the record reflect the
20 identification of the individual in the blue shirt in the back
21 row, Judge?

22 THE COURT: Yes.

23 BY MR. DiGIACOMO:

24 Q Who else besides Cornbread lives at this residence?

25 A His kids and mom.

1 Q Is there any vehicles that are normally at that
2 residence?

3 A Yeah.

4 Q What kind of vehicles?

5 A His truck -- David's truck and their mom's truck,
6 and I think that's it.

7 Q You said there's two trucks. Do you know what type
8 of trucks they are?

9 A One's a Dakota and one's a Ranger.

10 Q Are either one of those a pick-up truck?

11 A Both of them are.

12 Q They're both pick-up trucks?

13 A Yes.

14 Q Okay. So let's talk about the white Ranger. Do
15 either one of the two of them or, I guess, it could be either
16 of the Ranger or the Dakota, do either one of them have a
17 camper on them?

18 A Yes.

19 Q Okay. Which one?

20 A The Dakota.

21 Q And you said there's two cars there, and I thought
22 you said there's two trucks. One of them was Duboy's?

23 A Yes.

24 Q Which one?

25 A The Dakota.

1 Q Okay. So the one with the camper on it was Duboys?

2 A Yes.

3 Q Did you know Duboy to have a regular girlfriend?

4 A No.

5 Q Is there anybody that was Hispanic that he was
6 dating or that you had ever met?

7 A I met her once.

8 Q Okay. And describe what she looked like.

9 A Just a Hispanic female with brown hair.

10 Q So how many times did you talk to Twisted about
11 doing the rip over at the supplier's house?

12 A Just once.

13 Q And when did that occur?

14 A The Friday before this incident happened.

15 Q And when you had this conversation, who was present?

16 A Ashley.

17 Q And anybody else?

18 A One of Twisted's friends.

19 Q And describe him for me.

20 A White male.

21 Q And while you're having this conversation, is Ashley
22 actively involved in the conversation?

23 A No.

24 Q Okay. So what's the conversation?

25 A The same thing I had with Mr. Murphy about when we

1 could go over there and what was in the house.

2 Q And what was the idea of when to go over there?

3 A Sunday.

4 Q Any particular time on Sunday?

5 A No.

6 Q Okay. So you're going to go over there on Sunday
7 because that's when the drugs will be there?

8 A Yes.

9 Q This conversation that happens, is there a reaction
10 from Ashley?

11 A Yeah.

12 Q And what's her reaction?

13 A She said it better not be Joey's house.

14 Q Was she aware about what you had done at Joey's
15 house previously?

16 A Yeah.

17 Q Okay. And what do you tell her?

18 A That it wasn't.

19 Q And this is on Friday?

20 A Yes.

21 Q Between Friday and Sunday, when the incident
22 happens, do you see Ashley again after that?

23 A No.

24 Q When's the next time you see Ashley?

25 A She picked me up right after it happened.

1 Q Okay. And without telling us what she said, at that
2 point were you aware that the incident now had happened?

3 A Yes.

4 Q And who did you learn it from?

5 A Ashley.

6 Q Where did she take you?

7 A To a lady I call my aunt in the trailer park.

8 Q And where did you do?

9 A I went to her house and then I went to a empty house
10 behind my mom's house and waited until like everything calmed
11 down, I went back there.

12 Q Back to your -- back to whose house?

13 A Brenda's, my aunt's.

14 Q And how long did you stay there?

15 A About 24 hours.

16 Q Do you stay in Vegas?

17 A Yes.

18 Q For about how long?

19 A About a month.

20 Q During that time period, do you have any contact
21 with Joey Larsen?

22 A Yes.

23 Q And describe that. What kind of contact are you
24 having?

25 A I called Joey the day after all this happened and he

1 picked me up, and he put me up in hotel rooms.

2 Q Does there come a point in time when you decide to
3 leave town?

4 A Yes.

5 Q And why do you leave?

6 A Because I thought it was somebody completely
7 different than who it was, and I was scared so I left town.

8 Q Who did you think had been involved in what had
9 happened over at the house?

10 A Snoop.

11 Q Isaac Rodriguez?

12 A Yes.

13 Q Okay. And why did you think that was Snoop that did
14 that?

15 A Because we did it the first time so I thought he
16 went back.

17 Q So how do you leave town?

18 A Joseph paid for my ticket out.

19 Q And where do you go?

20 A To my cousin's in Utah.

21 Q How long do you stay?

22 A Three days tops.

23 Q Why do you come back?

24 A Because when the news clip came on that they caught
25 the second suspect, I didn't know who the people were so I

1 didn't think I had anything to worry about.

2 Q Now, you've been a charged defendant in this case
3 for well, since 2014, correct?

4 A Yes.

5 Q I'm assuming at this point you've seen Mr. Laguna,
6 Mr. Mendoza, and maybe you've seen Mr. Figueroa. Have you
7 seen these people?

8 A Yes.

9 Q Okay. Do you know Mr. Mendoza?

10 A No.

11 Q Do you know Mr. Laguna?

12 A No.

13 Q Do you know Mr. Figueroa?

14 A No.

15 Q Ever met him before?

16 A No.

17 Q Have you no idea who they are?

18 A No.

19 Q Is so when you see the news, you come back to town?

20 A Yes.

21 Q What happens when you get back to town? Where are
22 you staying?

23 A Joseph got me a monthly at the Emerald Suites.

24 Q And where is that?

25 A On Twain and Paradise.

1 Q And as you're at the Emerald Suites, what happens?

2 A Me and Joseph got into an altercation in front of
3 the apartment, and the cops showed up.

4 Q And when the cops showed up, what happened to you?

5 A I was arrested.

6 Q And when you were arrested, did you go down and do
7 you talk to a detective by the name of Barry Jensen?

8 A Yes.

9 Q During the course of that conversation, were you
10 truthful?

11 MR. LANDIS: Objection.

12 THE COURT: What's the grounds?

13 MR. LANDIS: I don't think it's relevant as to
14 whether or not she's going to say she was truthful during an
15 interview.

16 THE COURT: Overruled.

17 THE WITNESS: I don't think so. I don't -- I was on
18 drugs so I don't even remember most of the interview.

19 BY MR. DiGIACOMO:

20 Q Well, did you tell them about the conversation with
21 Ashley and how you were involved in that conversation with
22 Twisted and Ashley? Do you remember?

23 A No.

24 Q Do you remember or -- you don't remember or --

25 A I do not remember.

1 Q During the time that you go to jail, do you call
2 Mr. Murphy?

3 A The second time I went to jail, yeah.

4 Q The first time you go to jail and you're booked in,
5 you don't call Mr. Murphy?

6 A No.

7 Q Who do you call?

8 A Joseph.

9 Q Joey Larsen?

10 A Yes.

11 Q And do you get out of jail?

12 A Yes.

13 Q How do you get out of jail?

14 A Joey bailed me out.

15 Q How long were you in jail the first time?

16 A From November 18th to December 1st.

17 Q And then Mr. Larsen bails you out?

18 A Yes.

19 Q And how long were you out of custody?

20 A Until December 3rd.

21 Q And what happened on December 3rd?

22 A Mr. Murphy drove me to the bail bonds where I
23 learned that Joseph had pulled his name off of my bail and I
24 was rearrested.

25 Q So defendant Murphy took you to the bail bondsman

1 and you learned that your bail had been revoked?

2 A Yes.

3 Q And thus, you were put back into the Clark County
4 Detention Center?

5 A Yes.

6 Q At that point in time, do you call Mr. Murphy?

7 A Yes.

8 Q And what did you call Mr. Murphy?

9 A What did I call him?

10 Q Yeah, what name do you use when you're talking to
11 him?

12 A Doughy.

13 Q Doughy? At some point, do you get indicted in this
14 case?

15 A Yes.

16 Q And you get indicted for what?

17 A A murder.

18 Q All the charges --

19 A Yes, all seven charges.

20 Q -- that are associated in this case?

21 A Yes.

22 Q Does there come a point in time where you look to
23 resolve your case?

24 A Yes.

25 Q And do you -- well, at some point, do you enter a

1 guilty plea to something?

2 A Yes.

3 Q What do you plead guilty to?

4 A Conspiracy to robbery and attempt robbery.

5 Q And the attempt robbery, a crime you actually pled
6 to, is the attempt robbery of what location?

7 A Joseph's drug suppliers.

8 Q Do you know how much time you could potentially be
9 looking at, at sentencing?

10 A A one to six and a one to ten.

11 Q And whether or not those run concurrent or
12 consecutive is up to who?

13 A The judge.

14 Q And do you know what position the State of Nevada is
15 going to take at your sentencing?

16 A No, I don't.

17 Q Do you recall that we retain the right to argue at
18 your sentencing?

19 A Yes.

20 Q Did you also enter into an agreement when you pled
21 guilty?

22 A Yes.

23 Q To testify?

24 A Yes.

25 Q And are you here today pursuant to that agreement?

1 A Yes.

2 Q As of today, have you been sentenced yet?

3 A No.

4 Q And that sentencing will occur sometime in the
5 future?

6 A Yes.

7 Q At the time that you were talking to the police,
8 they asked you about some phone numbers.

9 A Um-h'm.

10 Q Is that a yes?

11 A Yes.

12 Q Okay. And there is a number 702-883-7781. Do you
13 know what number that is?

14 A That is my cell phone number.

15 Q That cell phone number, was it active at the time of
16 this crime?

17 A No.

18 Q When was the last time that phone had been used?

19 A The day that I went to if the 1661 Broadmere and
20 took the weed and money out of Joseph's house.

21 Q Then you turned the phone off after that?

22 A I got rid of it.

23 Q They also talked to you about a Pinger phone. Do
24 you remember that?

25 A Yes.

1 Q And did you, in fact, have a Pinger phone?

2 A Yes.

3 Q Who is a Pinger phone?

4 A It runs off of WIFI, just a random number that runs
5 off WIFI. It's a free text message.

6 Q And if I told you that you told the police your
7 Pinger number was 702-551-2617, does that sound right to you?

8 A I don't remember.

9 Q How is it that you were able to identify this phone
10 number for the police? Do you recall? Did you have that
11 phone with you?

12 A No.

13 Q What happened to that phone?

14 A I put it under the garbage can in a hotel I was
15 staying at.

16 Q And you haven't seen that phone since?

17 A No.

18 Q Any other phone you can think of that you had?

19 A I had a Cricket phone.

20 Q Do you remember the number on that?

21 A I know it was a 6 -- started with 609.

22 Q So there's a 609 phone number associated with it?

23 A Yes.

24 Q Do you remember what the last four digits were?

25 A No.

1 Q Do you remember taking a guess at it earlier today?

2 A Yeah.

3 Q What was a guess?

4 A 0692.

5 Q 0692?

6 A Um-h'm.

7 Q Did you know if anybody was going to rob Joey's
8 house on Sunday night?

9 A No.

10 Q Did you know after it happened that David Murphy was
11 involved in it?

12 A No.

13 Q And it's only through the discovery in this case
14 that you've received any information about that?

15 A Yes.

16 MR. DiGIACOMO: Thank you, Judge. I'd pass the
17 witness.

18 THE COURT: Counsel approach.

19 (Off-record bench conference)

20 THE COURT: All right, ladies and gentlemen, we're
21 expecting cross-examination to go, you know, more than the ten
22 minutes that we have left until 5:00 o'clock. So we're going
23 to recess at this time.

24 Tomorrow afternoon I'll be in drug court all
25 morning. I have more than 80 people on that calendar so a

1 1:30 start for tomorrow. And I'm not anticipating any delays
2 in getting started. Of course, I never do. And so I plan on
3 starting at 1:30 promptly. So I'm going to see you at that
4 time.

5 And so, ladies and gentlemen, we're going to take an
6 overnight recess. During this recess, it is your duty not to
7 converse among yourselves or with anyone else on any subject
8 connected with the trial or to read, watch or listen to any
9 report of or commentary on the trial by any person connected
10 with the trial or by any medium of information, including
11 without limitation, newspaper, television, radio or Internet.
12 You are not to form or express an opinion on any subject
13 connected with this case until it's finally submitted to you.
14 I'll see you tomorrow at 1:30.

15 THE MARSHAL: All rise for the jury.

16 (Jury recessed at 4:51 p.m.)

17 THE COURT: And the record will reflect that the
18 jury has departed the courtroom. Are there any matters
19 outside the presence?

20 MR. LANDIS: No, Your Honor.

21 MR. DiGIACOMO: Not from me.

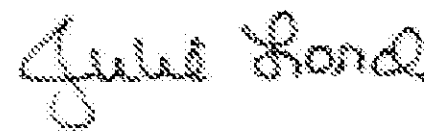
22 MR. WOLFBRANDT: No.

23 THE COURT: Thank you. We'll be in recess until
24 1:30.

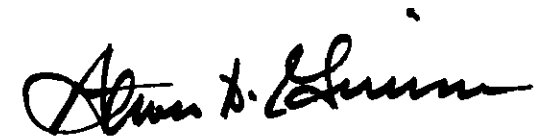
25 (Court recessed at 4:52 p.m. until Tuesday,
26 September 20, 2016, at 1:36 p.m.)

* * * * *

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



JULIE LORD, INDEPENDENT TRANSCRIBER



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-15-303991-1
	.	CASE NO. C-15-303991-4
Plaintiff,	.	CASE NO. C-15-303991-5
	.	
vs.	.	DEPT. V
	.	
JORGE MENDOZA,	.	TRANSCRIPT OF
DAVID MURPHY, a/k/a	.	PROCEEDINGS
DAVID MARK MURPHY,	.	
JOSEPH LAGUNA, a/k/a	.	
JOEY LAGUNA,	.	
Defendants.	.	
.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 7

TUESDAY, SEPTEMBER 20, 2016

APPEARANCES:

FOR THE STATE:	MARC P. DiGIACOMO, ESQ. AGNES M. LEXIS, ESQ.
FOR DEFENDANT MENDOZA:	WILLIAM L. WOLFBRANDT, ESQ.
FOR DEFENDANT MURPHY:	CASEY A. LANDIS, ESQ.
FOR DEFENDANT LAGUNA	MONIQUE A. McNEILL, ESQ.

COURT RECORDER:

LARA CORCORAN
District Court

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1 LAS VEGAS, NEVADA, TUESDAY, SEPTEMBER 20, 2016, 1:36 P.M.

2 (In the presence of the jury)

3 THE MARSHAL: All members of the jury are present,
4 Your Honor.

5 THE COURT: Thank you. Please be seated. And the
6 record will reflect we have now been joined by all 12 members
7 of the jury. The record will reflect the presence of the
8 defendants, with their respective counsel, the Chief Deputies
9 District Attorney prosecuting the case and all officers of the
10 court. And we were at the cross-examination of Ms. Larsen.

11 Ms. Larsen, I'll remind you you're still under oath.
12 And Mr. Landis.

13 MR. LANDIS: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. LANDIS:

16 Q We're getting pretty close to two years now that
17 you've been in jail, correct?

18 A Yes.

19 Q And that whole time's been at Clark County Detention
20 Center?

21 A Here, or North Valley, yes.

22 Q To explain to the jury, North Valley is another jail
23 operated by the county that's just in the north part of the
24 county?

25 A Yeah, it's just an overflow holding.

1 Q When did you transfer over there?

2 A I've transferred back and forth numerous times.

3 Q During your near two years in county custody, you've
4 become familiar with how the jail phone call system works,
5 yes?

6 A Yes.

7 Q Inmates are allowed to use the phones during certain
8 parts of the day?

9 A Yes.

10 Q And they're allowed to call most anybody who is
11 willing to accept a call?

12 A Yes.

13 Q They're recorded, correct?

14 A Yes.

15 Q And they tell you that at the start of every single
16 phone call?

17 A Yes.

18 Q You can have a, what's called a prepaid account,
19 right?

20 A Yeah.

21 Q And that would mean you, the inmate, has money on
22 their books or on their phone account, right?

23 A Yes.

24 Q And so when you place a call, the charges for that
25 call are deducted out of your account?

1 A Yes.

2 Q And again, in that situation, anybody you want to
3 call who accepts your call, free to them, you can talk to
4 them?

5 A Yes.

6 Q If you're not fortunate enough to have money on your
7 books such as that, you can call somebody collect, correct?

8 A Yes.

9 Q Just like you could from a normal pay phone?

10 A Yes.

11 Q Obviously, they choose if they want to accept and
12 pay the charges or not, correct?

13 A Yes.

14 Q Do you have an estimate as to how many jail calls
15 you've made since you've been in jail?

16 A A lot.

17 Q Which is common for most inmates, wouldn't you
18 agree?

19 A Yeah.

20 Q Did there come a time in the past few months when
21 you discovered a way to make free jail calls?

22 A Yeah. The phone let us do that. They gave us an
23 option on the phone.

24 Q Explain how that worked.

25 A You put in your pin number and then you hit 3 and it

1 allowed you to make a free phone call.

2 Q And you've been able to do that as much as you want?

3 A No, it was only for the day or two days.

4 Q What days were those, do you remember?

5 A I don't know the dates.

6 Q Do you remember the month?

7 A No.

8 Q And would they let you make calls for as long as you
9 wanted for free those day or two days?

10 A What do you mean for as long as I wanted?

11 Q Could the call duration be as long as you wanted no?

12 A No.

13 Q How long could it be?

14 A Ten to 15 minutes.

15 Q Did there also come a time recently in the past
16 several months or so that you were no longer concerned that
17 the Government was listening to your phone calls?

18 A I don't know if I wasn't -- no.

19 Q You've always been concerned about that?

20 A I mean, I have nothing to hide.

21 Q Recently, did you start talking to an individual
22 named "Dave" on the phone?

23 A Yes.

24 Q He goes by, I think, "Bald Dave"?

25 A Yeah.

1 Q His true name, I believe, is David Rodriguez?

2 A Yes.

3 Q Do you recall a phone call you had with him, where
4 you told him that the State wasn't listening to your calls
5 anymore?

6 A I don't remember saying that, but.

7 Q Is that something you believe you could have said or
8 no?

9 A Yes.

10 Q Do you believe you may have said that to more than
11 one person?

12 A Yes.

13 Q And why was it that you may have said that? Why may
14 have you not been concerned that the State was listening to
15 your calls anymore?

16 A I mean, I wasn't -- I'm not sure.

17 Q You're not sure why you decided they wouldn't listen
18 to your calls anymore?

19 A I mean, it wasn't that they weren't listening. It
20 was just, I mean, it wasn't -- I don't know.

21 Q With if you said to Dave that the State's not
22 listening to your calls anymore, what would you have meant by
23 that if you didn't mean exactly what you said?

24 A That our case really wasn't like, that big in court
25 anymore want like, we were still going, but not like -- I

1 don't know the word I'm looking for. I don't know.

2 Q You'd agree you talked a lot on the phone with your
3 mom and your grandmother, right?

4 A Yes.

5 Q Who you often would reach at the same number?

6 A Yes.

7 Q You spoke some with a sister named Amber?

8 A Yes.

9 Q Spoke to David Murphy initially after you were
10 arrested?

11 A Yes.

12 Q Spoke to Snoop, Isaac Rodriguez, after you were
13 arrested?

14 A Yes.

15 Q Did you speak with any other males during those
16 first two months you were arrested that you were in some sort
17 of romantic relationship with?

18 A Joseph.

19 Q Larsen?

20 A Yes.

21 Q Are you continuing to have jail calls with Joseph
22 Larsen?

23 A No.

24 Q When did that stop?

25 A A year ago tomorrow.

1 Q And why did it stop, if you know?

2 A He put money on my books and told me that he
3 couldn't do it no more.

4 Q As of September 2015?

5 A Yes.

6 Q You're also aware that he started a new
7 relationship?

8 A Yeah.

9 Q When did you make that discovery?

10 A He's been seeing her on and off since all this
11 started.

12 Q You'd agree, though, there was a time after you were
13 arrested that you and Joseph were still trying to make things
14 work?

15 A Yeah.

16 Q Including that time when he bailed you out?

17 A Yes.

18 Q And even after that there was numerous phone calls?

19 A Yes.

20 Q When did those efforts stop?

21 A Probably before September of 2015.

22 Q Do you recall the date you were first questioned by
23 the police in this case is this?

24 A November 18th.

25 Q Of?

1 A 2014.

2 Q Before that date and -- well, that interview, do you
3 remember where it took place?

4 A The homicide unit on Martin Luther King.

5 Q And to the best of your memory, did they record that
6 conversation?

7 A I think so, yes.

8 Q Before that date that you sat down with them and
9 they talked to you at the homicide office, you knew they were
10 looking for you, correct?

11 A Yes.

12 Q And you avoided them?

13 A Yes.

14 Q Even going so far as to go to Utah?

15 A Yes.

16 Q It was your testimony yesterday when Mr. DiGiacomo
17 was asking you questions that during that interview on
18 November 18th, 2014, you told the police some lies?

19 A Yes.

20 Q Why did you lie to the police on November 18th of
21 2014?

22 A At that point, I was just scared and I didn't know
23 who had did this.

24 Q Do you recall during that interview the police
25 asking you if Joey sold weed out of the house on Broadmere?

1 A I don't remember very much of that interview.

2 Q Would looking at a transcript of it refresh your
3 recollection?

4 A Yes.

5 Q Let me ask you this first; were you aware of Joey
6 selling marijuana out of the house as of that date, November
7 18th, 2014? Did you know he was previously selling marijuana
8 out of the house?

9 A Yes.

10 Q You don't recall telling the police that?

11 A No.

12 MR. LANDIS: Court's brief indulgence. I'm going to
13 go back to that because it's in here and I just don't want to
14 keep you guys waiting.

15 BY MR. LANDIS:

16 Q The police, when they interviewed you on that date,
17 suspected you of being involved in the events at Broadmere
18 September 21st, correct?

19 A Yes.

20 Q Did you tell them that you were involved?

21 A No.

22 Q You denied that you were involved?

23 A Yes.

24 Q Did they believe you based on your impression of
25 what they were saying in response?

1 A I don't -- I don't think so. I was indicted.

2 Q They also asked you about a few different
3 individuals who were in your life, correct?

4 A Um-h'm.

5 Q Do you recall them asking you specifically about
6 Duboy?

7 A Yes.

8 Q And they asked you if you recall -- if you would
9 tell them Duboy's real name; do you remember that?

10 A Yes.

11 Q Did you tell them Duboy's real name; do you recall?

12 A Yes.

13 Q You told them Duboy is David Murphy?

14 A Um-h'm.

15 THE COURT: Is that a yes?

16 THE WITNESS: Yes.

17 THE COURT: Thank you.

18 BY MR. LANDIS:

19 Q They also asked you if you knew an individual named
20 Wicked or Twisted?

21 A They said Wicked, but it was later found out
22 Twisted.

23 Q And we'll get to that issue, but you clarified that
24 the guy's name was Twisted?

25 A Yes.

1 Q And did you identify Twisted?

2 A I believe, I did, yes.

3 Q And who would you have identified Twisted as to the
4 police?

5 A Somebody my mom knows. Ashley Hall's boyfriend.

6 Q And you don't remember his name?

7 A Are you asking me that or is that --

8 Q Yes.

9 A Yeah, it's Robert Mead.

10 Q And you told them Robert Mead when they asked you;
11 did you not?

12 A I don't know.

13 Q Do you recall if he was in jail at the time that you
14 were talking with them, Robert Mead?

15 A I don't know if he was in jail yet.

16 Q You're familiar with two individuals who use the
17 nickname Snoop?

18 A Yes.

19 Q The police on November 8th, 2014 asked you about a
20 Caucasian or a white Snoop?

21 A I don't remember.

22 MR. LANDIS: May I approach the witness?

23 THE COURT: Yes.

24 MR. LANDIS: It's page 39.

25 BY MR. LANDIS:

1 Q Would looking at a copy of your transcript refresh
2 your memory?

3 A Yes.

4 Q Feel free to look at any part of it.

5 A (Witness reviewing transcript).

6 Q Did looking at that refresh your recollection?

7 A Yeah.

8 Q They brought up the name Clint Rowe (phonetic) to
9 you?

10 A Um-h'm.

11 Q And you told them that his name was Snoop?

12 A Yes.

13 Q They also, do you recall, showed you a couple
14 pictures.

15 A Yes.

16 Q And to the best of your memory, were those two
17 pictures of two individuals had already been arrested?

18 A Yes.

19 Q And you told them one of them looked familiar?

20 A Yes.

21 Q Do you recall which one looked familiar?

22 A Figueroa.

23 Q As we sit here today, was that the truth or a lie on
24 November 18th, 2014?

25 A It's the truth.

1 Q In the nearly two years since then have you been
2 able to figure out where he looks familiar from?

3 A I put two and two together.

4 Q Do you believe that you guys had met before?

5 A No.

6 Q Do you believe you'd seen him firsthand before?

7 A No.

8 Q All of those things, all those individuals you named
9 and identified, as well as identifying that suspect, those
10 were all truths as of November 18th, 2014?

11 A What do you mean?

12 Q Those were the truth that you told the police on
13 November 18th, 2014, as to who Snoop was, as to who Twisted
14 was, as to who Duboy was?

15 A Yes.

16 Q They also asked you how you got shot; do you
17 remember that?

18 A Um-h'm, yes.

19 Q Did you tell them the truth about how you got shot?

20 A Nope.

21 Q What did you tell them?

22 A What I wrote in my police report, that I got robbed
23 at a park.

24 Q That you were robbed by a random individual in the
25 park?

1 A Yes.

2 Q And as part of that robbery he shot you?

3 A Yes.

4 Q They asked you on November 18th why you didn't call
5 the police about that initially, right, or report it?

6 A I don't remember.

7 Q Did you report it?

8 A At the hospital, yes.

9 Q Do you know the date that you would have reported
10 that to the police?

11 A August 31st.

12 Q Of 2014?

13 A Yes.

14 Q Yesterday you testified that that's not how you were
15 shot, correct?

16 A Yes.

17 Q Instead, the reality is you were shot by Isaac
18 Rodriguez?

19 A Yes.

20 Q Who also goes by Snoop, correct?

21 A Yes.

22 Q Hispanic Snoop, just to keep things clear?

23 A Yes.

24 Q Why did you lie to the police about that on November
25 18th of 2014?

1 A I was scared.

2 Q Of what?

3 A I was just shot, I didn't know what else could
4 happen.

5 Q They also asked you to identify Snoop, Hispanic
6 Snoop's real name?

7 A Um-h'm.

8 Q Correct?

9 A Yes.

10 Q Did you?

11 A I don't believe I did then, no.

12 Q You told them that you didn't know his real name,
13 right?

14 A Yes.

15 Q Do you remember that they then questioned you about
16 how you could be in a romantic relationship for an extended
17 amount of time and not even know the person's name?

18 A I believe that, yeah.

19 Q And they also questioned you about how you could be
20 shot by an individual and not somehow determine his name.

21 A I don't remember that.

22 Q Why didn't you tell them Hispanic Snoop's real name?

23 A I didn't know it until I got brought back out of
24 custody. I didn't learn it.

25 Q Prior to that date, prior to November 18th of 2014,

1 when is it that you met Snoop, Hispanic Snoop?

2 A In July of 2014.

3 Q With you guys became romantic?

4 A Yeah.

5 Q You guys spent a fair amount of time together?

6 A Yes.

7 Q When was it that he shot you?

8 A August 31st.

9 Q How many times a week on average would you say that
10 you spent time with Hispanic Snoop during that period of time?

11 A Every day.

12 Q And where would you guys spend time at?

13 A Just running around.

14 Q Would you guys ever sleep in the same residence
15 overnight?

16 A Yes.

17 Q And where would that occur at?

18 A Either at my Budget Suite or at a place if we rented
19 a hotel room.

20 Q And during all those, you never learned his real
21 name?

22 A I knew it was Isaac, but not his last name. Like, I
23 assumed. I didn't know personally like, never asked him. So
24 I never --

25 Q Did he use the name Hispanic Snoop for hotels and

1 things of that nature?

2 A No.

3 Q Why didn't you tell the police the name Isaac even
4 if you weren't a hundred percent sure?

5 A I don't know.

6 Q Is there a reason that you recall as to why you
7 didn't identify him at all despite the fact that you
8 identified every other person they asked you about by
9 nickname?

10 A No.

11 Q Fair to say that at the end of that interview, the
12 police weren't very happy with what you chose to tell them?

13 A I don't remember very much of that interview.

14 Q If looking at the transcript will refresh your
15 memory, feel free to look at the last few pages.

16 A The last what?

17 Q Few pages. You can look at anything you want, but.

18 A Okay. (Witness reviewing transcript).

19 Q Have you identified areas where they voiced
20 displeasure with what you were telling them?

21 A Yes.

22 Q And they thought you were being dishonest with them,
23 right?

24 A Yes.

25 Q And they made that clear to you?

1 A Yes.

2 Q Do you remember close to the end of that interview
3 the detectives telling you that you kind of had an easy
4 choice, to use their words?

5 A No.

6 Q If you'd go to second to last page, I believe.

7 MR. LANDIS: May I approach the witness to identify
8 it?

9 THE COURT: Yes.

10 MR. LANDIS: Page 45, State.

11 THE WITNESS: Okay.

12 BY MR. LANDIS:

13 Q Do you recall them saying that?

14 A I don't.

15 MR. LANDIS: May I approach the witness?

16 THE COURT: Yes.

17 BY MR. LANDIS:

18 Q Did they tell you about -- that you should be
19 concerned other men -- other suspects might beat you to the
20 punch? Do you remember that?

21 A I don't remember any of that.

22 Q You've received a copy of this voluntary statement
23 before action correct?

24 A Yes.

25 Q From who?

1 A My attorney.

2 Q Do you recall how long ago it was that you received
3 a copy of it?

4 A When I first got here.

5 Q And you've read it before, correct?

6 A Yes.

7 Q When was the most recent time you reviewed it?

8 A A few months ago.

9 Q Do you recall the police saying specifically, "This
10 is easy. This is going to go one of two ways?"

11 A I don't remember a lot of that interview.

12 Q Do you dispute the transcript says it?

13 A I -- I seen it.

14 Q Do you dispute the accuracy of the transcript?

15 A I don't remember it.

16 Q Do you dispute the accuracy of the transcript?

17 A No.

18 Q They told you that the choice you had, the
19 straightforward choice you had was to either stay on the books
20 as a suspect or to become a witness?

21 A I don't remember.

22 Q Transcript says that, correct?

23 A Yes, that's what it says.

24 Q And you don't dispute that, correct?

25 A Yes.

1 Q Do you recall them saying in any fashion that you
2 better hurry and talk before others did?

3 A No, I don't.

4 Q Did you remember seeing that in the transcript?

5 A Not just right now, no.

6 MR. LANDIS: May I approach the witness?

7 THE COURT: Yes.

8 THE WITNESS: Okay.

9 MR. LANDIS: 46, 47.

10 BY MR. LANDIS:

11 Q Do you dispute the accuracy of those pages of that
12 transcript?

13 A I don't dispute what it says, but I don't remember
14 it.

15 Q Sure. But they did make it clear that other people
16 were going to get arrested, other people were going to talk
17 and your opportunity to be a witness as opposed to a suspect
18 -- and I'm paraphrasing -- is going to pass if you don't act
19 on it?

20 A That's what it says.

21 Q What happened after that interview ended?

22 A I was arrested.

23 Q By those same detectives?

24 A Yes.

25 Q And you were then transported to where?

1 A Clark County Detention Center.

2 Q When was the next time you directly spoke to police
3 officers? Not corrections officers, but police officers?

4 A I haven't -- when I got rearrested?

5 Q Yes.

6 A December 3rd.

7 Q My question is after that interview on November
8 18th, 2014, the transcript I've been showing you, when do you
9 recall the next time being that you talked to any police
10 officer directly?

11 A As in how? Like --

12 Q About the case.

13 A September 6th.

14 Q September 6th of?

15 A Do you mean when was I interviewed again?

16 Q Correct.

17 A I don't know the date. It was several months ago.

18 Q How many times have you been interviewed by police
19 -- one or more police officers or detectives between November
20 18th, 2014 and today? And we'll count November 18th, 2014 as
21 the first one.

22 A That's --

23 Q How many more?

24 A That's the only time.

25 Q Did there come a time that you and your attorney

1 decided to execute what they call a proffer?

2 A Yes.

3 Q Could you explain what a proffer is?

4 A I was to testify.

5 Q Potentially, right?

6 A Yes.

7 Q But before you get to that point, there's kind of a
8 process?

9 A Yes.

10 Q And the first stage of that process involves you
11 telling the Government what you'll say if you're called to
12 testify?

13 A Yes.

14 Q And that happens privately in some kind of a jail
15 room?

16 A Yes.

17 Q And do you recall, did that happen?

18 A Yes.

19 Q And do you recall when?

20 A I don't know the date.

21 Q Do you recall the year?

22 A This year.

23 Q 2016?

24 A Yes.

25 Q And do you recall who -- was your attorney with you?

1 A Yes.

2 Q Do you recall who else was present?

3 A The DA.

4 Q Any detectives?

5 A Yes.

6 Q Who?

7 A I don't know what their names are.

8 Q Was it one or more of the same individual who had
9 interviewed you on November 18th, 2014?

10 A I don't know.

11 Q And that proffer agreement, what it means is, you're
12 going to tell them, what you'll say, they'll listen to it, and
13 if you guys can't reach an agreement, they can't use that
14 against you; is that a fair way to say it?

15 A Yes.

16 Q So the date that you talked, whenever it was,
17 nothing was finalized in terms of a guilty plea?

18 A Right.

19 Q They listened to what you had to say?

20 A Yes.

21 Q And your hope was at that time that you would be
22 able to reach a Guilty Plea Agreement?

23 A Yes.

24 Q That's why do you that, right?

25 A Yes.

1 Q Eventually, as we heard yesterday, you did
2 eventually enter into a Guilty Plea Agreement based on that
3 proffer?

4 A Yes.

5 Q When did the parties make a Guilty Plea Agreement?

6 A When did I?

7 Q Yes. With the State.

8 A I believe, it was the 6th of September.

9 Q And what happened on that date?

10 A I pled guilty to conspiracy to robbery and attempt
11 robbery.

12 Q Was it that same date that you guys agreed or did it
13 happen sometime before that?

14 A What do you mean?

15 Q Had the State made an offer that you accepted orally
16 through your attorney --

17 A Yes.

18 Q -- prior to September 6th of 2016?

19 A Yes.

20 Q And to the best of your memory, when was that oral
21 offer accepted by you?

22 A A couple months ago.

23 Q Sometime in the summer of 2016? Are you comfortable
24 with that?

25 A Yeah.

1 Q If you know, why did you wait so long to come into
2 court and actually sign and file the Guilty Plea Agreement?

3 A I have a lot of time to sit here and think about
4 what I wanted to do, and I weighed out the better option for
5 myself because I don't belong here.

6 Q That's not my question. I'm sorry if it was
7 unclear. You reached the oral agreement a few months ago in
8 the summer.

9 A Um-h'm.

10 Q But you guys don't come to court to make it official
11 by filing a written Guilty Plea Agreement until September 6th.

12 A Okay.

13 Q If you know, why was there such a delay between the
14 oral agreement and the date you came to court?

15 A I don't know.

16 Q Up until that day that you entered the Guilty Plea
17 Agreement on September 6th, you were set to go to trial?

18 A Yes.

19 Q Same trial that I'm in, you're in right now,
20 correct?

21 A Yes.

22 Q With these three defendants?

23 A Yes.

24 Q And that Guilty Plea Agreement was reached how long
25 before trial started; do you remember?

1 A When did I come and plea to it?

2 Q Yes.

3 A September 6th.

4 Q A week before -- the week before trial was set to
5 again, yes?

6 A Yes.

7 Q Were you preparing for trial at that point in time?

8 A I was hoping to get a deal.

9 Q Were you preparing for trial at that time?

10 A Yeah, the worst -- yeah.

11 Q Had you been in contact with an investigator in
12 preparation of trial?

13 A No.

14 Q Was there any other time besides that proffered
15 meeting that you recall, but you don't remember when, that you
16 talked to the State or police officers -- and by the State, I
17 mean prosecutors -- before yesterday?

18 A What do you mean?

19 Q Was there another meeting after your first proffer
20 that we talked about, and yesterday, that was attended by
21 prosecutors or police officers about this case?

22 A No.

23 Q You met with them, though, yesterday before court?

24 A Yes.

25 Q And who was at that meeting?

1 A My attorney, DiGiacomo, the lady next to him and two
2 detectives.

3 Q Did you recall those detectives being the same from
4 either previous meeting you had with the police?

5 A No.

6 Q There's a term that's used that's called discovery,
7 and you're familiar with it, right?

8 A Yes.

9 Q What's that generally mean?

10 A The evidence in a case.

11 Q And usually the evidence against a defendant that
12 State has?

13 A Yes.

14 Q They don't just give you that to you when you're in
15 the jail when you get arrested, right? The State doesn't give
16 you a copy of all of it, right?

17 A Do they?

18 Q Right.

19 A Yeah.

20 Q The prosecutors do?

21 A No, no, no.

22 Q You get a copy, sure, and we'll get to that, but
23 it's not like the jail gives it to you as part of their
24 booking --

25 A No.

1 Q -- procedure? How do you usually get --

2 A Through my attorney.

3 Q And did there come a point in time in this case that
4 you obtained the discovery from your attorney?

5 A Yes.

6 Q Staying mindful of your arrest date, do you recall
7 how long after you were arrested in December of '14, that you
8 received that discovery?

9 A I've gotten several pieces of paperwork since the
10 whole time I've been here.

11 Q Let's just talk about the initial information or
12 documents given to you by your attorney. Do you recall how
13 long after your December arrest that happened?

14 A I would say the next day.

15 Q And do you recall exactly what was in that first set
16 of discovery documents?

17 A Is it discovery or is it the paper with my charges
18 on it?

19 Q I'm talking about police reports, things to that
20 nature, yes?

21 A That took a couple -- like, I didn't get it for a
22 couple -- like almost a month or two.

23 Q So sometime in early 2015?

24 A Yeah.

25 Q And that included the main arrest report, officer's

1 report, right, that was pretty long; do you recall that?

2 A Yeah.

3 Q About 28 pages; does that sound about right?

4 A What was in it?

5 Q Pictures of a lot of people.

6 A Yes.

7 Q Pictures of Robert Figueroa, for instance, right?

8 A Yes.

9 Q Your picture?

10 A Yes.

11 Q Pictures of George or Jorge Mendoza?

12 A Yes.

13 Q Pictures of Steven Larsen?

14 A Yes.

15 Q And Joey Larsen?

16 A Yes.

17 Q Tracy Rowe?

18 A Yes.

19 Q Who's a on-again-off-again friend of yours?

20 A I'm -- I know her, but not very well.

21 Q Ashley Hall?

22 A Yes.

23 Q Who would also be a on-again-off-again friend?

24 A Yes.

25 Q Was there a picture of David Murphy in there?

1 A No.

2 Q In that police report it contained information that
3 Robert Figueroa had talked to the police?

4 A Yes.

5 Q And in effect, he entered into a cooperation
6 testimony agreement similar to you eventually?

7 A I believe, he did before me, yes.

8 Q And that was reflected in that police report,
9 correct?

10 A Yes.

11 Q If I can kind of go back to when -- the months
12 before you were arrested and ask you a couple questions.

13 A Yeah.

14 Q You talked a little bit yesterday about that
15 conversation or conversations with Ashley in her car about
16 robberies, maybe a miscommunication?

17 A Yes.

18 Q Did you have two conversations with Ashley in her
19 car on the same day that were separated by a few hours?

20 A No.

21 Q Two conversations in her car maybe not with her
22 directly on the same day?

23 A No.

24 Q Yesterday, you testified to the one conversation
25 when you guys pick up Twisted?

1 A Yes.

2 Q And another Caucasian male, right?

3 A Yes.

4 Q And that was a day or two before September 21st --

5 A Yeah.

6 Q -- 2014? And you talked during that phone -- I'm
7 sorry, during that car ride about doing licks, right?

8 A Yes.

9 Q And you were talking, just to be clear, with the
10 individuals in the car?

11 A I was talking to Twisted.

12 Q Who was in the car?

13 A Yes.

14 Q Is it your testimony then that Ashley heard those
15 words you were saying to Twisted and took them to mean you
16 were going to rob Joey's house?

17 A Yes.

18 Q And did she say that in front of those individuals,
19 in front of Twisted and this other individual?

20 A Did she say what?

21 Q You're not going to rob Joey's house or whatever it
22 was she said to that effect.

23 A Yes.

24 Q Do you recall a time after that car ride that you
25 and Ashley were alone in your car and you were calling people

1 and people were calling you because you owed somebody money?

2 A Yes.

3 Q Was that the same day or no?

4 A I believe, I'm not sure.

5 Q But it definitely occurred, you remember it?

6 A Yes.

7 Q And it was close in time to the September 21st
8 murder?

9 A Yes.

10 Q And during that conversation, there's nobody else in
11 the car?

12 A No.

13 Q And did you owe money to somebody at that point in
14 time?

15 A Yes.

16 Q Who?

17 A Clint Rowe.

18 Q What did you -- well, not long before that date, you
19 had just broken into Joey's house, right?

20 A A month-and-a-half, yeah.

21 Q Took a lot of marijuana?

22 A Yes.

23 Q And a lot of money?

24 A Yes.

25 Q Did you say 20 pounds yesterday? And I'm sorry if I

1 didn't hear that correctly.

2 A Twelve.

3 Q Twelve pounds. And how much money?

4 A \$12,000.

5 Q Did you sell that marijuana for more money?

6 A No.

7 Q Why was it that you didn't have any money left
8 between that date of that burglary in late September, mid-
9 September?

10 A Because I blew it.

11 Q You blew it?

12 A Um-h'm.

13 Q Did you keep all of it, all of the money and all of
14 the marijuana?

15 A No.

16 Q Who took some of it?

17 A Snoop.

18 Q Hispanic Snoop?

19 A Yes.

20 Q Isaac Rodriguez?

21 A Yes.

22 Q 50/50?

23 A No.

24 Q Do you believe the split was fair?

25 A No.

1 Q You thought he took too much?

2 A I didn't think anything. I gave him whatever he
3 wanted.

4 Q You believe he asked for too much?

5 A No, he didn't ask.

6 Q So you believe the split was fair?

7 A Yeah.

8 Q And he in no way took any money or any marijuana
9 that you didn't want him to take out of that?

10 A Yeah.

11 Q What did you blow that one on, then, between the
12 burglary of Joey's house in mid-September?

13 A Drugs.

14 Q Specifically?

15 A Methamphetamine.

16 Q And you were buying that to ingest yourself,
17 correct?

18 A Yes.

19 Q And during that period of time, I'll just call it
20 August/September, 2014, how often were you using meth?

21 A Every day.

22 Q And when did that start, if I can ask?

23 A I've had a on-and-off problem since I was 16.

24 Q Back then to that conversation in Ashley's car, she
25 overhears you say something to Clint about, don't worry I'll

1 have your money?

2 A Yes.

3 Q Tomorrow?

4 A Yes.

5 Q Because I'm going to rob Joey?

6 A I didn't say I was going to rob Joey.

7 Q That's what Ashley thought --

8 A Yes.

9 Q -- and she expressed that to you, right?

10 A That's what Ashley thought.

11 Q So you get off the phone with Clint, right?

12 A Yes.

13 Q After making a statement that she misinterprets?

14 A Yes.

15 Q And she confronts you about it, right, right then?

16 A Yes.

17 Q She says, you're not going to rob Joey's house?

18 A She didn't confront me then. She confronted me when
19 we were in the call with Twisted.

20 Q So we can say that the -- you and Ashley alone
21 predated the you, Twisted and other guy, car ride with Ashley?
22 Which one happened first, then?

23 A I believe, the Twisted conversation happened first.

24 Q So she brings it up when Twisted and this other
25 Caucasian or in the car?

1 A Yes.

2 Q But she's referring to the call you had previously
3 with Clint?

4 A No.

5 Q So she never says anything after that call with
6 Clint?

7 A No.

8 Q What happens after she brings it up and alleges that
9 you're going to rob Joey again when Twisted's in the car?

10 A I told her that I wasn't.

11 Q Clarified that she misheard what you were saying?

12 A Yes.

13 Q You now know, though, that she left that car ride
14 and told people you were about to rob Joey, right?

15 MR. DiGIACOMO Objection. Assumes a fact not in
16 evidence.

17 THE COURT: Sustained.

18 BY MR. LANDIS:

19 Q Are you aware if Joey eventually learned that
20 potential burglars were coming?

21 MR. DiGIACOMO Objection. Assumes a fact not in
22 evidence.

23 THE COURT: Sustained.

24 BY MR. LANDIS:

25 Q You've reviewed the discovery in this case, correct?

1 A Yes.

2 Q Are you aware if Joey knew prior to those burglars
3 entering his house that they were going to come?

4 MR. DiGIACOMO Objection. Speculation and assuming
5 a fact not in evidence.

6 THE COURT: Sustained.

7 BY MR. LANDIS:

8 Q Did anyone talk to you besides Ashley about what
9 Ashley thought you were going to do?

10 A No.

11 Q Did -- were you aware that Ashley was friends with
12 Steve Larsen?

13 A No.

14 Q You had no idea that they were in contact?

15 A No.

16 Q Can did you know that Ashley would be able to
17 potential get ahold of him if she needed to?

18 A Yeah.

19 Q Did Ashley have a relationship with Joey?

20 A Yes.

21 Q They were friends?

22 A Yeah.

23 Q And after that car ride, where you guys had that
24 miscommunication and then clarified it, you received no calls
25 from Joey about what was talked about in the car?

1 A No.

2 Q You received no calls from Steven Larsen?

3 A No.

4 Q No calls from your family?

5 A Not that I know of, no.

6 Q No calls from anybody?

7 A No.

8 Q You testified yesterday about this kind of Pinger
9 phone account, yes?

10 A Yes.

11 Q And if this is fair, if you're hard on times, it's a
12 free phone, but it's limiting, right?

13 A Yes.

14 Q Because you have to have WIFI connection?

15 A Yes.

16 Q Do you recall when it was you started using Pinger?

17 A I don't.

18 Q Was it months before September 21st? Days before?
19 Years before?

20 A Probably a couple weeks.

21 Q And when you started using Pinger, was that your
22 exclusive personal phone service? You didn't also have others
23 no?

24 A I had a Cricket phone that I used, but I don't
25 remember if was active at the time.

1 Q Did there at least come a period of time where the
2 only thing you had before September 21st was that Pinger
3 phone?

4 A Yes.

5 Q Can you give me an idea of how many days that was
6 the reality?

7 A I don't know.

8 Q But you'd still make phone calls when you could,
9 correct?

10 A I don't think I could call on that phone.

11 Q You could just text?

12 A I think so.

13 Q And what WIFI were you using to the best of your
14 memory during those days?

15 A Whatever I can ping off of.

16 Q Random people's WIFI?

17 A Um-h'm.

18 Q Were you scared of Clint --

19 A Yes.

20 Q -- when you owed him money?

21 A Yes.

22 Q Why was it that you owed Clint money?

23 A For drugs.

24 Q In other words, he gave you drugs and you failed to
25 pay for them?

1 A Yes.

2 Q How much money was it that you owed him?

3 A \$140.

4 Q And how long had you owed Clint that money?

5 A A couple days.

6 Q Was Clint a methamphetamine dealer?

7 A Yes.

8 Q Were you intimate with Clint at that period of time?

9 A No.

10 Q Yesterday, and please clarify me if I don't
11 remember, you said you and Joey moved into that Broadmere
12 address together a half year before you moved out, some months
13 before you moved out?

14 A I believe so.

15 Q You guys had never lived together or had you before
16 that?

17 A Oh, we have.

18 Q Where did you live before that?

19 A I lived at his parent's house, and we've had several
20 apartments together.

21 Q Let me just start with this, when was it that you
22 guys were married?

23 A I believe, it was 2012.

24 Q And you were living together immediately after?

25 A We were living together before then.

1 Q And after?

2 A Yes.

3 Q And when did Joey become a marijuana dealer?

4 A Before we got together.

5 Q So throughout the time that you were together?

6 A Yes.

7 Q Was that his exclusive employment, to the best of
8 your knowledge?

9 A Yes.

10 Q When was it that you first went to Joey's drug
11 supplier's house?

12 A Probably late 2012.

13 Q And did you go with Joey?

14 A Yes.

15 Q And what was the purpose of you going?

16 A To be in the car with him or to drive.

17 Q And you testified yesterday that Joey would go there
18 weekly?

19 A Yes.

20 Q Would you go every week?

21 A Not all the time.

22 Q When would you go? What would cause you to go?

23 A Joey would just ask me if I would go with him
24 because he didn't want to go by himself.

25 Q Your best estimate as to number of times you went?

1 A More than 20.

2 Q Did this drug supplier have a name that you were
3 aware of?

4 A Yes.

5 Q What was it?

6 A L.

7 Q L. And had you ever met L?

8 A Yes.

9 Q More than once?

10 A Yes.

11 Q Did L know you by name?

12 A Yes.

13 Q Are you aware if L ever went by LG?

14 A No.

15 Q Did you ever go to L's house without Joey and talk
16 to L or see L?

17 A Once.

18 Q And when was that?

19 A I don't know around the time.

20 Q Why was that?

21 A I went and picked up weed for myself.

22 Q The amounts that Joey usually picked up?

23 A No.

24 Q You testified that that house was somewhere off of
25 215 and Jones?

1 A Yes.

2 Q I don't want you to identify the exact house, but
3 can you be more specific?

4 A It's off a side street off of 215 and Jones.

5 Q If it's easier for you, could you tell me how to get
6 there if I was driving?

7 A Yes.

8 Q Please do.

9 A You get off the 215 and you make a right on Jones
10 and you make your first automatic right and take that street
11 to the first cul-de-sac on your right.

12 Q It's in that cul-de-sac?

13 A Yes.

14 Q When you would go to L's house with Joey, would you
15 go in every time?

16 A Yes.

17 Q And would there be other people there typically,
18 besides L, you and Joey?

19 A Sometimes.

20 Q Did you know who these people were?

21 A Sometimes.

22 Q Did you know what their purposes were there?

23 A Yes.

24 Q What?

25 A To buy weed.

1 Q And was L the exclusive individual who sold
2 marijuana out of that house, to the best of your knowledge?

3 A Yes.

4 Q When you stole those 12 pounds of marijuana from
5 Joey with Isaac, how big is that?

6 A What do you mean?

7 Q How big is 12 pounds of marijuana?

8 A A pound's about this big so I mean, 12 of them.

9 THE COURT: You need to describe it for the record.
10 And I can't see what she just did.

11 MR. LANDIS: And I can't describe it very well.

12 BY MR. LANDIS:

13 Q Could --

14 A About a bag about that big. About that big
15 compressed.

16 THE COURT: So she's -- maybe a foot, 12 inches.

17 BY MR. LANDIS:

18 Q When you say a bag, you're talking about something
19 that's more circular than a perfect square somewhat?

20 A Yeah, it's --

21 Q Let's just do it this way, bigger or smaller than a
22 baseball?

23 A Bigger.

24 Q Bigger or smaller than a basketball?

25 A A little bit smaller.

1 Q So you had a little bit smaller than 12 basketballs
2 when you left Joe's house?

3 A Yes.

4 Q And how did you guys get those out of the house?

5 A I carried the duffel bag out.

6 Q Heavy?

7 A No.

8 Q Going back now to L's house, your testimony
9 yesterday was that you pay Thursday for weed on Sunday, right?

10 A Yes.

11 Q Or Joey would at least, right?

12 A Yes.

13 Q And you were familiar with that, right?

14 A Yes.

15 Q Based on your life experiences with Joey, is that
16 how drug dealing usually works, that you deposit money with
17 the drug dealer?

18 A That's really the only one I've ever been around.

19 Q Right. Usually, it works a different way. In other
20 words, you give them money and they give you drugs right then?

21 A Right.

22 Q You'd agree it's more dangerous to deposit money
23 with a drug dealer and hope to get your product days later,
24 right?

25 A Yes.

1 Q And that's because things happen in life, right?

2 A Yes.

3 Q That money might disappear?

4 A Yes.

5 Q The drug dealer might get robbed?

6 A Yes.

7 Q The drug dealer might get arrested?

8 A Right.

9 Q If you know, why was it that Joey agreed to that
10 kind of arrangement with L?

11 MR. DiGIACOMO Objection. Speculation.

12 MR. LANDIS: I asked her not to speculate. I said
13 if you know.

14 THE COURT: Well, do you know?

15 THE WITNESS: No.

16 THE COURT: Okay.

17 BY MR. LANDIS:

18 Q Is L the exclusive drug dealer that you've known
19 Joey to use throughout your time with him?

20 A No.

21 Q Did he use L consistently, though, throughout?

22 A Yes.

23 Q Going back to your testimony yesterday, the money's
24 deposited Thursday and everybody knows Sunday is when the
25 marijuana is going to be there?

1 A Yes.

2 Q Was there always a set time?

3 A No.

4 Q Was there a rough time?

5 A No.

6 Q Joey would find out by a phone call?

7 A Or text, yes.

8 Q From L?

9 A Yes.

10 Q And was your testimony yesterday that you guys would
11 arrive and you'd actually see these white vans, these white
12 cargo vans?

13 A Yes.

14 Q So L would call when the cargo vans were there?

15 A Sometimes they would be there, and sometimes they
16 wouldn't.

17 Q Let's talk about just the days when the cargo vans
18 were still there when you guys arrive. Who was driving these
19 cargo vans? Did you see these people?

20 A No.

21 Q Do you know how they were associated with L?

22 A No.

23 Q When you guys would arrive and those cargo vans were
24 there, would you guys go directly and just pick up the
25 marijuana from the van and take it to whatever vehicle you

1 had?

2 A No.

3 Q You would instead go inside?

4 A Yes.

5 Q Did you ever see marijuana being removed from the
6 cargo vans and taken inside of L's house?

7 A Yes.

8 Q How many occasions?

9 A How many what?

10 Q Occasions.

11 A Just once.

12 Q And who was doing that? Did you recognize the
13 person who was carrying the marijuana from out --

14 A No.

15 Q Would there be other people there at the house
16 sometimes when you guys would go there that would be buying
17 marijuana from L?

18 A Yes.

19 Q Because that's when he did his sales is that Sunday,
20 right?

21 A Yes.

22 Q And according to your testimony yesterday, that was
23 the point in time that you decided it would be a good time for
24 a robbery?

25 A Yes.

1 Q Multiple drug dealers could be there, correct?

2 A Yes.

3 Q People in the van, we don't know who they are,
4 correct?

5 A Right.

6 Q Are you aware of how much Joe would pay for -- I
7 think you said he would buy 50 or a hundred pounds at a time;
8 is that correct? Or 50 pounds?

9 A Twenty pounds a week.

10 Q I apologize. How much would he pay for that?

11 A I don't know the total.

12 Q You don't know the total? Do you have an idea?

13 A No. Probably about \$1,200 a pound.

14 Q The negotiation that you reached with the State, the
15 one that you guys talked about a little bit yesterday, right?

16 A Um-h'm, yes.

17 Q The one you entered on September 6th, I think you
18 said, right?

19 A Yes.

20 Q You pled to two felonies, correct?

21 A Yes.

22 Q How many were you charged with before that?

23 A Seven.

24 Q Including murder?

25 A Yes.

1 Q You were charged with those seven felonies,
2 including murder, since late 2014?

3 A Since December 4th of 2014.

4 Q Almost two years now?

5 A Yes.

6 Q And for those two years, those seven charges, did
7 you believe them to be directly related and involving the
8 Broadmere robbery?

9 A Yes.

10 Q In other words, you don't believe you were charged
11 in any way with a conspiracy or attempt robbery or any illegal
12 conduct with L?

13 A Right.

14 Q So for two years you're wrongfully charged,
15 according to your testimony?

16 A Yes.

17 Q Something you had nothing to do with?

18 A Yes.

19 Q How long would you say it was between when you gave
20 that proffer to the district attorneys and when they accepted
21 it and you guys reached a Guilty Plea Agreement? Do you
22 remember how long that period of time between the two was? I
23 know you don't remember the exact date, but.

24 A I don't.

25 Q Was it over a year?

1 A No.

2 Q Was it over six months?

3 A I don't know.

4 Q But they did not reach an agreement with you in the
5 days or weeks after you gave them that proffer, correct?

6 A Right.

7 Q Some time passed, correct?

8 A Yes.

9 Q And until you guys signed something in court, no
10 deal was reached officially, correct?

11 A Right.

12 Q And your proffer would be thrown out if you didn't
13 reach an agreement?

14 A Right.

15 Q Do you have any idea why there was such a wait?

16 A No.

17 Q Is that something that you had any responsibility
18 for? Do you think you caused a delay in any way?

19 A I don't -- I don't know.

20 Q Did you guys after you gave your proffer, was there
21 negotiations between you and the district attorneys about what
22 you would actually plead to?

23 A I don't understand the question.

24 Q Did they make you an offer or you made a
25 counteroffer and said no, I'll agree to this, but not that in

1 terms of what you were going to plead to, what the sentence
2 was going to be?

3 A No.

4 Q They made one offer, correct?

5 A Yes.

6 Q And you accepted that one offer?

7 A Yes.

8 Q And that's the offer that you eventually pled guilty
9 to?

10 A Yes.

11 Q Which was the two felonies. I think yesterday you
12 said they carry a one to ten?

13 A A one to six and a one to ten.

14 Q And as you said yesterday, they could be ran
15 consecutively, right?

16 A Yes.

17 Q The biggest sentence you can get on that one to ten
18 is a four to ten; does that sound true?

19 A I don't know.

20 Q You could be looking, would you agree with me, well
21 over five, six, seven, eight years in prison?

22 A Yes.

23 Q But as the State asked you yesterday, they have the
24 right to argue?

25 A Yes.

1 Q And that means when sentencing comes around, they're
2 going to stand up and they can argue for any legal sentence
3 pursuant to what you pled to, right?

4 A I don't know.

5 Q You don't know?

6 A I mean, I don't understand -- I mean, I know they
7 can argue.

8 Q Let me back up. You've talked to your attorney
9 about this throughout the process, correct?

10 A Yes.

11 Q And if you had questions, you'd ask them and he'd
12 answer them?

13 A Yes.

14 Q And has he been unable to answer any questions about
15 the contents of the Guilty Plea Agreement?

16 A No.

17 Q And even when you pled guilty, you told the Court
18 that you understood it, right?

19 A Yes.

20 Q And that you didn't have any questions about it?

21 A I didn't understand the way you phrased it just now.

22 Q Fair. My question is this; that right to argue
23 clause, does that mean the State can come to your sentencing
24 and argue for any sentence that's legal, in other words, that
25 applies to the crimes you pled guilty to?

1 A Yes.

2 Q They could argue for a maximum sentence on those
3 numbers we threw out, right?

4 A Yes.

5 Q What's the best result you could hope for at your
6 sentencing?

7 A Probation.

8 Q And they could argue for that?

9 A Yes.

10 Q And it was your testimony yesterday that you had no
11 idea what they intend to do?

12 A Right.

13 Q You're hopeful, right?

14 A Very hopeful.

15 Q What are you hopeful that the State's going to argue
16 for?

17 A I go home on probation.

18 Q Did you have conversations with this plea decision,
19 likely outcomes, things like that over the phone over the past
20 months?

21 A Yes.

22 Q With family members?

23 A Yeah.

24 Q Do you recall who it was in your family you talked
25 to about this negotiation?

1 A My mother and my grandmother.

2 Q How about your sister?

3 A Probably, yes.

4 MR. LANDIS: Court's indulgence.

5 BY MR. LANDIS:

6 Q Have you told anybody that you were going to get a
7 probation?

8 A I may have said it that way in hoping, but I don't
9 know what I'm going to get.

10 Q Why would you say that to a family member if it
11 wasn't true?

12 A I don't know.

13 Q They're obviously, concerned about what happens to
14 you, right?

15 A Yeah.

16 Q And they've feared the worst, as you have, for two
17 years?

18 A Yes.

19 Q Have you told your family the truth, which is
20 according to you, sentencing is up to the judge?

21 A I don't know.

22 Q Do you believe that your family believes you're
23 going to get probation at sentencing as of today?

24 A I think they hope I am.

25 Q That's not my question. Do they believe you will,

1 not hope? I understand hope, but do they believe that that's
2 what your agreement provides for?

3 A I don't know.

4 Q Do you recall the conversation you had with your
5 grandma in July of this year where you were talking about
6 missing food, things you might eat when you got out, and one
7 of the things you volunteered to her was a burnt steak with
8 fat on it?

9 A I don't know.

10 Q Does that sound like something you talked to your
11 grandma about?

12 A Yeah.

13 Q Do you recall talking to your grandma about you were
14 going to start smoking tobacco when you had the chance?

15 A Cigarettes, yes.

16 Q She kind of told you it was a bad idea, right?

17 A Yeah.

18 Q Do you recall in that same phone conversation
19 telling your grandma that you were going to smoke weed once
20 you were off of probation?

21 A Yes.

22 Q Did I fairly characterize what you said?

23 A Yes.

24 Q Why would you say that to your grandma if you don't
25 even know if you're going to get probation in the first place?

1 A Just giving her a wishful keeping the hopes high. I
2 don't want to talk negative to them. They've been through
3 enough negative.

4 Q Do you have any beliefs -- I know the guilty plea
5 like me talked about says the State has the right to argue,
6 right?

7 A Right.

8 Q Do you have any reason to believe they're going to
9 argue for probation?

10 A No.

11 Q No one's ever told you that?

12 A No.

13 Q Has your attorney ever told you specifically that
14 the State wasn't going to go hard on you at sentencing and
15 would ask for probation?

16 A No.

17 Q Is that something that you're confident you would
18 remember?

19 A Yes.

20 Q No one, your attorney, the prosecutors, has
21 specifically promised you anything regarding your sentence?

22 A Right.

23 Q Let me go back to that initial time that you're in
24 jail and you eventually get bailed out. You convinced Joey to
25 bail you out over the jail phones, right?

1 A Yes.

2 Q And he was hesitant to do it at first?

3 A Yes.

4 Q And that was because you guys had been having
5 problems previously, correct?

6 A Yes.

7 Q You guys talked about maybe how you could change?

8 A Yes.

9 Q Your relationship for the better, if you got out?

10 A Yes.

11 Q And that was something he was very focused on if he
12 was going to bail you out, fair?

13 A Yeah.

14 Q What did you promise him you were going to do if he
15 paid \$3,000 to bail you out?

16 A I don't remember.

17 Q Counseling, maybe?

18 A We've -- yeah.

19 Q Staying sober, perhaps?

20 A Yeah.

21 Q Not being with other men, perhaps?

22 A Yeah.

23 Q Joey, to the best of your knowledge at least, knew
24 of some of your other relationships, not all of them?

25 A Right.

1 Q Beyond the 3,000 he paid to a bail bondsman, he also
2 paid roughly, a thousand dollars for that Emerald Suites?

3 A Yes.

4 Q Did you guys keep your promises to each other?

5 A No.

6 Q No counseling?

7 A Nope.

8 Q No sobriety?

9 A Nope.

10 Q Not exclusive to Joey during that time?

11 A What do you mean?

12 Q Did you spend time with other men between that time
13 that he bailed you out and when you went back to jail?

14 A From when I bailed out those two days, yes.

15 Q And did you spend time with men at that Emerald
16 Suites that he was paying for?

17 A In those two days? No.

18 Q Was any -- did anybody leave property there besides
19 yourself and Joey?

20 A Yes.

21 Q Who?

22 A Twisted.

23 Q And how did Twisted leave property there?

24 A He was coming over.

25 Q Why was he coming over?

1 A He was just hanging out.

2 Q Did anybody else come to that place besides you,
3 Joey, Twisted?

4 A Snoop.

5 Q Which one?

6 A Isaac Rodriguez.

7 Q Why was he coming over?

8 A He came over, I had sex with him.

9 Q At the Emerald Suites that Joey paid for?

10 A Yes.

11 Q Are you still in contact with Isaac Rodriguez?

12 A No.

13 Q Do you recall when was the most recent time that you
14 spoke with him?

15 A Christmas day of 2014, I believe. Or -- no. I
16 think so. I think it was Christmas. I'm not sure.

17 Q Couple months after --

18 A Yeah.

19 Q -- the event, the murder?

20 A Yes.

21 Q Have you tried to get a hold of him since then?

22 A I had my mom Facebook him, but.

23 Q It didn't work?

24 A Right.

25 Q How recent was that, that you were trying to get a

1 hold of Isaac?

2 A A couple months ago.

3 Q For what purpose?

4 A I heard somebody shot and killed him so I wanted to
5 see if it was true.

6 Q And to have your mom Facebook friend request him or
7 message him, that's something that she did when up on the
8 phone with her, right?

9 A I didn't -- I don't know if she did, but I asked her
10 to.

11 Q And it sounded like she was doing it?

12 A Yeah.

13 Q And as far as you could tell from that conversation,
14 he still had a Facebook profile?

15 A Yes.

16 Q Why was it that you started talking to Bald Dave or
17 David Rodriguez?

18 A I just wanted to see how he was doing. His
19 girlfriend had died.

20 Q His girlfriend had recently died, and you learned
21 that, correct?

22 A Yeah.

23 Q Fair for me to say you were also hoping that you
24 could at least lay the groundwork to a future relationship
25 with him?

1 A We've had an on-and-off type of thing. I was just
2 -- yeah.

3 Q And you knew that the opportunity was there because
4 he was recently single?

5 A Yes.

6 Q You've talked to him a fair amount over the past
7 couple months, right?

8 A Twice.

9 Q Do you recall telling him that you would be out
10 soon?

11 A Yeah.

12 Q Do you recall telling him in July that you'd be out
13 in a couple months?

14 A Yeah.

15 Q Your testimony today then is those are lies?

16 A No. I don't know if I'll be out in months. It's,
17 once again, wishful thinking.

18 Q Do you recall speaking to Dave on July 27th of 2016
19 and specifically saying my attorney said the DA isn't shooting
20 for prison for me?

21 A I think I said that.

22 Q Was that a truth or a lie?

23 A My attorney never said that to me. It's, once
24 again, wishful thinking.

25 Q So it was both a lie that your attorney said that to