

1 (Discussion at the bench.)

2 THE COURT: All right. Ladies and gentlemen, before
3 we begin the cross-examination, I'm going to give you your
4 afternoon break. It's 2:20 now. Let's come back at about
5 2:35. I want to read you the admonishment. We are going to
6 take the afternoon recess.

7 During this recess, it is your duty not to converse
8 amongst yourselves or with anyone else on any subject
9 connected with the trial, or to read, watch, or listen to any
10 report of or commentary on the trial by any person connected
11 with the trial, or by any medium of information, including,
12 without limitation, newspaper, television, Internet, smart
13 phones, radio, and you are not to form or express an opinion
14 on any subject connected with this case until it is finally
15 submitted to you.

16 We'll see you at about 25 of. Thank you.

17 All stand for the jury.

18 (The jury left the courtroom.)

19 THE COURT: Thank you. We are outside the presence;
20 the jury has been excused for the afternoon recess.

21 At one point during the State's presentation with
22 Sergeant Rowe, counsel for the defense asked to approach and
23 had indicated to the Court the defense interest in a Tavares
24 instruction.

1 Tavares indicates -- and the question is whether,
2 number one, I would give a Tavares instruction and when I
3 would give it. Tavares seems to indicate that the instruction
4 should be given prior to the admission of the evidence;
5 however, I made a decision based on the cumulative nature and
6 the different subject matters related to the videos and the
7 testimony of the officer that I wanted the evidence to come in
8 first to glean its probative value versus the utilization of a
9 Tavares limiting instruction.

10 The instruction was requested by the defense;
11 although, Tavares indicates that the Court may do so sua
12 sponte or at the request of the prosecutor.

13 That being said for the background of the record,
14 Ms. Hickman.

15 MS. HICKMAN: Thank you, Judge.

16 I would ask the Court to give the Tavares
17 instruction not only to the suspected narcotics that were
18 used, but also as to the proceedings in the Sixth Judicial
19 District Court.

20 Although the crime that he was charged with that he
21 pled guilty to was not included in that, it's obvious that
22 he's in court at one point. There was testimony that he was
23 in custody. He appeared in jail clothes. He was given an OR
24 release. They go over his guilty plea. He pleads guilty to a

1 crime, whatever that is. While that is not on the record, it
2 is a prior bad act. It indicates to the jury that he has been
3 in trouble before, that he has appeared in front of a court
4 before.

5 I think it would be appropriate to give the Tavares
6 instruction to the jury indicating they cannot consider the
7 fact that he was in court for a criminal charge.

8 THE COURT: Well, the criminal charge, not that he's
9 in court for a criminal charge.

10 MS. HICKMAN: As evidence of his guilt in this
11 crime. They can only use it for what it was presented for,
12 which is there was a request for Mental Health Court and so on
13 and so forth.

14 THE COURT: Any objection, Mr. Prengaman?

15 MR. PRENGAMAN: I don't, Your Honor. I'm not going
16 to object to that. In fact, I just was checking. I thought I
17 included -- I might have included a proposed instruction.

18 THE COURT: Tavares says I need to give it, I'm
19 going to say, contemporaneously for the record, at the time
20 the evidence is admitted and then at the conclusion -- when we
21 do formal jury instructions at the end of the case.

22 So if you have one, that's fine. Do you have one?

23 MR. PRENGAMAN: I do. I think I included one in my
24 packet that was intended to be read or contemporaneous with

1 the evidence.

2 MS. HICKMAN: Judge, I also included one in my
3 packet. It's a little bit different than the State's.

4 MR. PRENGAMAN: The only difference is I haven't
5 seen hers yet.

6 THE COURT: The State's is very close to what I was
7 going to give.

8 I would give the defense's.

9 Take a look at it, Mr. Prengaman.

10 It is a correct statement of the law?

11 Do you waive any defect, Ms. Hickman, on giving it
12 after the evidence is given -- introduced?

13 MS. HICKMAN: Yes, that's fine. I'll waive.

14 THE COURT: For the reason that I stated?

15 MS. HICKMAN: I just wanted to think about it for a
16 minute.

17 MR. PRENGAMAN: That's fine.

18 THE COURT: That's the one I'll give. I'll give
19 what the defense proposed.

20 MS. HICKMAN: Thank you.

21 THE COURT: And I'll also give an instruction
22 similar, if not identical, at the conclusion, as the Defense
23 requests.

24 MS. HICKMAN: Thank you.

1 THE COURT: Anything else?
2 MS. HICKMAN: No. Thank you.
3 THE COURT: I'll see you back here in ten minutes.
4 (A recess was taken.)
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1 RENO, NEVADA, TUESDAY, DECEMBER 13, 2016, 2:42 P.M.

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4 THE COURT: We are back on the record in CR16-1457,
5 State versus Ian Andre Hager.

6 All right. Ladies and gentlemen, during the State's
7 presentation of evidence, you heard a lot of different things
8 and you saw a lot of different things. Some are related to
9 your weighing the evidence of the case and some are not. I'm
10 going to read you the following instruction:

11 "You heard evidence regarding prior court
12 proceedings involving the Defendant before the Sixth Judicial
13 District Court and in the Second Judicial District Court's
14 Mental Health Court.

15 "Evidence of other crimes, wrongs, or acts is not
16 admissible to prove the character of a person in order to show
17 that he acted in conformity therewith.

18 "It may, however, be admissible for other purposes
19 such as proof of motive, opportunity, intent, preparation,
20 plan, knowledge, identity, or absence of mistake or accident.

21 "In this case you should consider the evidence for
22 the limited purpose of deciding whether the Defendant was
23 adjudicated mentally ill by a court of this state and any
24 other state or the United States as alleged in Counts I to

III, whether the Defendant was an unlawful user of any controlled substance as alleged in Count IV to VI, and whether the Defendant was addicted to any controlled substance as alleged in Counts IV to VI.

"For the limited purpose for which you may consider such evidence, you must weigh it in the same manner as you do all other evidence in the case. You're not permitted to consider such evidence for any other purpose; specifically, you're not to use this evidence to conclude that because the Defendant may have committed the act alleged in his prior case, he must also have committed the acts charged in the Information."

Did I read that instruction correctly for the
Defense?

MS. HICKMAN: Yes. Thank you.

THE COURT: Did I read that instruction correctly
for the State?

MR. PRENGAMAN: Yes, Your Honor.

THE COURT: Thank you very much.

Please proceed with your cross-examination.

MS. HICKMAN: Thank you.

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1 CROSS-EXAMINATION

2 BY MS. HICKMAN:

3 Q Detective Rowe, you have been employed with the
4 Sparks Police Department for -- I'm sorry. Did you say
5 11 years?

6 A Yes, ma'am.

7 Q And when you started with the Sparks Police
8 Department, you started on patrol?

9 A Yes.

10 Q And that was after you had gone through the POST
11 Academy; is that correct?

12 A Yes.

13 Q And when you testified on direct, you talked a
14 little bit about your training and experience, mostly, I
15 guess, about your training to become a police officer, right?

16 A Uh-huh.

17 Q Was that a "yes"?

18 A Yes. Excuse me.

19 Q And that training as you testified was how to
20 recognize certain controlled substances, correct?

21 A Yes.

22 Q And how were you trained to recognize a controlled
23 substance?

24 A There was multiple levels of training. They talked

1 about controlled substances in the police academy, and then
2 when you go into the field training/officer training program
3 or when I was in it was called The Police Officer Training
4 Program, that's where you have a senior officer with you that
5 kind of shows you not only just policy and procedures of the
6 department, but also shows you things that a police officer
7 needs to know. During that time, narcotics was brought up.

8 Q Okay. And so if you were to see a substance and you
9 were going to attempt to recognize that as a controlled
10 substance, how would you do that? What would you look for?
11 You would look at how it was packaged?

12 A Yes.

13 Q You would look at visually what it looks like?

14 A That's correct.

15 Q You would look at the weight?

16 A Yes.

17 Q Or what it appears to be, correct?

18 A Uh-huh.

19 Q The amount, like you would look to see how much of
20 it there is?

21 A Okay, yes.

22 Q Some of it has a certain smell, correct?

23 A Yes.

24 Q What else?

1 A The consistency, the way it looks, you know,
2 compared to other narcotics, or if it's even narcotics.

3 You would look -- anything else that would be around
4 it we would consider drug paraphernalia.

5 You would look for items that people would use to
6 ingest the narcotic, that kind of thing.

7 Q Okay. And then you were also trained on how to
8 recognize somebody who's under the influence of a controlled
9 substance, correct?

10 A Yes.

11 Q As part of your duties in patrol, did you ever do
12 DUI cases --

13 A Yes.

14 Q -- driving under the influence?

15 A Yes.

16 Q And one of the -- or I guess multiple ways a person
17 could be under the influence for those kinds of cases are
18 under the influence of a controlled substance, correct?

19 A Yes.

20 Q And were you ever a drug recognition expert?

21 A I was not.

22 Q And a drug recognition expert is somebody who has
23 extra training in order to recognize the effects that certain
24 controlled substances would have on people, correct?

1 A Yes.

2 Q But you were trained to recognize somebody who is
3 potentially under the influence of a controlled substance,
4 correct?

5 A Yes.

6 Q You would look to see if they were sweaty, correct?

7 A Well, there's a lot of different things depending on
8 what narcotic they are using.

9 Q Okay. So let's talk about overall. Okay?

10 A Okay.

11 Q So if they are sweating, correct?

12 A If you're talking like overall narcotics, the reason
13 I'm kind of stopping on that is say if they are using
14 marijuana, sweat necessarily wouldn't be an issue there.

15 Q Okay. Would it be an issue for any other controlled
16 substances, like methamphetamine, heroin, cocaine, OxyContin?

17 A It's an issue in some of those, but it's important
18 to know that doesn't happen every time someone uses that
19 narcotic.

20 Q Okay. You would be able to observe their eyes; is
21 that correct? They have dilated pupils?

22 A Yes.

23 Q Their speech may be elevated?

24 A That's not every time.

1 Q But is it something you would look for?

2 A It's a clue, yes.

3 Q Why don't I do this? Why don't you tell me the
4 things you would look for to determine whether or not you
5 think they had been using a controlled substance?

6 A I would look for, beginning with, the paraphernalia
7 to see if there's any other paraphernalia around, specifically
8 needles, straws, pipes.

9 I would look for the packaging, what kind of
10 packaging it was in, you know, whether it was in a baggy or in
11 a balloon.

12 I would look for -- after I got and I looked at the
13 packaging and any other paraphernalia that was around, then I
14 would look for how the person was able to communicate and how
15 they were conducting themselves, would be a good way to
16 describe it.

17 Q Would you look at their pupils?

18 A If I had the opportunity, potentially. But
19 depending on lighting conditions, whether it's dark outside or
20 bright inside, pupils haven't always been able to say
21 affirmatively, at least for me, that this person is under the
22 influence of drugs.

23 Q Okay. Would you look at how they were walking, if
24 they were steady on their feet or not?

1 A I guess that could be something that I would
2 consider, but again, that's not something that I would say was
3 a definite, because if you deal with people that have used
4 drugs over a long period of time, they will be able to ingest
5 the narcotics differently and handle themselves differently.
6 Similar to someone who was used to using alcohol, they have a
7 different tolerance level, so they may be able to better
8 control themselves than other people.

9 Q So, Detective Rowe, if you were to approach somebody
10 and you were trying to determine whether they were under the
11 influence of, let's say, methamphetamine and there wasn't a
12 balloon. And there wasn't packaging, there wasn't a pipe,
13 there wasn't some way that they ingested it, the only thing
14 you would look at would be their ability to communicate?

15 A No.

16 Q Okay. What would you look at?

17 A To determine if they were under the influence or if
18 they had it in their possession?

19 Q Under the influence.

20 A Under the influence. I would also look at -- well,
21 you could -- like you said, you could look to see if they are
22 perspiring. If they are not perspiring, you can look for --
23 their perception of time would be different. That's one of
24 the things you can look for is if someone is on a drug that's

1 a stimulant, 30 seconds, for example, will go by a lot quicker
2 in their mind than for someone who's sober. That's another
3 thing you can look for.

4 Q Okay. Anything else?

5 A Not off the top of my head.

6 Q Have you heard of the term "tweaking" in reference
7 to methamphetamine use?

8 A Yes.

9 Q What does that mean?

10 A I'm sorry?

11 Q Sorry. What does that mean to you?

12 A I guess it would be a street slang term for someone
13 that would be under the influence.

14 Q Usually it references their behavior?

15 A Yes.

16 Q Okay. It can reference a methamphetamine user will
17 often grind their teeth?

18 A That's one of the indicators or clues. But again,
19 that doesn't happen in everyone.

20 Q They'll sometimes be speaking very rapidly?

21 A Again, that's a -- a possibility or an indicator or
22 a clue, but it's not with every person.

23 Q So those are all things you are trained to recognize
24 when someone is under the influence, right?

1 A Those are some of the things.

2 Q Okay. And we talked about how you would recognize
3 something that you may suspect as methamphetamine, right?

4 A Yes.

5 Q If you were to see a package of what you suspected
6 to be methamphetamine, commonly you would collect that,
7 correct?

8 A Yes.

9 Q And if you were in the field, you may try to get a
10 presumptive test as to what that substance is, correct?

11 A Yes.

12 Q And a presumptive test is a test that either you
13 carry around as an officer or is at the police station that
14 you can put a little substance into that test, and it will
15 change colors to let you know presumptively if it is or is not
16 a controlled substance, correct?

17 A Yes. It will change colors if there's a presence of
18 some kind of a chemical that would be associated with a
19 narcotic inside of the substance.

20 Q And once you have done that presumptive test, you
21 would then take that suspected narcotics to the Washoe County
22 Crime Lab, right?

23 A Directly by me, no. It would go through our
24 evidence section and then go from there, depending on where it

1 had to go next.

2 Q And where it had to go next generally is the Washoe
3 County Crime Lab, correct?

4 A Potentially. It doesn't happen in every case.

5 Q So if you wanted a confirmation that that was, in
6 fact, narcotics, it would go to the crime lab?

7 A That's one of the ways you confirm it was narcotics,
8 yes.

9 Q What's the other way?

10 A Asking the person.

11 Q Would a person know necessarily that it is or isn't?

12 A Generally, yes.

13 Q Yeah, but not always, right?

14 A Generally, if the person has it, like you described,
15 they know what they have in their possession.

16 Q And at the Washoe County Crime Lab, they test those
17 substances for whether or not they are actually controlled
18 substances, correct?

19 A I'm not familiar with what test they do, but you can
20 get reports back from the crime lab of what the substance is,
21 yes.

22 Q And they'll tell you that it is or isn't, correct?

23 A Yes.

24 Q And they also tell you the weight?

1 A The weight you can get yourself. They will weigh it
2 after their -- again, I don't know if they do it before their
3 test or after their test, but they will come back with a
4 weighted sample of their own, yes.

5 Q And in this case, you viewed the video that has been
6 admitted as Exhibit 18, correct?

7 A I'll trust you that it was 18. I don't remember
8 what item number it was.

9 Q It's a Facebook video from February 26th, 2016?

10 A Yes.

11 Q And you just watched it today?

12 A Yes.

13 Q That's the video that you testified that you thought
14 Mr. Hager was consuming a controlled substance, correct?

15 A Yes.

16 Q And you testified that in seeing that video, he held
17 up a plastic bag of what appeared to be a white crystal
18 substance, correct?

19 A Yes.

20 Q Okay. So that means you described the color of it
21 as being white, correct?

22 A I said white or a crystal substance.

23 Q White or --

24 A Yes.

1 Q So you described it as being white. And when you
2 say "crystal," do you mean it's like see-through?

3 A No. It's more of a -- I guess more of a -- the
4 color of it and the word is escaping me.

5 Q Like opaque?

6 A The shape of it, I guess, if that makes sense.

7 Q Okay. And from that video, it's difficult to really
8 see what the consistency of that material is, correct?

9 A Yes.

10 Q You can't see anything about any individual
11 crystal-like substance, correct?

12 A Correct.

13 Q You can only see, for lack of a better word, a mass
14 within the bag, correct?

15 A Correct.

16 Q And when you're testifying as to -- that it is a
17 white, crystal substance, that's just based on you looking at
18 it, right?

19 A Yes.

20 Q You never saw that substance that was in that baggy
21 later when you spoke to Mr. Hager, correct?

22 A Correct.

23 Q And your opinion when you testified on direct is
24 that that appeared to be narcotics, correct?

1 A Yes.

2 Q When you looked at it, were you able to say that it
3 appeared to be methamphetamine or cocaine or any other white,
4 crystal substance?

5 A Can you ask it again?

6 Q Were you able to identify which controlled substance
7 you thought it was?

8 A Just by looking at it?

9 Q Uh-huh.

10 A It appeared to me that it looked more like
11 methamphetamine. But definitively, no.

12 Q Okay. It looked more like methamphetamine than
13 what?

14 A Than say a cocaine substance or something like that.

15 Q Okay. Because is cocaine also a white crystal
16 substance?

17 A It's white. Sometimes it's a powdery substance.

18 Q And again, you couldn't see the size of the crystals
19 in there; is that correct?

20 A That's correct.

21 Q And based on viewing that, you can't say whether or
22 not that was a narcotic, correct, just by looking at that
23 baggy?

24 A Just by looking at the baggy, no. That would have

1 come in later with the interview with Mr. Hager.

2 Q So when he holds that up and he says, "I'm going to
3 have breakfast like I used to," you couldn't look at that
4 baggy and say, "Yeah, I think that" -- "I know that's
5 methamphetamine"?

6 A To me it appeared to be methamphetamine. But again,
7 I couldn't definitively say it was methamphetamine.

8 Q Okay. I'm going to play what's been admitted as
9 Exhibit 18. And this is that video that you were testifying
10 about where it appears that he has suspected what might be
11 methamphetamine, correct?

12 A Yes.

13 (A DVD was played.)

14 BY MS. HICKMAN:

15 Q I'm going to pause this at about 3 minutes 30
16 seconds in the video.

17 And you see Mr. Hager sitting at essentially what
18 looks like a bench, correct?

19 A A bench or a table, yes.

20 Q And it's hard to see in this video, but it appears
21 as though there's a table right here, correct?

22 A Yes.

23 Q And, Detective Rowe, are you familiar with
24 Mr. Hager's home at all? Did you ever go into it?

1 A I did not.

2 Q Did you ever see any photos of it?

3 A Not that I recall.

4 Q Okay. And in this video, you see what appears to be

5 a box right here?

6 A Correct.

7 Q Somewhat coffin shaped?

8 A Yeah. It's hard to see what shape it is, but

9 there's a box right there, yes.

10 Q Okay. And if I play this video, you see Mr. Hager

11 reach into that box that I just indicated?

12 (A DVD was played.)

13 THE WITNESS: Yes.

14 BY MS. HICKMAN:

15 Q And he pulls something out, correct? Did you see

16 that?

17 A Yes.

18 Q And it appeared to maybe be shiny?

19 A Well, he pulled two things out. Which one are you

20 talking about?

21 Q The thing that he has in his hand right now.

22 A Okay.

23 Q Did that appear to be shiny to you?

24 A Yes.

1 Q And from here, it appears as though he is cutting,
2 or for lack of a better word, whatever that is that he has put
3 onto that table, correct?

4 A It looks like he is arranging it into lines.

5 Q Okay. But you can't see that, correct?

6 A No.

7 You asked what it looks like, and that's what it
8 looks like to me.

9 Q You can't see him touching anything that might be
10 there?

11 A Correct.

12 Q So whatever he's doing is off camera; is that
13 correct? You can't see the actual substance?

14 A It's on camera. It's just concealed behind objects
15 on the table.

16 Q I want to talk a little bit about this video because
17 you were able to view this right on his Facebook page,
18 correct?

19 A Correct.

20 Q There was no effort made to hide this from anyone,
21 correct?

22 A It didn't appear so.

23 Q Because it was in public?

24 A That's right.

1 Q And it was out in the open for anybody to use -- or
2 I'm sorry, not to use, to look at. And when we were talking
3 about this video, you spoke to Mr. Hager about some of your
4 concerns about what you saw in this video when you interviewed
5 him, right?

6 A Yes.

7 Q You talked to him about the large amount of
8 methamphetamine that looks to be, correct?

9 A Yes.

10 Q And that somebody ingesting that much
11 methamphetamine could easily kill themselves, correct?

12 A Yes.

13 Q Okay. When you first saw this video, was it that
14 same day you made contact with Detective Johnson?

15 A I don't recall what day I saw the video because it
16 was a span of two days when I viewed them. So it was within
17 that two-day time frame.

18 Q Regardless whenever you viewed the video, did you do
19 any sort of welfare check to see how Mr. Hager was?

20 A No.

21 Q Any checking up to see if he had in fact overdosed?

22 A No.

23 Q And you obviously had plenty of time to look at
24 Mr. Hager's Facebook page, correct?

1 A Correct.

2 Q And, in fact, when we are looking at this video, you
3 can see that some of his friends comment on this, right?

4 A Yes. I don't know if they are his friends, but
5 people posted on this.

6 Q When I say "friend," I mean Facebook friends,
7 somebody he may know on Facebook. Right?

8 A Potentially, yes.

9 Q Because you were talking about your knowledge of
10 Facebook, right?

11 A Yes.

12 Q And on Facebook, people are able to request somebody
13 to be their friend, correct?

14 A Correct.

15 Q And if they are friends with somebody on Facebook,
16 they can comment on the Facebook post, correct?

17 A Yes.

18 Q So if this person is commenting on Mr. Hager's
19 Facebook post, that's an indication that this person is
20 friends with Mr. Hager through Facebook, correct?

21 A I don't know if that's necessarily true. I haven't
22 tried it. But because the page was public, it's a possibility
23 that somebody who weren't his friends could put a post on that
24 section.

1 Q Okay. You also had access to his friend section on
2 Facebook, so you could see everyone that had friended him or
3 he had friended, correct?

4 A Not people who had friended him. I could see people
5 who he had listed as his friends, yes.

6 Q That's what I meant, the friends list.

7 A Yes, ma'am.

8 Q And you didn't contact any of those people to ask
9 any questions about Mr. Hager's drug use, correct?

10 A No.

11 Q And you didn't contact any of those people to see if
12 there was an overdose with Mr. Hager back in February when he
13 posted this photo, correct?

14 A Correct.

15 Q And as part of your evolving investigation, you
16 didn't contact any of those people to see if Mr. Hager
17 routinely used methamphetamine, correct?

18 A You mean people on his Facebook?

19 Q Uh-huh.

20 A Correct.

21 Q And you didn't contact any of those people to find
22 out if Mr. Hager potentially bought methamphetamine from any
23 of them, correct?

24 A Correct.

1 Q And you viewed this Facebook video before you
2 applied for the search warrant for Mr. Hager's home, correct?
3 A Correct.
4 Q And you personally authorized that search warrant,
5 correct?
6 A No, ma'am. I don't have the authority to authorize
7 a search warrant.
8 Q Search warrant application. Excuse me.
9 A Yes.
10 Q So when I say you authored it, you wrote into the
11 search warrant application what you wanted to look for,
12 correct?
13 A That's correct.
14 Q And in that search warrant information, you did not
15 include any information that you wanted to look for
16 methamphetamine use, correct?
17 A That's correct.
18 Q Or narcotics use, correct?
19 A Correct.
20 Q And then you authored a search warrant for
21 Mr. Hager's cell phone, correct?
22 A That's correct.
23 Q And you did that in November of this year, correct?
24 A Yes.

1 Q And in that search warrant, you didn't put anything
2 about looking for indicia of drug use, correct?

3 A That's correct.

4 Q Indicia of buying drugs, correct?

5 A Correct.

6 Q Indicia of drug paraphernalia?

7 A Correct.

8 Q That search warrant has nothing referencing
9 narcotics, correct?

10 A That's right.

11 MS. HICKMAN: And if I could have just one moment.
12 I'm sorry.

13 BY MS. HICKMAN:

14 Q Sergeant Rowe, you testified that you viewed his
15 Facebook photos through this period of time, which was
16 November 2015 to March of 2016, correct?

17 A Are you asking me if that's how -- the date of the
18 photos or how long I was viewing them, because that was a
19 little confusing? I apologize.

20 Q Not how long you were reviewing them. But if I
21 wrote down correctly what your answer was, is that the videos
22 that were posted on his Facebook page were only from November
23 of 2015 to March of 2016. Is that true or is that what you
24 were looking at?

1 A That's the range I was looking at.

2 Q Okay. So it's safe to say his Facebook page was in
3 existence long before November of 2015, correct?

4 A I don't know when it was created.

5 Q Or before that at least?

6 A Yes.

7 Q And there were videos that were posted on that
8 Facebook page that maybe don't have any relevance to this
9 case, correct?

10 A That's correct.

11 Q And, Detective Rowe -- I'm sorry. Sergeant Rowe,
12 when you watched this Facebook video of February 26th, you're
13 unable to tell how much time elapses while Mr. Hager appears
14 to snort this alleged narcotic, correct?

15 A Just off the indication of what it -- the time
16 that's reading across the bottom of the movie that's
17 playing -- or the video that's playing.

18 Q Nine minutes and 47 seconds?

19 A Yes.

20 Q And it's not necessarily a continuous video,
21 correct? It's edited in some ways?

22 A It appeared to be edited, yes.

23 Q It's got the words that come across the screen,
24 correct?

1 A Yes.

2 Q And in some parts, there are still photos that are
3 kind of put into it for -- right?

4 A Yes.

5 Q And at the end of this video, Mr. Hager begins
6 talking again?

7 (A DVD was played.)

8 BY MS. HICKMAN:

9 Q So at about 8 minutes and 57 seconds in, he walks
10 back towards the camera, correct?

11 A Yes.

12 Q And then you hear him speaking again?

13 A Yes.

14 (A DVD was played.)

15 BY MS. HICKMAN:

16 Q And to the best of your knowledge, Mr. Hager did not
17 overdose on that day, correct?

18 A Apparently not because he's here with us today.

19 Q And I'm sorry. I meant to ask you this before when
20 we were talking about your training and experience. Do you
21 have experience with people who have recently used
22 methamphetamine, but it was in the last few days?

23 A I suppose that has happened, but a specific incident
24 doesn't come to my mind right now.

1 Q Within a 48-hour period?

2 A I am sure I have.

3 Q Because it can have effects on somebody for longer
4 than maybe 10, 20, 30 minutes, correct?

5 A I don't know that a single dose -- I don't know how
6 much a single dose would have an effect on somebody. That has
7 to do with that person's tolerance for the drug they are
8 using. So if they are a regular drug user, their tolerance
9 would be different, so they would react differently to what
10 they had taken and how long ago they had taken it.

11 Q And when we talk about a single dose -- you worked
12 patrol, correct?

13 A Yes.

14 Q So you're familiar with what is commonly known as a
15 one-time use, which is sometimes a gram or two grams, correct?

16 MR. PRENGAMAN: Objection. Relevance.

17 THE COURT: What's the relevance?

18 MS. HICKMAN: Judge, I think it's relevant because
19 he's talking about a single dose, and we are talking about an
20 extremely large amount of methamphetamine.

21 THE COURT: I'll allow the question.

22 Can you ask it one more time?

23 MS. HICKMAN: Yes, of course.

24 ///

1 BY MS. HICKMAN:

2 Q So when you're talking about a single dose -- and
3 when you were on patrol, you, I'm sure, knew that a common use
4 for someone is between one gram to two grams for just one hit
5 of methamphetamine?

6 A That's -- that's not entirely accurate. When I'm
7 talking about a dose, I guess it would be more of what that
8 person decides they are going to take at that time. It
9 doesn't come out of a pharmacy with a doctor and pharmacist
10 saying, "Your dose is this." So I've seen people that will
11 snort just a little line. And I've seen people that can smoke
12 a large bowl. So when I'm saying "dose," I mean that's what
13 that person is ingesting at that time, if that makes sense.

14 Q And this bag that Mr. Hager held up -- which was a
15 large amount of methamphetamine, correct?

16 A Correct.

17 Q Enough that you said it could potentially kill
18 somebody, correct?

19 A Correct.

20 Q That's much larger than an average dose would be,
21 correct?

22 A Depends on that person. If that person uses a lot
23 of narcotics, they can use quite a bit before they get high.
24 They chase the high because their tolerance increases.

1 Q I'm going to stop you right there because my
2 question wasn't necessarily about everyone in general. My
3 question is with that large amount of narcotics, would you
4 expect that to be -- actually, you probably don't know that.

5 And, Sergeant Rowe, you were not present to search
6 Mr. Hager's home, correct?

7 A That's correct.

8 Q So you didn't see what was actually in the home?

9 A That's correct.

10 MS. HICKMAN: Judge, I have no further questions.

11 THE COURT: Thank you.

12 Anything on redirect?

13 MR. PRENGAMAN: Thank you, Your Honor.

14

15 REDIRECT EXAMINATION

16 BY MR. PRENGAMAN:

17 Q Sergeant, regarding the questions about performing
18 the welfare check, or did you perform a welfare check, what
19 was the date that that video was posted on, the exhibit that
20 you just reviewed that was posted on Facebook?

21 A Was it February 20th -- 20th?

22 Q Let me grab it if you would. And if you don't
23 recognize it by sight, let me know. I'll put it in.

24 Do you recognize it by sight? This is the video you

1 were just asked about.

2 A Yes.

3 Q Exhibit 18.

4 A That's correct.

5 Q So what was the date that this was posted on
6 Facebook?

7 A February 26th.

8 Q Okay. So February 26th.

9 And when you were looking at the videos you've
10 testified about in the course of your investigation, what day
11 were you doing that?

12 A Over the course --

13 Q Day or days?

14 A Sorry. It was over the course of two days, so it
15 was April 5th and April 6th.

16 Q And based on your testimony today, you saw a number
17 of videos posted in March that depicted -- up until the end of
18 March, in fact, that depicted the Defendant talking on the
19 video, correct?

20 A That's correct.

21 Q So did you assess that from watching a February 26th
22 video there was any need to conduct a welfare check on him at
23 that point?

24 A Not at that point, no.

1 Q In fact, as far as your information was that he was
2 alive and fine as of the day you were looking at the videos?

3 A That's correct.

4 Q In your interview with Mr. Hager, when he told you
5 the substance he had ingested was methamphetamine, did you get
6 to a point where you were explaining to him what he was being
7 charged with?

8 A I did.

9 Q And I just want to focus in on that part of your
10 interview. Did you explain to Mr. Hager that he was being
11 arrested or was in custody for being a prohibited person
12 because he was -- he was being accused of being a user or
13 addict of methamphetamine or any controlled substance?

14 A Yes.

15 Q And did you also tell him that additionally, there
16 was the -- having been adjudicated mentally ill was one of the
17 reasons he was being arrested?

18 A Yes, I did.

19 Q So you recall that section of your interview with
20 Mr. Hager?

21 A I do.

22 Q And that was after he had already told you -- or was
23 that after he had already told you that the substance he used
24 on that video was meth?

1 A It was after.

2 Q Okay. And when you told him that the use of
3 methamphetamine in that video was one of the reasons that he
4 was being arrested, how did he respond to you?

5 A If I remember correctly, he said something along the
6 lines of like, "Prove it," or, "You can't prove it," or
7 something like that.

8 Q Okay. And how did you respond to that?

9 A I told him, "Well, you just told me that that's what
10 it was and that's what you did."

11 Q Okay. And did he have some kind of response to that
12 statement that you made?

13 A He said something to the effect of, "The truth gets
14 me again."

15 Q Okay. So -- and would you say that again?

16 A He said something along the lines of, "Well, telling
17 the truth gets me again."

18 Q And do you -- did he use any swear language?

19 A I believe there -- there was an F word in there.

20 Q I don't want you to alter what he said just because
21 we are in court. Would you just tell us the best you remember
22 exactly what he said as you recall?

23 A The best I recall is he said something like, "The
24 truth fucks me again."

1 Q Did he say that wasn't methamphetamine?

2 A He did not.

3 Q He didn't deny it was methamphetamine?

4 A No.

5 Q He just said, "The truth" -- "The truth F's me
6 again"?

7 A That's correct.

8 MR. PRENGAMAN: Thank you, Sergeant.

9 No further questions, Your Honor.

10 THE COURT: Anything?

11 MS. HICKMAN: Just briefly.

12

13 RE CROSS-EXAMINATION

14 BY MS. HICKMAN:

15 Q Briefly, Sergeant Rowe, that interview of Mr. Hager
16 took place on April 8th of 2016, correct?

17 A That's correct.

18 Q And that was down at the Sparks Police Department?

19 A Yes.

20 Q And during that time that you interviewed Mr. Hager,
21 there was no indication that he was under the influence of
22 methamphetamine, correct?

23 A Not at that time, no.

24 Q Okay. And prior to you putting him into that

1 interview room and taking his handcuffs off, he was searched,
2 correct?

3 A I didn't witness that, but I assume he was. But I
4 have no firsthand knowledge of that.

5 Q And when you were talking to him, you didn't see any
6 drug paraphernalia on him, correct?

7 A Nothing that he pulled out of his pockets, no.

8 Q To the best of your knowledge, he didn't have any on
9 him at that time, correct?

10 A Not that I'm aware.

11 MS. HICKMAN: Thank you. I have no further
12 questions.

13 THE COURT: Thank you for your testimony. You may
14 step down. Thank you for your testimony.

15 THE WITNESS: Thank you, Your Honor.

16 MR. PRENGAMAN: Your Honor, the State would call
17 Sergeant Brian Orr.

18 THE COURT: Please step forward and be sworn.

19 (The witness was sworn.)

20 THE COURT: Please take the witness stand. Make
21 yourself comfortable. We'll know you're comfortable because
22 you're going to tell us your first and last name, spelling
23 your last name for the record.

24 THE WITNESS: First name is Brian. Orr. Last name

1 is O-R-R.

2 THE COURT: Thank you.

3 Mr. Prengaman.

4 MR. PRENGAMAN: Thank you, Your Honor.

5

6 BRIAN ORR,

7 having been first duly sworn, was examined

8 and testified as follows:

9

10 DIRECT EXAMINATION

11 BY MR. PRENGAMAN:

12 Q Could you tell us how you're employed?

13 A I work for the Sparks Police Department.

14 Q You're a sworn peace officer?

15 A I am.

16 Q What's your current assignment?

17 A I'm assigned to the detective division as a general
18 assigned detective.

19 Q How long have you been employed with Sparks PD in
20 any capacity, Officer -- Detective?

21 A Approximately ten years.

22 Q And what was your assignment back in April of 2016?

23 A I was assigned to the detective division at that
24 time.

1 Q Okay. Detective, taking you back to April 8th, on
2 that day, did you receive an assignment to assist in the
3 service of a search warrant at 2460 Anqua Drive in Sparks?

4 A I was.

5 Q And just sort of big picture, what was the first
6 task or assignment that you had in that goal?

7 A Was to establish surveillance of the residence.

8 Q Okay. And did you -- you were one of the people who
9 was assigned to watch the residence?

10 A Yes, I was.

11 Q And was that because the goal was to serve the
12 warrant when the occupant was not at the residence?

13 A Yes, it was.

14 Q So is it accurate that one of your tasks was to
15 watch and alert the other detectives involved when the
16 occupant left the residence?

17 A Yes, it was.

18 Q Where were you conducting your surveillance from?

19 A From a house to the south of the residence.

20 Q Okay. And were you actually in the house?

21 A Yes.

22 Q Okay. I'm going to show you what we've admitted as
23 Exhibit 39.

24 Is this 2460 Anqua?

1 A Yes, it is.

2 Q As we look at the residence, how far -- I know we
3 can't see the other houses, but roughly how many houses away,
4 in which direction would you be?

5 A I was directly across the street and 50 to 75 yards.

6 Q Okay. And at some point, did you see movement or
7 somebody leaving the house?

8 A Yes, I did.

9 Q And could you briefly describe what you saw?

10 A While studying on the house, the double car garage
11 opened up. I observed the Defendant step out. He got inside
12 a 2012 Chevy Camaro, into the driver's seat.

13 Q And when you say "the Defendant," do you recognize
14 the individual? Did you see a man leave the residence?

15 A Yes, I did.

16 Q And do you see that man in the courtroom today?

17 A I do.

18 Q Could you tell us where he's located and describe
19 his clothes?

20 A He's over there wearing a white shirt and red tie.

21 MR. PRENGAMAN: Your Honor, may the record reflect
22 identification of the Defendant?

23 THE COURT: It will.

24 MR. PRENGAMAN: Thank you.

1 BY MR. PRENGAMAN:

2 Q Detective, once you -- and so did you observe him
3 depart in that vehicle?

4 A Yes, I did.

5 Q And I don't want to necessarily get into all the
6 details, but did you over the radio alert the other detectives
7 that Mr. Hager, the Defendant, had left the residence in the
8 direction he was going?

9 A Yes. I got on the radio and told them what
10 direction he was going.

11 Q So then once Mr. Hager had left the residence, what
12 happened next?

13 A At that point, we wanted to maintain visual on the
14 house until units could come and execute the search warrant.
15 So I just stayed put where I was at and maintained a visual on
16 the house.

17 Q And in the interim, did anybody come in or go
18 outside of the house?

19 A No.

20 Q At some point, did some other Sparks Police
21 personnel arrive to facilitate the service of the warrant?

22 A Yes.

23 Q Okay. And what was the first thing that happened?

24 A First three that arrived on scene initially cleared

1 the house for safety.

2 Q Okay. And who, if you can recall, or generally, who
3 were those folks?

4 A It was Detective Gallop, Detective Congdon, and
5 Lieutenant Triplett.

6 Q All of the Sparks Police Department?

7 A Yes.

8 Q And did you stay outside?

9 A At that point, I start to come back around to get to
10 the front of the house.

11 Q And in the course of -- when you talk about -- use
12 the word "clear," what does that mean?

13 A They're searching the residence to make sure no one
14 else was inside, make sure there was no threats inside the
15 house.

16 Q And was anybody located?

17 A No.

18 Q So then what happened after that, after the house
19 was cleared?

20 A After the house was cleared, they turned the house
21 back over to me. I was already standing out front waiting for
22 them. I then started gathering other detectives and our
23 evidence tech, Linda Brown, to start the search of the
24 residence.

1 Q And did you -- that group or team, if you will, did
2 you proceed to search the house?

3 A Yep.

4 Q Okay. So just to give us an idea so that I don't
5 have to ask you every time, was there sort of a plan as to how
6 you would search the house?

7 A Yes. At the beginning, before we entered the house,
8 when Linda Brown showed up -- she was going to be collecting
9 the evidence and photographing -- I made a plan with everybody
10 that we were going to search one room at a time
11 systematically, stay together. As people located items inside
12 the house, they would contact me. I would walk over with
13 Linda Brown. I would log the item, and then she would
14 photograph and collect the item.

15 Q And then Linda Brown would -- was it also her job to
16 then book it into evidence back at the police department?

17 A Yes, it was.

18 Q And who were the members of that group who were
19 going to do the search?

20 A There was Detective Condon, Thelin, and I believe
21 Pagni, an initial search of it in the beginning.

22 Q And so if I'm clear, as the search would be
23 conducted, let's say someone -- and you were searching for --
24 we've heard some testimony already, but you were searching for

1 firearms and ammunition and indicia --

2 A Yes.

3 Q -- of occupancy or ownership.

4 A Yes.

5 Q Let's say somebody found something relevant to the
6 search warrant. What would they do? A detective finds, let's
7 say, a gun. What would they do?

8 A They would leave it in place, call me over. I would
9 come over, look at what it was, give it an evidence number,
10 and Linda Brown would photograph, and she would collect it.

11 Q So, essentially, nothing would get moved until it
12 had been photographed and logged?

13 A Yes.

14 Q And is that, in fact, how the search proceeded?

15 A Yes.

16 Q Can you give us an idea generally the -- well, look
17 at some of the interior photos momentarily, but just the big
18 picture of what is the layout of the house? Single story?
19 Two story?

20 A Two story.

21 Q And bedrooms downstairs or upstairs?

22 A Upstairs.

23 Q And then what was just generally the lower floor
24 like?

1 A It was the two living areas, kitchen, and laundry
2 room.

3 Q Okay. Showing you what's been admitted as Exhibit
4 Number 40, the first photo by way of orientation, what are we
5 looking at? This is the interior of the residence?

6 A Yes. That's immediately inside the front door.
7 That's got at little pony wall there to the left, but that's
8 kind of the first living area.

9 Q Okay. And then as we look directly dead center in
10 through the photo, what are we looking at?

11 A We are looking at what I would call the main living
12 room. That's where most of the furniture was.

13 Q And so if I might just point to -- what do we see
14 here on the left side, Detective?

15 A The TV.

16 Q So that's like a television flat screen sitting on
17 the pony wall?

18 A Yes.

19 Q Showing you 41, what area is shown here?

20 A That's what I refer to as the main living room area.

21 Q And 42?

22 A That's also the main living area.

23 Q And are we sort of moving the vantage of how much of
24 it we can see?

1 A Yes.

2 Q And now Exhibit 43, what areas do we see here?

3 A That's the living area and part of the kitchen.

4 Q And what side of the photo do we see the part of the
5 kitchen in?

6 A The very back part of the photo on the right-hand
7 side.

8 Q And, Detective, you have to press firmly, but if you
9 press that screen, you can actually mark on it.

10 A (The witness complies.)

11 Q Showing you 44, is this moving into the kitchen from
12 the living room?

13 A Yes. Sort of a little dining area between the
14 kitchen and the living room.

15 Q And then Exhibit 45?

16 A That is the kitchen area heading obviously back into
17 the laundry area.

18 Q So looking at the left side of the photo -- I'll
19 point you here -- what is back through that doorway?

20 A I believe that was a small bathroom back there.

21 Q Okay. And is that also the way you would go to get
22 to the -- what you said the laundry room?

23 A No. It's the other door to the left is where you go
24 to the laundry area, I believe.

1 Q Are you able to roughly indicate where you would go
2 to the laundry area on that?

3 A Right in here (indicating).

4 Q So you make a left right at that wall?

5 A Yes.

6 Q So, now, in the course of the search, was there some
7 evidence of ownership and occupancy --

8 A Yes.

9 Q -- found?

10 Okay. And in 46 -- Exhibit 46, is this one of the
11 items that you found?

12 A Yes.

13 Q And this is an item in the mail from the DMV
14 addressed to that residence?

15 A Yes.

16 Q Detective, in the kitchen area, were any of the
17 items that you were looking for in the search warrant,
18 firearms or ammunition, located?

19 A Yes. There was a -- several different rounds of
20 ammunition, different calibers, and then a holster, which
21 would indicate there's firearms inside the residence.

22 Q And so showing you Exhibit 47, do we see one of
23 those items showing somewhere here?

24 A Yes. The box of ammunition.

1 Q Okay. And now what are we looking at here? What
2 part of the kitchen?

3 A This is the island --

4 Q Okay.

5 A -- in the kitchen.

6 Q And could you circle for us where you see the
7 ammunition?

8 A (The witness complies.)

9 Q And then Exhibit 48, do we see the holster that you
10 previously mentioned?

11 A Yes.

12 Q And again, where is this located in the kitchen?

13 A I believe this is also the island.

14 Q And could you circle the holster?

15 A (The witness complies.)

16 Q Was there anything you were searching for located in
17 the living room or dining room area?

18 A Yes. There was ammunition located there.

19 Q Are we able to say where in this photograph?

20 A Yes.

21 Q Could you point out where that would be?

22 A It was on this vest, right here.

23 Q Okay. And do we see a closer-up of that item in
24 Exhibit 50?

1 A Yes.

2 Q And is the ammunition there tipped in red?

3 A Yes.

4 Q Showing you now 51, can you tell us what we are
5 looking at here, what part of the house?

6 A We are looking inside the laundry room at this
7 point.

8 Q Now, is anything identified in the search warrant
9 located in the laundry room?

10 A Yes.

11 Q And what was that?

12 A There was a Bushmaster AR15 assault rifle.

13 Q And are you able to see that in this photograph?

14 A Yes.

15 Q And could you please circle where you see it for the
16 jury?

17 A (The witness complies.)

18 Q And showing you Exhibit 53 -- what do you see there?

19 A That's the same Bushmaster rifle.

20 Q Closer up?

21 A Yes.

22 Q And showing you Exhibit 54, what do we see there?

23 A That was the two magazines that were actually inside
24 the firearm when we recovered it.

1 Q Okay. So these were in the firearm when it was
2 found?

3 A Yes.

4 Q Can you show us, going back to 53, can you show us
5 in 53 where the magazines are?

6 A Here is one here, and then the other one is on the
7 backside, actually inside the firearm (indicating).

8 Q Now, as to that rifle, the Bushmaster, it was
9 located -- who located it?

10 A Officer -- Detective Congdon.

11 Q And before it was moved, was the procedure you
12 outlined followed?

13 A Yes.

14 Q So you were called in --

15 A Yes.

16 Q -- to document its location and who found it?

17 A Yes.

18 Q Okay. And was that rifle collected?

19 A Yes.

20 Q And ultimately booked into evidence?

21 A Yes, it was.

22 Q Let me show you what we have marked as Exhibit 88.
23 What I would like you to do -- so I don't want you to take it
24 out at this point. I want you to look inside the box, and if

1 you need to pull out the inside enough just to see what it is,
2 tell me if you recognize the contents.

3 A Yes. It's the AR15.

4 Q And is that the same AR15 Bushmaster that we see in
5 Exhibit 52 that was located in the laundry room at 426 -- I'm
6 sorry -- 4260 [sic] Anqua?

7 A Yes.

8 MR. PRENGAMAN: I move for the admission of
9 Exhibit 88.

10 MS. HICKMAN: No objection.

11 THE COURT: It's admitted.

12 (Exhibit 88 admitted into evidence.)

13 MR. PRENGAMAN: Thank you, Your Honor.

14 BY MR. PRENGAMAN:

15 Q And then additionally, Detective, I'm going to show
16 you now Exhibit 55.

17 What area of the residence do we see here?

18 A That is just inside the front door area, a little
19 hallway next to the pony wall.

20 Q And so could you show us where the front door is?
21 Which door is the front door in this photograph?

22 A (The witness complies.)

23 Q And so the door immediately behind it, what was back
24 there?

1 A It was a smaller closet.

2 Q Was anything of significance to the search warrant
3 found in there?

4 A Yes. A safe was located in there.

5 Q Showing you Exhibit 56, what are we looking at in
6 this photo?

7 A That's the inside of the safe as it was opened.

8 Q And what of significance on the search warrant was
9 located inside the safe?

10 A Several firearms and obviously a lot of ammunition.

11 Q Showing you Exhibit 57, what do we see in this
12 exhibit?

13 A That's a Remington 12 gauge shotgun.

14 Q And who was the detective that searched the safe?

15 A Detective Condon.

16 Q Now, was the procedure that you previously outlined
17 followed?

18 A Yes.

19 Q So he located things in the safe, called you to
20 document it, and then they were photographed and collected?

21 A Yes.

22 Q And ultimately booked into evidence?

23 A Yes.

24 Q Okay. So is this rifle one of the things collected

1 by Detective Condon?

2 Sorry if I just asked you that.

3 Detective Condon found this gun in the safe?

4 A Yes.

5 Q What are the yellow items just below the gun in the
6 picture?

7 A They are shotgun ammunition.

8 Q I'm going to show you now, Detective, Exhibit 89 for
9 identification. Again, I would like you, if you would -- I
10 don't want you to remove the contents, but just look at it,
11 and tell me if you were able to identify it.

12 A Yes.

13 Q Do you recognize it?

14 A Yes.

15 Q What's in the box?

16 A I misspoke a minute ago. It's actually a Winchester
17 shotgun.

18 Q And does that Exhibit 89 contain the same shotgun
19 that we see depicted in Exhibit 57?

20 A It does.

21 MR. PRENGAMAN: I'd move for the admission of
22 Exhibit 89 into evidence.

23 MS. HICKMAN: No objection.

24 THE COURT: It's admitted.

1 (Exhibit 89 admitted into evidence.)

2 BY MR. PRENGAMAN:

3 Q Now, going back to the Bushmaster assault rifle
4 momentarily, I would like to show you also what we've marked
5 as Exhibit 88A, and could you please open that bag? And
6 again, we don't need to take the contents out, unless you need
7 to to recognize it. But tell me if you recognize what is in
8 there.

9 A Those are the two magazines that were inside of the
10 firearm.

11 Q Inside the Bushmaster rifle?

12 A Yes.

13 Q And are those the same contents that we see shown
14 here --

15 A Yes.

16 Q -- in Exhibit 54?

17 A Yes.

18 MR. PRENGAMAN: I move for the admission of 89A.

19 MS. HICKMAN: No objection.

20 THE COURT CLERK: I believe that was 88.

21 MR. PRENGAMAN: Oh, I'm sorry. Oh, yes. Thank you,
22 Ms. Clerk.

23 88A, Your Honor. Thank you.

24 (Exhibit 88A admitted into evidence.)

1 BY MR. PRENGAMAN:

2 Q Detective, showing you Exhibit 87, what do you see
3 there?

4 A It's a Navy Arms black powder pistol.

5 Q And where was this located?

6 A That was also located in the safe.

7 Q Also by Detective Condon?

8 A Yes, it was.

9 Q Detective, I'm going to show you what we've marked
10 for identification as Exhibit 87. Again, could you please
11 just look inside the box, and tell me if you recognize what's
12 inside?

13 A Yes.

14 Q What does that exhibit contain?

15 A That is the Navy firearm that was located.

16 Q Is that the same gun we see depicted in Exhibit 58?

17 A Yes, it is.

18 MR. PRENGAMAN: I move for admission of Exhibit 87,
19 Your Honor.

20 THE COURT: Any objection?

21 MS. HICKMAN: What exhibit?

22 MR. PRENGAMAN: Exhibit 87.

23 MS. HICKMAN: 87, no objection.

24 THE COURT: It's admitted.

1 (Exhibit 87 admitted into evidence.)

2 BY MR. PRENGAMAN:

3 Q Detective, showing you Exhibit 59, what do you see
4 here?

5 A It's another handgun we had located, a Colt 1911.

6 Q Was that also inside the safe?

7 A Yes, it was.

8 Q Located by Detective Condon?

9 A Yes, it was.

10 Q Okay. Showing you Exhibit 60, is this a closer view
11 of that gun?

12 A Yes, it is.

13 Q Was that collected and booked into evidence by Linda
14 Brown?

15 A Yes, it was.

16 Q Showing you 86, would you, again, please examine the
17 contents, and tell me if you recognize it?

18 A That's the same firearm.

19 Q The same one that was shown here in Exhibit 86?

20 A Yes.

21 MR. PRENGAMAN: I move for the admission of
22 Exhibit 86.

23 MS. HICKMAN: No objection.

24 THE COURT: It's admitted.

1 (Exhibit 86 admitted into evidence.)

2 BY MR. PRENGAMAN:

3 Q Detective, showing you Exhibit 61, what do you see
4 here?

5 A That's a double-barreled shotgun.

6 Q And is it in two parts?

7 A It is.

8 Q And what parts are we looking at?

9 A The shorter part is the stock of the firearm and the
10 larger portion is the barrels.

11 Q Okay. And are you familiar with shotguns like this?

12 A Semi-familiar with them.

13 Q Is it -- some shotguns like this are designed to
14 break -- not break, but disassemble into two pieces like this?

15 A These shotguns, yes.

16 Q So when we see it here, based on what you saw in
17 person, it's not broken. It's simply disassembled?

18 A It appears to be functional.

19 Q Okay. I'm going to show you now Exhibit 90. Would
20 you please examine the exhibit, and tell me if you recognize
21 it?

22 A That is a different firearm than the one you're
23 asking about.

24 Q Oh, I'm sorry.

1 Let me show you Exhibit 91.

2 A That's the firearm also located in the safe.

3 Q And is that the same shotgun that we see depicted
4 here in Exhibit 61?

5 A Yes.

6 MR. PRENGAMAN: Your Honor, I move for the admission
7 of Exhibit 91.

8 MS. HICKMAN: No objection.

9 THE COURT: 91 is admitted.

10 (Exhibit 91 admitted into evidence.)

11 MR. PRENGAMAN: Thank you.

12 BY MR. PRENGAMAN:

13 Q Detective, showing you Exhibit 62, what is shown
14 there?

15 A It depicts the rounds of ammunition that was located
16 in the safe and also has part of the firearms we had collected
17 in there.

18 Q And were these items also found by Detective Condon?

19 A Yes, they were.

20 Q Detective, I'm showing you now Exhibit 63. Can you
21 tell us what area of the residence we are looking at?

22 A That's the stairwell going upstairs to the second
23 floor.

24 Q And going back to what area of the house, where is

1 the stairwell located? How do you get up to the second floor?

2 A If you were walking in from the front door going
3 into the main living room, it would be exactly to your right
4 going backwards.

5 Q So going back to Exhibit 40, are you able to show us
6 here where the stairwell would be?

7 A It would be right along this wall. You make a right
8 and walk back toward the front of the house.

9 Q And in Exhibit 64, is this looking up to the second
10 floor?

11 A Yes.

12 Q So showing you now Exhibit 65, what area of the
13 residence are we looking at there?

14 A That is at the top of the stairs. To the right is a
15 loft area.

16 Q And so as you -- there's, again, like a little pony
17 wall there as you come up?

18 A Yes.

19 Q And so the area we are looking directly into over
20 the pony wall is the loft?

21 A Yes.

22 Q And what's on the -- if you were to turn left, where
23 would you go?

24 A It's a little -- I don't know if you call it an

1 office space or a craft area.

2 Q And can you show us where you would go in this photo
3 to get to where that area is?

4 A It would be to the left.

5 Q So --

6 A So along this wall would be a little craft area.

7 Q So it's indented, and you go into like an area
8 there?

9 A Yes.

10 Q Showing you now Exhibit 66, what do we see in that
11 photo?

12 A That is the entrance to the master bedroom.

13 Q And right here, this sort of exposed wood, what's
14 that?

15 A I believe it was where a pony wall used to be. Used
16 to have two pony walls coming up the stairs.

17 Q And so is this area right here on the immediate
18 other side of the stairs from the photo we were looking at?

19 A Yes.

20 Q The photo we were just looking at before?

21 A Yes.

22 Q Showing you Exhibit 67, what do we see there?

23 A That's a picture of the loft.

24 Q And the stairway is over here on the immediate right

1 or the far right-hand side?

2 A On the right-hand side. And then the missing pony
3 wall is to the far right.

4 Q Were any of the items that you were looking for in
5 the search warrant located in the loft area?

6 A Yes, there were.

7 Q What was located there?

8 A There was a .22 Ruger rifle.

9 Q Showing you Exhibit 68, is this a little bit closer
10 view of the loft area?

11 A Yes.

12 Q And are you able to see generally -- I can show you
13 the photo. It might be a little hard to see displayed, so
14 tell me if you need to see the actual photo.

15 But are you able to see the general area where the
16 rifle was found?

17 A Not in the photo. I believe it was located --

18 Q Okay. Let me do this. Would it help for you to see
19 the photo in person?

20 A Yes. Okay.

21 Q Going back to 68, can you show us the general area
22 where the rifle was located?

23 A It was on this wooden coffee table.

24 Q Showing you Exhibit 70, what do we see there?

1 A That's the Remington .22-caliber rifle.

2 Q And showing you Exhibit 71, what do we see there?

3 A That's the same rifle that was depicted, and the
4 butt stock -- the rear-end of the firearm was missing.

5 Q Detective, showing you now Exhibit 90, would you
6 please look at the contents, and tell me if you recognize it?

7 A That's the same rifle that was located --

8 Q That's the rifle we just looked at in Exhibit 70 and
9 71?

10 A Yes.

11 Q Collected and booked into evidence by Linda Brown?

12 A Yes.

13 MR. PRENGAMAN: Your Honor, I move for the admission
14 of Exhibit 90.

15 THE COURT: It's admitted.

16 MR. PRENGAMAN: Thank you.

17 (Exhibit 90 admitted into evidence.)

18 BY MR. PRENGAMAN:

19 Q Was any ammunition located in the loft area?

20 A I believe there was some ammunition.

21 Q Showing you Exhibit 72, do you recognize what you
22 see there?

23 A Yes.

24 Q What is this?

1 A Shotgun shells that were located in the loft.

2 Q And then showing you Exhibit 73, what is that?

3 A That's a passport that was located there, too.

4 Q And in the loft area?

5 A Yes.

6 Q And is this an item that would be considered -- an
7 item that would be considered indicia of ownership or
8 occupancy?

9 A Yes.

10 Q Detective, going back to Exhibit 66, what room is
11 this?

12 A That's the master bedroom.

13 Q Was anything significant to the search warrant
14 located in the master bedroom?

15 A There was a firearm located inside there along with
16 some more ammunition.

17 Q Showing you Exhibit 74, are we looking at the master
18 bedroom in this photo?

19 A Parts of it, yes.

20 Q Okay. And are you able -- not the gun itself, but
21 are you able to see the general area where the firearm was
22 located in the master bedroom?

23 A Yes.

24 Q And can you indicate that for the jury by circling

1 the area?

2 A I believe it was located in this area, but it was
3 located right on the bed (indicating).

4 Q And I'm going to show you Exhibit 78 in evidence,
5 but it might be kind of hard to see, so let me show it to you
6 in person and just ask you if you're able to see, is the
7 firearm in that photo?

8 A Just the handle portion of it.

9 Q Okay. And we'll look at that in a second. But is
10 that how the gun was found?

11 A Yes.

12 Q Okay. And would you be able to circle it on the
13 monitor?

14 A Yes.

15 Q So showing you Exhibit 78, are we looking on top of
16 the bed here?

17 A Yes.

18 Q And can you show us where the firearm was found?

19 A (The witness complies.)

20 Q And what type of firearm was that?

21 A It was a SIG Sauer, .40-caliber.

22 Q And is that the gun depicted in Exhibit 79?

23 A Yes.

24 Q And is this -- obviously, it's been pulled out of

1 where it was found; is that right?

2 A Yes.

3 Q As far as its condition otherwise, is that how it
4 was found?

5 A Yes.

6 Q Showing you Exhibit 82, what do we see there?

7 A That is the magazine that was inside that weapon.

8 Q Inside that SIG Sauer pistol?

9 A Yes.

10 Q Detective, I'm going to show you Exhibit 85. Please
11 examine the contents, and tell me if you recognize it.

12 A That's the firearm located on the bed.

13 Q I'm going to also show you Exhibit 58A. Would you
14 please take a look at that and tell me if you recognize it?

15 A That's the magazine that was also located inside the
16 firearm.

17 Q So is it accurate that Exhibit 85 is the same
18 handgun that we see in Exhibit 79?

19 A Yes.

20 Q And the magazine in 85A is the same one we see in
21 Exhibit 82?

22 A Yes.

23 Q Both collected and booked into evidence by Linda
24 Brown?

1 A Yes.

2 MR. PRENGAMAN: Your Honor, move for the admission
3 of 85 and 85A.

4 MS. HICKMAN: No objection.

5 THE COURT: They are both admitted.

6 (Exhibits 85 and 85A admitted into evidence.)

7 MR. PRENGAMAN: Thank you.

8 BY MR. PRENGAMAN:

9 Q Detective, once -- and apart from the weapons that
10 we've looked at in the photos in the exhibits, any other
11 firearms located?

12 A No.

13 Q Once the search was concluded, did you have any
14 other assignments in the case?

15 A I completed the search warrant with the items we had
16 located.

17 Q Just so you could go back to the Court and say, this
18 is what we found; this is what we seized?

19 A Then we also leave a copy for the occupant of the
20 residence so they know what we took from the house.

21 Q Once that was done, did that conclude your work in
22 this case?

23 A Yes.

24 MR. PRENGAMAN: Thank you, Detective. No further

1 questions.

2 THE COURT: Cross-examination.

3 MS. HICKMAN: Yes, please.

4 Court's indulgence for one moment, please.

5 Thank you.

6

7 CROSS-EXAMINATION

8 BY MS. HICKMAN:

9 Q Detective Orr, I just have a couple of general
10 questions for you about serving a search warrant.

11 Once you are granted access into a home through
12 search warrant, you do have as much time as you need to go
13 through that house, correct?

14 A Yes.

15 Q So you can spend anywhere from one hour to multiple
16 days, theoretically, if that's what it takes?

17 A Yes.

18 Q Okay. And that gives you the ability to be very
19 thorough in what you're looking for, correct?

20 A Yes.

21 Q In collecting everything that is relevant to a
22 certain case, correct?

23 A Yes.

24 Q So in this case, you were able to conduct

1 surveillance of Mr. Hager's home to know that he was out of it
2 before you went in, correct?

3 A Yes.

4 Q And so when he left -- between when he left and when
5 you went in, nobody else went into the house, correct?

6 A Yes.

7 Q When I say "nobody else," I mean nobody other than
8 Sparks Police Department.

9 A Yes.

10 Q And you had as much time as you would have needed to
11 look through that house and find anything of significance,
12 correct?

13 A Yes.

14 Q And one of the places that you were able to look at
15 was the kitchen, right?

16 A Yes.

17 Q And that kitchen was, fair to say, in some sort of
18 disarray?

19 A Yes.

20 Q But you had time to go through the drawers if
21 necessary, open the cabinets, anything you wanted to do to
22 look through that home, correct?

23 A Yes.

24 Q And in that kitchen you never found a long straw,

1 correct, that you took a photo of?

2 A Not that I recall.

3 Q And you definitely didn't collect one, correct?

4 A No.

5 Q And you also had the opportunity to search I think
6 what has been called the guitar loft.

7 And I'm showing you what's been admitted as
8 Exhibit 67. You do recognize that, correct?

9 A Yes.

10 Q And like I said before, you had as much time as you
11 wanted to search this area, correct?

12 A Yes.

13 Q And if you look here, you see this bench and a
14 little table, correct?

15 A Yes.

16 Q And in fact, you spent some time looking at that
17 table because you found a firearm there, correct?

18 A Detective Vasquez found the firearm, yes.

19 Q And you took a photograph of that?

20 A Linda Brown did, yes.

21 Q That's what's been admitted as Exhibit 70, correct?

22 A Yes.

23 Q So when you were going through this guitar loft, you
24 were able to look at everything that was there, right?

1 A Yes.

2 Q Because there was quite a bit, right?

3 A Yes, ma'am.

4 Q And as you searched that guitar loft, you never
5 collected a Bible, correct?

6 A A Bible?

7 Q Uh-huh.

8 A No, ma'am.

9 Q You didn't photograph a Bible, correct?

10 A No, ma'am.

11 Q You never collected any small plastic baggies,
12 correct?

13 A No.

14 Q When -- we're looking at what's been admitted as 70.
15 When you look -- it might be hard to see here, so let me know
16 if you can't see it. Do you see that there are small plastic
17 baggies on that bench there? Would it be easier for me to
18 bring it up to you and you can look at it there?

19 A I can see it. I believe they are the ones in the
20 back.

21 Q Okay. Do you see them sitting on that bench?

22 A Yes.

23 Q Is it fair to say those weren't collected? Correct?

24 A No.

1 Q And if you look at what's been admitted as 67,
2 there's a number of things on the floor here, correct?

3 A Yes.

4 Q And it looks like it's just somewhat miscellaneous?

5 A Yes.

6 Q I'm going to zoom in just a little bit, see if this
7 becomes a little bit clearer for you. Okay.

8 So I've zoomed in on that area. Can you see it a
9 little more clearly now?

10 A Yes.

11 Q And do you see sitting on the floor this wooden box
12 that's sitting there?

13 A Yes.

14 Q That wasn't collected, correct?

15 A No.

16 Q And nothing inside that was collected, correct?

17 A No.

18 Q And this guitar loft, you can see actually if I zoom
19 out in this picture, it's up above that general -- like the
20 larger living area that you had described earlier on direct,
21 right?

22 A Yes. The living area, yes.

23 Q And you can see that there are a number of windows
24 here, correct?

1 A Yes.

2 Q And none of those windows have blinds or shades of
3 any sort, right?

4 A No.

5 Q And in this guitar loft-- you look at Exhibit 65 --
6 I'll zoom in, too, so it's a little bit easier to see in this
7 back corner. Back over here, there's some equipment back
8 there, correct (indicating)?

9 A Yes.

10 Q Do you have any recollection of what that equipment
11 was?

12 A I don't recall, ma'am.

13 MS. HICKMAN: Okay. I'm going to look to see if
14 there's a better picture. Give me one moment.

15 If I could have this marked.

16 THE COURT CLERK: Exhibit 94.

17 (Exhibit 94 marked for identification.)

18 BY MS. HICKMAN:

19 Q Detective, I'm showing you what has been marked as
20 Exhibit 94. Do you recognize that?

21 A Yes.

22 Q And how do you recognize it?

23 A I recall it being in there, and I walked to that
24 exact area.

1 Q And is that a fair and accurate representation of
2 how that area looked when you took the photos on April 8th of
3 2016?

4 A I did not take the photos.

5 Q Or of what you saw.

6 I apologize.

7 A Yes.

8 MS. HICKMAN: I move for the admission of
9 Exhibit 94.

10 MR. PRENGAMAN: No objection.

11 THE COURT: It's admitted.

12 (Exhibit 94 admitted into evidence.)

13 BY MS. HICKMAN:

14 Q So if I show you what's admitted as Exhibit 94,
15 that's a close-up of that area, correct?

16 A Yes.

17 Q And you can see there's equipment back there?

18 A Yes.

19 Q Do you know what that would be used for?

20 A It looks like camera equipment. Maybe possibly
21 photography.

22 Q Photography, camera, something along those lines?

23 A Yes.

24 Q This white umbrella looks like it might be used to

1 amplify light or something.

2 A Yes.

3 Q Okay. And Detective Condon -- I'm sorry. Detective
4 Orr, when you searched this home, you did not find narcotics
5 in the home, correct? Or suspected narcotics?

6 A I don't believe so, no.

7 Q Okay.

8 And with that, I have no further questions.

9 THE COURT: Thank you.

10 Anything on redirect?

11 MR. PRENGAMAN: Just briefly, Your Honor.

12

13 REDIRECT EXAMINATION

14 BY MR. PRENGAMAN:

15 Q Detective, as far as the questions about what you
16 found or things that you didn't find, what were you searching
17 for when you were searching this residence?

18 A We were searching for indicia of ownership, guns,
19 and ammunition.

20 Q That's what was listed in the warrant?

21 A Yes.

22 Q Were you -- you -- were you looking for a Bible?

23 A Was I? No.

24 Q So if -- if -- in answer to the questions that the

1 Defendant's lawyer just asked you, are you telling us that
2 there was no Bible in the residence?

3 A As far as I saw, there was none. I didn't do much
4 searching.

5 Q Okay.

6 A I was the scribe. Other detectives searched.

7 Q So could have been one there you did not see? Maybe
8 not?

9 A Yes.

10 Q You don't know?

11 A I don't know.

12 Q Same thing with the straw that you were asked about?

13 A Yes.

14 Q Same thing with the box you were asked about?

15 A Yes.

16 MR. PRENGAMAN: Thank you.

17 No further questions.

18 MS. HICKMAN: Just briefly to follow up on that.

19

20 RECROSS-EXAMINATION

21 BY MS. HICKMAN:

22 Q You were just asked about specifically what you were
23 searching for, correct?

24 A Yes.

1 Q And that was firearms, ammunition, and indicia of
2 occupancy, correct?

3 A Yes.

4 Q And those are the things that were in the
5 application for the search warrant and the actual search
6 warrant you were serving, correct?

7 A Yes.

8 Q So if there had been something in the search warrant
9 regarding narcotics, you would have been looking for that,
10 correct?

11 A Yes.

12 Q And on April 8th of 2016, a number of detectives
13 from the Sparks Police Department were acting sort of as a
14 group, correct?

15 A Yes.

16 Q Sharing intelligence?

17 A Yes.

18 Q Letting each other know what was important?

19 A Yes.

20 Q Letting each other know what you were looking for in
21 the home?

22 A Yes.

23 Q And when it was found, correct?

24 A Yes.

1 Q And no one ever told to you look for narcotics,
2 correct?

3 A No.

4 Q No one ever told you to look for a Bible, correct?

5 A No.

6 Q No one ever told you to look for a straw, correct?

7 A No.

8 Q No one ever told you to look for a plastic baggy,
9 correct?

10 A No.

11 Q No one ever told you to look for anything that would
12 indicate someone was using narcotics in that home, correct?

13 A No.

14 Q And that's why you weren't searching for those
15 things, right?

16 A Yes.

17 MS. HICKMAN: Thank you.

18 I have no further questions.

19 THE COURT: You're excused. You may step down.

20 Thank you very much.

21 Call your next witness.

22 Ladies and gentlemen, you can stretch if you want.

23 I saw some people moving arms around. You can stand up and
24 move around if you want.

1 Call your next witness.

2 MR. PRENGAMAN: State will call Detective Kevin
3 Dach.

4 THE COURT: Thank you. Please step forward and be
5 sworn, wherever he might be.

6 Please step forward and be sworn.

7 (The witness was sworn.)

8 THE COURT: Please take the witness stand. Make
9 yourself comfortable. We'll know you're comfortable because
10 you're going to tell us your first and last name, spelling
11 your last name for the record.

12 THE WITNESS: My name is Kevin Dach, spelled
13 D-A-C-H.

14 THE COURT: Thank you.

15 Mr. Prengaman.

16 MR. PRENGAMAN: Thank you, Your Honor.

17

18 KEVIN DACH,

19 having been first duly sworn, was examined

20 and testified as follows:

21

22 DIRECT EXAMINATION

23 BY MR. PRENGAMAN:

24 Q Could you please tell us how you're employed?

1 A I'm employed at the Sparks Police Department.

2 Q And in what capacity at this time?

3 A As a detective.

4 Q You're a sworn peace officer?

5 A Yes, sir.

6 Q And how long have you served the City of Sparks in

7 any capacity, detective or officer?

8 A 13 years.

9 Q And how long have you been assigned to detectives?

10 A Eight years.

11 Q Detective, I'm going to take you back to April 8th

12 of this year, 2016. Back on that day, did you receive an

13 assignment to assist in the service of a search warrant and

14 take an individual into custody?

15 A Yes, I did.

16 Q And in terms of that, what was your first

17 assignment?

18 A Surveillance.

19 Q And what were you assigned to surveil?

20 A I was assigned to surveil Mr. Hager leaving the area

21 and basically following him to a destination location.

22 Q So you've heard some prior testimony about the

23 service of the warrant. Is it true that there were some

24 detectives that were watching -- Detective Orr, detectives

1 watching the residence that was the target of the search
2 warrant?

3 A Yes, that's correct.

4 Q And was that 2460 Anqua Drive in Sparks?

5 A Yes, sir.

6 Q And you were not one of the detectives that was
7 actually watching the house?

8 A Correct.

9 Q Where -- just generally speaking, where were you
10 positioned?

11 A At the very beginning of the surveillance, I was
12 actually at the Mendive parking lot.

13 Q And were you tasked with continuing to surveil the
14 occupant of the residence of 2460 when he left?

15 A Yes.

16 Q And at some point, were you notified -- and had you
17 been a -- did you know who you were supposed to be looking
18 for?

19 A Yes. We were given a description -- a description
20 of vehicles.

21 Q Okay. And so at some point, were you notified that
22 an individual had left 2460 Anqua?

23 A Yes, I was.

24 Q And in a particular vehicle?

1 A Yes. I was told he left in a Camaro, a blue Camaro.

2 Q And then at some point were you able, from where you

3 were, to see that vehicle?

4 A I was.

5 Q Okay. And were you able to see -- did it pass by

6 you?

7 A It did eventually when it turned onto Vista.

8 Q And could you see the driver?

9 A I did not at that time.

10 Q So you were just going off the information you've

11 been provided?

12 A Yes.

13 Q Did you follow that Camaro until it stopped?

14 A Yes.

15 Q And ultimately where did that Camaro stop?

16 A On Salomen. 125 Salomen Circle. It's the Quik Stop

17 minimart.

18 Q That's also in Sparks?

19 A Yes, sir.

20 Q And based on your assignment, did you ultimately

21 contact the driver of that vehicle?

22 A Yes. He was taken into custody by other officers,

23 and I had contacted him right after that.

24 Q And when you say "right after," was it right there

1 in the vicinity of the Camaro at the location you just
2 described?

3 A Yes, it was.

4 Q Do you recognize the individual that was taken into
5 custody right there?

6 A I do.

7 Q And do you see him in the courtroom?

8 A Yes, sir.

9 Q And could you please for the record, so it's clear
10 who you're talking about, tell us where you see him and
11 describe his clothing?

12 A Yes, sir. He's at the front table with a white
13 shirt, red tie.

14 MR. PRENGAMAN: Your Honor, may the record reflect
15 identification of the Defendant?

16 THE COURT: It will.

17 BY MR. PRENGAMAN:

18 Q Thank you, Detective.

19 Did you speak to the Defendant?

20 A I did.

21 Q Okay. And was one of the things that you spoke to
22 him about whether he would condone having you search his car?

23 A Yes, sir.

24 Q Did he consent to have you search his car?

1 A He did. He gave me written consent to search the
2 vehicle.

3 Q Okay. And did you, in fact, search it?

4 A I did.

5 Q And were you looking for firearms or ammunition?

6 A I was.

7 Q Did you find either in the car?

8 A Ammunition.

9 Q And just very generally -- I don't need numbers or
10 anything, but what type of ammunition did you find?

11 A Three different caliber types. So a Winchester
12 .45caliber; it's called a 9 millimeter, kind of an off brand;
13 and some .40 caliber as well, also off brand.

14 Q Okay. In the course of that search, did you locate
15 an iPhone?

16 A I did. He actually had told me, "The iPhone is in
17 there."

18 Q When you say "he," the Defendant told you that?

19 A Mr. Hager, yes.

20 Q And did Mr. Hager have a request as to what would
21 happen to the vehicle?

22 A Yes. He asked if I would release the vehicle to a
23 friend of his instead of towing it.

24 Q Okay. And did you do that?

1 A I did.

2 Q Okay. In the course of doing that, did you use or
3 access Mr. Hager's iPhone in some fashion?

4 A Yes. He asked me to get the number out of the phone
5 and gave me the security code into the phone to get the phone
6 number.

7 Q And did you get the number and call so that his
8 friend could come pick up the car?

9 A Yes, at his request.

10 Q And then was that iPhone retained?

11 A Yes, sir.

12 Q Now, once -- and did that -- after you -- and you
13 actually searched the Camaro?

14 A Yes.

15 Q So after you had completed that, did you have
16 another assignment?

17 A Yes. After shuffling the cars -- basically, I
18 helped his friend get the vehicle back -- I assisted with the
19 search at his residence.

20 Q And just to sort of explain that, the shuffle was
21 what?

22 A Basically, as far as she showed up in her own
23 vehicle. And obviously she couldn't drive both vehicles, so
24 she asked if I could follow her to the residence to drop one

1 vehicle off, bring her back to the scene of the Camaro to get
2 the Camaro.

3 Q So you did all that?

4 A Yes.

5 Q So once she had taken Mr. Hager's Camaro, what was
6 your next task or assignment?

7 A I went to the residence, and other detectives were
8 already searching the residence. I asked if I could be of
9 assistance, and they stated I could search the master bedroom,
10 which I searched.

11 Q The photos are a little out of order, so bear with
12 me, please.

13 So starting with Exhibit 39, is this the house that
14 you assisted searching?

15 A It is.

16 Q When they said you could search the master bedroom,
17 is that, indeed, what you did?

18 A Yes, sir.

19 Q And did they apprise you or did you know what was
20 listed in the search warrant as far as what you were looking
21 for?

22 A Yes. They told me we were looking for firearms.

23 Q And was indicia of occupancy or ownership also one
24 of the items?

1 A Yes, sir.

2 Q And did you search the master bedroom?

3 A Yes, sir.

4 Q Showing you Exhibit 74, can you tell us what we are
5 looking at here?

6 A That is the master bedroom.

7 Q And what are we -- when we look at -- you see the
8 bed in this photograph?

9 A Yes. This is a view from the doorway area. It
10 shows the bed, nightstand, dresser, lamp, and then artwork.

11 Q And with regard to the bed -- and specifically the
12 items listed in the search warrant, did you locate anything
13 you were looking for there?

14 A Yes. On top of the bed was a firearm.

15 Q What kind of firearm?

16 A It's a SIG Sauer 9 millimeter.

17 Q And we've heard some previous testimony from
18 Detective Orr. He was involved in assisting in the search; is
19 that right?

20 A Yes, sir. He was being scribe, basically
21 documenting what was collected, what was found, who found it.

22 Q And can you show us just the general area where that
23 gun was located?

24 A Can I point to it?

1 Q You have to press firmly, but if you press on the
2 screen, you can draw.

3 A Okay. (The witness complies.)

4 Q So it was on the bed?

5 A Yes. It was on the bed on the far side from where
6 we're looking.

7 Q And showing you Exhibit 79, is that the gun that you
8 found?

9 A That is.

10 Q And I'll show you Exhibit 78. It's kind of hard to
11 see, but does this photo depict the gun as it was originally
12 found in place?

13 A Correct.

14 Q And if you would, showing you Exhibit 78, can you
15 circle the area where the firearm is located in place?

16 A Sorry. Hard to write on the screen.

17 (The witness complies.)

18 Q Now, showing you Exhibit 75, can you tell us what we
19 see here?

20 A That's the nightstand. That's on the -- if you're
21 standing at the foot of the bed facing the front of the bed,
22 it's on the left-hand side.

23 Q And going back to Exhibit 74, are we able to see
24 that same nightstand here?

1 A Yes.

2 Q And could you circle it for us?

3 A (The witness complies.)

4 Q Now, Detective, when you became a police officer --

5 and you attended the academy; is that true?

6 A Yes, sir.

7 Q And in the academy, did you receive training in the

8 investigation of controlled substance cases?

9 A Yes, sir.

10 Q Okay. And did that training include -- a number of

11 things -- but recognition of controlled substances and

12 controlled substance paraphernalia?

13 A Yes, sir.

14 Q And in your time as a police officer and detective

15 with the City of Sparks, would it be fair to say that you've

16 investigated numerous controlled substance cases, be it use,

17 possession, even trafficking, sales?

18 A Yes, sir.

19 Q And would it -- is it also accurate to say that in

20 the course of those investigations, you've had the opportunity

21 to interact with and view -- interact with people who are

22 involved in the world of using and selling controlled

23 substances?

24 A That's correct.

1 Q Have you become familiar, by virtue of that
2 experience as well as your training, with the common methods
3 that people use to ingest a controlled substance?

4 A Yes, sir.

5 Q And does that include snorting, smoking, injecting
6 controlled substances?

7 A All of those, yes.

8 Q Okay. And so based on that experience, you are able
9 to recognize drug paraphernalia; is that fair?

10 A That is fair to say.

11 Q And are there certain items in your experience that
12 you have found people commonly use to ingest certain
13 controlled substance?

14 A Yes, sir.

15 Q For instance with methamphetamine, are there
16 certain -- not that there's only one, but are there certain
17 ways that people commonly ingest that controlled substance?

18 A Yes, sir.

19 Q So -- what are some of those ways?

20 A Either smoking or injecting. Smoking would be with
21 a pipe. Injecting with a needle.

22 Q I'm going to show you what we have admitted as
23 Exhibit -- let me first -- so on the other side of the bed,
24 was there also another end table or table, so to speak?

1 A It was a table, like a round table, yes, sir.

2 Q Let me show you what's admitted as 77. Do you
3 recognize that?

4 A Yes, sir.

5 Q Okay. Was that also in the master bedroom?

6 A Yes, sir.

7 Q Where was that located in reference to the table
8 that we just saw looking in from the doorway?

9 A On the other side.

10 Q Other side of the bed?

11 A Yeah.

12 Q So now going back to the end table that we see
13 closest to the door, so Exhibit 75.

14 In the course of the search -- I'm looking at
15 Exhibit 76 -- was the drawer -- contents of the drawer looked
16 at or examined?

17 A If the drawer was opened, we were looking for, like
18 we said, firearms, ammunition-type things, indicia.

19 Q Now, did you find any firearms in the drawer?

20 A Negative.

21 Q Did you find anything in the drawer based on your
22 experience and training you recognized as drug paraphernalia
23 or controlled substance paraphernalia?

24 A Yes. There was a glass pipe commonly used to smoke

1 methamphetamine.

2 Q Can you see that in this photograph?

3 A I can.

4 Q So if you can, would you circle it for us?

5 A (The witness complies.)

6 Q And I'm going to see if I can get a little closer.

7 Are we able to see it better here?

8 A Yes, sir.

9 Q And could you circle it again for us, please?

10 A (The witness complies.)

11 Q And based on your training and experience, what did
12 you recognize that as?

13 A It's a glass pipe, with residue, commonly used to
14 smoke methamphetamine.

15 Q And is there anything else in that drawer that you
16 recognize as paraphernalia?

17 A The baggies that are in there are commonly used to
18 store methamphetamine.

19 Q And if you could, could you show us where those
20 baggies are located in the photograph?

21 A There's a couple different spots.

22 Am I allowed to circle multiple spots?

23 Q Please. Yes.

24 A (The witness complies.)

1 Q The handgun that you located, that was collected by
2 Linda Brown; is that right?

3 A Yes, sir.

4 Q Did you locate -- so is it fair to say that the only
5 area of the house that you searched when you got there, sort
6 of joining them already in the course of searching, was that
7 master bedroom?

8 A That's correct.

9 Q Now, later on, down the road, so to speak, did you
10 receive another assignment in the case?

11 A Yes, sir, I did.

12 Q Okay. And was that a request made of you by
13 Detective Rowe, or then Sergeant Rowe?

14 A Yes, it was.

15 Q Okay. And what did he ask you to do?

16 A He asked me to assist him in serving a search
17 warrant on a cell phone that belonged to Mr. Hager.

18 Q And was that the same iPhone that you had collected
19 during your search of Mr. Hager's vehicle that you've
20 previously testified about?

21 A Yes, it was.

22 Q And do you have some specialized training and
23 experience in conducting searches of electronic devices?

24 A I do.

1 Q And when you search an electronic device like a cell
2 phone, do you just log on -- get on the phone and start
3 looking through the folders and looking at the e-mails and
4 stuff? Is that how you do it?

5 A No. We use a special forensic program to prevent
6 the phone -- prevent us from deleting anything that would be
7 on the phone.

8 Q Can you just give us -- first let me ask you this:
9 Could you outline for us your relevant education and training
10 that qualifies you to conduct those forensic searches?

11 A Yes. I've been to numerous classes. I think it
12 started back in 2012 or something of that nature where I
13 started attending classes on cell phones, on mapping, looking
14 at digital forensics, knowing how to collect evidence when it
15 comes to electronic evidence.

16 In 2014, I attended the Computer Forensics Institute
17 in Alabama and looked at computer forensics, which kind of
18 went hand in hand with cell phones. Some of the things are
19 very similar now with smart phones being very similar to
20 computers.

21 Also in 2014, I attended classes for what are
22 considered programs for Lancer and Cellebrite. They are
23 forensic programs we use to download phones. The reason we do
24 that is to verify results. If I'm going to download this

1 phone in Cellebrite, I want to verify everything in there I
2 got is correct. So then I run another program, Lancer, and
3 compare the results and see that they're correct.

4 Q When you talk about downloading, can you give us an
5 idea of the mechanics? So when you're going to search a phone
6 like an iPhone, a smart phone, what is the -- what are the
7 mechanics of how you go about doing that, when you talk about
8 downloading or copying?

9 A We have some procedures we like to do. For example,
10 I also photograph the phone. I, you know, look at the phone
11 and make sure that what type of phone it is. And then when we
12 -- you say "downloading it," you're basically taking an image
13 of that phone and putting it onto a computer that we can now
14 analyze that data.

15 As you had said earlier, we are not looking through
16 the suspect or whatever phone it might be by hand, because
17 that's going to alter a lot of the data. I could accidentally
18 delete something, and I don't want to do that.

19 So after the acquisition has brought the download of
20 the phone to the computer, now I can look through files and
21 folders and figure out what's on the phone without worrying
22 about deleting any of it.

23 Q So it sounds like you're downloading a copy of the
24 phone and searching the copy instead of the phone?

1 A Correct.

2 Q And by doing that, you ensure that you don't tamper
3 with or alter any of the evidence that might be on the phone?

4 A Correct.

5 Q Now, in this case, did you conduct a forensic search
6 of the Defendant's iPhone?

7 A I did.

8 Q And in the course of your search, did you locate any
9 of the items that you were looking for; pictures, videos
10 depicting firearms or the Defendant in possession of firearms?

11 A Yes, both of those.

12 Q Okay. I like to look at some of those items with
13 you. Before I do, I want to ask you about -- generally about
14 how a cell phone stores images like pictures or videos.

15 When you create a video or photo on a cellular
16 phone, does the phone record some data about that video or
17 picture?

18 A Generally, yes.

19 Q Okay. And when you say "generally," what do you
20 mean by that?

21 A A lot of times there is settings that the user of
22 the phone can turn off or on, depending on their preferences.

23 Q Okay. And so, for instance, if I have an iPhone, is
24 it -- I can set the iPhone so it wouldn't record any data

1 about the video or photos I take?

2 A Limited data. You still have some on there but less
3 than others.

4 Q If I don't do that, I take pictures or make videos
5 with my phone, it would be recording what type of data about
6 those videos and pictures?

7 A You could get a variety of the data. You could get
8 the date, time, or location of when a video or photograph is
9 taken, for example.

10 Q With regard to the Defendant's iPhone, was his phone
11 configured to not record that data or record that data?

12 A His phone allowed that data to be collected.

13 Q Okay. Detective, I'm going to show you -- first I
14 want to show you Exhibit 9. Detective, I'm going to show you
15 what we have marked as Exhibit Number 9. Could you please
16 take a look at that exhibit and tell me if you recognize it?

17 A Yes, sir.

18 Q Does that exhibit contain images and data that you
19 located on Mr. Hager's -- the Defendant's iPhone?

20 A Yes, it does.

21 Q Okay. And does the data that is -- that was
22 associated with those photographs allow you to tell when and
23 even where those photos were taken?

24 A It does.

1 MR. PRENGAMAN: Your Honor, I move for the admission
2 of Exhibit 9.

3 MS. HICKMAN: No objection.

4 THE COURT: Is there any stipulations related to
5 this exhibit?

6 MS. HICKMAN: Your Honor, if I could take a look at
7 what they are.

8 THE COURT: 9 will be admitted. But if you could
9 take a look.

10 (Exhibit 9 admitted into evidence.)

11 MS. HICKMAN: I stipulate to all of those.

12 THE COURT: There's a stipulation. Would you please
13 list those numbers for the record?

14 Thank you very much, Counsel. Go ahead.

15 MR. PRENGAMAN: Exhibit 11. Exhibit 15.
16 Exhibit 16. Exhibit 21. Exhibit 23. And Exhibit 24.

17 THE COURT: Thank you. They are admitted by
18 stipulation.

19 You may proceed.

20 (Exhibits 11, 15, 16, 21, 23 and 24 admitted into evidence.)

21 MR. PRENGAMAN: Thank you, Your Honor.

22 BY MR. PRENGAMAN:

23 Q Detective, showing you Exhibit 9, so this exhibit
24 has three images; is that right?

1 A Yes, sir.

2 Q Okay. And are they images that -- on the left side
3 of the exhibit, those are photographs that you found on
4 Mr. Hager's phone?

5 A That's correct.

6 Q And on the left, what is the text that we are
7 looking at?

8 A The left?

9 Q I'm sorry. On the right -- to the right of the
10 photos, what is the box that has text in it?

11 A The right of the box is basically what we consider
12 metadata or data about the picture to the left.

13 Q Was that data that was actually associated with the
14 corresponding photograph on the phone?

15 A That is correct.

16 Q So let me zoom in with the top image and look at
17 that. So can you please look at that top box of data, explain
18 to us what we see there, the significance of it?

19 A Sure. It starts with the file and file name, if you
20 will. It's named IMG, underscore, 3714.DJPG. That's just
21 every time you take a picture, it gives a name to it. So as
22 you take more pictures, it would be 3714, 3715, 3716, and so
23 forth.

24 Below that is the file time. This could change

1 depending on when this file was accessed or if things were
2 changed on that file.

3 Q So let me stop you there, Detective. So does the
4 file time -- does that tell you when that image was created?

5 A No.

6 Q It could, but not necessarily?

7 A That's correct. If it wasn't relooked at later or,
8 you know, manipulated later, it might change. But if it
9 wasn't, it would not change.

10 Q So it's not necessarily a reliable indicator as to
11 when it was created?

12 A Correct. In this case, it looks like it.

13 Q What's the next -- the GPS time?

14 A GPS time is the time the picture was taken but with
15 relation to GPS coordinates or location coordinates.

16 Q And in terms of reliability as to the creation of
17 the image with the file, what is GPS time?

18 A It is very reliable. It shows when the picture was
19 taken. In this particular case, though, this time is based on
20 Greenwich Mean Time. That's what they do GPS coordinates in,
21 or UTC time, depending on how you look at it. It's not the
22 Pacific Standard Time that we are used to here.

23 Q So in order to determine what our time would be
24 here, what type of corrections do you need to make?

1 A In this particular time -- we have daylight savings
2 time, so it does change, you know, halfway through the year.
3 But in this particular time, it's negative eight hours.

4 Q So if you subtract eight hours from the time we see
5 on the GPS time, that would give the corresponding time to our
6 time zone in -- back when this was taken in January?

7 A That's correct.

8 Q And how about the EXIF time?

9 A That is the local time when the picture was taken.

10 Q And in terms of reliability as to the creation of
11 the photo, or file, or video, how is EXIF time?

12 A That's very reliable because even if you open the
13 file many, many times, that EXIF time does not change.

14 Q If I understand your testimony, Detective, GPS and
15 EXIF time are essentially the same. The only exception is
16 that the GPS time is in Greenwich Mean; whereas EXIF is in our
17 local time zone?

18 A That's correct.

19 Q So looking at the first photograph, when was that
20 photograph created?

21 A It was created on 12-4 2016 at 23:39:40 seconds. So
22 11:39 at night.

23 Q So it's what I would characterize as military time;
24 is that right?

1 A That's correct.

2 Q The 24-hour time.

3 And looking at the second photograph, do you
4 recognize -- or what is the creation date and time of that
5 photograph?

6 A It's -- again, looking at the EXIF time, it's 1-24
7 2016 at 19:31 hours and 10 seconds. So it would be 7 --
8 7:31 at night.

9 Q And the last photograph, what's the time relation to
10 that photograph?

11 A 1-24 2016 at 23:33 hours.

12 Did you want me to finish going with all the dates
13 that are there, or is that enough?

14 Q Please, if would you, Detective. Let me go back to
15 the top.

16 A Okay. The only -- the only part we didn't finish
17 here is on the camera. It shows it was taken by an Apple
18 iPhone 6. The software version at the time this picture was
19 taken is software session 8.4.1. That will change as updates
20 come and the person updates the software.

21 The next is the coordinates. We talked about GPS
22 time. That's related to GPS coordinates. So those
23 coordinates are the location of where this picture was taken.'

24 And then the source on the bottom is the file

1 structure, so where that file is stored on the phone.

2 Q And with regard to those GPS coordinates, did you
3 look those up?

4 A I did.

5 Q And where do they correspond?

6 A Mr. Hager's home at 2460 Anqua.

7 Q And is that true of all the GPS coordinates for
8 these particular images?

9 A Yes, sir.

10 Q Now, Detective, if you had -- looking at the photos,
11 the still images, from your time in Mr. Hager's residence when
12 you were assisting in the search, do you recognize any of
13 those areas that we see in the photos?

14 A Yes. It appears to be in the master bedroom. I
15 recognize the lamp. I also recognize the nightstand.

16 Q Did you also locate videos on the phone?

17 A Yes, sir.

18 THE COURT: Mr. Prengaman, were you planning on
19 playing those videos at this time?

20 MR. PRENGAMAN: I was hoping to.

21 THE COURT: I'm thinking -- it's quarter to 5:00.
22 Great way to have a segue before you move there, so I think
23 we'll stick that up tomorrow morning.

24 Ladies and gentlemen, we'll take our evening recess

1 because this is a good time to break, and we don't have to
2 break in the middle of the videos at 5:00.

3 We'll start tomorrow at 10:30. I have a calendar to
4 take care of in the morning. That's what I have to do, then
5 we'll start at 10:30 tomorrow and have a full day of trial.

6 So our evening recess reads as follows: We are
7 going to take an evening recess. It is your duty not to
8 converse among yourselves or with anyone else on any subject
9 connected with the trial or to read, watch, or listen to any
10 report of or commentary on the trial by any person connected
11 with the trial or by any medium of information, including,
12 without limitation, newspaper, television, Internet, smart
13 phones, radio, and you are not to form or express an opinion
14 on any subject connected with this case until it is finally
15 submitted to you.

16 Thank you for your attention today. Sorry, again,
17 about the delay. Hopefully we won't be delayed tomorrow.
18 We'll start at 10:30.

19 Thank you for your time.

20 All rise for the jury.

21 We'll see you tomorrow.

22 (The jury left the courtroom.)

23 THE COURT: We are outside the presence.

24 Anything we have to discuss this evening from the

1 defense?

2 MS. HICKMAN: Judge, it's my understanding that the
3 State was going to have Ms. Okuma here with the questionnaire.
4 That's the only thing.

5 MR. PRENGAMAN: Yes, Judge. If I may just take a
6 moment in order to facilitate the obtaining of those P & P
7 notes, I should have Ms. Okuma here outside the courtroom. So
8 if I can take a moment, I think I can get them. My only
9 concern is that I haven't had a chance to talk to her
10 personally, and my investigator was the go-between to
11 facilitate getting the notes. I'm not sure -- it might be she
12 needs to come into court and have the Court make the order for
13 her to give them up because I'm not sure she's going to feel
14 comfortable giving them to me. I want to make sure you have
15 the opportunity to verify that so we can get it to the defense
16 tonight. So if I may take a minute?

17 THE COURT: You can.

18 Be seated.

19 And you can be excused, Officer. See you tomorrow.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Thank you for your testimony so far.

22 See you tomorrow at 10:30.

23 THE WITNESS: Yes, sir.

24 MR. PRENGAMAN: So, Your Honor, I have it. I'll

1 make a copy and give it to the defense.

2 THE COURT: Thank the witness for complying with my
3 Order.

4 See you tomorrow at 10:30. We'll be in recess until
5 then.

6 (Proceedings continued to December 14, 2016.)

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1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.
3

4 I, SUSAN KIGER, an Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, State of Nevada, DO HEREBY CERTIFY:

7 That I am not a relative, employee or
8 independent contractor of counsel to any of the parties, or a
9 relative, employee or independent contractor of the parties
10 involved in the proceeding, or a person financially interested
11 in the proceedings;

12 That I was present in Department No. 9 of the
13 above-entitled Court on December 13, 2016, and took verbatim
14 stenotype notes of the proceedings had upon the matter
15 captioned within, and thereafter transcribed them into
16 typewriting as herein appears;

17 That the foregoing transcript, consisting of
18 pages 1 through 205, is a full, true and correct transcription
19 of my stenotype notes of said proceedings.

20 DATED: At Reno, Nevada, this 14th day of
21 April, 2017.

22 /s/ Susan Kiger

23 SUSAN KIGER, CCR No. 343
24

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 16th day of August 2017. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Terrence P. McCarthy, Chief Appellate Deputy,
Washoe County District Attorney

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

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John Reese Petty
Washoe County Public Defender's Office

IN THE SUPREME COURT OF THE STATE OF NEVADA

IAN ANDRE HAGER,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal from a Judgment of Conviction in Case Number CR16-1457
The Second Judicial District Court of the State of Nevada
Honorable Scott N. Freeman, District Judge

JOINT APPENDIX VOLUME TWO

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Aug 16 2017 12:57 p.m.
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Clerk of Supreme Court

No. 72613

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

6 IN AND FOR THE COUNTY OF WASHOE

7 THE HONORABLE SCOTT N. FREEMAN, DISTRICT JUDGE

8

9 THE STATE OF NEVADA, --o0o--

10 Plaintiff, Case No. CR16-1457

11 vs. Dept. No. 9

12 IAN ANDRE HAGER,

13 Defendant.

14

15 *Volume I - Pages 1-35*

16 TRANSCRIPT OF PROCEEDINGS

17 JURY TRIAL

18 Monday, December 12, 2016

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24 Reported by: EVELYN J. STUBBS, CCR #356

A P P E A R A N C E S

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The Defendant:

IAN ANDRE HAGER

1 RENO, NEVADA; MONDAY, DECEMBER 12, 2016; 9:49 A.M.

2 ---oOo---

3
4 THE COURT: Good morning. Please be seated. We're on
5 the record in CR16-1457, State versus Ian Andre Hager. Thank you
6 both for being present.

7 MR. PRENGAMAN: Luke Prengaman for the State.

8 MS. HICKMAN: Kate Hickman and Erica Flavin on behalf
9 of Mr. Hager.

10 THE COURT: Thank you. The reason I asked you to be a
11 little bit earlier is because I have to do a Frye/Lafler canvass
12 before we go forward.

13 Would you please stand, Mr. Hager.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: The law requires me to inquire of you
16 whether or not you've been offered a plea bargain in this case,
17 whether you had the opportunity to discuss that plea bargain,
18 whether all the questions were answered to your satisfaction
19 related to that plea bargain, as you have selected to go to
20 trial. And so I have to go through that dialogue with you.

21 So first I'm going to ask Mr. Prengaman, was a plea
22 bargain offered in this case?

23 MR. PRENGAMAN: Yes, Your Honor.

24 THE COURT: What was that plea bargain?

1 MR. PRENGAMAN: It was to plead guilty to one count of
2 Category C prohibited person in possession of a firearm, the
3 State would not oppose Mental Health Court, if he were accepted
4 into the program.

5 THE COURT: All right. Thank you.

6 You heard Mr. Prengaman's recitation of the plea
7 bargain. Was that communicated to you?

8 THE DEFENDANT: Yes, it was.

9 THE COURT: All right. Did you have an opportunity to
10 discuss that with your lawyers?

11 THE DEFENDANT: Yes.

12 THE COURT: Did they answer all your questions related
13 to that plea bargain to your satisfaction?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And who was the one who communicated to
16 you?

17 THE DEFENDANT: Both Kate Hickman and Erica Flavin.

18 THE COURT: So I'll ask you first, Ms. Hickman. Did
19 you have an opportunity to communicate that plea bargain to your
20 client?

21 MS. HICKMAN: I did.

22 THE COURT: And did you answer all his questions to the
23 best of your ability that he had?

24 MS. HICKMAN: I believe I did.

1 THE COURT: All right. Thank you.

2 Ms. Flavin, I'll ask you the same questions. Did you
3 have a chance to review that plea bargain with your client?

4 MS. FLAVIN: Yes, Your Honor.

5 THE COURT: And did you answer all the questions to the
6 best of your ability that had?

7 MS. FLAVIN: I believe so.

8 THE COURT: Okay. With that in mind, Mr. Hager, it's
9 still your decision to go to trial?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. Thank you very much. That's
12 the canvass. You may be seated.

13 Are there any housekeeping matters?

14 MS. HICKMAN: Judge, just briefly. We did issue a
15 subpoena to the Division of Parole and Probation for Mr. Hager's
16 parole and probation history related to Mental Health Court and
17 the CR13 case out of Humboldt County. The Division, through the
18 AG's office, did file a motion to quash. I just wanted to give
19 the Court a little bit of information about that before we go
20 forward.

21 THE COURT: All right.

22 MS. HICKMAN: Obviously the Division filed a motion to
23 quash arguing that that information is confidential, that it's
24 private, and that it should not be released.

1 THE COURT: Isn't it private to the defendant?

2 MS. HICKMAN: That's their argument.

3 THE COURT: Go ahead.

4 MS. HICKMAN: They did release such private and
5 confidential information to law enforcement. It is being used
6 against Mr. Hager in this case, through the PSI. However, I did
7 speak with the attorney who filed the motion to quash from the
8 AG's office. She did review the file with me. She let me know
9 what's in it. The thing that they were looking for mostly was
10 whether or not Mr. Hager had any dirty drug tests, whether or not
11 he had any violations of probation or whether or not he was ever
12 placed into treatment with a residential or outpatient.

13 She indicated that none of those things happened; he
14 had no violations during the time that he was on probation; he
15 had no dirty drug tests; and he was never placed in any sort of
16 drug or alcohol treatment. So with that, we will withdraw our
17 subpoena, and we are ready to go forward.

18 THE COURT: All right. Very good. Thank you for that.
19 And I'll take that out of my folder at this time. Very good.

20 All right. Is there anything else?

21 I'll give you a quick schedule, and I'll share this
22 with the venire panel. A quick schedule is I have to speak at a
23 seminar tomorrow, so we'll start at 11:00. Other than that, we
24 go today until 3:45. I have Youth Offender Court at 4:00. Other

1 than that, that's all I can share with you right now from a
2 scheduling perspective. I have some crims on Wednesday. I don't
3 know how many yet, so we'll see what I do there, but we'll do it
4 on a day-by-day basis in that regard.

5 And that's all I can think of. Oh, Joanna Roberts is
6 one of the venire panel people. I assume you would have a
7 stipulation to dismiss her.

8 MS. HICKMAN: I would, Judge. She actually represented
9 Mr. Hager in this case for a period of time.

10 THE COURT: I was going to say that would be kind of a
11 conflict, to have a member of the Public Defender's office on the
12 venire panel. So we will let them know downstairs that she
13 doesn't have to come up, if we can do that. Other than that,
14 that's all I really saw from a venire panel issue.

15 Anything else from you, Mr. Prengaman?

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

17 THE COURT: Anything else Ms. Hickman?

18 MS. HICKMAN: No, Your Honor. Thank you.

19 THE COURT: And Ms. Flavin?

20 MS. FLAVIN: No. Thank you, Your Honor.

21 THE COURT: All right. Thank you. We'll see you back
22 here in just a few moments when they bring the venire panel up,
23 and I'll let the jury commissioner know that they can release
24 Ms. Roberts by stipulation.

1 All right. Thank you.

2 (Recess taken.)

3 THE COURT: All right. We're on the record in
4 CR16-1457, State versus Ian Andre Hager.

5 Welcome, ladies and gentlemen, to Department 9 of the
6 Second Judicial District Court here in Washoe County. I've just
7 announced a criminal case that we're State of Nevada versus Ian
8 Andre Hager. The record will reflect the presence of the
9 defendant, his attorney team, and the prosecution as well.

10 Please call the juror roll.

11 THE CLERK: Yes, Your Honor.

12 (Roll call taken of the entire jury venire panel.)

13 (Initial venire panel called.)

14

15 (Jury panel sworn.)

16 THE COURT: Please be seated. All right. Ms. Clerk,
17 would you now read the Information.

18 THE CLERK: Yes, Your Honor.

19 Filed October 5th, 2016, Jacqueline Bryant, Clerk of
20 the Court, in the Second Judicial District Court of the State of
21 Nevada, in and for the County of Washoe.

22 The State of Nevada, Plaintiff, versus Ian Andre Hager,
23 Defendant. Case number CR16-1457, Department No. 9.

24 Information: Christopher J. Hicks, District Attorney

1 within and for the County of Washoe, State of Nevada, in the name
2 and by the authority of the State of Nevada informs the above-
3 entitled court that Ian Andre Hager, the defendant above-named,
4 has committed the crimes of:

5 Count I, Possession of a Firearm by a Prohibited
6 Person, a violation of NRS 202.360.2.A, in the manner following,
7 to wit: That the said Defendant, Ian Andre Hager, on, about and
8 between November 6, 2015, and April 8, 2016, within the County of
9 Washoe, State of Nevada, did willfully and unlawfully, having
10 been previously adjudicated as mentally ill in the Sixth and/or
11 Second Judicial District Court of Nevada and committed to Mental
12 Health Court or after having been committed to any mental health
13 facility, did own or have in his actual or constructive
14 possession or under his dominion and control, a firearm, which
15 was a Bushmaster .223 caliber assault rifle, and another firearm,
16 which was a Winchester 20-gauge shotgun.

17 Count II, Possession of a Firearm by a Prohibited
18 Person, a violation of NRS 202.360.2.A, in the manner following,
19 to wit: That the said Defendant, Ian Andre Hager, on, about and
20 between November 6th, 2015, and April 8, 2016, within the County
21 of Washoe, State of Nevada, did willfully and unlawfully, having
22 been previously adjudicated as mentally ill in the Six and/or
23 Second Judicial District Courts of Nevada and committed to Mental
24 Health Court or after having been committed to any mental health

1 facility, did own or have in his actual or constructive
2 possession or under his dominion and control a firearm, which was
3 a Navy Arms handgun, and another handgun, which was a Colt 1911
4 handgun.

5 Count III, Possession of a Firearm by a Prohibited
6 Person, a violation of NRS 202.360.2.A, in the manner following,
7 to wit: That the said Defendant, Ian Andre Hager, on, about and
8 in between November 6th, 2015, and April 8th, 2016, within the
9 County of Washoe, State of Nevada, did willfully and unlawfully,
10 having been previously adjudicated as mentally ill in the Sixth
11 and/or Second Judicial District Court of Nevada, and committed to
12 Mental Health Court or having been committed to any mental health
13 facility, did own or have in his actual or constructive
14 possession or under his dominion and control a firearm, which was
15 a Sears and Roebuck shotgun, another firearm, which was a SIG
16 Sauer .40 caliber handgun, and another firearm, which was a Ruger
17 .22 caliber rifle.

18 Count IV, Possession of a Firearm by a Prohibited
19 Person, a violation of NRS 202.360.1.C, in the manner following,
20 to wit: That the said Defendant, Ian Andre Hager, on, about and
21 between November 6th, 2015, and April 8th, 2016, within the
22 County of Washoe, State of Nevada, did willfully and unlawfully
23 own or have in his actual or constructive possession or under his
24 dominion and control a firearm, which was a Bushmaster .223

1 caliber assault rifle, and another firearm, which was a
2 Winchester 20-gauge shotgun, while being an unlawfully user of or
3 addicted to any controlled substance.

4 Count V, Possession of a Firearm by a Prohibited
5 Person, a violation of NRS 202.360.1.C, in the manner following,
6 to wit: That the said Defendant, Ian Andre Hager, on, about and
7 between November 6, 2015, and April 8th, 2016, within the County
8 of Washoe, State of Nevada, did willfully and unlawfully own or
9 have in his actual other constructive possession or under his
10 dominion and control a firearm, which was a Navy Arms handgun,
11 and another handgun, which was a Colt 1911 handgun, while being
12 an unlawful user of or addicted to any controlled substance.

13 Count VI, Possession of a Firearm by a Prohibited
14 Person, a violation of NRS 202.360.1.C, in the manner following,
15 to wit: That the said Defendant, Ian Andre Hager, on, about, and
16 between November 6th, 2015, and April 8th, 2016, within the
17 County of Washoe, State of Nevada, did willfully and unlawfully
18 own or have in his actual or constructive possession or under his
19 dominion and control a firearm, which was a Sears and Roebuck
20 shotgun, another firearm which was a SIG Sauer .40 caliber
21 handgun, and another firearm, which was a Ruger .22 rifle, while
22 being an unlawful user of or addicted to any controlled
23 substance.

24 All of which is contrary to the form of the statute in

1 such case made and provided and against the peace and dignity of
2 the State of Nevada.

3 Christopher J. Hicks, District Attorney, Washoe County,
4 Nevada, by Luke Prengaman, Chief Deputy District Attorney.

5 To which Information the Defendant entered a plea of
6 not guilty as charged.

7 THE COURT: Thank you, Miss Clerk.

8 Ladies and gentlemen, the process of the trial now is
9 I'm going to read you some instructions that will help guide
10 through the trial. At the conclusion of reading the
11 instructions, I'm going to recess the Court so you can have
12 lunch. And we're going to take an hour off. And when we come
13 back the lawyers will present their opening statements.

14 The opening statements are the part of the trial where
15 the lawyers attempt to give you a roadmap of what you can
16 anticipate the evidence will be from their perspective.

17 So that being said, please listen carefully to the
18 instructions. They are all very important. Please excuse the
19 fact that I will be reading these to you, because they all have
20 special meaning and importance.

21 (Instructions read to the Jury.)

22 THE COURT: All right, Ladies and gentlemen, the next
23 phase of the trial will be opening statements. As a consequence,
24 you didn't know you would be selected as a juror in today's case,

1 so you might have to make some phone calls to tell people guess
2 what, I'm a juror in a criminal case for the next five days. And
3 I'm going to give you that time to do so. We're going to take an
4 hour for lunch at this time. So be back at 2:30, please.

5 I'm going to read a recess admonishment that I want you
6 to pay attention to. And I'll do that recess -- every time we
7 recess during the case. And it reads as follows:

8 Ladies and gentlemen, we're going to take our lunch
9 recess. During this recess it is your duty not to converse
10 amongst yourselves or with anyone else on a 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 or
13 by any medium of information, including and without limitation
14 newspapers, television, Internet, smart phones, Facebook, radio,
15 Instagram, all the other the social networks, as well as the
16 traditional newspaper, television, Internet, radios and so forth.

17 You're not to form or express an opinion on any subject
18 connected with this case until it is finally submitted to you
19 after closing arguments at the end of the case.

20 So with that recess admonishment, I'll see you all back
21 here at 2:30. And Mr. Lemus, take care of that cold.

22 All rise for the jury.

23 (The following proceeding was held outside the presence of the
24 jury.)

1 THE COURT: We're still on the record outside the
2 presence.

3 I made that comment to Mr. Lemus on purpose. It was
4 the Court's observation that Mr. Lemus was coughing during the
5 entire voir dire process. He looked as though he has a cold, and
6 I want to bring that to everybody's attention. Nobody inquired
7 of Mr. Lemus as to that. It wasn't my place to do so. Mr. Lemus
8 has now been selected as a juror. And as I said on the record, I
9 hope he takes care of his cold, because he has been selected and
10 he'll be in the entire five days, so we'll keep an eye on that.

11 Anything else, Mr. Prengaman?

12 MR. PRENGAMAN: No, Your Honor. I do intend -- there
13 is a number of exhibits that I have to offered by way of
14 affidavit. I intend to make some appropriate -- we'll move for
15 the admission of those before we start.

16 THE COURT: Sure. The easiest thing for me is if you
17 can obviously get together with Ms. Hickman, stipulate to any
18 exhibits that you can stipulate to, without the need to go
19 through the authenticity issues.

20 If you can stipulate to those, the way I usually do it
21 is you continue with the flow of your examination of a particular
22 witness, you'll identify the exhibit, say it has been stipulated
23 to, I'll admit it on the record, and you continue with the flow
24 of your examination, if you can make that stipulation. I won't

1 make you stop and do an authentication if there's a stipulation.

2 You can let me know there's a stipulation, I'll admit
3 the exhibit, and you can continue with the flow of your
4 examination. All right?

5 Any question on that procedure, Ms. Hickman.

6 MS. HICKMAN: No.

7 THE COURT: Mr. Prengaman, you've tried a case here
8 before, so you know.

9 Anything else?

10 MS. HICKMAN: Judge, speaking of stipulations, before
11 we do opening statements, we would offer to stipulate to the
12 element of the possession of the firearms in this case.

13 We would stipulate that Mr. Hager was in possession of
14 all of the charged firearms during the time that it's charged.
15 We would also agree to a jury instruction that says that if the
16 State proves all of the elements other than possession beyond a
17 reasonable doubt the jury must convict him, because we would
18 agree that -- we would stipulate to the fact that he would have
19 possession.

20 With that stipulation, we would ask the Court, then, to
21 exclude the Facebook videos that the State intends to introduce
22 to show that he had possession during that time, because we would
23 agree that he possessed them and that he was in continuous
24 possession of those firearms during the time that the Facebook

1 videos were made, but more importantly during the time that he
2 was charged in the information.

3 THE COURT: Did you want to think about that?

4 MR. PRENGAMAN: I'll think about it, yeah.

5 THE COURT: All right. Why don't you let me know
6 before we bring the jury in. I'll give you the lunch hour to
7 think about it. You might speak with counsel and further define
8 that, if you need to further define it as you analyze your case.

9 But an offer of a stipulation doesn't mean that it is.
10 So it will be up to Mr. Prengaman whether he wants to take that
11 or not.

12 So that being said, I'll look forward to hearing from
13 you both at 2:30 before we bring the jury in as to what you
14 decided.

15 Anything else?

16 MS. HICKMAN: Judge, on that, there is case law that
17 says is there is a stipulation, the parties do stipulate, it
18 doesn't necessarily have to be with the State's permission. The
19 Court can then decide whether or not the State can introduce that
20 evidence.

21 Well, I'll talk with Mr. Prengaman, and we can decide
22 what we do when we come back from lunch.

23 THE COURT: Just so you know for the record, a
24 stipulation by definition is an agreement.

1 MS. HICKMAN: Right.

2 THE COURT: You're in a position where you can concede
3 certain evidence without the State's need to agree to it. I want
4 the record to be clear that obviously the most -- the easiest way
5 to handle this -- the word came to mind -- is if there is a
6 stipulation from the State, but for whatever strategy reason
7 Mr. Prengaman doesn't chose to do, so you can make certain
8 concessions for the record that you will then make it incumbent
9 upon me as to whether I make certain rulings, based upon the
10 concessions that you've made.

11 MS. HICKMAN: Perfect. Thank you.

12 THE COURT: All right. Thank you. See you back here
13 at 2:30.

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1 RENO, NEVADA; MONDAY, DECEMBER 12, 2016; 2:30 p.m.

2 AFTERNOON SESSION

3
4 THE COURT: All right. We're back on the record in
5 CR16-1457, State versus Ian Andre Hager. We're outside the
6 presence of the jury. I had asked to convene outside the
7 presence prior to starting, because the defense had made a
8 proffer for and a stipulation.

9 Where are we that, Mr. Prengaman?

10 MR. PRENGAMAN: Your Honor, I'm not going to accept it.
11 I don't believe the law requires me to, and additionally, it
12 smacks to me, at least to me, of sort of sandbagging at this late
13 hour, right before opening statements; to have to try to
14 rearrange my presentation based on that. So for kind of two
15 reasons, but State will not accept the stipulation.

16 THE COURT: Very good. Thank you. All right.

17 Is everybody prepared to proceed with their opening
18 statement?

19 MS. HICKMAN: Yes.

20 MR. PRENGAMAN: Yes, Your Honor.

21 THE COURT: All right, please. Anything else we need
22 to discuss before we bring the jury in?

23 MS. HICKMAN: No.

24 THE COURT: Thank you. All right. We're still waiting

1 on just one juror? Do you want to just check on that.

2 What juror number is that, Deputy?

3 THE BAILIFF: Juror number five.

4 THE COURT: I guess I'll get off the bench, and buzz me
5 when the jury shows up. If you have to deal with some other
6 things related to it, let me know. We'll be in recess until
7 then.

8 (Recess taken.)

9 (The following proceedings were held in the presence of the
10 jury.)

11 THE COURT: Back on the record in CR16-1457, State
12 versus Ian Andre Hager. I note the presence of the defendant,
13 the defense team, the prosecution. I see all of our jurors.

14 I thank you for all being here. What I just try to do
15 is, there's only a certain set time, if you could just try be
16 here just a little bit early, that way we get started at that
17 time. Your time is most valuable, I don't like to waste it. So
18 try to do your best.

19 Sometimes we do things outside your presence in a trial
20 to make things go more smoothly. Sometimes I'll excuse in the
21 middle of trial and say, "There's some things that the lawyers
22 and I need to talk to about," to make the trial go smoothly.
23 Sometimes I'll excuse you for that purpose and then bring you
24 back. It just depends on what occurs in the trial.

1 But just do you best to try to be here when we come
2 back at the break, and then we can proceed and move forward with
3 the trial days, and see if it will take all five days or less.

4 That being said, now is the time for opening
5 statements. As I told you before, what we do at opening
6 statements is the lawyers have the opportunity, and the State
7 will have the opportunity, to make an opening statement related
8 to what they think the evidence will show. And then the defense,
9 if they so choose, can make an opening statement as well.

10 That being said, Mr. Prengaman.

11 MR. PRENGAMAN: Thank you, Your Honor.

12 Good afternoon, Ladies and gentlemen. This is a case
13 of a defendant in possession of firearms he wasn't supposed to.
14 The evidence you'll hear in this case will show that between
15 November 6th of 2015, and April 8th of 2016, this defendant was
16 in possession of a number of firearms -- seven -- rifles and
17 handguns, after he was previously adjudicated mentally ill and
18 ordered into the Washoe County Mental Health Court, and while he
19 was a user, an addict of a controlled substance.

20 Now the evidence you'll hear will start in the
21 beginning of April of 2016. You'll hear that detective -- then
22 detective, now sergeant, Christopher Rowe of the Sparks Police
23 Department was investigating the defendant as to whether he was
24 in fact a prohibited person in possession of firearms.

1 He has a residence in Sparks. That's where he lives on
2 Anqua, Anqua Drive in Sparks. And part of the information that
3 Detective Rowe, then Detective Rowe received was from Detective
4 Scott Johnson, who's a Reno Police Department detective. Now
5 Scott Johnson interacted with the defendant beginning in mid
6 February. He's assigned to the Robbery/Homicide Unit of the Reno
7 Police Department.

8 And on February 19th, the defendant, Ian Andre Hager,
9 presented himself at the Reno Police Department and wanted to
10 talk about his brother's case. This trial is not about his
11 brother's case. It's not about the details of what happened
12 there or that investigation. But there are some things that
13 transpired between Detective Johnson and the defendant that are
14 relevant to some things that happened later.

15 So on February 19th, Detective Johnson, who was not the
16 original investigating the detective went out and spoke to
17 Mr. Hager. Mr. Hager was somewhat dissatisfied with where his
18 brother's investigation was, and Detective Johnson told him he
19 would look into it, because the previous detective had retired.

20 So that was in person, in person at the Reno Police
21 Department they spoke. About a week later, Detective Johnson had
22 telephone contact. They spoke, he and Mr. Hager, spoke on the
23 telephone about his brother's case. In the interim Detective
24 Johnson had looked into it. And during that conversation he told

1 the defendant that -- again as relevant here, that the original
2 conclusions he concurred with; that the cause of his brother's
3 death was methamphetamine intoxication in combination with an
4 accident at his own hands.

5 Now Mr. Hager -- Detective Johnson will tell you
6 Mr. Hager was unhappy/unsatisfied with that communication, with
7 that conclusion. And over the course of the next several weeks,
8 roughly, but not perfectly, but roughly every week, usually on a
9 Friday, the defendant and Detective Johnson would speak about the
10 case. Ultimately -- and sometimes that was by email, but often
11 that was on the phone. There was probably one more in-person
12 contact where they discussed the case.

13 Now on March 31st, the defendant emailed Detective
14 Johnson a link to his Facebook account or page. Now you'll hear
15 that Facebook is a social media website are where people can sign
16 up to have a page or an account. And that is essentially like a
17 digital bulletin board or billboard on the Internet. People can
18 post or upload videos, pictures, they can write texts, they can
19 send messages, they can post messages. And the person who holds
20 the account decides how much of that they want to make public or
21 not. They can make it like a private club, where only certain
22 people have access, depending on what they want, or they can make
23 it like a public billboard; anybody that comes by can see what is
24 presented.

1 And You'll hear from Detective Johnson and Detective
2 Rowe that the defendant's Facebook account, which was under the
3 name Ian Andre, was largely public. Meaning that anybody that
4 came upon his page could view what he had posted. And so again,
5 it's relevant here, Detective Johnson looked at the -- the link
6 was to one of the videos on the defendant's Facebook page.

7 Defendant Johnson looked at it. And it was the
8 defendant just -- he was talking about sort of his discussions
9 with the detective. But all of his other videos were also
10 public. And so Detective Johnson had seen them posted, noted
11 that a number of them depicted the defendant -- you could see
12 him, you could see his face -- in possession of firearms. The
13 Sparks Police Department got that information. So as part of his
14 investigation Detective Rowe followed the -- went to the Web
15 address, went to the defendants's Facebook page. And because of
16 his particular investigation he was perusing/looking at the
17 videos, specifically to see if he saw the defendant in possession
18 of firearms.

19 And he will describe for you what he saw, and you will
20 see the videos. And what he saw was that, in fact, the defendant
21 from November up to the April period had posted a number of
22 videos, which show him typically in a home what is clearly a
23 house, handling, holding, manipulating, at times simply -- the
24 firearms. And at times he would, for instance, be sitting on the

1 couch with a firearm right there next to him.

2 You'll hear that the firearms that the detective could
3 see -- and you'll see in the videos -- there's a black handgun
4 that makes a number of appearances in those videos, there is a
5 black assault rifle that makes a number of appearances, and
6 there's a shotgun, and a silver-colored, silver-gray colored
7 semiautomatic handgun that also appears in those videos.

8 So having seen that, and you'll hear the detective, he
9 preserved what he saw. He used, basically, a capture program,
10 very similar to if you were to hold up a video camera on the
11 screen and just watch as the video plays. It essentially does
12 the same thing. It captures in real time exactly what the
13 detective was watching when he logged on to the defendant's page.
14 So he preserved those videos that he watched.

15 He also looked into, as part of his investigation of
16 the defendant, and he learned that the defendant had had a prior
17 case in Winnemucca in 2013, the Sixth Judicial District Court.
18 And he learned that the defendant, as part of those proceedings,
19 had been ordered into the Washoe County Mental Health Court.

20 Now, you'll see the court records from that, but what
21 you will see is a couple of things that Detective Rowe saw. One
22 of the which was the when the defendant was first sort of
23 presented to the Court, he was requesting that part of his
24 sentence that happened be that he be ordered into drug court,

1 which is a specialty court program. Not the same as Mental
2 Health Court, but they're both specialty court programs. And you
3 will see his application that his lawyer filed on his behalf
4 requesting that assignment.

5 In the course of the proceedings, he was interviewed,
6 and he related some information about his use of controlled
7 substances. He related to the -- what you might hear the
8 witnesses refer to as P&P, or the Parole and Probation, which is
9 an individual that, as part of the proceedings, interviews
10 individuals and presents that information to the Court.

11 You'll hear that he talked about his substance abuse
12 history. That he began using methamphetamine and cocaine at a
13 young age; at the age of 26 became addicted to Oxycontin; that he
14 had been using methamphetamine since a young age, but that he had
15 last used it, he reported at the time, which would have been
16 March, the March/April time frame of 2013, he said that he had
17 last used it in January of 2013. And he said that controlled
18 substances were an issue for him, that he didn't have positive
19 direction.

20 You will also that see that when he came -- when the
21 time came for his sentencing, he no longer requested the drug
22 court, but that he did request to be sent to the Mental Health
23 Court.

24 You'll hear about Mental Health Court. It is a

1 specialty court. And you'll hear Mr. Popovich and René Biondo.
2 Mr. Popovich is the manager of the specialty courts here in
3 Washoe County, and René Biondo is the specialty court officer.
4 And she is assigned to Mental Health Court specifically.

5 What you'll hear about that program is it's a program,
6 Mental Health Court is a program for the supervision of
7 individuals who are mentally ill and become involved in the
8 criminal justice system.

9 There is a statute that provides the way, the criteria
10 for getting into Mental Health Court. It requires either a
11 mental illness or intellectual disability. And you will see the
12 proceedings. The defendant had a diagnosis of PTSD, which you'll
13 hear from Mr. Biondo -- I'm sorry, Ms. Biondo -- Mr. Popovich --
14 which is a qualifying diagnosis of mental illness that qualifies
15 someone to Mental Health Court.

16 The judge considered that at the sentencing. And
17 you'll see that he ordered the defendant into Mental Health Court
18 as part of that sentence.

19 Now because the Sixth Judicial District Court in
20 Winnemucca doesn't have its own program, he ordered him into the
21 Washoe County Mental Health Court. And what that meant, as
22 you'll see, is that he ordered him to apply, and the Washoe
23 County, because it's here in Washoe County, had to determine that
24 he was eligible and accept him. And you'll hear and you'll see

1 the documentation, he was. Mr. Popovich and Ms. Biondo will tell
2 you that he was -- basically the process.

3 Ultimately, the judge who is assigned to Mental Health
4 Court makes a determination about whether somebody is qualified,
5 and found this defendant qualified. He was admitted into Mental
6 Health Court. So you'll hear the two judges consider his
7 application and placed him into Mental Health Court.

8 Now, Detective Rowe, based on the information that he
9 had come up with in his investigation, went to the Sparks Justice
10 of the Peace and applied for a search warrant for Mr. Hager's
11 residence. And that search warrant was granted. And on
12 April 8th the Sparks Police Department went to serve that
13 warrant. And they will describe what they did. They set up some
14 surveillance on Mr. Hager's residence. They wanted to make sure
15 that when they went to serve the warrant he wasn't home. And in
16 fact, he left the residence and ultimately was contacted by the
17 police.

18 In the meantime, a number of detectives and an officer
19 and evidence custodian went to Mr. Hager's house, and they served
20 the warrant. They took pictures as they did that. You will see
21 those. And the guns that were alleged in the Information, that
22 you heard read, were all located inside the residence.

23 You'll hear the testimony, but essentially the house is
24 like a two-story house. There's an upstairs loft area where the

1 bedrooms are, and then downstairs it's open, sort of like a great
2 room, open kitchen, living room, there's a small office, there's
3 a closet by the door, and then there's a laundry room in the
4 back.

5 And in the laundry room they found the Bushmaster
6 assault rifle sort of laying on the top of some clothing in
7 there. In the master bedroom they found the Sig Sauer pistol.
8 And they found, in the loft area, that Ruger rifle that you've
9 heard read. And then the other guns were found in the area of
10 the downstairs where there's a gun safe. And a couple of the
11 guns were located there.

12 Now, additionally in the course of their search, in the
13 upstairs master bedroom, where that black SIG Sauer pistol was
14 found on the bed -- during the search there was a nightstand next
15 to the bed, and in the top drawer they found a glass pipe, sort
16 of a tube with a round end, and a number of small plastic square
17 little Ziploc baggies. And you'll hear from Detective Dach, who
18 was present when those were found, that based on his experience
19 and training, which you'll hear about in terms of controlled
20 substance use, that that is the type of pipe that people use to
21 smoke methamphetamine, and those baggies are the way that it's
22 commonly sold, in those little plastic baggies.

23 So those weapons are found in the cupboard in the
24 search. And as you will see from the videos and the photos that

1 they located on his account, the black assault rifle that
2 appears, based on its appearance and its configuration, to be the
3 same one that appears in all the videos, likewise with the black
4 Sig Sauer pistol, and then that silver-colored semiautomatic
5 handgun. And the shotgun, which has a pistol grip, again, is
6 fairly distinctive. And you will see that depicted in what he
7 put on the Facebook.

8 When Mr. Hager was contacted, he was arrested, and he
9 was asked if he would -- to be interviewed. He was read his
10 Miranda rights. He ultimately agreed to do that, to be
11 interviewed. And the detective talked to him.

12 And the detective, when he was watching the videos
13 posted, came across a video that was posted on February 26th of
14 2016. And in that video Mr. Hager presents himself to the
15 camera, and he is talking about his brother's case, and he is
16 talking about the fact that the police gave more than one cause
17 of death for his brother, and that he is unhappy about --
18 unsatisfied with what the police have told him in that regard.

19 And he produces a plastic baggie, a larger plastic
20 baggie of white powder. And he says that he's going to -- he
21 represents, as he is filming himself, "That this is more than my
22 brother had in his system when he died," and that he was going to
23 disprove the police's theory.

24 He takes the bag. And then as you will see when you

1 see the photos of the search, you can see the background, so you
2 know that he's on the loft area of his residence. And he goes
3 over to a small table, where he sits, and he starts making the
4 motions of cutting up the powder. And then he proceeds to snort
5 it through a large tube or straw that methamphetamine.

6 When -- Detective Johnson, you'll hear when he followed
7 that lead and went to the defendant's Facebook page and was
8 looking at the video, he saw that same video of the 26th. And he
9 will tell you that that first conversation that he had, about a
10 week after the February 19th, when he related what he determined
11 and discovered in his review was the cause of death, he will tell
12 you that when he watched that video posted on February 26th, it
13 was exactly the conversation that Mr. Hager was talking about in
14 that video, exactly the conversation they had had on the phone
15 that day.

16 So when Detective Rowe interviews the defendant, he
17 talks to him about that video. And the defendant tells Detective
18 Rowe that, in fact, that was methamphetamine, and that he did
19 that to disprove the police theory.

20 Additionally, in that interview the defendant
21 acknowledges to Detective Rowe that he, yes indeed, was ordered
22 into Mental Health Court based on the diagnosis of PTSD.

23 And it is based on that evidence; the defendant's
24 history, with controlled substances, his admitted use of the

1 controlled substances in that video that he posted on the 26th,
2 and his commitment to Mental Health Court, based on his diagnosis
3 of a mental illness and the judges' orders, at the conclusion of
4 this case, based on that, I will ask you to find this defendant
5 guilty as charged of being a prohibited person, for having been
6 adjudicated mentally ill and sent to Mental Health Court and for
7 being an addict and observed using an illegal substance.

8 Thank you, ladies and gentlemen.

9 THE COURT: Thank you, Mr. Prengaman.

10 Ms. Hickman, do you wish to give an opening statement?

11 MS. HICKMAN: Thank you, Judge. At this time we would
12 ask to reserve our opening statement until the close of the
13 State's evidence.

14 THE COURT: All right. Very good.

15 Well, ladies and gentlemen, we have a little bit of a
16 short day today. Today, in terms of trying to put together our
17 cases, it's never like TV. I think somebody mentioned they were
18 familiar with Law and Order. I can tell you that trials are not
19 like the first half hour, where they get ready for trial, and the
20 second half-hour you have a verdict. This is the real world and
21 this is the way it really happens.

22 So what I told the lawyers today was that we would --
23 we didn't know how long it would take to select you fine citizens
24 to be our jury. So I indicated to them that they had the ability

1 to do opening statements. And as I said, the defense has the
2 ability to reserve their opening statement, if they so choose to
3 give one, for a later time at the close of the State's case. And
4 they have chosen that option.

5 So the only information you have before you today --
6 I'm going to let you go for the day -- is the State's opening
7 statement so far. And again, remember I told you that statements
8 by the lawyers are not evidence. You haven't heard any evidence
9 in the case yet.

10 So I'm going to let you go home. We're going to start
11 tomorrow at 11:00 o'clock. It's a little bit of a late start,
12 just because of scheduling. We will have a full day tomorrow of
13 evidence for your consideration.

14 I'm going to suggest that you have something to eat
15 before you come in at 11:00, because I'd like to go through
16 lunch. We're kind of going to power through tomorrow, because
17 it's a shorter day, because of the scheduling conflicts. So as a
18 consequence, please have something to eat, be comfortable. We'll
19 see you back here at 11:00 o'clock tomorrow to begin the first
20 day of evidence. That's why my recess admonition is so
21 important. And I'm going to read it to you now.

22 We're going to take our evening recess at this time.

23 During this recess it is your duty not to converse
24 amongst yourselves or with anyone else on any subject connected

1 with the trial or to read, watch or listen to any report of or
2 commentary on the trial by any person connected with the trial or
3 by any medium of information, including without limitation:
4 Newspaper, television, Internet, smart phones, radio, Facebook,
5 Instagram, all kinds of form of social media. And you're not to
6 form or express an opinion on any subject connected with this
7 case, until it's finally submitted to you.

8 Thank you for your answers today. Thank you for being
9 on our jury here in Department 9. We look forward to seeing you
10 all here at 11:00 o'clock. And we'll hear the beginning of the
11 evidence tomorrow.

12 Thank you very much. All rise for the jury.
13 (The following proceedings were held outside the presence of the
14 jury.)

15 THE COURT: We're outside the presence of the jury.
16 Tomorrow I plan on starting at 11:00 and power through. I'll
17 probably do a break maybe 3:00, 3:30. So if you could have your
18 witnesses ready and go through in that regard; just to give you a
19 heads-up. There's no conflict, so I think we can go right until
20 5:00 tomorrow afternoon and start at 11:00.

21 Anything else before we reconvene tomorrow at 11:00?
22 From the State?

23 MR. PRENGAMAN: No, Your Honor.

24 THE COURT: From the defense?

1 MS. HICKMAN: No, Your Honor. Thank you.

2 THE COURT: Very good. We'll see you tomorrow at 11:00

3 o'clock. Thank you. We'll see you then.

4 We'll be in recess.

5 (Proceedings continued to 12-13-16 at 11:00 a.m.)

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1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.
3)

4 I, EVELYN J. STUBBS, official reporter of the
5 Second Judicial District Court of the State of Nevada, in and for
6 the County of Washoe, do hereby certify:

7 That as such reporter I was present in Department No. 9
8 of the above court on MONDAY, DECEMBER 12, 2016, at the hour of
9 9:49 a.m. of said day, and I then and there took stenotype notes
10 of the proceedings had and testimony given therein upon the JURY
11 TRIAL of the case of THE STATE OF NEVADA, Plaintiff, vs. IAN
12 ANDRE HAGER, Defendant, Case No. CR16-1457.

13 That the foregoing transcript, consisting of pages
14 numbered 1 to 34, inclusive, is a full, true and correct
15 transcript of my said stenotype notes, so taken as aforesaid, and
16 is a full, true and correct statement of the proceedings had and
17 testimony given therein upon the above-entitled action to the
18 best of my knowledge, skill and ability.

19 DATED: At Reno, Nevada, this 10th day of May, 2017.
20

21 /s/ Evelyn Stubbs
22 EVELYN J. STUBBS, CCR #356
23
24

1 Code No. 4185

2

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

4 IN AND FOR THE COUNTY OF WASHOE

5 THE HONORABLE SCOTT N. FREEMAN, DISTRICT Judge

6 -oOo-

7 STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 IAN ANDRE HAGER,

11 Defendant.

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14 TRANSCRIPT OF PROCEEDINGS

15 Jury Trial - Day 2

16 Pages 1- 205

17 Tuesday, December 13, 2016

18 Reno, Nevada

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24 Reported By: SUSAN KIGER, CCR No. 343, RPR

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A P P E A R A N C E S

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1 RENO, NEVADA, TUESDAY, DECEMBER 13, 2016, 11:19 A.M.

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4 THE COURT: We are on the record in CR16-1457, State
5 versus Ian Andre Hager.

6 We are outside the presence of the jury. I see the
7 presence of the Prosecution, the Defense, the Defense team.

8 Is everybody ready to proceed?

9 MR. PRENGAMAN: Your Honor, we are. We do have
10 some, hopefully brief, issues about the exhibits.

11 THE COURT: All right.

12 MR. PRENGAMAN: As to the photographs that are in
13 evidence, with, I believe, the exception of Exhibit
14 Number 3 --

15 MS. HICKMAN: And 81.

16 MR. PRENGAMAN: -- and 81, the Defense would
17 stipulate to -- not all of those in serial, but all of the
18 photographs that are contained within that series.

19 THE COURT: We'll make a note of that.

20 MR. PRENGAMAN: The State -- there is a --
21 hopefully -- I know this is taking time, and we are going to
22 start, but hopefully to avoid a skirmish in front of the jury,
23 the State has proposed two redacted recordings of the
24 Arraignment and Sentencing of the Defendant in the Sixth

1 Judicial District. I intend to offer those. I have a
2 custodian's affidavit for those.

3 Likewise, the exhibits from that proceeding, they've
4 been redacted to take out the charge, but I do intend to move
5 those in and request the addition of those based on the
6 custodian's affidavit.

7 So we have the original with the custodian's record
8 marked for the record, and I've got the redacted versions.
9 I'm going to move for them. I think the Defense will have,
10 based on our discussions, some objections to the contents of
11 those. I do intend to play them with my first witness.
12 That's why I'm bringing this to the Court's attention.

13 THE COURT: You've done it very appropriately.
14 What's your objection?

15 MS. HICKMAN: Thank you, Judge. I actually have a
16 couple of objections to the materials that came out in the
17 CR13 case.

18 The first is that the State intends to introduce
19 those materials through an affidavit of the custodian of
20 records through Humboldt County. My issue with that is
21 obviously that's being introduced under a business records
22 exception.

23 THE COURT: Are they from a court file?

24 MS. HICKMAN: They are.

1 THE COURT: Have they been certified?

2 MS. HICKMAN: They are not.

3 MR. PRENGAMAN: She did a custodial -- Your Honor,
4 because it was digital, so she did a -- like a certification
5 for the documents. There's a -- two different custodians.
6 But there's a certification on the front of the -- which I can
7 provide to the Court, but it's essentially similar, certifying
8 their authenticity for the documents.

9 And then there's -- the digital came on a disk, and
10 so she did a custodian of records affidavit representing those
11 were accurate records of the court.

12 THE COURT: Understood.

13 MR. PRENGAMAN: It's based on that. But I seek
14 the -- additionally, I would argue by the contents, that's one
15 way of getting them in. Another way would be by their
16 content, they are what they purport to be. I would submit
17 they all do. They are file stamped, the documents. The
18 proceedings have the Judge, the Defendant, he represents the
19 case number, et cetera, so . . .

20 THE COURT: Sorry. Go ahead.

21 MS. HICKMAN: Thank you.

22 So one of the issues is those materials obviously
23 are prepared for the purposes of litigation. I would object
24 that they are not a business record under that exact statute

1 because the trial proceedings, plea hearings, sentencings,
2 those are all done under courts of record, done for complete
3 appellate review.

4 My other objection, Judge, is --

5 THE COURT: Wait a minute. I want to make sure I
6 get that first.

7 So you're saying that from a technical perspective,
8 from an authenticity standpoint, you're objecting to the
9 business records exception to court records as you just
10 articulated them?

11 MS. HICKMAN: These specific court records, yes.

12 THE COURT: But you're conceding they came from the
13 court file. You're just challenging the authenticity without
14 the custodian of records being physically present?

15 MS. HICKMAN: Correct.

16 THE COURT: Okay.

17 MS. HICKMAN: The other issue, Judge, is as to what
18 is on the recordings of the plea and the sentencing. I would
19 object to that under Crawford. There is a confrontation issue
20 as to the statements that are in that hearing. Those
21 statements are testimonial in nature.

22 Crawford specifically talks about plea elocutions
23 being testimonial in nature. So we have not just Mr. Hager
24 talking; we have the District Attorney. We have the Judge.

1 We have the P & P officer. So there are a bunch of statements
2 that come out that are not subject to cross-examination, that
3 are not subject to any of the Crawford exceptions.

4 THE COURT: How would they be subject to
5 confrontation pursuant to Crawford as it relates to this case?
6 In other words, they are what they are.

7 MS. HICKMAN: Uh-huh.

8 THE COURT: That's not my understanding how Crawford
9 applies.

10 MS. HICKMAN: Well, Judge, they are being introduced
11 against Mr. Hager to show what the Judge's ruling was for,
12 right?

13 THE COURT: Right.

14 MS. HICKMAN: And so everyone is arguing about
15 whether or not Mental Health Court is the most appropriate
16 place for Mr. Hager to be. That is coming in for the truth of
17 that argument; that they think Mr. Hager should be in Mental
18 Health Court, right?

19 THE COURT: Uh-huh.

20 MS. HICKMAN: So if our argument is as to those
21 statements, those aren't just they are what they are, right?
22 They aren't subject to cross-examination.

23 THE COURT: Well, what -- forgive me for
24 interrupting.

1 MS. HICKMAN: That's okay.

2 THE COURT: I want to make sure I'm intellectually
3 with you.

4 What would be subject to cross-examination if you
5 were challenging X number of years ago whether he should be in
6 Mental Health Court because in December of 2016, you
7 anticipated that this would be an issue at trial, and that
8 would allow you to cross-examine those people then, so to
9 speak, because it's an issue now at trial.

10 My comment for the record is, it is what it is
11 because those are the facts, it seems to me, you have to live
12 with because of what Mr. Hager is being alleged to have
13 occurred in 2016. And it just happens to be the facts of the
14 case.

15 MS. HICKMAN: Right.

16 THE COURT: Where a Crawford analysis would be, is
17 if you're challenging an element of the offense in 2016, and
18 you have the ability to say -- forgive me. What year was
19 the --

20 MS. HICKMAN: 2013.

21 THE COURT: You would be able to challenge the 2013
22 determination in anticipation of what might happen in 2016 and
23 go, "Wait a minute. You know, I want to make sure you don't
24 adjudicate him as mentally ill because in 2016 we are going to

1 have a prohibited firearm case." That's where Crawford
2 applies.

3 MS. HICKMAN: Okay. I get what you're saying. But
4 I think the behavior was actually different than what you are
5 saying. Okay?

6 THE COURT: All right.

7 MS. HICKMAN: As to whether or not he's been
8 adjudicated mentally ill, that is the issue. Is did the Judge
9 adjudicate him mentally ill? Not was he placed in Mental
10 Health Court, not do we want to come back and cross-examine
11 him as to whether or not that's appropriate, because quite
12 frankly, no one is ever charged this way. So in 2013, they
13 wouldn't have known to go into it.

14 But here, the statements that people are making that
15 he is appropriate for Mental Health Court, and those are the
16 statements that the State wants to say the Court is then
17 relying on in sending him to Mental Health Court. Right?

18 THE COURT: I understand, yes.

19 MS. HICKMAN: And so what it comes down to is what
20 is said in court is not the basis of an adjudication, right?
21 Because what is said here and what is said from the bench is
22 not a final judgment. It's not what the Court has actually
23 ruled. It's just statements. And so those statements would
24 be subject to cross-examination if they are coming in against

1 Mr. Hager.

2 THE COURT: I understand your point.

3 MS. HICKMAN: Otherwise, what should come in is just
4 the Court's order as to whether or not he was placed in Mental
5 Health Court. The arguments at sentencing, the plea, none of
6 that becomes relevant if the only thing that matters is he was
7 placed in Mental Health Court, because that's true.

8 Does that make sense?

9 THE COURT: Absolutely.

10 But I anticipate in about three seconds
11 Mr. Prengaman is going to say that he's entitled to present
12 that to prove his case beyond a reasonable doubt as it relates
13 to that element, and that's part of his case.

14 He's going to say in a minute that it's not
15 irrelevant, that the surrounding circumstances is part of his
16 case to prove beyond a reasonable doubt. Adjudication is a
17 question for the jury.

18 MS. HICKMAN: Uh-huh.

19 THE COURT: And you're both going to make arguments
20 what adjudication is.

21 Part of Mr. Prengaman's burden of proof is to show
22 everything he can that is relevant within the legal definition
23 of relevance that's not -- prejudicial impact doesn't outweigh
24 its probative value. And he's entitled to do that.

1 MS. HICKMAN: Right.

2 THE COURT: I mean, he's entitled to do that.

3 MS. HICKMAN: Right.

4 THE COURT: So, anyway. Do you want to respond?

5 MS. HICKMAN: Do you want him to make that argument,
6 or do you want me to assume that's what he's going to say?

7 THE COURT: He's going to make that argument in a
8 minute.

9 Do you concur, Mr. Prengaman?

10 MR. PRENGAMAN: I do, Your Honor. And I have
11 additional grounds why it's relevant.

12 It's not just the adjudication, the Court is
13 absolutely pressing into, I guess. What my argument is, it's
14 relevant. It all goes to -- it's the Defendant's
15 representations that go to everything the Judge considered in
16 making that adjudication.

17 Additionally, it's not just the adjudication
18 mentally ill, but it's the drug use. There are
19 representations. There are representations that he comes in
20 at arraignment and says, "I want" -- "we want Drug Court."
21 His lawyer files on his behalf -- his agent files an
22 application for drug diversion.

23 He then -- at the Sentencing, there's a discussion
24 about that. "We are going to withdraw that. We want the 176A

1 Mental Health Court."

2 There are -- the content of both proceedings is
3 relevant to his controlled substance use and him being an
4 addict. Because what he represents to the Parole and
5 Probation officer in the -- in preparation for sentencing --
6 she will testify he makes representations both about the
7 mental health and the PTSD, as well as the drug use. So it's
8 got relevance to both -- all of the State's counts.

9 So for those reasons -- and I believe as to
10 Crawford, I agree with what the Court articulated. That's
11 what I would argue. These people did not anticipate -- these
12 statements were not made in anticipation of. It's not a
13 police interview. It's not something they were forced to be
14 the subject of litigation or being called to testify about.
15 Crawford doesn't apply. It's non-testimonial. The question
16 is a matter of hearsay and relevant to the Judge's decision.

17 THE COURT: I understand.

18 You get the last word.

19 MS. HICKMAN: Thank you, Judge.

20 I have a couple of things to follow up on that. The
21 arguments of what is said in court, Mr. Hager's statements in
22 court, there's a difference between what he says as to drugs
23 and what is said as to mental health, right? Because there's
24 the adjudicated with the mental health. So that has to

1 just -- my argument, obviously, is that has to be based on
2 just what the Judge finds. It's not based on what counsel
3 argues. It's not based on what the Judge pronounces from the
4 bench. It's not based on what the clerk puts in her minutes.
5 It's based on what is in the Judge's ultimate final order
6 because that is what an adjudication is.

7 When we talk about somebody being adjudicated,
8 right, under the State's definition, even though it's
9 submitted, it is a Judge resolving a disputed fact. And I
10 know that the Court knows that when the Court makes rulings,
11 you have to make findings of fact, and then you have to lay
12 out the law, right? So if the Judge says, "I find that you
13 are mentally ill. I find this. I find this," that's an
14 adjudication. A discussion with counsel as to, "Judge, he has
15 a mental health disorder," is that relevant to the Judge's
16 ultimate findings if they don't end up into that order?

17 And part of the support for that, I think, comes
18 from the statute. I think the Court can look at NRS 176.105,
19 right, and that's the statute that talks about when a judgment
20 becomes final. It's signed by a Judge, entered by the clerk.
21 That's when it becomes final. If it's something that has been
22 adjudicated, it is something that is reviewable by a higher
23 Court.

24 If the Court looks at Miller versus Hayes which is

1 95 Nevada 927 -- that's a criminal case -- it says that a
2 District Judge's pronouncement of judgment and sentence from
3 the bench is not a final judgment.

4 And then Rust versus Clark County School District,
5 which is 103 Nevada 686, says that an oral pronouncement of
6 judgment -- and this obviously is civil. It's not criminal.
7 But an oral pronouncement of judgment is not valid for any
8 purpose. Therefore, only a written judgment has any effect,
9 and only a written judgment may be appealed.

10 So only what the Judge says is the adjudication,
11 right? It's not what counsel argues. It's not what an
12 evaluation says. It's not what P & P says. It's what the
13 Judge actually finds.

14 So if that's the issue, not whether he is or isn't
15 mentally ill, but the adjudication. Nothing about anybody's
16 statements about mental health matters because that's not part
17 of the law. And then it becomes more prejudicial because it's
18 just going to say, "Well, yeah, he is mentally ill." And the
19 Judge kind of talks about it, so maybe that's enough. Right?
20 So it comes down to what the Judge actually finds.

21 THE COURT: Anything else?

22 MS. HICKMAN: Not on that point.

23 THE COURT: All right. Submitted?

24 MS. HICKMAN: Yes.

1 THE COURT: The State will be allowed to present the
2 evidence based upon the fact that I don't believe it's a
3 Crawford violation.

4 And, number two, I believe the evidence is what it
5 is as stated, and the State is entitled to prove their
6 elements that they need to prove beyond a reasonable doubt
7 consistent with what I previously ruled as long as the
8 evidence is not prejudicial. I don't find it to be
9 prejudicial. I find that it's part of the State's case to
10 make presentation for you to argue later, whether that's an
11 adjudication before the jury.

12 I believe that although it's a mixed question of law
13 and fact what adjudication is, in this particular case, based
14 upon the posture of it being a strict liability crime, that's
15 where your case lies, whether the jury believes he's been
16 adjudicated for those counts or not. I'll let you put on your
17 defenses as to why you think it isn't, and I'll let the State
18 put on their prosecution as to why they think it is. It's a
19 very interesting point because the jurors said in voir dire --
20 and I'll say this for the record -- they were confused during
21 voir dire. Has he been adjudicated mentally ill? Has he not
22 been adjudicated mentally ill? You appropriately said during
23 voir dire -- said, "I can't answer that." The reason you
24 couldn't answer that is because that's a question for trial.

1 So I'll give you leeway to present the things you
2 need to do to say why it's not an adjudication, as you just so
3 eloquently argued to me. And I'll give the State the
4 opportunity to put their case on the way they want to put it
5 on.

6 I deny your request to have the evidence not
7 admitted from an authenticity standpoint.

8 Traditionally speaking, court files, if they are
9 certified, relieve the proponent of authenticity. In this
10 particular case we have a custodian of records as I understand
11 the proffer on all of that information, and I would have let
12 it in if it was a certified record from a court file.

13 Mr. Prengaman didn't have a certification. He has
14 file-stamped copies. He also has certificates from the
15 custodian of records. So I'm allowing that evidence in, and
16 it will be authenticated in the way Mr. Prengaman is intending
17 to do so.

18 Anything else on that issue?

19 MR. PRENGAMAN: Not on that issue.

20 THE COURT: All right. Go ahead.

21 MS. HICKMAN: Judge, I'm just going to sort of lodge
22 all my objections now, because if I don't do it, we will run
23 the jury in and out. Because I think if there are things that
24 you rule upon, I won't need to object and mess up that flow.

1 THE COURT: That's fine.

2 MS. HICKMAN: I have one more objection to the
3 record from the CR13 and the Mental Health Court case. And
4 that comes directly from the statutes that deal with specialty
5 courts and deal with diversion in specialty courts and deal
6 with what happens to those records once a case is dismissed
7 and that conviction is set aside.

8 If you look at NRS 176A.260, that's the statute that
9 talks about when a case should be dismissed after somebody has
10 been placed into Mental Health Court. And what that statute
11 says under Subsection 4 is that upon the fulfillment of the
12 terms and conditions, the Court shall discharge the Defendant
13 and dismiss the proceedings. The discharge and dismissal
14 pursuant to this section is without adjudication of guilt,
15 which is different. Obviously, there would be adjudication to
16 Mental Health Court. And on a conviction -- but then it goes
17 on to say that discharge and dismissal restores the Defendant
18 in the contemplation of the law to the status occupied before
19 the arrest, Indictment, or Information.

20 So what that statute essentially says is once a
21 person has successfully completed Mental Health Court, they go
22 back to where they were before they were arrested, in their
23 status.

24 And my argument is that would include a status as

1 somebody who has been adjudicated mentally ill. They have
2 completed that program. They have done what they need to do.
3 There is not an exception under that at all to say, except for
4 this Mental Health Court exception. So that person would go
5 back to the place they were when arrested.

6 That becomes especially significant when you look at
7 NRS 176A.265 because that's the statute that deals with the
8 sealing of records. And what that statute says is the Court
9 shall seal the records. These records should have been
10 sealed. They should have been sealed back in 2013, and there
11 should be no record of this.

12 And what that includes, that includes the documents.
13 So that would include the filings by his attorney. It would
14 include the Court's order. It would include his Mental Health
15 Court diagnosis. It would include his PSI. All of those
16 things would be sealed, and the State would not have access to
17 those unless they received a court order.

18 The reason that that is important is that if the
19 Court would have done what the statute mandates it to do,
20 shall seal the records, in 2013, we wouldn't be here today
21 because there would be no record of that having happened, and
22 the State would not have access to those things.

23 So given that mandatory language, the simple fact
24 that it wasn't sealed has nothing to do with Mr. Hager. It is

1 administerial failure of Humboldt County and the Washoe County
2 Specialty Courts that the State is able to get a certified
3 copy of those and bring a certified copy in and introduce them
4 against somebody when in all reality they should not have
5 access to those records. And to let them come in is really
6 letting the State take advantage of the Court's failure to
7 comply with that statute. The Court failed to do it through
8 no fault of Mr. Hager's. But now the State gets to take
9 advantage of that in an attempt to convict him of felonies
10 based on what happened in those hearings that should have been
11 sealed.

12 So my argument is the Court should apply the
13 language of the statute and treat those documents as if they
14 should have been sealed, as they should have been, and make
15 them inadmissible.

16 THE COURT: Couple of questions before I hear from
17 you, Mr. Prengaman.

18 Didn't you -- isn't what you just said a defense?
19 Isn't that one of your defenses, just the way you articulated
20 it? In other words, what you're asking me to do is something
21 that wasn't done in the facts of this case.

22 MS. HICKMAN: Right.

23 THE COURT: You know, for the record, Department 9
24 had nothing to do with records not being sealed. Department 9

1 and your trial Judge had nothing to do with that.

2 MS. HICKMAN: I'm not blaming you, to be clear.

3 THE COURT: Just so you know, the record is an
4 unfeeling transcript. So I need to say that, number one.

5 But number two, it seems to me that you just
6 articulated a defense. In other words, that might be a
7 defense that you might have to establish affirmatively. Not
8 having the burden shift to you, but that's a defense that you
9 might want to promote in this case, the way it sounds.

10 What you're asking me to do is to find as a matter
11 of law that that defense works. And I need to find, without
12 any other information, that the Courts in Humboldt County and
13 Washoe County failed to do what they were supposed to do and
14 it put your client at a disadvantage. And I don't have that
15 evidence before me. I appreciate your argument, but in my
16 view, that is a triable fact that I'm assuming you develop
17 with various witnesses to put forth. You're hoping I'm going
18 to sustain your objection; you won't have to do it. But
19 that's a trial issue, because that's not the state of the
20 facts of your case. The state of the facts of your case,
21 giving you the side most favorable to you, is that all the
22 things you just said are true. Well, I have no control over
23 that. That's the State of the case.

24 MS. HICKMAN: Judge, I think that it goes further

1 than a defense, though. I think it goes to the admissibility
2 of the records is that the Court can say this should have been
3 done.

4 THE COURT: I don't know why it wasn't done.

5 MS. HICKMAN: It doesn't matter. The mandatory
6 language in the statute says "shall."

7 THE COURT: There could be a reason why it wasn't
8 done. I don't know the answer.

9 You see, I'm not fencing with you. I'm just saying
10 what my difficult position is, is that I don't have the answer
11 to sustain your objection. You may be completely right, but I
12 don't know what the answer is to tell you why it wasn't done.
13 Maybe that's to be further developed by the defense. But I
14 can't answer it.

15 I don't want to stop you, Ms. Hickman. I was just
16 having an intellectual dialogue with you. Anything else you
17 want to say?

18 MS. HICKMAN: No. Thank you.

19 THE COURT: Mr. Prengaman, your response.

20 MR. PRENGAMAN: In that vein, I see it as -- I see
21 it actually as a -- as we talk, so just sort of in the nature
22 of that discussion, I would tend to see that objection there
23 procedurally and substantively -- procedurally I've got an
24 issue with them raising it in this posture at this time. But

1 I tend to see it as it's been articulated as more of like a
2 suppression issue. A suppression issue has to do with a legal
3 application: Was evidence illegally obtained? Was the
4 constitution violated? That's not a question for the jury.
5 That's a question for the Court to resolve.

6 So the idea that, at least to me, in listening to it
7 and analyzing it, I see it more in the line of suppression;
8 that if they have law that says there's some legal remedy for
9 that, if they could establish it, they could have maybe
10 brought that forward to the Court, 21 days after Arraignment
11 and argued to the Court that there is a legal remedy much like
12 a suppression remedy, some kind of statutory remedy if
13 something is supposed to happen and then doesn't.

14 I don't see that as a factual issue for this jury
15 because that's essentially asking the jury to resolve a legal
16 question which is -- well, two legal questions. One legal
17 question is what is the legal impact of the failure to seal
18 these documents? So in other words, factually, how is that a
19 defense to present that? In other words, I would object to
20 the defense presenting evidence, for instance, this wasn't
21 sealed, because what is the jury supposed to do with that?
22 They don't make a determination about what the consequences
23 are or aren't. There's not a legal -- in fact, I doubt
24 Ms. Hickman has legal authority that says what a Court should

1 do with that if this is brought up pretrial? What should the
2 Court do if there's an instance where stuff was supposed to be
3 sealed and it wasn't? Let alone with a jury, what are they
4 supposed to do with that evidence? How does it factor in?
5 How does it weigh?

6 And then, likewise, the impact of the statute that
7 means returned, well, I've arguments legally about that. I
8 see that the same way. That's an issue that what is the jury
9 supposed to do with that? That's asking them to resolve a
10 legal issue much like a suppression issue.

11 So my perspective is those are issues that should
12 have been raised long ago. They've been waived at this point,
13 if there is even authority for any remedy for them, which I
14 don't believe there is. That's it.

15 THE COURT: You get the last word.

16 MS. HICKMAN: Judge, I believe the authority is the
17 statute. Right?

18 The State is taking advantage of the fact that it
19 wasn't done when it should have been done. So the authority
20 is that the Court should treat them as though they are sealed
21 documents, because that's what should have been done. There's
22 no -- there is no reason that it wasn't done.

23 The statute is clear. It's hard to then argue,
24 "Well, if people don't follow the statute, there's no remedy."

1 THE COURT: Don't you agree -- I'll let you finish.
2 But don't you agree the state of the case is, for whatever
3 reason, they weren't? That's the state of the facts of our
4 case.

5 MS. HICKMAN: Right.

6 THE COURT: So you're asking me to make a legal leap
7 that, following your argument, without any other evidence,
8 they should have sealed. I'm sealing them. Objection
9 sustained. That's not how it works. But I appreciate your
10 argument, and we've all made our record.

11 MS. HICKMAN: Okay. Appreciate you appreciating it.

12 THE COURT: It's interesting. It's an interesting
13 case.

14 Anything else you want to add?

15 MS. HICKMAN: Not to that, no.

16 THE COURT: All right. I'm denying your -- I'm
17 overruling your objection and denying your motion to, I guess,
18 suppress the evidence based upon your analysis, and I'm going
19 to allow it.

20 Go ahead.

21 MS. HICKMAN: The other thing, Judge, is
22 Mr. Prengaman and I talked about some redactions in the
23 videos. I don't know where we are on those. I don't know if
24 we are in agreement as to what should and shouldn't be

1 redacted. I don't know if you want to deal with that now.

2 I don't know when you want to play them.

3 MR. PRENGAMAN: First.

4 MS. HICKMAN: I can do it when you play them, or we
5 can do it now.

6 MR. PRENGAMAN: I intend to play them with my first
7 witness, who's the detective, now sergeant.

8 THE COURT: Have there been some disagreements as to
9 the redactions, or you just haven't seen them?

10 MS. HICKMAN: I've seen them, and I told him what my
11 disagreements are. And so if he agrees with my disagreement,
12 then we won't have an issue.

13 MR. PRENGAMAN: After our hearing -- some of them I
14 won't play based on the Court's order. I can't. A number of
15 them I redacted based on what the Court's -- not that you told
16 me specifically what to redact, but you gave some direction
17 about it. So I did a number of redactions and provided those
18 to the defense. So we do have a disagreement about -- on I
19 think three or four of them.

20 I think Ms. Hickman is objecting to certain portions
21 of videos as being -- now, the ones we are talking about are
22 now pretty short because --

23 THE COURT: There's no alternative but to play them
24 now if you're going to play them to the first witness, and you

1 have an objection.

2 MR. PRENGAMAN: That's what I think.

3 THE COURT: I wish we would have done it last week
4 without the jury waiting, for the record.

5 Go ahead.

6 MR. PRENGAMAN: I believe -- is it 11 is the first
7 one or 12?

8 THE COURT: Please tell me the nature of the
9 objection so I can know that in advance of reviewing the DVD.

10 MS. HICKMAN: Which one are you playing first?

11 MR. PRENGAMAN: 12.

12 MS. HICKMAN: So in this one, Judge, I would object
13 to the first 30 seconds of the video as being irrelevant. And
14 then at 2 minutes and 24 seconds in, there is an overlay onto
15 the video where there's an emoji and the words "Itchy trigger
16 fingers" is up on the video, and I would object to that
17 portion, 2:24 on, as to relevance.

18 THE COURT: As to relevance?

19 MS. HICKMAN: Yes. I have no objection as to the
20 actual portion where it shows a firearm.

21 THE COURT: Understood.

22 MS. HICKMAN: Or the timing of the video.

23 THE COURT: All right. So this is the beginning,
24 Mr. Prengaman?

1 MR. PRENGAMAN: It is, Your Honor.

2 THE COURT: This is the first 30 seconds you object
3 to?

4 MS. HICKMAN: Yes.

5 (A DVD was played.)

6 MS. HICKMAN: "It's about to get serious and dark,
7 so close your everything."

8 There is -- you can see the firearms. I have no
9 objection to that portion. I understand the relevance of
10 that.

11 THE COURT: Freeze that, Mr. Prengaman.

12 Do you have an objection to the beginning of that
13 before they showed the firearms.

14 MS. HICKMAN: I would object to it when it talks
15 about it's about to get so serious and dark and close your
16 everything.

17 THE COURT: Got it. That's the piece you're
18 objecting to?

19 MS. HICKMAN: I think that it doesn't make sense,
20 given the Court's ruling that the threats to the police
21 officers -- those things don't come in, because that's, I
22 think, in the same vein as that.

23 But this part, no.

24 THE COURT: Got it. So on that piece, I'll rule

1 that I'll allow that in. I don't have any inclination from my
2 review of the case it has anything to do with the piece
3 related to Mr. Hager's brother's demise. It says what it
4 says, and Mr. Hager put it up there. So that's what -- I'm
5 allowing that.

6 Go ahead. What's the other piece at 2:46?

7 MS. HICKMAN: 2:24.

8 THE COURT: 2:24. And tell me what that's going to
9 be.

10 MS. HICKMAN: It has an emoji that pops up.

11 THE COURT: Okay. Thank you. You said that.

12 MS. HICKMAN: And it says, "Itchy trigger fingers."

13 MR. PRENGAMAN: So -- and, Judge, I won't play it
14 all or submit it. It essentially shows Mr. Hager going and
15 getting the assault rifle out of the closet by the front door,
16 manipulating it. He's also got a handgun tucked in the back
17 of his waist, and he's placing things in the bag. And that
18 leads up to.

19 THE COURT: And so your point is with all the video
20 of guns and what he's doing, that it's irrelevant that he said
21 that he has an itchy trigger finger and an emoji?

22 MS. HICKMAN: Judge, I think viewing the videos
23 individually, it's a little bit different. When you look at
24 them all together, the portions I object to make him look so

1 mentally unstable. And that's not the issue for the jury
2 today. It's not whether or not he's unstable when he's doing
3 this. It's whether or not in 2013 he was adjudicated mentally
4 ill. So the evidence presented as it is now as to the mental
5 instability and how these videos paint him is unfair to him
6 and prejudicial to him because it has nothing to do with his
7 actual mental state today. That is not an issue for the jury.

8 And I think when you see all the objectionable --
9 parts I object to as a whole, you'll see that when you put
10 them all together, the mental instability is really
11 highlighted.

12 THE COURT: What's the purpose of you introducing
13 the objected-to points for the record, Mr. Prengaman?

14 MR. PRENGAMAN: Well, Your Honor, this is just
15 the handling of the guns. Obviously, he's in ownership,
16 possession of these guns, and that's a representation about
17 his ownership and possession of the guns.

18 It's not -- I don't think it's unfairly prejudicial.
19 It doesn't -- I mean, he's not doing anything. It's simply
20 him manipulating these two guns and then a representation made
21 about the guns. I mean, it doesn't say whether -- it's not
22 like -- again, we can't get into the threats. The jury is not
23 going to hear a link-up about threats to the police or say
24 he's going to go out and shoot some police officers. For all

1 they know, he's going out to shoot at a range somewhere. He's
2 putting stuff in a black, essentially, tactical bag.

3 So I would submit that there's not -- it's not
4 unfairly prejudicial because it relates to the ownership and
5 possession of firearms.

6 THE COURT: Anything you want to add?

7 MS. HICKMAN: I don't object to the parts where he
8 owns and possesses the firearms, right. It's as to what is
9 depicted above and beyond the firearms.

10 THE COURT: I see.

11 What my -- my awareness was heightened by you saying
12 that the collection of the DVDs shows him to be mentally
13 unstable. So I am having a high awareness of that.

14 But in this particular video, I don't see that. He
15 produced it. I agree with Mr. Prengaman to this degree, that
16 he could be just as easily going to a shooting range. I'm not
17 allowing the threats in, so I find that it's relevant, and I'm
18 going to allow it.

19 What's the next DVD, and what's the next objection?

20 For the record, these are Facebook videos your
21 client produced and made available to the public on Facebook.

22 MS. HICKMAN: Some were from his iPhone that were
23 obtained pursuant to a warrant.

24 THE COURT: So do you have an objection as to 14?

1 MS. HICKMAN: Yes.

2 THE COURT: For the record, Deputy, would you let
3 the jury know we are dealing with legal issues and please be
4 patient, and thank you for their patience?

5 THE BAILIFF: Yes.

6 MS. HICKMAN: So, Judge, this one is a very similar
7 objection. There's a significant portion of it that is
8 irrelevant. And given that mental instability is a concern
9 that I have, there is about a minute where in February he's
10 dressed up like Santa Claus.

11 And then he has the iPhone where he's talking to
12 himself into it, and then he switched the position and answers
13 himself. So he goes back and forth essentially talking to
14 himself.

15 THE COURT: All right.

16 MS. HICKMAN: My concern is that for a minute, there
17 is a significant highlight about what looks fairly mentally
18 unstable.

19 THE COURT: Understood.

20 MS. HICKMAN: One minute and about 13 seconds in he
21 does have a firearm. I don't object to that part on.

22 THE COURT: Got that.

23 What do you need the talking-to-himself piece for,
24 Mr. Prengaman?

1 MR. PRENGAMAN: Can I play this so I remember? It's
2 hard to keep track of all what they are.

3 (A DVD was played.)

4 THE COURT: He's talking about the SIG gun?

5 MR. PRENGAMAN: So there's a couple of things. One,
6 Judge, when he walks around -- so he's on the couch. It shows
7 the background of the couch. It's evidence of where it's
8 taking place, which is in his residence. And this portion,
9 too, again, over time, it is showing this is clearly taking
10 place in his house.

11 I have a -- you know, the photographs and at least
12 one witness who will testify that the background we see here
13 is clearly -- now moving into the front area where he's got
14 guns kept in the safe behind. So it has relevance showing
15 that these were produced inside his home where he's possessing
16 guns.

17 THE COURT: All right.

18 (A DVD was played.)

19 MR. PRENGAMAN: And just on that subject,
20 Your Honor, and so this one is posted February 2nd, which
21 is -- precedes the 26th. So the video of the 26th, the one
22 that states there is -- that the Defendant is in actual
23 possession of firearms when he ingests the methamphetamine we
24 see on the video. So this is a video that occurs

1 February 2nd, so prior to that, which is in evidence, that's
2 in his home where he's got the drugs, has the guns.

3 THE COURT: I got that.

4 Are you going to show the guns in just a minute?

5 MR. PRENGAMAN: Well, he's looking for it. He's
6 going to find it. And then he's going to display the black
7 SIG Sauer handgun that he finds, and then the silver, he's
8 going to have that in a tactical vest on his chest.

9 THE COURT: Play it.

10 (A DVD was played.)

11 THE COURT: Okay. Stop it there.

12 I'm sustaining the objection up to the point where
13 he shows the gun. His behavior is irrelevant in the
14 beginning. Although, for the record, I agree with your
15 analysis, Ms. Hickman. He is showing somebody who's mentally
16 unstable.

17 But I'm sustaining based on the relevance piece at
18 this time based on the allegations. I'm sustaining your
19 objection on the piece where he offers the gun.

20 That doesn't affect your proffer, Mr. Prengaman.
21 You can still call whatever witnesses you want to talk about
22 the property, but the beginning is troubling for the Court and
23 very prejudicial.

24 MR. PRENGAMAN: Would I be allowed to have the

1 witnesses say they viewed this video without showing that
2 footage?

3 THE COURT: You may.

4 MR. PRENGAMAN: And then for -- so that would be up
5 to --

6 THE COURT: When he goes, finds it, pulls it out,
7 that's all relevant. That all comes in.

8 MR. PRENGAMAN: So about from here to approximately
9 1:11 in.

10 THE COURT: Uniquely, for the record, he actually
11 split screens at one point, talks to himself, and then his
12 character changes to somebody in a Santa Claus outfit where he
13 answers his question. I'm not going to allow that in. For
14 the record, I just wanted it to be clear.

15 Anyway, so that's my ruling on that.

16 What's the next? Is there another objection,
17 Ms. Hickman?

18 MS. HICKMAN: Yes, Your Honor.

19 What's the next one in order, Luke?

20 MR. PRENGAMAN: The next one is, I believe, 22.

21 MS. HICKMAN: Judge, this is similar. It's a little
22 longer. There's a significant portion where he's in his car;
23 it's beeping. There's not a lot that's really happening in
24 it. He's sitting in the car.

1 At 2 minutes 22 seconds in, there's a firearm that's
2 shown. Beyond that, I wouldn't object when they show the
3 firearm.

4 Then there is a portion that says the time. It says
5 like the day and the time. I don't have an objection to that.

6 THE COURT: So the first one, I should look at the
7 first 2 minutes 22 seconds when the car is beeping?

8 MS. HICKMAN: Yes.

9 THE COURT: And before you play it, Mr. Prengaman,
10 is there a reason why you needed that?

11 MR. PRENGAMAN: Your Honor, I believe that he -- I
12 believe in this video he goes into his -- so he's sitting in
13 the car. I don't think there's anything unfairly prejudicial
14 about it. He's just in his car. And he goes into his house,
15 and I believe he starts going -- he makes -- "I'm home" or
16 "home again," so he makes reference to being at his home,
17 going into the house. So it was simply like a -- I mean, a
18 continuation of, you know, it would look weird if you didn't
19 show him in the car going into the house is what I believe.

20 THE COURT: You didn't mean look weird. You mean
21 from a total story doctrine perspective.

22 MR. PRENGAMAN: Yes, Your Honor. Not that it would
23 look like he's mentally unstable. It would look disjointed to
24 say, "Honey, I am home," without showing him in the car.

1 But there's nothing unfairly prejudicial about him
2 being in the car. I don't think he says anything, either.

3 THE COURT: And your objection is surplusage?

4 MS. HICKMAN: It's more relevance, Judge. This
5 starts out with this saying. This is on a couple of the
6 videos. I don't know what the point of it is. It's about him
7 being followed. It's lot of the same police-type things we're
8 talking about.

9 THE COURT: All right.

10 MS. HICKMAN: And the video ends. But it talks
11 about a chopper, right? Like that talks about a chopper, and
12 he's talking about the same chopper following him later.

13 (A DVD was played.)

14 THE COURT: For the record, not only is there
15 beeping, but there's some ominous music playing in the
16 background, that I characterize as ominous.

17 MR. PRENGAMAN: So I was wrong about the beginning.

18 THE COURT: Is that his sawed-off shotgun?

19 MR. PRENGAMAN: That's the pistol-grip shotgun.

20 THE COURT: Sustained up to that point. The rest
21 can be played;

22 So, Mr. Prengaman, when -- after the
23 unusual-sounding people talking, you may start playing where
24 the pistol-grip shotgun is displayed, and you may play the

1 rest of the tape thereafter.

2 MS. HICKMAN: I think it's about 2 minutes
3 20 seconds in.

4 (A DVD was played.)

5 THE COURT: So you may play sort of the scene before
6 that, Mr. Prengaman, you know, that -- I don't know what that
7 is.

8 MS. HICKMAN: Surveillance.

9 THE COURT: But it looks like closed circuit or
10 surveillance. You may play that. That leads to the shotgun,
11 and you may play the rest.

12 MR. PRENGAMAN: Okay.

13 THE COURT: Any other objections, Ms. Hickman?

14 MS. HICKMAN: Judge, there's two more videos I have
15 objections to.

16 MR. PRENGAMAN: I was wrong about the transition. I
17 think it's a different video where he comes in from the car.

18 MS. HICKMAN: Is the next one 19?

19 MR. PRENGAMAN: I think the next one is 25, at least
20 that I have.

21 MS. HICKMAN: 25. Okay. That's fine.

22 THE COURT: So what's your objection? Similar?

23 MS. HICKMAN: This is a similar objection. I think
24 you can probably watch it and see.

1 THE COURT: Okay.

2 (A DVD was played.)

3 MR. PRENGAMAN: So this is where it cuts from him.
4 So briefly, Judge, what will happen is -- so he's got this
5 post that says, "I've had too many Tuesdays nights like this."
6 This is the video where he transitions from the car to going
7 in and saying, "Honey, I'm home."

8 THE COURT: All right.

9 MS. HICKMAN: I think, Luke, this is the hinge one.

10 (A DVD was played.)

11 MS. HICKMAN: Maybe I'm wrong.

12 THE COURT: Hold on. Do you object to this forward?

13 MS. HICKMAN: No.

14 THE COURT: Okay. So the issue is the walking in
15 and playing -- and saying, "Honey, I'm home," and then he's
16 got guns. You can play the whole tape. I'm going to overrule
17 the objection.

18 MS. HICKMAN: Judge, if this is the video I'm
19 thinking of, though --

20 Is this the one -- the hinge?

21 MR. PRENGAMAN: It does go to that.

22 MS. HICKMAN: That's my objection, not this part.

23 THE COURT: Okay. So far it's not objectionable.

24 MS. HICKMAN: From this part.

1 (A DVD was played.)

2 THE COURT: Is he armed, Mr. Prengaman?

3 MR. PRENGAMAN: He still has the gun that was
4 previously displayed.

5 THE COURT: Okay.

6 (A DVD was played.)

7 MR. PRENGAMAN: So -- And, Judge, stop it there. On
8 his -- so he's got -- you saw the text up there that says when
9 it was, so he's got like the date on there, which the
10 detective will testify is consistent, the day, the Tuesday
11 night. The timeframe is consistent.

12 Also on his cell phone -- the reason that I believe
13 that's relevant is that on his cell phone he's got a picture
14 of the hinge that was taken on the 29th -- or I believe the
15 29th. But there's exit data, so there's data on the phone
16 that shows the photograph of the hinge was taken on a --
17 created on a particular day which is consistent with when this
18 was posted, which from memory, it may be the same day or a day
19 or two. But based on what's represented there, that tends to
20 show he's obviously interested in the hinge. There's a
21 photograph on the cell phone that says it was created the same
22 day it was posted.

23 THE COURT: Did you want to respond?

24 MS. HICKMAN: I don't have an objection to the time.

1 March 2nd is a Wednesday. He says, "I've had too many Tuesday
2 nights like this." I don't want to -- like, I would stipulate
3 to that time period. But when he's talking about touching a
4 hinge and it's electrocuting him and he goes on to talk about
5 the house is haunted and he's clearing the house. Possession,
6 yeah, I don't object to that at the time. I don't object to
7 that. I object to the rest of it.

8 THE COURT: It is close to what you're arguing, that
9 it shows some mental instability. But in this particular
10 video, based on the time match up, I'm going to allow it, and
11 your objection is overruled.

12 This is not, in my opinion, the same type of
13 outrageous behavior as the Santa Claus video. This has a
14 direct link to the timing that would be matched up with the
15 cell phone as the proffer made by the State, so I'm allowing
16 it.

17 Any other objections?

18 MS. HICKMAN: The last one is the February 28th
19 court copy. I think that's number 19.

20 MR. PRENGAMAN: Is there any -- the rest of it
21 shows --

22 MS. HICKMAN: The rest is the same stuff. He's
23 clearing his house. He talks about how it's haunted, and so
24 my objection would be to the rest of it.

1 MR. PRENGAMAN: If I may play it, Judge. I don't
2 want to put in anything that's --

3 (A DVD was played.)

4 THE COURT: For the record, as he's working with the
5 door, he's armed. He put the gun in his vest.

6 MS. HICKMAN: Uh-huh.

7 THE COURT: Is that correct, Mr. Prengaman?

8 MR. PRENGAMAN: It is, Your Honor. That's the
9 continuation. The whole thing is one continuous -- he puts it
10 in the vest and goes to the back door.

11 THE COURT: Just have to make the record that he's
12 carrying, as we speak, in the video.

13 MR. PRENGAMAN: And you can see the -- as it
14 continues, he's got the barrel of the gun in his hand.

15 THE COURT: All right. I'm sustaining the objection
16 as it relates to after the door issue. I don't see any
17 relevance to him walking around and stalking his house and
18 filling in for the purposes of these charges -- the
19 allegations of these charges. So that's my ruling.

20 I'm sustaining the objection post door hinge when he
21 gets up from the door hinge and starts walking around the
22 house. I'm sustaining the objection.

23 I think the jury can understand that he's packing as
24 he's working with the door hinge. That's my ruling.

1 Any other objection, Ms. Hickman?

2 MS. HICKMAN: There's one more video.

3 MR. PRENGAMAN: Which one?

4 MS. HICKMAN: I think it's 19. It's the one with
5 the dog.

6 THE COURT: And what's the nature of the objection
7 to give me the heads-up, please?

8 MS. HICKMAN: Judge, very similar as to the mental
9 instability up until the firearms are displayed.

10 THE COURT: And why -- just let me know its
11 relevance.

12 MR. PRENGAMAN: Judge, if this is the one, there is
13 a -- the dog. There's a dog. Two things. If it's the dog
14 video, it shows the dog -- so it starts out with the dog on
15 the carpet, which shows the loft. So there's distinctive
16 carpet in the loft area, which, again, is relevant to show
17 where it's being shot.

18 He makes reference, if I recall correctly, to there
19 being guns everywhere. And after the camera is on the dog, he
20 flashes over, and you can see two gun barrels on the floor.
21 So it's relevant for that. It shows where, again, inside the
22 residence. The photos are to show that that distinctive
23 carpet is on the floor.

24 And the dog that runs downstairs -- I did cut it off

1 because it continued on for some time. But the stairs have a
2 sign on the left-hand side that shows, again, that's his
3 residence.

4 MS. HICKMAN: Luke, it sounds like you cut it off
5 from where my objection is.

6 MR. PRENGAMAN: It should be just at 3:30.

7 MS. HICKMAN: Well, let me see.

8 (A DVD was played.)

9 THE COURT: So what are you using that video for?

10 MR. PRENGAMAN: So the dog -- shows the carpet. The
11 carpet is -- there's -- that's -- that dog video appears on
12 his phone, and there's EXIF data that shows that that was
13 taken -- again, it's either on or very close to the day that
14 this was posted. And then it shows the interior of the house,
15 that distinctive carpet that flashes over to the gun barrels
16 which appears to be the long guns. It quickly flashes. He
17 says there's guns everywhere, so the two guns on the floor of
18 the house.

19 THE COURT: I know what I'm going to do. I'm going
20 to sustain the objection to the video. It's cumulative. And
21 that is some bizarre behavior. That is a video that I believe
22 will confuse the jury.

23 I'm sustaining the objection on the video.

24 MR. PRENGAMAN: Now for that, can I have the

1 detective testify that -- to the -- that there was footage
2 that indicates that that was posted on the day?

3 THE COURT: Yes, you may.

4 MR. PRENGAMAN: And that he appeared in this video
5 with two long guns and the black pistol, which he does?

6 THE COURT: And you can even -- I'll allow you to do
7 that, and you can have the officer say from his review of the
8 video, he was armed with a pistol and brandished it.

9 MR. PRENGAMAN: And if the Court might allow that,
10 I'll try to do it with some leading questions so we don't run
11 into any --

12 THE COURT: That's fine. That's fine.

13 For the record, that particular video's prejudicial
14 impact outweighed the probative value.

15 Anything else?

16 MS. HICKMAN: My last issue -- I guess I have two
17 more. The first one is I would ask for the rule of exclusion
18 as we go forward.

19 THE COURT: All right. Rule of exclusion will be
20 invoked.

21 MS. HICKMAN: And the final issue is as to one of
22 the State's witnesses, Ms. Okuma. I can make my objection
23 before he calls her, but I'm comfortable doing it now.

24 She is the PSI writer from the Division of Parole

1 and Probation. It's my understanding the State intends to
2 call Ms. Okuma to talk about statements that Mr. Hager made
3 that then got put in his PSI.

4 My concern with that is it's a discovery issue.
5 Those statements are written by Mr. Hager in his PSI
6 questionnaire that is given to that person.

7 So the statements in the PSI are not his actual
8 statements. His actual statements are written in his
9 questionnaire.

10 I did call the Deputy Attorney General who is sort
11 of on this case. I did ask her if that questionnaire is in
12 the file. She did confirm it is in the file. She did confirm
13 it was filled out with Mr. Hager. She did confirm that he
14 filled it out completely. She also told me she will not give
15 it to me, and she will not tell me what's written on that. So
16 without that, I don't think that she should be able to testify
17 to what his statements are that she summarized without giving
18 us the actual statements.

19 MR. PRENGAMAN: Well, Your Honor, the statements are
20 in the PSI. I don't see it as any different than --

21 THE COURT: When are you planning on calling her?

22 MR. PRENGAMAN: Your Honor, she's toward the end of
23 my case.

24 THE COURT: I'm ordering that the Attorney General

1 will provide you his questionnaire out of their file.

2 And you can prepare the order, and I'll sign it and
3 make sure Mr. Prengaman gets a copy of it.

4 That will give you time to properly prepare for that
5 cross-examination.

6 MS. HICKMAN: My only question is timing of that
7 because I would have to go to my office.

8 THE COURT: No, you don't. You have a very big
9 office. We'll take a break. You're going to communicate with
10 some of your underlings that work for the public defender's
11 office so they can prepare the order so you can maintain your
12 trial work. I don't expect you to do it personally, but
13 that's my order. I'm sorry if that's not the way it works at
14 the public defender's office, but it is for this trial.

15 MS. HICKMAN: It is now apparently.

16 THE COURT: That's correct.

17 MS. HICKMAN: Thank you.

18 THE COURT: You're welcome.

19 Did you want to add anything, Mr. Prengaman?

20 MR. PRENGAMAN: No. I'll try to make some efforts
21 to see if I can get it.

22 THE COURT: Yeah. I mean, it's fair to both sides
23 for that questionnaire to be available, and that's fine. I
24 mean, I'm anticipating how the examination is going to go, and

1 it's not going to preclude the examination of your witness.
2 And we'll have a discovery issue related to that piece, and
3 we'll get it for you.

4 MS. HICKMAN: Thank you.

5 THE COURT: Yes.

6 Anything else?

7 MR. PRENGAMAN: Your Honor, I just want to take a
8 second to talk to my investigator and see if I can expedite --

9 THE COURT: I'll give you five minutes. But I'm not
10 getting off the bench.

11 We'll start at 12:30 to bring the jury back,
12 Mr. Bailiff.

13 (Off the record.)

14 THE COURT: Are you set, Mr. Prengaman?

15 MR. PRENGAMAN: Yes.

16 THE COURT: Are you set, Ms. Hickman?

17 MS. HICKMAN: Yes, Judge. Thank you.

18 THE COURT: Let's all rise for the jury, and bring
19 them in.

20 (The jury entered the courtroom.)

21 THE COURT: Please be seated. Thank you for your
22 patience. Ladies and gentlemen, it's always my fault if we
23 are late. So always blame me.

24 Let me tell you in the spirit of transparency what

1 occurred. So last week, we had a number of matters before me
2 to have the case run smoothly so you wouldn't have to wait for
3 an hour and a half to be called. And sometimes what happens
4 as the trial evolves -- again, not like TV -- there are
5 additional issues that come up to make the case go smoothly.

6 So I'm pleased to tell you that in the time that I
7 had you wait, we resolved the issues to continue to make the
8 trial move smoothly so you wouldn't be interrupted during the
9 flow as we begin the trial.

10 So it might have been -- one might say it might have
11 been a little bit of wasted time for you there, but it wasn't
12 for us because we moved the trial.

13 So thank you all for your patience. Thank you for
14 being on time.

15 And at this point, Mr. Prengaman is about to begin
16 his case on behalf of the State.

17 Mr. Prengaman.

18 MR. PRENGAMAN: Thank you, Your Honor.

19 Your Honor, the State's first witness will be
20 Sergeant Chris Rowe.

21 THE COURT: Please step forward and be sworn.

22 (The witness was sworn.)

23 THE COURT: Please take the witness stand. Make
24 yourself comfortable. We'll know you're comfortable because

1 you're going to tell us your first and last name, spelling
2 your last name for the record.

3 THE WITNESS: Yes, sir.

4 My name is Christopher Rowe. Rowe is spelled
5 R-O-W-E.

6 THE COURT: Thank you.

7 Mr. Prengaman.

8 MR. PRENGAMAN: Thank you, Your Honor.

9

10 CHRISTOPHER ROWE,
11 having been first duly sworn, was examined
12 and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. PRENGAMAN:

16 Q Can you please tell us what you do for a living?

17 A I work for the Sparks Police Department.

18 Q You're a sworn peace officer?

19 A I am.

20 Q First tell me, what is your present rank and
21 assignment?

22 A I'm currently a -- my rank is sergeant. I work on
23 patrol right now.

24 Q And how long total time have you worked for the

1 Sparks Police Department as an officer in any capacity?

2 A Over 11 years.

3 Q Prior to being promoted to sergeant, what was your
4 assignment?

5 A I was assigned to the Detective Division as a
6 general assignment detective.

7 Q And was that your assignment back in March, April,
8 May of this year?

9 A Yes, it was.

10 Q Sergeant, let me take you back specifically to
11 April 5, 2016. Beginning on that day -- did it come to your
12 attention on or about that day that a man named Ian Hager
13 might be a prohibited person in possession of firearms?

14 A Yes.

15 Q And were you looking into that matter?

16 A I was.

17 Q Okay. And did you determine that Ian Hager was
18 living in Sparks at the time?

19 A Yes.

20 Q And did you learn of the address that he was
21 presently living at on or about that day?

22 A Yes.

23 Q And what was the address?

24 A 2460 Anqua.

1 Q And just generally, where is that located in Sparks?

2 A Just off Vista Boulevard. If you know where the
3 Safeway is, just a little bit south of the Safeway.

4 Q That's in Sparks, Washoe County, Nevada?

5 A That's correct.

6 Q As part of your investigation, did you receive some
7 information from a Reno detective about some videos that had
8 been posted on Facebook by Ian Hager?

9 A Yes.

10 Q Just for purposes of explaining what you did next in
11 the course of your investigation, did Detective Johnson
12 provide you with an actual Internet address to where the
13 videos were posted?

14 A Yes, he did.

15 Q And did you -- taking that address -- did you follow
16 the address and see where it took you?

17 A Yes.

18 Q Where did it take you?

19 A It took me to Facebook.

20 Q Okay. And was it to a specific area, location, or
21 profile on Facebook?

22 A Yes, it was.

23 Q Specifically where?

24 A It was under the Facebook profile name of Ian Andre.

1 Q Okay. And just to sort of -- for the record and by
2 way of explanation, what is Facebook? You're familiar with
3 it, correct?

4 A I am.

5 Q It's something you used before, before this case?

6 A Yes, sir.

7 Q Okay. What is it, generally?

8 A It's a social media, social networking website where
9 people can create their own pages.

10 Q And in terms of creating their own pages, what might
11 they do or what -- do they put things on their pages?

12 A They can post comments. They can post photographs,
13 videos, pictures.

14 Q And is it -- is it something that is private or
15 public?

16 A That's up to the owner of the page.

17 Q Okay. And, well -- could you explain that a little
18 further?

19 A So the person that creates the page, they have the
20 capability of either selecting their Facebook page be a public
21 profile, meaning anybody can see it that has a Facebook page
22 themselves, or a private page where only friends of theirs can
23 see it.

24 Q And the Ian Andre page, was that public or private?

1 A It was public.

2 Q You didn't have to request to be friends; you didn't
3 have to do anything but just show up at the page, and you
4 could see everything that's posted?

5 A That's correct.

6 Q When -- did you look at the content?

7 A Yes, I did.

8 Q And what did you -- initially at this point, what
9 did you find?

10 A I found that there were several -- well, there was
11 numerous videos posted on the Facebook page along with several
12 photographs.

13 Q Okay. And when you talk about being posted, like a
14 video being posted on a page, can you explain what that would
15 look like to somebody that goes and accesses this page?

16 A The person that has the page can upload videos to
17 that social media site, and once the videos are uploaded, the
18 videos are contained on the page so people can see it.

19 Q And so over the next couple of days, what did you
20 do?

21 A I looked through the videos that were posted on the
22 page.

23 Q So generally speaking -- I'm not going to ask you
24 for specific numbers, but were there like a couple of videos

1 posted, or were there a lot of videos posted?

2 A There was a lot.

3 Q And did many of them depict an individual?

4 A Yes.

5 Q And can you describe that? Not what -- not the
6 content of the videos, but just the individual that was shown
7 in the videos.

8 A The individual that was shown on the videos is the
9 Defendant.

10 Q Okay. And so for the record, many of the videos
11 showed a man?

12 A Yes.

13 Q Okay. And did it appear he was filming himself?

14 A Yes.

15 Q Okay. And was it consistently the same person,
16 looked the same, spoke the same?

17 A Yes.

18 Q And you were able to recognize the person that you
19 saw in the videos in the courtroom today?

20 A That's correct.

21 Q And for the record, could you indicate -- when you
22 say "the Defendant," where is the person you're talking about
23 and describe the clothes?

24 A He's seated at the table there wearing a white shirt

1 with a red tie.

2 MR. PRENGAMAN: Your Honor, may the record reflect
3 identification of the Defendant?

4 THE COURT: It will.

5 MR. PRENGAMAN: Thank you.

6 BY MR. PRENGAMAN:

7 Q Now, in the videos that you watched, did the
8 Defendant, when he was depicted -- did he ever say in any of
9 the videos what his address was?

10 A Yes, he did.

11 Q What did he say?

12 A He said that he lived at 2460 Anqua.

13 Q Did he ever say his name in any of the videos that
14 you observed?

15 A Yes, he did.

16 Q And describe that. What did he say?

17 A He said, "This is Ian Hager alias Ian Andre."

18 Q Ian Andre being the alias of the Facebook account or
19 page?

20 A That's correct.

21 Q Did you find any -- at this point in the case, did
22 you find any videos that you believed were relevant to your
23 investigation?

24 A Yes, I did.

1 Q And again, before we get into some of the specific
2 videos, as a general matter, what did you see that you
3 considered relevant to your investigation?

4 A I saw a video of the Defendant possessing multiple
5 firearms.

6 Q Were there any that appeared more than once or
7 appeared sort of consistently in the videos?

8 A Yes, sir.

9 Q And what were those?

10 A There was -- continually there was a black-colored
11 assault rifle that would appear and a black-colored
12 semi-automatic handgun.

13 Q When you saw them, how were they depicted? In other
14 words, like sitting somewhere, or how were they depicted?

15 A There was really in a couple of different ways --
16 excuse me. There were times that the assault rifle would be
17 sitting out like on the kitchen counter. There were other
18 times he would be holding the assault rifle.

19 Same thing with the handgun. There were videos and
20 images where the handgun -- he would be holding the handgun,
21 and it would be placed into a vest, or he had it tucked into
22 his pants.

23 Q Now, as you are reviewing these videos, did you take
24 any steps to preserve the content that you were seeing?

1 A I did.

2 Q And what was that?

3 A There's a software program called Camtasia that we
4 have up there in the detective division.

5 Q And would you explain to the -- explain what -- how
6 you use that. What does it do?

7 A Essentially it's a software program that allows you
8 to take and record a computer screen, and whatever you're
9 seeing on the computer screen, you're able to record that
10 image.

11 Q And so just to -- just by way of explanation, would
12 it be sort of similar to -- just better quality than sort of
13 holding a video camera up to the screen and filming what
14 you're watching as you're watching it?

15 A That's correct.

16 Q So you're recording exactly what you're watching as
17 you're watching it?

18 A That's correct.

19 Q So you're able to tell us everything you record is
20 something you saw on Mr. Hager's web page -- Facebook page?

21 A Yes.

22 Q Now, I don't want to get into a ton of details here.
23 Just, again, to explain how things progressed in your
24 investigation, at some point, did it come to your attention

1 that Mr. Hager, the person that you saw depicted in these
2 videos, had attended Washoe County's Mental Health Court?

3 A Yes.

4 Q And did you learn where -- where that had occurred;
5 in other words, which court or where had that originated?

6 A Yes.

7 Q Where was that?

8 A Out of the Sixth Judicial District Court. That's in
9 Humboldt County near Winnemucca.

10 Q And were you able to obtain some documentation from
11 that court to assist your investigation?

12 A Yes.

13 MR. PRENGAMAN: For the record, it's been previously
14 supplied, but I'm showing counsel for the defense what's
15 marked 33 through 37 for identification.

16 MS. HICKMAN: Thank you.

17 MR. PRENGAMAN: Your Honor, at this time I move for
18 admission of Exhibits 33 through 37 into evidence.

19 THE COURT: They are admitted.

20 (Exhibits 33 through 37 admitted into evidence.)

21 MR. PRENGAMAN: Thank you, Your Honor.

22 BY MR. PRENGAMAN:

23 Q Sergeant, I'm going to show you what we have marked
24 as 33 through 37 for identification. I'm going to ask you to

1 take a look at those, each document, if you would, and just
2 let me know when you're done.

3 A Okay.

4 Q Sir, did you recognize the documents?

5 A Yes.

6 Q And what are they?

7 A They are the court documents from the Sixth Judicial
8 District Court.

9 Q Okay. And in terms of your investigation -- again,
10 your investigation, did any of those documents have relevance
11 for you?

12 A Yes, they did.

13 Q Is that because they reflected that Ian Hager had
14 been ordered into Mental Health Court?

15 A Yes, sir.

16 Q And, Sergeant, what was the year of those -- the
17 proceedings that relate to the documents that you just looked
18 at from Humboldt County?

19 A 2013.

20 Q Okay. Was there additional relevance in the sense
21 that in the course of the proceedings, there was discussion
22 about Mr. Hager's use of controlled substances?

23 A Yes.

24 Q And did that also inform your investigation?

1 A Yes.

2 MR. PRENGAMAN: Your Honor, I'm going to now -- now
3 I would like to play for members of the jury 31A and B, which
4 have been previously admitted into evidence.

5 THE COURT: They are admitted.

6 (Exhibits 31A and 31B previously admitted into evidence.)

7 BY MR. PRENGAMAN:

8 Q First, I will play Exhibit 31A which is the Sixth
9 Judicial District Court proceedings, March 11, 2013, Case
10 CR13-6258.

11 THE COURT: Ladies and gentlemen, we have two
12 screens, one there and one there, for your viewing pleasure.

13 JUROR COWEN: What about popcorn?

14 THE COURT: Not today.

15 JUROR COWEN: Okay.

16 THE WITNESS: That screen is not working, sir.

17 THE COURT: Neither of them are. The one above you,
18 either.

19 THE WITNESS: Oh, I apologize.

20 THE COURT: Is it working on your screen?

21 THE WITNESS: It is.

22 THE COURT: Make sure the one behind you, too.
23 There you go.

24 (A DVD was played.)

1 MR. PRENGAMAN: Exhibit 31B from the Sixth Judicial
2 District Court, April 29, 2013, CR13-6258.

3 (A DVD was played.)

4 BY MR. PRENGAMAN:

5 Q Just stopping it there, Sergeant, briefly, I believe
6 that's at 3 minutes 25 seconds in. Is that 176A, Application
7 for Mental Health Court -- is that one of the documents that
8 you reviewed --

9 A Yes, sir.

10 Q -- in your investigation?

11 A Yes, sir.

12 (A DVD was played.)

13 BY MR. PRENGAMAN:

14 Q And, Sergeant, showing you, again, Exhibit 36, was
15 the Order that the Judge talked about that we just saw, the
16 Order for Mr. Hager to go into Washoe County Mental Health
17 Court program. Is that one of the documents that you
18 reviewed?

19 A Yes, it is.

20 Q And is Exhibit 36 that Order?

21 A Yes.

22 Q Sergeant, going back to the content of Mr. Hager's
23 Facebook page, the Ian Andre page, again, I'm not going to ask
24 each and every day, but can you give us an idea of the videos

1 that you observed where you observed firearms either by
2 themselves or with Mr. Hager holding them, what was the
3 approximate span of time across which those videos had been
4 posted?

5 A I believe they began in November of 2015 through
6 March of 2016.

7 Q Sergeant, I'm going to show you first what we've
8 marked as Exhibit 12 for identification.

9 MS. HICKMAN: Judge, before we do that, may we
10 briefly approach?

11 THE COURT: Sure.

12 (Discussion at the bench.)

13 BY MR. PRENGAMAN:

14 Q Sergeant, I'm showing you what we've marked for
15 identification as Exhibit 12.

16 MS. HICKMAN: Okay.

17 BY MR. PRENGAMAN:

18 Q Could you please take a look at that disk, and let
19 me know if you recognize it.

20 A I do.

21 Q And you've previously viewed the contents of that
22 disk before?

23 A That's right.

24 Q And you placed your signature on the disk to

1 indicate that you've previously seen it?

2 A Yes, sir.

3 Q Is this one of the videos -- does that disk contain
4 one of the videos that you observed on Mr. Hager's Facebook
5 page?

6 A Yes, it does.

7 MR. PRENGAMAN: Your Honor, I move for the admission
8 of Exhibit 12 into evidence.

9 MS. HICKMAN: No objection.

10 THE COURT: It's admitted.

11 (Exhibit 12 admitted into evidence.)

12 MR. PRENGAMAN: Thank you, Your Honor.

13 (A DVD was played.)

14 BY MR. PRENGAMAN:

15 Q Now, Sergeant, just -- first, so I have -- just let
16 this play for about two seconds. Can you just sort of -- if
17 you touch that monitor, you can draw on the screen.

18 A Okay.

19 Q Can you just give us an idea of what we are looking
20 at here in this video?

21 A So this is a video that I recorded from the Facebook
22 page. Up here at the top it shows the name of the person that
23 posted the video. It says Ian Andre. I apologize. I covered
24 it up. Just underneath the name it has a date there. I'll

1 draw a line right below it. So right there you can see it
2 says January 25th.

3 Q And on that -- Sergeant, this was posted on
4 January 25th, 2016?

5 A That's correct.

6 Q And how do you know that if it doesn't say 2016?

7 A How Facebook works is if the year has already passed
8 beyond the numbers there, you would see an actual -- the year.
9 So it would say 2012, 20- -- whatever that year was. So the
10 fact that it hadn't posted a year on there yet means that it
11 was this year.

12 Q So that's the date that the video was posted on the
13 site or placed onto the site?

14 A Yes, sir.

15 Q Let me stop it there. Now, do you know -- you
16 recognize the individual we just saw in the video?

17 A Yes.

18 Q Who is that?

19 A The Defendant.

20 (A DVD was played.)

21 BY MR. PRENGAMAN:

22 Q I'm stopping it here at about 36 seconds into the
23 video.

24 Can you describe for us what you see?

1 A Lying on the table, there is a silver-colored
2 semi-automatic handgun, and next to it is a black-colored
3 semi-automatic handgun. And by both of the guns, it looks
4 like there's pistol ammunition.

5 And if you can see right here, just above that line,
6 that's an assault rifle, ammunition for a .222 caliber.

7 Q And then did you see anything that you considered
8 significant at this point in the video?

9 A Yes, sir.

10 Q And what was that?

11 A If you look in his back waistline area, you can see
12 there's a handgun tucked into his pants.

13 Q Are you able to see the color?

14 A It looks like it's a black-colored semi-automatic
15 handgun.

16 (A DVD was played.)

17 BY MR. PRENGAMAN:

18 Q How about now?

19 A A black-colored assault rifle.

20 (A DVD was played.)

21 BY MR. PRENGAMAN:

22 Q And how about now, Sergeant?

23 A The silver object that he's holding that's more gray
24 is a magazine for an assault rifle.

1 MR. PRENGAMAN: Showing defense counsel Exhibit 13
2 for identification.

3 MS. HICKMAN: Okay.

4 BY MR. PRENGAMAN:

5 Q Sergeant, I'm showing you Exhibit 13. Could you
6 look at that disk and tell me if you recognize it?

7 A I didn't hear you.

8 Q I'm sorry. Could you look at that disk and tell me
9 if you recognize it?

10 A I do.

11 Q Have you viewed the contents before?

12 A Yes.

13 Q Does that disk contain one of the videos that you
14 observed on Mr. Hager's website that you recorded?

15 A It does.

16 Q What was the date that that video was posted?

17 A January 27th, 2016.

18 Q Okay. Now, Sergeant, when we looked at the last
19 video and you showed us where the date appears, you indicated
20 that that was the date that the video was posted, correct?

21 A Yes, sir.

22 Q Can you tell from looking at the videos the exact
23 day they were created or filmed?

24 A No.

1 Q Okay. Does the content of a number of the videos
2 give you some indication when the videos were filmed?

3 A Yes.

4 Q Okay. And just by way of some examples, like what
5 are some of the things, indicators that you observed in the
6 videos that gave some indication when the videos were filmed?

7 A On one of the videos, there's actually a beer can in
8 the shot with Mr. Hager sitting behind it. And the beer can
9 has a Super Bowl 50 emblem on it. And it was posted right
10 around the time of the Super Bowl which happened in February
11 of 2016.

12 And there was another video where Mr. Hager is in a
13 car, and he says -- references along the line of, "It's
14 February 27th ish," and the video was posted on, I believe,
15 February 28th.

16 Q And that's not -- just some of the things that you
17 saw that indicated the timeframe of when they were made?

18 A That's correct.

19 MR. PRENGAMAN: Your Honor, I'm going to move for
20 the admission of Exhibit 13 into evidence.

21 MS. HICKMAN: No objection.

22 THE COURT: It's admitted.

23 (Exhibit 13 admitted into evidence.)

24 MR. PRENGAMAN: Thank you.

1 BY MR. PRENGAMAN:

2 Q Okay. I'm stopping the exhibit 13 seconds in.

3 Can you tell us what you see in this photograph --
4 or this part of the video?

5 A In the video, you can see the -- there's a
6 black-colored assault rifle sitting on the couch. And this is
7 the video I was speaking about with -- I think it's a
8 Budweiser beer can. From this angle, you can see it looks
9 like the bottom of a zero, and then "Bowl" underneath it. But
10 after the video continues, he turns it and you can see where
11 it says the number 50 for Super Bowl 50.

12 (A DVD was played.)

13 BY MR. PRENGAMAN:

14 Q Sergeant, the text to the -- as we are looking at
15 this, the right says, "Part one of Hump Day." Did you look
16 into what day of the week January 27, 2016, was?

17 A Yes, sir.

18 Q And what day was that?

19 A If I remember correctly -- I forget. I apologize.

20 Q Did you recognize the individual that we saw in that
21 video, Exhibit 13?

22 A Yes, sir.

23 Q And who was that?

24 A The Defendant.

1 Q Showing you Exhibit 17 for identification.

2 Sergeant, showing you again Exhibit 17, could you
3 please take a look at the disk and tell me if you recognize
4 it?

5 A Yes.

6 Q Does that disk contain one of the Facebook videos
7 you recorded from Mr. Hager's site?

8 A It does.

9 Q Facebook page?

10 A It does.

11 Q And what was the date that video was posted?

12 A February 20th, 2016.

13 Q What do we see in the first couple seconds of the
14 video?

15 A Looks like the camera is oriented looking down the
16 sight of the barrel of an assault rifle.

17 Q That's essentially what this short video contains;
18 is that right?

19 A Yes, sir.

20 MR. PRENGAMAN: And I'm sorry if I didn't move for
21 the admission, Your Honor. I move for the admission.

22 MS. HICKMAN: I have no objection.

23 THE COURT: It's admitted.

24 (Exhibit 17 admitted into evidence.)

1 MR. PRENGAMAN: Thank you, Your Honor.

2 BY MR. PRENGAMAN:

3 Q Is it accurate that the individual -- you never see
4 a person in this clip; is that right?

5 A I don't believe so.

6 Q But the individual does speak?

7 A Yes.

8 Q Did you recognize the voice from watching the
9 videos?

10 A I did.

11 Q And whose voice did you recognize?

12 A It sounded like the Defendant.

13 MR. PRENGAMAN: Showing defense counsel Exhibit 18
14 for identification.

15 MS. HICKMAN: That's fine.

16 BY MR. PRENGAMAN:

17 Q Sergeant, showing you now Exhibit 18. Can you
18 please take a look at that disk and tell me if you recognize
19 it?

20 A Yes.

21 Q Is that one of the videos that you viewed on
22 Mr. Hager's Facebook page that you recorded?

23 A Yes.

24 Q Okay.

1 MR. PRENGAMAN: Okay. I'm going to move for the
2 admission of Exhibit 18.

3 MS. HICKMAN: No objection.

4 THE COURT: It's admitted.

5 (Exhibit 18 admitted into evidence.)

6 BY MR. PRENGAMAN:

7 Q Did that particular video have significant for you?

8 A It did.

9 Q Different than the ones we've seen?

10 A Yes.

11 Q And what was the significance of this video to you
12 in terms of your investigation?

13 A Is it possible to see first the beginning opening?
14 There was so many videos I viewed, I want to look at the
15 beginning.

16 Q Sure.

17 (A DVD was played.)

18 THE WITNESS: Yes, sir.

19 BY MR. PRENGAMAN:

20 Q And what was the significance of this video to you
21 in terms of your investigation?

22 A This video shows the Defendant -- he displays a
23 baggy of narcotics and takes out the narcotics and sniffs
24 them.

1 MS. HICKMAN: I'm going to object to him using the
2 term "narcotics."

3 BY MR. PRENGAMAN:

4 Q Did it appear to you to be narcotics?

5 A Yes.

6 Q The only --

7 THE COURT: Overruled.

8 MR. PRENGAMAN: Sorry, Your Honor.

9 THE COURT: That's okay.

10 The objection was foundation. You asked him if he
11 recognized it. I'm going to have you ask a couple of
12 questions based on his training and experience relating to
13 narcotics.

14 The objection is overruled, but I want you to lay a
15 little bit better foundation.

16 MR. PRENGAMAN: Thank you, Your Honor.

17 BY MR. PRENGAMAN:

18 Q You told us you've been a detective, now sergeant,
19 over 11 years; is that correct?

20 A That's correct.

21 Q When you first became a police officer, you attended
22 the academy?

23 A Yes.

24 Q Did you receive training -- was part of your

1 training to become a police officer, did that involve training
2 in the recognition of controlled substances?

3 A Yes.

4 Q And did that include substances like heroin,
5 cocaine, methamphetamine?

6 A Yes.

7 Q Did you also receive training in the common ways
8 that people ingest controlled substances like heroin,
9 methamphetamine, cocaine?

10 A Yes.

11 Q The various, just, paraphernalia devices they use to
12 ingest those substances?

13 A Yes.

14 Q Once you became a police officer, did you start out
15 in patrol?

16 A Yes.

17 Q And then at some point you became a detective?

18 A That's correct.

19 Q And about how long were you in the detective
20 division prior to your promotion?

21 A Approximately a year and a half.

22 Q Now, in your time as a -- significant time as a
23 patrol officer, did you have occasion to investigate numerous
24 controlled substance cases?

1 A Yes.

2 Q And did that include cases involving the possession,
3 use, sales of a controlled substance?

4 A Yes.

5 Q And did those include methamphetamine, cocaine,
6 heroin, as well as other controlled substances?

7 A Yes.

8 Q So is it fair to say that by virtue of your training
9 as well as your on-the-job training and the cases that you
10 were involved in investigating that you were not only trained,
11 but you became familiar in real life with how controlled
12 substances appeared?

13 A Yes.

14 Q Like cocaine, methamphetamine, and heroin?

15 A Yes.

16 Q Did you, again, in the course of investigating those
17 cases become familiar in real life with the ways that people
18 who use and sell controlled substances package them and ingest
19 them?

20 A Yes.

21 Q With the types of devices they would use to either
22 smoke or snort or inject controlled substance like
23 methamphetamine, cocaine, and heroin?

24 A Yes.

1 Q And so when you say that it appears to you that
2 Mr. Hager in this video is using narcotics, is it based on
3 that training and that experience that you make that statement
4 or give that opinion?

5 A That's correct.

6 Q Okay.

7 (A DVD was played.)

8 BY MR. PRENGAMAN:

9 Q Do you recognize this individual?

10 A Yes, sir.

11 Q Who is that?

12 A The Defendant.

13 Q Now, I'll go back to recapture this segment, but,
14 Sergeant, what do we see in this portion of the video? And I
15 stopped it about 1 minute 33 seconds in.

16 A You see the Defendant holding a plastic bag of a
17 white -- or a crystal substance.

18 Q And based on your training and experience, what type
19 of controlled -- are you able to say what type of controlled
20 substance that would be consistent with in your opinion?

21 A In my opinion it would be consistent with
22 methamphetamine.

23 Q So I'm going to go back briefly to recapture that
24 scene.

1 (A DVD was played.)

2 BY MR. PRENGAMAN:

3 Q Now, Sergeant, again, based on your training and
4 experience investigating controlled substance cases, up to the
5 point that we've just observed -- and the video stopped at
6 4 minutes 33 seconds in -- is what we observed consistent with
7 how some user of controlled substances would ingest
8 methamphetamine as well as possibly cocaine?

9 A Yes.

10 Q By snorting it?

11 A That's correct.

12 (A DVD was played.)

13 BY MR. PRENGAMAN:

14 Q Sergeant, I'm stopping the video at 8 minutes, 54
15 seconds in. Do you see any significance in this frame or at
16 this point in the video?

17 A Yes, sir.

18 Q What is that?

19 A The Defendant is holding the Holy Bible and walking
20 toward the camera. And if you can see on top of the Bible,
21 there's left-over methamphetamine sitting on top of it.

22 Q Let me go back.

23 When he lifts up the book, does something happen?

24 A Yes, sir.

1 (A DVD was played.)

2 BY MR. PRENGAMAN:

3 Q Let me play it forward.

4 (A DVD was played.)

5 BY MR. PRENGAMAN:

6 Q To avoid that distortion, what is significant when
7 he lifts up the book?

8 A When he lifts up the Bible toward the camera, if you
9 look closely, you can see the narcotics slide off the Bible.

10 (A DVD was played.)

11 MR. PRENGAMAN: I'll show defense counsel Exhibit 19
12 for identification.

13 BY MR. PRENGAMAN:

14 Q Sergeant, I'm going to show you Exhibit 19. Could
15 you please look at that disk and tell me if you recognize it?

16 A I do.

17 Q You previously viewed the content?

18 A Yes.

19 Q Is that a disk, Exhibit 19, containing one of the
20 videos that you observed, and recorded, on Mr. Hager's
21 Facebook page?

22 A Yes.

23 Q And what is the date that that video was posted?

24 A February 28th, 2016.

1 MR. PRENGAMAN: Your Honor, as to Exhibit 19, I
2 would like to play 2 minutes and 10 seconds to the end.

3 THE COURT: Please do.

4 MR. PRENGAMAN: So beginning at 2:10.

5 MS. HICKMAN: Judge, if there is a motion to admit
6 it, I don't object.

7 THE COURT: I believe we had that out of the
8 presence, but I appreciate you doing that now for the record.

9 (A DVD was played.)

10 BY MR. PRENGAMAN:

11 Q And I'm going to stop it there, Sergeant; 2 minutes
12 14 seconds in. What did we just see?

13 A We saw the Defendant holding a black-colored
14 semi-automatic handgun.

15 (A DVD was played.)

16 BY MR. PRENGAMAN:

17 Q What did we see there?

18 A Again, the Defendant is holding a black vest and is
19 holding a black handgun.

20 Q I'll now show you what we've marked Exhibit 20 --
21 sorry -- Exhibit 22.

22 MS. HICKMAN: I'm sorry. Did you say Exhibit 22
23 instead?

24 MR. PRENGAMAN: 22, yes.

1 BY MR. PRENGAMAN:

2 Q I'm going to show you Exhibit 22, Sergeant. Could
3 you please take a look at that disk and tell me if you
4 recognize the contents?

5 A Yes.

6 Q And what is that?

7 A A Facebook video from February 28th, 2016.

8 Q And that's one of the ones that you observed and
9 recorded?

10 A That's correct.

11 Q From Mr. Hager's Facebook page?

12 A Yes.

13 MR. PRENGAMAN: For the record, this will begin at
14 2:19; 2 minutes 19 seconds into the video.

15 BY MR. PRENGAMAN:

16 Q And at 2.22, Sergeant, what do you see depicted in
17 that part of the video?

18 A A pistol-gripped shotgun.

19 Q And the photograph -- not the photograph, but the
20 individual, who do you see depicted there?

21 A The Defendant.

22 Q Now, I'm going to stop it at 2 minutes 32 seconds
23 in. What is the text that's placed over the -- where the
24 video is playing?

1 A It says, "Approximately 20 to 30 minutes ago,
2 Saturday night, February 27th-ish."

3 Q And you told us this particular video was posted on
4 February 28th?

5 A That's correct.

6 Q And is this one of the indicators you were talking
7 about that -- about when the video was made as opposed to
8 posted on the site?

9 A Yes.

10 Q What day of the week was February 27th?

11 A Saturday.

12 Q And who do we see there?

13 A The Defendant.

14 MR. PRENGAMAN: Showing counsel Exhibit 25 for
15 identification.

16 BY MR. PRENGAMAN:

17 Q Sergeant, showing you Exhibit 25, do you recognize
18 that disk?

19 A Yes.

20 Q Does that contain a video that you viewed and
21 recorded from Mr. Hager's Facebook page?

22 A It does.

23 Q And what was the date that video was posted?

24 A March 2nd, 2016.

1 (A DVD was played.)

2 BY MR. PRENGAMAN:

3 Q Who do we see there?

4 A The Defendant.

5 Q Sergeant, what did we see just before 1 minute
6 8 seconds into the video?

7 A You can see the Defendant. He's wearing what I
8 would describe as a black tact vest and holding a
9 black-colored handgun.

10 Q Sergeant, there is the -- under the name of the
11 page, the Ian Andre heading, and the date March 2nd, it says,
12 "I've had too many Tuesday nights like this." Do you see
13 that?

14 A Yes, sir.

15 Q Can you tell us what day of the week March 2nd was?

16 A I believe March 2nd was actually a Wednesday.

17 Q And so March 1st would have been a Tuesday?

18 A That's correct.

19 (A DVD was played.)

20 BY MR. PRENGAMAN:

21 Q Did you see the gun again in his hand?

22 A Yes.

23 Q Sergeant, in the videos that we have just seen that
24 you recorded, what did you note generally about the setting or

1 the background?

2 A All of it -- excuse me. They either appeared to be
3 inside of a residence or inside of a vehicle.

4 Q Now, in the course of your investigation and after
5 you viewed the videos on Mr. Hager's Facebook page, did you
6 take another investigative step?

7 A I did.

8 Q Was that to apply for a search warrant for
9 Mr. Hager's residence?

10 A Yes.

11 Q Okay. And what was the date that that occurred,
12 that you made the application for the search warrant?

13 A I believe I applied on April 8th.

14 Q And which -- you applied to a Court for a warrant?

15 A That's correct.

16 Q Was it granted?

17 A Yes, it was.

18 Q And what were you authorized to search for?

19 A We were authorized to search for firearms,
20 ammunition, and indicia of occupancy, meaning to show who
21 lived in the residence.

22 Q Things like bills; utility bills, things like that?

23 A Correct.

24 Q Was there a -- and speaking generally -- I don't

1 want to get into detail or talk about specifics of
2 conversations, but once the warrant had been authorized, was
3 there a plan as to how to serve it?

4 A Yes.

5 Q Okay. And then could you just generally outline
6 what that -- what that plan was?

7 A The general plan was to have some detectives go out
8 to the Defendant's address, establish surveillance, and then
9 after he left the address, contact him and place him under
10 arrest.

11 Q And in terms of -- was part of that plan that you
12 wanted to search the residence when he was not there?

13 A Yes.

14 Q Okay. So in essence, the plan was to surveil, wait,
15 and once he left the residence to then contact him separately?

16 A That's correct.

17 Q Now -- and did that occur?

18 A It did.

19 Q Okay. Were you part of that; meaning, were you on
20 the scene, so to speak?

21 A I was not.

22 Q Okay. Did you go participate in the search of
23 Mr. Hager's residence?

24 A I did not.

1 Q And were you involved in contacting him separately?
2 Were you -- let me ask it a better way.

3 You didn't follow him or approach him out in the
4 field, so to speak?

5 A I did not.

6 Q Okay. When this was happening, where were you?

7 A I was still at the police department.

8 Q Okay. Were you -- did you have some way of knowing
9 what was going on as it was happening?

10 A Yes. I was monitoring the radio so I could hear
11 what they were doing and what was happening.

12 Q And then to explain what happened next, did you
13 learn in the course of monitoring that Mr. Hager at some point
14 had in fact been taken into custody?

15 A Yes.

16 Q And did you learn that the search warrant was being
17 served, meaning detectives were searching Mr. Hager's
18 residence?

19 A Yes.

20 Q Okay. And this was all occurring on April 8th?

21 A That's correct.

22 Q At some point after Mr. Hager was taken into custody
23 was he brought to the Sparks Police Department?

24 A Yes, he was.

1 Q At that point, do you have contact with him?

2 A I do.

3 Q Was that your first in-person contact with

4 Mr. Hager?

5 A Yes.

6 Q When you first meet him, where does that happen?

7 A It's in the detective division inside an interview

8 room.

9 Q And he's in custody, correct?

10 A That's correct.

11 Q When you met him, was he handcuffed?

12 A Initially, yes, he was.

13 Q Okay. And then did you ask or did you arrange to

14 have those handcuffs removed while you were speaking to him?

15 A Yes.

16 Q Because he's in custody, did you provide him with

17 his Miranda warning?

18 A Yes, I did.

19 Q And ultimately, did he agree to speak to you?

20 A Yes.

21 Q Sergeant, I would like to ask you about some of the

22 subjects that you spoke with Mr. Hager about in that

23 interview.

24 During your interview, did you ask him how long he

1 had been living at the 2460 Anqua address?

2 A I did.

3 Q What did he tell you?

4 A Since 2012.

5 Q Did you ask him whether anyone else was or had been
6 living with him at that address?

7 A I did.

8 Q And what did he tell you?

9 A He told me that no one else was living there.

10 Q Okay. And did he give you a timeframe, in other
11 words, some point in time after which nobody had lived with
12 him at that residence?

13 A If I remember correctly, I believe he said it was
14 September or October of 2012.

15 Q And since then, no one had lived there with him?

16 A That's correct.

17 Q During the -- during your interview with Mr. Hager,
18 did he acknowledge that he had a Facebook account?

19 A Yes.

20 Q Facebook page or Facebook account?

21 A Yes.

22 Q Okay. And did you in fact mention one or more of
23 the videos that you had seen on his page?

24 A I did.

1 Q Did he make reference to whether the things that he
2 had posted on there was public or private?

3 A He told me that his page was public, so anybody
4 could see it.

5 Q During the interview, did you ask him what firearms
6 he owned or possessed in his house?

7 A Yes.

8 Q And did he tell you about that?

9 A He did.

10 Q And what did he tell you?

11 A He told me that he had a Bushmaster assault rifle, a
12 .20 gauge shotgun, a .40 caliber pistol, and a 1911 pistol.

13 Q And as to that, the assault rifle, did he
14 reference -- did he tell you as to that particular gun -- or
15 did he make mention to you how long he might have had that
16 gun?

17 A He told me he's had the assault rifle since 2007.

18 Q I'm sorry, Sergeant. You mentioned a rifle. A
19 Ruger, did you mention that?

20 A I -- no, I did not mention that.

21 Q Let me back up.

22 Did he at some point mention having a Ruger rifle?

23 A Yes, he did.

24 Q And did he make some reference to the condition of

1 that gun?

2 A If I remember, we spoke about it, and he said it was
3 either broken or inoperable or something like that.

4 Q And when you spoke to him, did he tell you where
5 some of those guns were located presently; in other words, on
6 that day in the house?

7 A Yes.

8 Q And as -- if you could, what did he tell you about
9 that? Which guns did he locate in the house, so to speak?

10 A Yes. He said that the SIG Sauer handgun was on his
11 bed in the bedroom. He said that the .22 was in a guitar
12 loft. And he said the other one should be around his gun
13 safe.

14 Q During the interview, did you bring up the subject
15 of the video he posted where he appears to -- where he
16 produced that baggy of crystal or substance and snorted it?

17 A Yes, I did.

18 Q How did you introduce or how did you bring it up to
19 him?

20 A I talked to him. I said that I looked at a few
21 videos, that one video kind of jumped out to me, that there
22 was a video of him snorting some stuff.

23 Q Okay. And what did he tell you about that?

24 A I asked him -- I said, "What was it?" And he said

1 it was meth.

2 Q Did he tell you -- did he tell you why he -- why he
3 had used the meth?

4 A Yes, sir.

5 Q And what did he tell you?

6 A He said that he used it to disprove the overdose
7 theory.

8 MR. PRENGAMAN: Showing defense counsel 93.

9 BY MR. PRENGAMAN:

10 Q Sergeant, I'm going to show you what we've marked as
11 Exhibit 93. Do you recognize that?

12 A I do.

13 Q Have you previously viewed the content of that disk?

14 A I have.

15 Q Does that disk contain the segment of your interview
16 with the Defendant where he talks to you about his use of
17 methamphetamine on that video?

18 A I believe so.

19 MR. PRENGAMAN: Your Honor, I'm going to move for
20 admission of Exhibit 93 into evidence.

21 MS. HICKMAN: No objection.

22 THE COURT: It's admitted.

23 (Exhibit 93 admitted into evidence.)

24 MR. PRENGAMAN: Thank you, Your Honor.

1 BY MR. PRENGAMAN:

2 Q Sergeant, first, just looking at -- what are we
3 looking at here at the very beginning?

4 A So these -- the interview was taking place inside
5 one of the interview rooms at the police department, and the
6 two images are two different camera angles of cameras that are
7 established inside the interview room.

8 Q As we are looking at it, in the upper left corner or
9 square, who do we see in that photograph -- or that portion of
10 the screen?

11 A The Defendant.

12 Q Then in the upper -- as we are looking at the
13 upper right-hand quadrant or corner, what do we see there?

14 A That's -- that's me sitting at the other end of the
15 table having a conversation with the Defendant.

16 Q Could you indicate on the screen where you are and
17 where the Defendant is?

18 A So I'm here, and the Defendant is here (indicating).

19 Q And then in terms of the date and time stamped on
20 the video, that's generally accurate?

21 A Yes.

22 (A DVD was played.)

23 BY MR. PRENGAMAN:

24 Q Let me back it up.

1 Sergeant, when he -- when Mr. Hager in the interview
2 used that phrase "the overdose theory," did he talk to you
3 about what he meant by that or expand on what he meant by
4 that?

5 THE COURT: You may lead.

6 MR. PRENGAMAN: Oh, thank you.

7 BY MR. PRENGAMAN:

8 Q Sergeant, when the Defendant talked to you and used
9 that phrase, "the overdose theory," at some point did he tell
10 you that he had been given three different causes of death for
11 his brother -- causes of death for his brother who had passed
12 away?

13 A Yes.

14 Q And when he talked to you about that, did he give
15 asphyxiation and methamphetamine intoxication as reasons that
16 he had been given by the Reno Police Department for his
17 brother's death?

18 A Yes.

19 Q During your interview with the Defendant, did you
20 ask him about his having been in Washoe County Mental Health
21 Court?

22 A I have -- I did.F.

23 Excuse me.

24 Q And did he tell you what his diagnosis was that got

1 him into Mental Health Court?

2 A Yes.

3 Q And what was that?

4 A He told me it was PTSD or post-traumatic stress
5 disorder.

6 Q And did he indicate to you in that interview that he
7 was ordered into Mental Health Court?

8 A Yes.

9 Q Sergeant, at some point after you spoke to the
10 Defendant, did you learn -- I'm not going to ask you to detail
11 it or list it, but did you learn or were you informed what had
12 been found in the course of the search of Mr. Hager's
13 residence?

14 A Yes.

15 Q And you were informed -- to explain what you did
16 next, you were informed that there were a number of firearms
17 that had been found and recovered?

18 A That's correct.

19 Q And after that day, did you continue to do so, look
20 at what was the public parts of Mr. Hager's Facebook page?

21 A I did.

22 Q And what were you looking for?

23 A I went into a different line. It's the same area of
24 Facebook which was the Defendant's Facebook page, but I looked

1 under where his photographs were.

2 Q Okay. And in doing that, did you locate any
3 photographs that you considered relevant to your
4 investigation?

5 A I did.

6 Q I'm going to show you what we've had admitted into
7 evidence, first, as Exhibit 1. Are you able to see that,
8 Sergeant? Do you recognize this photograph?

9 A Yes, sir.

10 Q And is this a photograph found and recorded from
11 Mr. Hager's Facebook page?

12 A Yes.

13 Q And are you able to tell us the date that he posted
14 this on his Facebook page?

15 A Would it be possible to refresh my memory?

16 Q Is there something that would refresh your
17 recollection?

18 A Yes, sir.

19 Q And what would that be?

20 A I had some notes I had taken in preparation for
21 testifying that I have with me.

22 Q Is it difficult to remember the particular dates
23 that you -- the dates of the photos that you saw?

24 A Yes, sir, because there was so many photographs and

1 videos that the dates kind of get jumbled.

2 Q And subject to any objection, if it would help you
3 refresh your recollection just to tell us the date, would you
4 please do so.

5 MS. HICKMAN: Judge, if they are his personal notes,
6 I'm not sure that I've seen this.

7 BY MR. PRENGAMAN:

8 Q Did you make that just to help jog your memory
9 today?

10 A I did.

11 MR. PRENGAMAN: I'll mark it as an exhibit.

12 THE COURT: You may refer to them.

13 And I'll make sure you're able to see a copy of
14 those before your cross-examination.

15 MS. HICKMAN: Thank you.

16 THE WITNESS: Okay.

17 BY MR. PRENGAMAN:

18 Q And so as to Exhibit 1, what was the date that that
19 was posted?

20 A That was August 28th, 2015.

21 Q And, now, do you recognize the -- where it appears
22 that the -- first of all, what do we see in the photo?

23 A We can see the black-colored assault rifle laying
24 next to the black semi-automatic handgun. And I know it's

1 hard to see, but I believe it has the defendant's name on the
2 name tag that's kind of across the sling.

3 Q Okay. And do you recognize the -- what they are
4 sitting on or resting on from any of the videos?

5 A It appears to be the couch cushion.

6 Q Okay. And in one of the videos, did we previously
7 see Mr. Hager sitting on the couch?

8 A Yes.

9 Q Showing you what we've admitted as Exhibit 2, is
10 this -- what day was this posted?

11 A Same day, August 28, 2015.

12 Q And does this appear to be a similar subject to the
13 last photo but just a different vantage or consideration or
14 how it's photographed?

15 A Yes.

16 Q Showing you what we have admitted as Exhibit
17 Number 4, is this one of the photos that you found posted on
18 Mr. Hager's Facebook page?

19 A Yes, it is.

20 Q And what was the date that this video -- I'm
21 sorry -- this photograph was posted?

22 A This would have been October 29th, 2015.

23 Q Okay. And what is significant about this
24 photograph?

1 A If you look behind the Defendant -- I'll touch the
2 screen -- but the black assault rifle is here with the -- it
3 looks like a Santa Claus hat sitting on top of it.

4 Q Showing you what we've admitted as Exhibit 5, is
5 this one of the photos you located on Mr. Hager's Facebook
6 page?

7 A Yes.

8 Q And what do we see here?

9 A On the left side of the screen, you can see a rifle.
10 Then in the center part of the screen here, you can see the
11 black assault rifle. Underneath the black assault rifle,
12 there appears to be two -- and I know the arrow is pointing
13 the opposite way, but if you look to the left of the arrow, it
14 looks like assault rifle magazines, and if you look toward
15 right here, just underneath this line, it looks like a handgun
16 magazine with ammunition in it.

17 Q And I'm sorry. What day was this posted?

18 A This was November 3rd, 2015.

19 Q Showing you what we've admitted as Exhibit 26, do
20 you recognize this picture?

21 A Yes.

22 Q And is this one of the pictures that you found
23 posted on Mr. Hager's -- the Defendant's Facebook page?

24 A It is.

1 Q And what do you see -- why did you consider this
2 photograph significant to your investigation?

3 A If you look beyond the clock that's kind of in the
4 center, beyond it you can see what appears to be the barrel or
5 at least a portion of two long guns just underneath it.

6 Q And the day that this Exhibit 26 was posted?

7 A March 21st, 2016.

8 Q In terms of, again, information that you received
9 about April 8th, the day that the search warrant was served,
10 did you learn at some point that a Sparks detective, Detective
11 Kevin Dach, had obtained the Defendant's iPhone?

12 A Yes.

13 Q During the search of his car?

14 A Yes.

15 Q Or in some fashion from him?

16 A That's correct.

17 Q Okay. And we'll hear from Detective Dach later.
18 But in terms of your knowledge that that device was in police
19 possession, did you at some point want -- apply for a search
20 warrant to search it?

21 A Yes, I did.

22 Q And was that -- what were you seeking to search for?

23 A Any additional photographs or videos that were
24 contained inside of the phone.

1 Q And specifically, were you looking for the content
2 of firearms or ammunition?

3 A Yes.

4 Q And did you apply to a Court for the search warrant?

5 A I did.

6 Q Was it granted?

7 A It was.

8 Q And in terms of serving that warrant, did you
9 personally search the Defendant's iPhone?

10 A I did not.

11 Q How did -- once you had that -- were you the actual
12 person that applied for the warrant?

13 A I was.

14 Q So what did you do with it once it was granted?

15 A Once the search warrant was granted, I brought it
16 back, and I met with Detective Dach and asked Detective Dach
17 to serve the warrant for me.

18 Q Is that because he has specialized experience and
19 training in conducting forensic searches?

20 A That's correct.

21 MR. PRENGAMAN: Thank you, Sergeant. I have no
22 further questions at this time.

23 THE COURT: Thank you.

24 Could you both approach, please?