

IN THE SUPREME COURT OF THE STATE OF NEVADA

Docket No. 72988

KENNETH FRANKS
Appellant,

vs.

THE STATE OF NEVADA
Appellee.

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Elizabeth A. Brown
Clerk of Supreme Court

Appeal from a Judgment of Conviction
Eighth Judicial District Court, Clark County
The Honorable Carolyn Ellsworth, District Judge

APPELLANT'S APPENDIX, VOLUME 2

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1 driving by any of these addresses that you've heard, no
2 looking up anything on the Internet, nothing of that kind or
3 talking to anybody about it over the weekend. Thank you.
4 I'll see you on Monday at 1:30.

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

6 (Outside the presence of the jury.)

7 THE COURT: And the record will reflect that the
8 jury has departed the courtroom. Any matters outside the
9 presence?

10 MS. CLEMONS: None from the State.

11 MR. LEE: None from defense.

12 THE COURT: I'll see you on Monday afternoon, 1:30.

13 MS. CLEMONS: Thank you.

14 MR. STEPHENS: Thank you.

15 THE COURT: You're welcome. Have a good weekend.

16 MS. CLEMONS: You too.

17 (Court recessed at 4:41 P.M., until Monday,
18 December 5, 2016, at 1:38 P.M.)

19 * * * * *

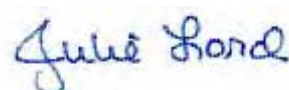
20 ATTEST: I hereby certify that I have truly and correctly
21 transcribed the audio/visual proceedings in the above-
22 entitled case to the best of my ability.

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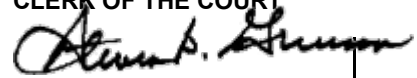
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JULIE LORD, INDEPENDENT TRANSCRIBER

Exhibit 3

Exhibit 3



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-15-311519-1
	.	
Plaintiffs,	.	DEPT. NO. V
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
KENNETH FRANKS,	.	
	.	
Defendant.	.	
.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 6

MONDAY, DECEMBER 5, 2016

FOR THE STATE:	JENNIFER M. CLEMONS, ESQ.
	ROBERT STEPHENS, ESQ.
	<i>Chief Deputy District Attorneys</i>

FOR THE DEFENDANT:	BENSON LEE, ESQ.
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COURT RECORDER:

LARA CORCORAN
District Court

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(303) 798-0890

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

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1 LAS VEGAS, NEVADA, MONDAY, DECEMBER 5, 2016, 1:38 P.M.

2 (In the presence of the jury)

3 THE MARSHAL: Your Honor, all members of the jury
4 as well as the two alternates are present.

5 THE COURT: Thank you. And this is a continuation
6 of Case No. C-311519, State of Nevada versus Kenneth Franks.
7 The record will reflect the presence of Mr. Franks with his
8 counsel, the Chief Deputies District Attorney prosecuting the
9 case, all officers of the court, all 12 members of the jury
10 as well as the two alternates. Good afternoon, ladies and
11 gentlemen.

12 So, I hope the two gentleman who showed up in
13 short-sleeved shirts are good with being cold, because our
14 boiler is down and that's why it's a little chilly, actually.
15 It felt like you could hang meat in my chambers this morning.
16 It was that cold. And they got one up apparently, but it's
17 still pretty chilly. So that's why it feels colder in here
18 this -- today.

19 All right. State, you may call your next witness.

20 MR. STEPHENS: The State calls May Denina.

21 MAY DENINA, STATE'S WITNESS, SWORN

22 THE CLERK: Please be seated. And then please
23 state and spell your first and last name for the record.

24 THE WITNESS: May Denina, M-a-y, D-e-n-i-n-a.

25 //

1 DIRECT EXAMINATION

2 BY MR. STEPHENS:

3 Q Ms. Denina, how are you currently employed?

4 A I am a registered nurse, sir.

5 Q All right. And where do you currently work?

6 A At the VA Hospital, Veterans Affairs.

7 Q Do you work with an individual by the name of Janice
8 Flores at the hospital?

9 A At a different department, sir.

10 Q Okay. But you guys work at the same building, the
11 same --

12 A Yes, the same --

13 Q -- area?

14 A -- agency.

15 Q Agency, oh, okay.

16 A Yes, sir.

17 Q Do you know Janice Flores on a different basis other
18 than work?

19 A Yes, sir.

20 Q How do you know her?

21 A We go to the same church.

22 Q How long have you known Janice and her family?

23 A Around 13 years, sir.

24 Q Where did you two first meet?

25 A At the church.

1 Q Do you have any children?

2 A Yes, sir.

3 Q What are their names?

4 A [REDACTED] [REDACTED] and [REDACTED] sir.

5 Q [REDACTED] [REDACTED] and [REDACTED]

6 A Yes, sir.

7 Q All right. How old is [REDACTED]

8 A 11.

9 Q And how old is [REDACTED]

10 A 10.

11 Q And how old is [REDACTED]

12 A Eight years old, sir.

13 Q All right. Do you know whether or not the Flores

14 family has any children?

15 A Yes, they do.

16 Q And what are their names, if you know?

17 A [REDACTED] and [REDACTED] We call him [REDACTED] sorry.

18 Q [REDACTED]

19 A Yes, sir.

20 Q Okay. [REDACTED]?

21 A Yes, sir.

22 Q Okay. And are your children friends with the Flores

23 children?

24 A Yes, sir.

25 Q The -- I want to ask you about a time when your son

1 spoke to you about some things that had happened to [REDACTED]
2 okay?

3 A Okay.

4 Q Do you recall where that was?

5 A Yes, sir. It was at Walmart.

6 Q Okay. Do you remember about the month or time that
7 he would have talked to you at Walmart?

8 A Maybe around September 5, going to September 6.

9 Q Okay. All right. September 5 or September 6,
10 somewhere in that area?

11 A Yes, sir, because it happened very late that night
12 going to -- past midnight so -- so I --

13 Q Okay. All right. So in the late hours of September
14 5th or the early morning hours of September 6th, you had a
15 conversation with [REDACTED]

16 A Yes, sir.

17 Q And I believe you said that was at Walmart?

18 A Yes, sir.

19 Q Okay. Who else was present during this
20 conversation?

21 A My other two children, sir.

22 Q [REDACTED] and [REDACTED] were also present?

23 A Correct.

24 Q And what -- in generally speaking, what was it that
25 [REDACTED] told you had happened?

1 A Because I was doing my errands at that time, and he
2 suddenly asked me if he can tell me a very important thing,
3 and I told him you can tell me now, and he was very -- he was
4 insisting at that time that he cannot tell it around with
5 people, with other people.

6 Q Okay. So what did you do at that time?

7 A So at that time, I left the things that I was about
8 to buy and took them to the parking lot.

9 Q Who's them? All three of your children?

10 A All three of my children because it's just me and
11 all of my children, sir. So I stayed in the parking lot
12 because at that time I was already anxious to know what it --
13 what it is because knowing my kids, they tell things right
14 away.

15 Q Okay.

16 A So when we got in the parking lot inside my car, I
17 insisted for my son to tell -- tell me at that time because I
18 can't wait until we get home.

19 Q Okay.

20 A He told me at that time that he promised a friend
21 not to tell anybody, but he can't keep it anymore.

22 Q Okay.

23 A So --

24 Q Let me ask you another question, okay? Did he then
25 talk to you about some things that had happened?

1 A Yes, sir.

2 Q Okay. And based upon what he told you, what was
3 your reaction?

4 A It was mixed of emotions, sir. First of all, with
5 my moral ethical and professional obligation, I know at that
6 point that I need to do something with the information that I
7 -- I got from my -- from my kids.

8 Q Okay. So you felt a moral, ethical and professional
9 obligation to do something with the information that [REDACTED] gave
10 you?

11 A Exactly, sir.

12 Q Okay. Did you also speak to your other two children
13 regarding this -- the things that [REDACTED] spoke to you about?

14 A Yes, sir.

15 Q Okay. And generally speaking, was there -- the
16 [REDACTED] and [REDACTED] was their story consistent with what
17 [REDACTED] had told you?

18 A Yes, sir.

19 Q Okay. When [REDACTED] started talking to you about the
20 things during this conversation, what was his demeanor or
21 emotions?

22 A He was -- he was scared, and at the same time, he --
23 he was so worried that he broke the promise to the friend.
24 And at that time, like I said, I had mixed emotions. Anger,
25 disbelief, scared, all at the same time. And I don't want

1 that -- I don't want the kids to see that in me because I'm
2 the only adult with them at that time, and I know that I'm
3 the only person that they can hang on during that time.

4 Q Okay. How long did you speak to your children
5 outside in the parking lot area?

6 A Sorry, sir, I can't really remember, but maybe 15 to
7 30 minutes because what I tried to do is -- because what
8 happened inside the car, everybody started talking, and I
9 want to get the correct information at that time so I started
10 asking them one by one.

11 Q Okay.

12 A I don't want to relay any information that --
13 because I got confused, I gave the wrong information to
14 somebody or to anybody.

15 Q Okay. Did you speak to them all individually inside
16 the car or did you have some of them waiting outside the car
17 while you spoke to the other ones?

18 A No, sir, I didn't allow them to go outside the car.
19 So I had just them speak one by one.

20 Q Oh, okay.

21 A We're all in the -- inside the car.

22 Q All right. And based upon the information you
23 gathered -- well, let me ask you this before we get to there.
24 Did you ever go back inside and purchase the groceries or the
25 items you had picked up?

1 A No, sir.

2 Q What did you do at that time, then?

3 A At that time, I called my husband to let him know
4 what my -- my kids heard because, I'm sorry, you know,
5 hearing those -- those things for -- for -- for kids, it was
6 really hard, especially for my daughter. She was actually
7 telling me, you know, she don't want to hear it again. It
8 was so gross for her, and at that point, I told my husband
9 that I have to report it and at the same time I have to
10 inform the parents.

11 Q Okay. What's your husband's name?

12 A Anthony, sir.

13 Q Anthony?

14 A Yes, sir.

15 Q Probably butchered his name, I apologize. So after
16 you spoke to your husband, was it over the phone or was it
17 via text messages or how was it that you communicated?

18 A It was over the phone, sir.

19 Q After you spoke to your husband then what did you
20 do?

21 A I called Janice.

22 Q Do you know where Janice was when you called her?

23 A At that time, I ask her, are you at home right now
24 because I don't want to give any information while she was
25 driving or she's at work. So I -- that's what I ask her,

1 sir.

2 Q Okay. During that initial phone call, then, did you
3 tell her what you learned from your three children?

4 A Yes, sir.

5 Q And what was her, Janice's reaction? Could you tell
6 by her voice? Describe her voice for us.

7 A Because first of all, she told me that she was
8 driving in the freeway. So I told her once you get home,
9 just give me a call. And she -- she knew that something's
10 not right at that time because it was late, probably I'm
11 thinking between 11:30 to 12:00 to 12:30, somewhere around
12 that time, sir. And she -- she knows that I don't call as
13 late as that. I know she has kids, she works, and we're in
14 the same almost, you know, situation. So she insisted for me
15 to tell her at that time, and I ask her if there's a place
16 you can park, I will.

17 When -- when I told her what happened, she -- she
18 paused, of course, and it took her a while to answer me, and
19 when she answered me, she answered me in a slower pace. So I
20 told her to stay with me on the phone. And I offered her if
21 she wants to, you know, to come to my house at that time
22 because I know it's hard to digest at that time.

23 Q Okay. Based upon your 13 years of interaction with
24 Janice, did she appear surprised at this time when you told
25 her what happened over the phone?

1 A Yes, sir.

2 Q Did she appear upset?

3 A Yes, sir. In her voice, yes.

4 Q Okay, all right. You said at some point you invited
5 her over to your house.

6 A Yes, sir.

7 Q Did Janice ever come over to your house that night
8 or early morning?

9 A She -- she -- she did.

10 Q Okay. Did she come alone or with a somebody else?

11 A She got -- she came by herself, sir.

12 Q Okay. And what happened while she was there by
13 herself at your house?

14 A I'm sorry, I'm trying to recall. Because before --
15 before she came to my house I already told her that I'm
16 calling the -- the CPS at that time.

17 Q Okay.

18 A It's -- first of all, because I kept saying it's my
19 professional obligation to -- to report something like that.
20 So -- but I told her that I'm just letting you know, I'm not
21 even getting a consent from you or anything. I'm just let
22 you go know that this is what I need to do.

23 So when she came to my house at that time, we
24 already knew through CPS that it needs to be called to the
25 police department. So at that time, the police department

1 was called, and we were told to call directly it North Las
2 Vegas because that's where it happened, something like that.

3 At that point, too, she asked me if she can have
4 her husband come to my house because she doesn't want her mom
5 and the stepdad at the time to know what's going on.

6 Q Okay. Sorry, are you referring to Janice's mom and
7 her stepdad?

8 A Yes, sir.

9 Q Okay. So she asked -- let me make sure I'm clear.
10 She asked whether or not she could invite Amor over to your
11 house also?

12 A Yes, sir, because at that time Amor was -- was
13 working also.

14 Q Okay, okay, I understand. Okay. So after that
15 first conversation, then, did Janice ever leave your house?

16 A She did after the husband came to my house already.

17 Q Okay. So Amor met Janice and yourself at your
18 residence?

19 A Yes, sir.

20 Q Okay. When Amor arrived, did you have a discussion
21 with him?

22 A Yes, sir, because what Janice told Amor was me and
23 my husband were having a problem at that time, and that's why
24 he needs to take off work as soon as possible because, as I
25 can recall, maybe it was around 2:00 or 3:00 in the morning

1 already at that time, and Amor works night shift, same as my
2 husband. So when he got at my house, didn't see my husband,
3 of course, didn't see my husband's car, he kind of got --
4 started to wonder why, like, what's going on?

5 And Janice told -- told her what happened.

6 Q Okay. What was Amor's reaction when Janice told him
7 what was going on?

8 A He was upset. He -- he was -- as far as I remember,
9 he was crying at that time. He told Janice that he wanted to
10 go to the mom's house.

11 Q Okay. Did Amor leave your residence to go to the
12 mother's house, as far as you know?

13 A No, sir because -- no, we -- Janice told her and I
14 myself told -- told him at that time that there's no point,
15 and when in your that situation or in that emotion, you don't
16 know how you're going to react. And with -- you know, with
17 his situation having a family, as a nurse also, it's not
18 going to be worth it.

19 Q Okay. So you mentioned that you had -- you called
20 the police. Was that after you told Amor what happened or
21 sorry, after Amor knew what was going on or was that before
22 Amor knew what was going on, if you can remember?

23 A I -- I don't remember, sir.

24 Q Okay.

25 A I'm sorry.

1 Q That's fine. You mentioned at some point, though,
2 that Janice and Amor left your residence?

3 A Yes, sir, because at that point, we were told
4 already that it may -- because it's not an emergent thing, it
5 may take couple hours for the police to show up in -- in my
6 house so --

7 Q Okay.

8 A That's when they -- they left and they went home.

9 Q Okay. Were the police requested to your house?

10 A Yes, sir.

11 Q Okay. Did the police eventually arrive at your
12 house?

13 A Yes, sir.

14 Q Okay. When the police arrived at your house, did
15 Janice and Amor return to your house?

16 A Yes, they'd been back for a while when the police
17 came.

18 Q Okay.

19 A Yes, sir.

20 Q So they came back before the police arrived?

21 A Exactly, sir.

22 Q Okay. Did they bring anyone else with them when
23 they returned to your residence?

24 A The two kids.

25 Q Did you speak to the police officers that arrived?

1 A Yes, sir.

2 Q Two things. Do you recall what year it was? You
3 said it was September 5th or 6th. Do you recall what year it
4 was?

5 A 2015, sir.

6 Q And then I also wanted to clarify one thing. You
7 mentioned that you had a discussion with [REDACTED] and one of the
8 concerns he had was keeping his friend's promise. Do you
9 know what friend that was he was referring to?

10 A [REDACTED] sir.

11 MR. STEPHENS: I'll pass the witness.

12 THE COURT: Cross.

13 MR. LEE: No questions, Your Honor.

14 THE COURT: Thank you. Any questions from the
15 jury? And seeing none, may this witness be excused?

16 MR. STEPHENS: Yes.

17 THE COURT: Thank you very much for your testimony,
18 ma'am. You may call your next witness.

19 MR. STEPHENS: State calls [REDACTED].

20 (Pause in the proceedings)

21 [REDACTED], STATE'S WITNESS, SWORN

22 THE CLERK: Thank you. Can you please be seated.
23 And then can you please tell me your first and last name and
24 spell it for me, your first and last name.

25 THE WITNESS: [REDACTED], [REDACTED], [REDACTED].

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. STEPHENS:

4 Q [REDACTED] it looked like your shirt said you're the best
5 big brother.

6 A Um-h'm.

7 Q Is that true?

8 A Maybe.

9 Q Fair enough. Are you the oldest brother?

10 A Yes.

11 Q All right. Do you have -- tell me your younger
12 siblings' names.

13 A [REDACTED] and [REDACTED]

14 Q All right. And how old is [REDACTED]

15 A Ten years old.

16 Q Do you know how [REDACTED] is?

17 A Eight years old.

18 Q All right. What grade are you currently?

19 A Sixth.

20 Q Sixth grade. You liking it?

21 A Yeah.

22 Q Yeah? What's your favorite class or subject?

23 A Math.

24 Q Math?

25 A Um-h'm.

1 Q Okay, good. What math are you talking?

2 A Square roots.

3 Q Oh, that sounds pretty difficult.

4 A Um-h'm.

5 Q Are you glad you're not in school right now?

6 A Not really.

7 Q Fair enough, fair enough. Do you know the
8 difference between a truth and a lie?

9 A Yes.

10 Q Can you tell me what a truth is?

11 A A truth is something that like say my jacket is
12 blue, that's a truth.

13 Q Okay.

14 A Um-h'm.

15 Q What's a lie then?

16 A A lie is something that is not true.

17 Q Okay. So if I said your jacket is pink --

18 A That's a lie.

19 Q All right. And do you promise to tell the truth
20 while you're in here today?

21 A Yes.

22 Q Okay. Do you know an individual by the name of
23 [REDACTED]?

24 A Yes.

25 Q How do you know [REDACTED]

1 A Church.

2 Q How long have you known [REDACTED] for?

3 A Ever since we were babies.

4 Q You guys have been going to church together for
5 several years, then?

6 A Yeah.

7 Q I forgot to ask you, how old are you?

8 A 11.

9 Q All right. So 11 years you and [REDACTED] have known
10 each other?

11 A Yeah, about.

12 Q About that? All right. Do you guys see each other
13 at any other activities besides church?

14 A Not often.

15 Q Not very often?

16 A Um-h'm.

17 Q Okay. How often do you see each other at church?

18 A Twice. So we go Thursday and Saturday.

19 Q Okay. So each Thursday and each Saturday you get to
20 see her?

21 A Sometimes, because sometimes her parents work so
22 she's not able to make it?

23 Q Okay, all right. Over the 11 years are you guys
24 pretty good friends?

25 A Yeah.

1 Q All right. At church do you guys participate in any
2 other activities outside of the actual learning of religious
3 doctrines?

4 A Yes.

5 Q Okay. What types of things do you guys participate
6 in?

7 A We dance.

8 Q Okay. And that's a dance for the church?

9 A Um-h'm.

10 Q Okay.

11 THE COURT: I need you to answer yes or no instead
12 of um-h'm's or uh-uh's because --

13 THE WITNESS: Sorry.

14 THE COURT: -- we record everything.

15 THE WITNESS: Oh, yes.

16 THE COURT: Okay.

17 BY MR. STEPHENS:

18 Q All right. You're do ago good job. Don't worry.
19 Don't worry too much. I'll try to be a little bit more
20 careful, too.

21 A Okay.

22 Q So you said you and [REDACTED] do some dances at
23 church?

24 A Yes.

25 Q Okay. Were you guys doing a dance in the summer of

1 2015?

2 A Yeah.

3 Q All right. Do you recall when you were practicing
4 in the summer of 2015?

5 A No, I can't remember, sorry.

6 Q Do you remember the day?

7 A No.

8 Q Okay. Do you recall a time during the dance
9 practice where [REDACTED] told you a secret?

10 A No.

11 Q Do you recall a time when [REDACTED] spoke to you about
12 some things her uncle had done?

13 A No.

14 Q Do you recall a time where you spoke to your mom at
15 Walmart?

16 A No, I can't remember, sorry.

17 Q Do you remember a time where you spoke to your -- or
18 you told your mom about what [REDACTED] had told you happened
19 between her and her uncle?

20 A No.

21 Q No? Okay. Do you recall a time where [REDACTED] was
22 crying at the church?

23 A No.

24 Q No? Kind of happened a long time ago?

25 A Um-h'm, yeah.

1 Q Are you familiar with inappropriate touchings, like
2 parts of the body that generally shouldn't be touched?

3 A No.

4 Q No? Okay. Did [REDACTED] ever talk to you about a
5 time where her uncle touched her?

6 A Yeah.

7 Q Okay. Let me ask you a little bit about that, okay?

8 A Okay.

9 Q Do you recall where you were when --

10 A Church.

11 Q You were at church?

12 A Yes.

13 Q Okay. And what were you guys doing at church?

14 A Dancing.

15 Q All right. When you were dancing at the church, did
16 she talk to you while you were dancing or was it during one
17 of the breaks?

18 A During our break.

19 Q Okay. And do you recall where in the church she
20 spoke to you?

21 A In the back.

22 Q In the back? Who was present for that conversation?

23 A Me, and my brother, and my sister and another friend
24 of ours.

25 Q Okay. So [REDACTED] [REDACTED] you and another

1 friend?

2 A Yes.

3 Q Do you recall what it was that [REDACTED] told you?

4 A I remember some of it.

5 Q All right. Tell me what you can remember as best
6 you can.

7 A She told me that she was back from vacation and then
8 she told me that her uncle started playing with her private
9 part in the lower area.

10 MR. LEE: Objection, Your Honor. Hearsay.

11 MR. STEPHENS: Your Honor, these would be
12 inconsistent statements.

13 THE COURT: What was your objection? I can't hear
14 what --

15 MR. LEE: I made a hearsay objection. He's
16 testifying to what somebody else is saying, Your Honor.

17 THE COURT: All right. And your response was?

18 MR. STEPHENS: My response is that this would be
19 inconsistent statements based upon the fact that [REDACTED]
20 [REDACTED] was unable to recall exactly.

21 THE COURT: All right. I'll allow. She said she
22 couldn't remember, and the Supreme Court has said that that
23 is sufficient to allow for impeachment. So this is
24 impeachment. Go ahead.

25 MR. STEPHENS: Thank you.

1 BY MR. STEPHENS:

2 Q All right. Can you tell me what, as best you can,
3 what [REDACTED] told you? You said something about an uncle
4 playing with her.

5 A Yes. So the uncle started playing with her in her
6 lower area. And then she made us promise to not tell her
7 parents or anyone because she doesn't want the relationship
8 with her to get ruined. So --

9 Q Okay. All right. Let me ask you a couple questions
10 about that. You mentioned that she had come back from a
11 vacation. Do you know --

12 A Yeah.

13 Q -- where it was she went?

14 A I'm pretty sure it was New Jersey.

15 Q Okay. And you said that she said she had an uncle
16 that was playing with her and then you said it happened in
17 the lower area.

18 A Yes.

19 Q Was she pointing to any lower area?

20 A Her --

21 Q Okay. Can you tell me what that body part does?

22 A It pees.

23 Q Okay. All right. So was she pointing to that --
24 the pee area?

25 A Yeah.

1 Q Okay. And she said an uncle was playing with that
2 area? Okay. And then you also said that she wanted you to
3 keep this a secret because she didn't want a relationship to
4 get ruined?

5 A Yeah.

6 Q Do you know whose relationship it was that she did
7 not want to get ruined?

8 A Her dad and her uncle.

9 Q When she spoke to you about this, can you describe
10 her emotion for me?

11 A She was sad, terrified, scared.

12 Q Was she crying?

13 A I don't know.

14 Q But you could tell by her voice that she seemed
15 scared or sad?

16 A Um-h'm, yeah.

17 Q After she told you this, did you go talk to her mom
18 or dad at all?

19 A No.

20 Q No? Did you ever tell anyone about what [REDACTED]
21 told you?

22 A Yes.

23 Q Who did you tell?

24 A My mom.

25 Q Do you remember where you told your mom this?

1 A At Walmart.

2 Q At Walmart? Okay. Was this soon after she told you
3 or was it a few days later?

4 A It was like three weeks later, about.

5 Q So you kept a secret for about three weeks?

6 A About, yeah.

7 Q And then you told your mom?

8 A Yeah.

9 Q What's your mom's name?

10 A May.

11 Q Were [REDACTED] and [REDACTED] present when you told
12 your mom?

13 A Yes.

14 Q Did your mom talk to them also?

15 A Yes.

16 Q Let me ask you, why did you tell your mom?

17 A Because nobody should be doing that. It's kind of
18 inappropriate.

19 Q Okay. And so finally you decided to tell your mom?

20 A Um-h'm.

21 THE COURT: Is that a yes?

22 THE WITNESS: Yes.

23 BY MR. STEPHENS:

24 Q And the Judge is paying good attention. I
25 apologize. Are you still friends with [REDACTED]

1 A Yes.

2 Q Do you know what your mom did after you spoke to
3 her?

4 A She talked to Sis Janice.

5 Q To Sis Janice?

6 A Yeah.

7 Q Okay. Is "sis" short for sister?

8 A Yes.

9 Q Okay, all right.

10 MR. STEPHENS: Court's indulgence.

11 BY MR. STEPHENS:

12 Q And I should clarify a little bit with you. When
13 she said that her uncle was playing with her, did she ever
14 tell you exactly which uncle it was?

15 A Yeah.

16 Q And what did she say?

17 A She said it was her dad's uncle.

18 Q Her dad's uncle? Okay.

19 MR. STEPHENS: I'll pass the witness.

20 THE COURT: Cross.

21 CROSS-EXAMINATION

22 BY MR. LEE:

23 Q Good afternoon, [REDACTED]

24 A Hello.

25 Q You used the word "inappropriate". Can you tell me

1 what that means?

2 A Like something bad?

3 Q Something bad? When did you learn that word? Did
4 someone teach you that word?

5 A Yeah.

6 Q Who taught that word to you?

7 A A friend.

8 Q A friend? Which friend was it?

9 A Clia Palo (phonetic).

10 Q I'm sorry?

11 A Clia Palo.

12 Q Is he somebody at your school?

13 A No.

14 Q Was he a friend? Where did your friend tell you
15 that?

16 A At church.

17 Q At church? Okay. And did you say that [REDACTED] did
18 not say which uncle?

19 A H'm?

20 Q Did [REDACTED] --

21 A Excuse, sorry.

22 Q -- say which uncle?

23 A I'm sorry, could you please repeat that?

24 Q Sure. Did your uncle tell you which uncle?

25 THE COURT: No, no, what -- start again, because

1 you just said did your uncle tell you which uncle.

2 MR. LEE: Oh, okay.

3 BY MR. LEE:

4 Q Did [REDACTED] I'm sorry. Did [REDACTED] mention any
5 uncle's name?

6 A He didn't -- she did mention hers (sic) name.

7 Q Okay. And you said you -- when [REDACTED] first told
8 you, you waited three weeks; is that right?

9 A About, yes.

10 Q About three weeks? And the reason you waited was
11 why?

12 A I forgot.

13 Q You forgot?

14 A Um-h'm.

15 Q Okay. You forgot what she said to you?

16 A No, I forgot about it and then --

17 Q Oh, okay. Okay. Which church do you go to?

18 A The Church of God International.

19 MR. LEE: Pass the witness, Your Honor.

20 THE COURT: Redirect.

21 MR. STEPHENS: Thank you, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. STEPHENS:

24 Q Mr. Lee was just asking you questions about you
25 forgetting. What was it that made you remember to talk to

1 your mom about this?

2 A My brother and sister brought it up.

3 Q Oh, okay. [REDACTED] and [REDACTED] brought it up?

4 A Yes.

5 Q Where did they bring it up at?

6 A At Walmart.

7 Q Okay. And so at that point then you talked to your
8 mom?

9 A Yes.

10 MR. STEPHENS: I'll pass the witness.

11 THE COURT: Recross?

12 MR. LEE: Pass, Your Honor.

13 THE COURT: Any questions from the jury? And
14 seeing none, may this young man be excused?

15 MR. STEPHENS: Yes, Your Honor.

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

17 MS. CLEMONS: Your Honor, our next witness is
18 scheduled to be here at 2:30. This went a little quicker
19 than we thought so this might be a good time for a 15-minute
20 break. We'll be quite lengthy.

21 THE COURT: All right. So ladies and gentlemen,
22 we'll take a break until 2:30, and so this is your
23 opportunity to use the facilities since they're telling us
24 this witness is going to be lengthy.

25 So this during this recess, it is your duty not to

1 converse among yourselves or with anyone else on any subject
2 connected with the trial or to read, watch or listen to any
3 report of or commentary on the trial by any person connected
4 with the trial or by any medium of information, including
5 without limitation, newspaper, television, radio or Internet.
6 You are not to form or express an opinion on any subject
7 connected with this case until it's finally submitted to you.
8 We'll be in recess until 2:30.

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

10 (Outside the presence of the jury.)

11 (Pause in the proceedings)

12 THE COURT: And the record will reflect that the
13 jury has departed the courtroom. Any matters outside the
14 presence?

15 MR. LEE: No, Your Honor.

16 MS. CLEMONS: None from the State.

17 THE COURT: I started work on the jury instructions
18 at the noon hour because I got them when I got off the bench
19 this morning, and have you had a chance, Mr. Lee, to look at
20 them?

21 MR. LEE: You know, Your Honor, I was -- on the
22 weekend I just didn't open my computer.

23 MR. STEPHENS: Honestly, I didn't submit them until
24 this morning, I apologize, Mr. Lee.

25 MR. LEE: Okay. You said you sent it?

1 MR. STEPHENS: I just sent -- yeah, I sent them to
2 you this morning.

3 MR. LEE: Oh, this morning, okay.

4 MR. STEPHENS: So it's --

5 MR. LEE: That's why I didn't get it.

6 THE COURT: All right. So have you sent your
7 proposed jury instructions yet to them?

8 MR. LEE: I was waiting to get theirs first, Your
9 Honor.

10 THE COURT: Okay. All right. Very good. I'll see
11 you in about ten minutes.

12 MR. LEE: Okay, thank you.

13 MR. STEPHENS: Okay.

14 (Court recessed at 2:17 p.m. until 2:34 p.m.)

15 (In the presence of the jury.)

16 THE MARSHAL: Your Honor, all members of the jury
17 and the two alternates are present.

18 THE COURT: All right. Thank you, please be
19 seated. And the record will reflect the presence of the
20 defendant with his counsel, the Chief Deputies District
21 Attorney prosecuting the case, all officers of the court, all
22 12 members of the jury as well as the two alternates. You
23 may call your next witness.

24 MS. CLEMONS: Detective Mark Hoyt.

25 //

1 DETECTIVE MARK HOYT, STATE'S WITNESS, SWORN

2 THE CLERK: Please be seated, and then please state
3 and spell your first and last name for the record.

4 THE WITNESS: Okay. It's Mark Hoyt, M-a-r-k and
5 H-o-y-t.

6 THE COURT: You may proceed.

7 MS. CLEMONS: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MS. CLEMONS:

10 Q How are you employed?

11 A I'm a detective with the North Las Vegas Police
12 Department.

13 Q And how long have you been with North Las Vegas?

14 A Almost 17 years.

15 Q And do you have a special assignment right now?

16 A Yes, I do.

17 Q What's that?

18 A Part of the Special Victims Unit within the
19 Detective Bureau within North Las Vegas Police Department.

20 Q And how long have you been on SVU?

21 A Over eight years. September was eight years.

22 Q I'm going to direct your attention to September 8th
23 of 2015.

24 A Okay.

25 Q Were you assigned a follow-up on a report of a

1 lewdness with a minor?

2 A Yes, I was.

3 Q And was that minor [REDACTED]?

4 A Yes, she was.

5 Q So how do you get assigned cases? How does that
6 work?

7 A We get them several ways. One is when a patrol
8 officer goes out and takes an original report. They call it
9 a front sheet, if you will. And that's when someone calls
10 the police and a patrol officer responds to their house,
11 takes the report, and then is routed through their supervisor
12 over to the Detective Bureau, and then it's given to a
13 detective. It's not -- it's just randomly assigned by a
14 Detective Bureau supervisor and that hands out and assigns
15 the cases. And that was how I got this one. But we also get
16 them several other means with the CPS report and others.

17 Q And then sometimes you get reports where you
18 actually have to go to the scene if it's like an event that
19 had just occurred recently?

20 A Yes, we do. If it's an acute or if it's a situation
21 where patrol officers need assistance right away and we're
22 available, we go out.

23 Q Okay. So on the Special Victims Unit, what types of
24 cases do you handle?

25 A We do, in the Special Victims Unit it's crimes

1 against children, missing persons, we do runaways, we do
2 juvenile and adult sexual assaults. We do child abuse and
3 neglect. We do death investigations with anybody under the
4 age of 18.

5 Q Okay. So as part of your investigation with the
6 case where the victim's [REDACTED], what's the first
7 thing that you did?

8 A On this case, particularly, when I came in, I
9 remember having several missed messages on my work related
10 telephone from the dad asking to -- that he wanted to talk to
11 me. It was pretty important. I can see that it was probably
12 two or three days past when I made contact with him and I
13 scheduled for him to bring [REDACTED] in for a forensic
14 interview.

15 Q Okay. So what is a forensic interview?

16 A Forensic interview is a developmentally -- it's --
17 it's staged. It's a characteristic. It's to obtain
18 information -- I'm trying to think of the word here, but it's
19 specific -- developmentally specific and then legally sound
20 in a manner of withdrawing information from someone that
21 you're talking to.

22 And then, you know, it comes with different
23 research techniques also around the country. And it's
24 usually -- what we use, is we use the model for the National
25 Children's Assessment Center out of Huntsville, Alabama, so.

1 Q Okay. So let me kind of break that down a little
2 bit.

3 A Okay.

4 Q So --

5 A Sorry.

6 Q That's okay. Is a forensic interview a type of
7 interview that you're trained to do with children?

8 A Yes.

9 Q Okay. Is that an over simplification?

10 A It is, yes.

11 Q Okay. And have you attended trainings on how to
12 conduct these types of interviews?

13 A Yes, I have. I have over 80 hours.

14 Q And where do you take those kind of trainings?

15 A For my training, they came out to Las Vegas. This
16 was out of Huntsville, Alabama, the national center, and my
17 first was in 2008, when I started. It was 40 hours. And
18 then I had another 40 hours for recertification in 2013. But
19 I've taken several other classes when it comes to
20 interviewing. But this is what we base our model off here in
21 North Las Vegas.

22 Q When you were in this training, was it just police
23 officers or were there other community partners involved?

24 A There are other community partners. It's with CPS,
25 Child Protective Services, District Attorney's Office from

1 around the country, people travel to take this --

2 Q Okay.

3 A -- training.

4 Q So let's say you had an adult that was the victim
5 of a sex assault. Would you do a forensic interview on an
6 adult or is it limited to children?

7 A Well, it's limited to children. It's age specific.
8 And you're really concentrating on their developmental skills
9 and how much they're progressing as in age. But when you get
10 towards 16 to 18 and then over to an adult, it comes in -- it
11 becomes an interview, but it's not as strict as it is, as a
12 forensic interview, if you will.

13 Q So in your forensic interview training, are there
14 different guidelines for different ages of kids as to what
15 questions you should ask?

16 A There are. When it comes to forensic interviewing
17 of younger children there's rapport building. It depends on
18 how long have you to rapport -- build your rapport with the
19 child. And then they don't want you to ask too many leading
20 questions. However, it's -- there's never a -- it's a model
21 that we use. I wish everything was -- was always the same,
22 but you never have that, specially when you're talking with
23 children. You don't know what's going on in their background
24 so everything is different when you're talking to a child.

25 So as the younger the age, of course, it's a little

1 bit more difficult. The older they are, it's easier to talk
2 to them in an interview setting.

3 Q So when you say younger age, what you are the ages
4 you're thinking of when you say that is this?

5 A Anybody from -- if a child can talk, if they're
6 verbal, by two, two to five, two to six and then they break
7 it down from six to about seven or eight to even nine and
8 then you're getting into the preteens, after that, that
9 stage. And then from, you know, 11, 12, 13 is another stage.
10 And then you're getting into the -- the higher teenage years
11 where it's a lot easier and it becomes more of an interview
12 than it does a forensic interview, but there are certain ways
13 that we need to ask a question when it comes to the very
14 young when we talk. But we start at, if they're verbal, at
15 two, two or three.

16 Q Okay. So you kind of receive training based upon
17 those kind of age blocks that you just mentioned?

18 A Yes, that's correct.

19 Q Okay. Okay. So did you conduct a forensic
20 interview with [REDACTED]

21 A Yes, I did.

22 Q Okay. And you also mentioned, actually, I remember,
23 rapport building. Can you explain what that means?

24 A When I rapport build, it's to gauge where a child is
25 in their psyche, if you will, to try to see if they take a

1 lot of time. We're not only listening to their verbal
2 answers, but we're also gauging their nonverbal cues, their
3 body language. So when you're rapport building, you can lose
4 a child's -- what's the word I'm looking for -- their
5 attention very quickly the younger they are.

6 So if you're rapport building and you start to lose
7 a child and you know that you have to start going into some
8 of your questioning, and it's just talking to them a little
9 bit and trying to gauge how quickly you need to start asking
10 your questions pertaining to any kind of abuse versus
11 sometimes you can rapport build for a while. They'll sit and
12 color with you and draw and you can really find out their
13 nonverbals, their body language is key, is huge also when it
14 comes to these interviews.

15 Q Okay. What types of questions do you ask during
16 rapport building?

17 A Anything about family, school, what's their favorite
18 thing about school, and we're gauging how they're reacting
19 and how much time it's taking for them to answer the
20 questions, what's their favorite thing they that they like to
21 do. What they did that day prior to coming and talking to
22 you. If they remember their last birthday. Just certain
23 information that is key. And it's -- there's a reason why
24 we're asking these questions. It's not just to gain the
25 information, but we want them to be comfortable with us. A

1 lot of the times when we're talking to a young woman, it's
2 for them to talk to a guy, if they just met a person
3 especially if it's in law enforcement.

4 So it's difficult sometimes to talk to these young
5 victims, but. And that's where the rapport building comes.
6 You've got to get down to their level and just try to become
7 a friend of theirs, if you will, in a very short time. And
8 it helps to try to get the information that you need to get.

9 Q Okay. So you said you've been on this unit for
10 eight years. This is probably a bit unfair, but do you know
11 how many -- roughly how many forensic interviews of children
12 you've completed or go by month or year?

13 A I would say over a thousand. And when I say -- when
14 I have conducted these, I also -- we have peer reviews so
15 I've been present when forensic interviews have been
16 conducted. If I don't do the forensic interviews, I'm
17 observing. So I would say if conducting and then observing
18 and then peer review probably well over a thousand.

19 Q Okay. What's a peer review?

20 A Peer review is when you have -- if I were to go out
21 with a partner of mine and he does in a forensic interview,
22 and then we peer review a lot when it comes to the Children's
23 Assessment Center, and just to gauge how we did on a certain
24 forensic interview because not one -- I wish they were by the
25 book, it would be so much easier, but they never are.

1 So when you have your peers listening in on your
2 interview, either they can tell you something that you may
3 have forgotten to ask or a certain way or a different way
4 that they have used. So, it's training. It's to get through
5 the interview, but on top of that it's also training for us
6 as a unit. And then we peer review with the Children's
7 Assessment Center here in Clark County, so.

8 Q Is that something that's kind of on going? There's
9 always kind of peer reviews throughout the course of the
10 year?

11 A There is, yes, yes.

12 Q You also mentioned that you try to ask open-ended
13 questions.

14 A I try.

15 Q Why is that?

16 A We want to solicit -- we want to solicit an answer
17 from victims, but we also want them to tell us. We don't
18 want them to say "yes" or "no" too many times. We want to
19 ask them a question and then them answer with a lengthy
20 sentence, if they will, or a phrase, if they will, something
21 that would solicit -- it's really difficult. There's so many
22 differences when it comes to the interviews with children,
23 but we try not to ask the "yes" or "no" questions. We try to
24 leave that -- and sometimes have you have to. Sometimes it
25 depends on the child. Like I said, their background.

1 There's so many things that can go into why a child
2 would not want to talk to somebody. So you'd have to -- you
3 know, sometimes you might ask leading questions, but we try
4 not to.

5 Q Is it fair to say that you try to do open-ended
6 questions because you want the kids to tell you in their own
7 words what happened --

8 A Yes.

9 Q -- instead of suggesting it to them?

10 A Yes, that is true.

11 Q And it sounds like some kids, it's easier to do that
12 with, than or kids?

13 A Yes.

14 Q Okay.

15 A Yes, correct.

16 Q And obviously, since you've watched or participated
17 in over a thousand interviews, would you say that almost each
18 interview's different from the last interview?

19 A Absolutely. Yes, I would.

20 Q So it sounds like with the forensic interview
21 there's kind of a model of what you want to do, but it's
22 flexible enough to meet each kid's individual needs; is that
23 correct?

24 A Correct. Yes, it is.

25 Q Okay. Okay. So on September 11th of 2015, do you

1 recall interviewing [REDACTED]?

2 A Yes, I do.

3 Q Where did that interview take place?

4 A At the North Las Vegas Detective Bureau.

5 Q Okay. And is there like a conference room or did
6 you put her in a suspect room? Where was it?

7 A No, we have a conference room. So it's when you
8 come into the front lobby, it's a secure door, it has a long
9 table, and it's friendly enough to be able to talk to family
10 and a young victim when it comes to child and sexual abuse.

11 Q Okay. Do you remember who took her to the
12 interview?

13 A Her parents.

14 Q Okay. And when interviewed [REDACTED] was there
15 anybody else present besides yourself and her?

16 A No, it was just myself.

17 Q And was this audio recorded?

18 A It was audio recorded, yes.

19 Q And after the interview, did you send that audio
20 recording off to be transcribed?

21 A Yes, I did.

22 Q As part of the interview, did you do the rapport
23 building with her initially?

24 A I did, yes.

25 Q And then did you also ask her about body parts?

1 A Yes, I did.

2 Q And what's the purpose of asking the kids about body
3 parts?

4 A We want to try to have them identify the private
5 parts of their body, good touching or bad touching or
6 somewhere where no one should touch. We -- and we want them
7 to use -- we want to use their word when is they identify
8 their private parts. We try to find out. We solicit that
9 information from them, asking what words that they use. So
10 we use those words to refer to their private parts throughout
11 the entire interview, so.

12 Q And that's a standard thing that you do in all the
13 forensic interviews, for the most part?

14 A Yes, it is.

15 Q Okay. All right. I believe, when you interviewed
16 [REDACTED] after you kind of talked to her about school and
17 family, do you recall asking her if she knew why she was
18 present for that interview?

19 A Yes, I did.

20 Q Okay. And do you recall her basically telling you
21 about the incident that point, that she was touched
22 inappropriately?

23 A Yes, I asked her to tell me why she was there to
24 talk to me in her own words and --

25 Q And was she able to do that, to tell you in her own

1 words?

2 A Yes, she was.

3 Q Did you ask her -- well, let me ask you this, did
4 she disclose one incident or did she disclose more than one
5 incident?

6 A She disclosed more than one incident.

7 Q Did you ask her when the last incident had occurred?

8 A Yes, I did.

9 Q Do you recall what she stated?

10 A She stated it was towards the end of her fifth grade
11 year, which would have been around May or June of 2015.

12 Q Okay. Do you remember if it was fifth grade or
13 sixth grade?

14 A I'm sorry, sixth grade.

15 Q And then it looks -- did you actually conduct more
16 than one interview with her? Did you do a follow-up?

17 A I did do a follow-up, yes.

18 Q And during a follow-up interview, did you ask her
19 about an Uncle [REDACTED]

20 A Yes, I did.

21 Q Okay. So is part of your interview process also to
22 have the kids talk about other adults that are in their lives
23 and make sure there's nothing going on with any of the other
24 adults?

25 A Yes, it is.

1 Q Okay. So when you talked to [REDACTED] about Uncle
2 [REDACTED] was that part of your reasoning for talking to her a
3 second time was just to rule out that there's any other
4 adults touching her?

5 A That is correct, yes.

6 Q Okay. And do you recall asking her where or if
7 Uncle [REDACTED] was present during the last incident of
8 touching?

9 A She told me that he was asleep.

10 Q Okay.

11 A Yeah.

12 Q All right. And then at the conclusion of [REDACTED]
13 interview, what's your next in the investigation?

14 A After I conducted two of the interviews and then
15 interviewed her brother, I --

16 Q You interviewed her brother?

17 A I interviewed her brother also that day. He was
18 there at the Detective Bureau.

19 Q You interviewed him in the same room you interviewed
20 [REDACTED]

21 A Yes, but just not together.

22 Q Okay.

23 A Yes.

24 Q Was he by himself just with you or their parents?

25 A No, he was by himself.

1 Q Okay. And then after you interviewed her brother,
2 was that [REDACTED]

3 A That was [REDACTED] yes.

4 Q Did you interview anybody else?

5 A That was when we did -- interviewed -- that's when I
6 interviewed [REDACTED] again.

7 Q Oh, okay.

8 A After that. And then from there Detective Freeman
9 and I went out, it wasn't that same day, but it was -- we did
10 follow up on the case.

11 Q Okay. And what kind of follow up did you do on the
12 case?

13 A We went to the Franks' home. The suspect's home.

14 Q Okay. And if your report indicated that was on
15 September 15th, which was like, I don't know, four days
16 later, does that sound about right?

17 A That sounds about right, yes.

18 Q Okay. So who went to the Franks residence?

19 A It was myself and Detective Paul Freeman.

20 Q Okay. Does he also work in your unit?

21 A Yes, he does.

22 Q Okay. What's the reason to have two officers or two
23 detectives go to the residence?

24 A The main reason is just for officer safety. Another
25 reason is, of course, we're doing -- conducting an interview.

1 It's -- it's beneficial. I've learned throughout the years
2 to try to have some more ears listening to the interview
3 because you might miss something when you take a break. But
4 the main reason was for officer safety.

5 Q Okay. And is the Franks residence at 2812 Nobility
6 in North Las Vegas?

7 A Yes, it is.

8 Q Okay. And is that located in Clark County, Nevada?

9 A Yes, it is.

10 Q Did you let the Franks know you were coming or did
11 you show up unannounced?

12 A I showed up unannounced.

13 Q And what happens when you get to the residence?
14 Who, if anybody, lets you in?

15 A The mom -- I'm sorry, well, I can't remember her
16 name, but it was -- she identified herself as Kenny Franks's
17 mother. She was outside when we walked, but she was on the
18 other side of the fence. And when we asked if we could talk
19 to her, that's when she went into the residence. We met her
20 at the front door. And she -- we asked to come in and she
21 invited us in.

22 Q Okay. Do you know if anybody else was home at the
23 time when you came to the Franks residence, besides the
24 mother?

25 A Yes, [REDACTED] was there and Kenneth Franks's father

1 was there, but he was not present in the room at the time.

2 Q How did you learn that he was ended up being there?

3 A When we got done talking to Kenny that day, he was
4 within the residence.

5 Q Oh, okay. And was Kenny there?

6 A And Kenny was there, yes.

7 Q Do you see Kenneth Franks in court today?

8 A Yes, I do.

9 Q Can you please point to him and tell me something
10 he's wearing?

11 A He's right over here, and I believe, that's a black
12 or a dark blue suit.

13 MS. CLEMONS: May the record reflect identification
14 of the defendant?

15 THE COURT: What color tie is he wearing?

16 THE WITNESS: May I stand up?

17 THE COURT: Yes, of course.

18 THE WITNESS: A dark blue. Is that dark blue?

19 THE COURT: All right. Which side of the table is
20 he on?

21 THE WITNESS: He's on the right side of the table
22 if I'm facing --

23 THE COURT: All right. The record will reflect --

24 MS. CLEMONS: Okay.

25 THE COURT: -- the identification.

1 MS. CLEMONS: Thank you, Your Honor.

2 BY MS. CLEMONS:

3 Q So did you end up talking to the defendant that day?

4 A Yes, I did.

5 Q Okay. And who directed you towards where the
6 defendant was in the residence?

7 A His mother.

8 Q And when you talked to the defendant, who was in the
9 room?

10 A It was just myself and Detective Freeman and then
11 Kenny -- Kenneth Franks.

12 Q And do you know which room in the residence you were
13 in when you talked to Kenneth -- talked to the defendant?

14 A If I remember correctly, it was the one that he
15 resides in. I don't know what the room is called. I want to
16 say it's the one that he was sleeping -- it looked like --
17 appeared like he was sleeping inside this room. So I don't
18 know if it was his room or somebody else's, but --

19 Q Okay. But it was a bedroom of some type?

20 A It was a bedroom, yes.

21 Q Before you spoke to the defendant, did you go over
22 his Miranda rights with him?

23 A Yes, I did.

24 Q And how did you -- what was your process for going
25 over his Miranda rights?

1 A I want -- I always try to have anybody that I talk
2 to understand that the importance of their Miranda rights,
3 and then having said that, I like for them to read their
4 Miranda rights out loud. In this particular case, I
5 misplaced one of my forms, so I had Detective Freeman go back
6 out to my vehicle and get another form so Kenneth Franks can
7 read his Miranda rights out loud while we're being on the
8 record and then to, you know, verbalize his answer to me.

9 Q Okay. Do you also have them fill out a form?

10 A Yes.

11 Q Okay.

12 A Yes, he signs that form.

13 Q I'm going to show you what's been marked as State's
14 Proposed Exhibit 2. Let me know if you recognize that?

15 A Yes, I do.

16 Q And how do you recognize that?

17 A It's the Miranda rights form for an adult.

18 Q And is your signature on there somewhere?

19 A Yes, it is. It's the top witness.

20 Q Okay. And 1334, is that your badge number?

21 A It's my personnel number, yes.

22 Q Okay. And is that a fair and accurate copy of the
23 form that you saw the defendant fill out and that you signed?

24 A Yes.

25 MS. CLEMONS: State moves to admit 2.

1 THE COURT: Any objection?

2 MR. LEE: No objection.

3 MS. CLEMONS: And then permission to publish.

4 THE COURT: Exhibit 2 is admitted.

5 (State's Exhibit 2 admitted)

6 THE COURT: You may publish.

7 BY MS. CLEMONS:

8 Q All right. So the stop of Exhibit 2 basically
9 identifies which police agency you are with; is that correct?

10 A That is correct.

11 Q And then there's a case number over here. Is that
12 the case number assigned to this case?

13 A Yes, it is.

14 Q Does every case get their own case number?

15 A Yes, they do.

16 Q Okay. And then it says "Rights of Adults". Is
17 there a separate form for juveniles?

18 A Yes, there is.

19 Q Okay. And are these the rights that you had the
20 defendant read out loud?

21 A Yes, it is.

22 Q Okay. And then there's a spot here that says
23 "answer", and there's a "yes" handwritten?

24 A Yes, that's correct.

25 Q Did you see the defendant write "yes"?

1 A Yes, I did.

2 Q Okay. And then there's a signature next to that.
3 Did you see the defendant sign that?

4 A Yes, I did.

5 Q And then obviously, there's the date, which was
6 September 15th of 2015. And you indicated that this first
7 signature is you?

8 A That is correct.

9 Q And who's the second signature?

10 A That's Detective Freeman.

11 Q Okay.

12 A And his P -- personnel number is 1570.

13 Q Okay. So after you had the defendant go through his
14 rights and he signed and everything, what's the next step in
15 the investigation?

16 A Just talking to him. Once he understands his
17 Miranda rights, we started to talk to him about the
18 allegations that were made against him.

19 Q Okay. And did he indicate he wished to speak with
20 you?

21 A Yes, he did.

22 Q Okay. Did you ask the defendant the last time he
23 saw [REDACTED]

24 A Yes, I did.

25 Q And do you recall what his response was?

1 A He hasn't seen them in a while. He hasn't --

2 Q Did you ever ask him if he ever saw them this June?

3 A Yes, I did.

4 Q Do you recall what his response was?

5 A I cannot recall.

6 Q Okay. Would it help to refresh your recollection to
7 look at the --

8 A Yes, it would.

9 Q -- transcript? So before we do that, when you
10 interviewed the defendant, was it tape recorded?

11 A It was audio recorded, yes.

12 Q Okay. And then you had that transcribed after you
13 submitted the case?

14 A That is correct.

15 MS. CLEMONS: Your Honor, may I approach with this
16 transcript? I'm going to him a copy and then I'll tell
17 which, where we're at.

18 MR. LEE: Okay.

19 THE COURT: And did you review the transcript upon
20 listening to the audiotape? In other words, do you know that
21 it was right?

22 THE WITNESS: Yes.

23 THE COURT: The transcript was correct?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: All right. Thank you.

1 THE WITNESS: There are unintelligibles throughout
2 the transcript, and that's just through the company that we
3 use.

4 MS. CLEMONS: Okay.

5 BY MS. CLEMONS:

6 Q If could you just review line 225 and then line 231
7 and 233.

8 A And then what were the other two numbers?

9 Q 231 and 233. And just let me know when you're done.

10 A I'm done.

11 Q Okay. So did that help refresh your recollection?

12 A Yes, it did.

13 Q Okay. When you asked the defendant the last time
14 you saw [REDACTED] was, do you recall what he stated?

15 A It was in early June.

16 Q And did he indicate where he saw her?

17 A Yes, he did, at his house.

18 Q At his house? Okay?

19 A Yes, ma'am.

20 Q Did you -- when you asked him initially about
21 [REDACTED] pants coming done, basically, confronting him with
22 touching her vagina and her pants coming down, what was his
23 initial response?

24 A He told me he has never pulled her pants.

25 Q Okay. Did that story ever change?

1 A Yes, it did.

2 Q And what's the first change that happened during
3 your interview? What's the first part of the story that
4 changed?

5 A I'm sorry, can you --

6 Q Yeah, that's a bad question.

7 A -- repeat that?

8 Q Did he ever admit that he had touched her in any
9 way?

10 A Yes, he did.

11 Q And how did he touch her?

12 A At first he said that, you know, it was probably 40,
13 almost 50 minutes into the interview he changed and stated
14 that he had pulled her pants down and that he was -- he
15 grazed her vagina or vaginal area, I guess.

16 Q Okay.

17 A Sorry.

18 Q Let's go back to earlier in the interview. Do you
19 recall him --

20 A Okay.

21 Q -- saying that he would wrestle and tickle her when
22 she came over?

23 A Yes.

24 Q Okay.

25 A Yes.

1 Q And that did he indicate where on her body he would
2 tickle her?

3 A Yes, on her stomach.

4 Q Okay. And had you received information that it was
5 -- that [REDACTED] had possibly witnessed some of these
6 incidences?

7 A Yes, I had.

8 Q Okay. Did you confront the defendant with the fact
9 that [REDACTED] may have seen some of this?

10 A Yes, I did.

11 Q And do you recall what defendant's response was?

12 A I don't recall.

13 Q Would it refresh your recollection to look at line
14 290?

15 A Yes, it would. Okay.

16 Q Does that help refresh your recollection?

17 A Yes, it does.

18 Q Do you recall specifically what he stated when you
19 asked him about [REDACTED] being present for any of the times?

20 A He just says that he wasn't there for any time.

21 Q Okay. And then so at this point in the interview
22 all he's admitted to is tickling [REDACTED] is that fair?

23 A Correct, yes.

24 Q Okay. And then do you then start to kind of
25 question him on recalling whether or not [REDACTED] pants had

1 come down?

2 A Yes, I did.

3 Q Okay. And do you recall him saying, well, you know,
4 we play around?

5 A Yes, I did.

6 Q And does he give -- initially go a explanation about
7 how [REDACTED] pants may have come down, where he did not pull
8 them off, but they fell off?

9 A He did, yes.

10 Q Do you recall what that was?

11 A Yes, I do recall that. I don't know exactly where
12 at in the interview that it was, but I do recall him saying
13 that, yes.

14 Q Okay. Would it help to recall more specifically to
15 look at your transcript?

16 A Yes.

17 Q Or the transcript? If you look at lines 435 to 440.
18 And then let me know when you're done.

19 A Okay.

20 Q Does that help you recall the explanation he gave of
21 maybe how [REDACTED] pants just kind of came off?

22 A Yes.

23 Q And what did he state?

24 A Well, he said that he didn't have much feeling in
25 his hands and that at one point his hands were cold so he

1 wouldn't feel her pants coming down.

2 Q And then did his story change from that later on
3 again?

4 A Yes.

5 Q Okay. And basically, as you stated earlier, he
6 admits that he did pull her pants down; is that right?

7 A That is correct, yes.

8 Q Okay. Did you ever talk to the defendant about
9 possible motives for why he would touch [REDACTED] vagina?

10 A I don't recall.

11 Q Okay. Do you recall asking -- or stating to the
12 defendant -- this is on a different note -- stating to the
13 defendant, "Do you -- so you've never touched her vagina?"
14 And do you remember what his response was?

15 A I -- I do remember saying that so many times
16 throughout the interview.

17 Q Yeah, okay. Do you want to look at line 512 to help
18 refresh your recollection?

19 A Okay.

20 Q Okay. So do you recall asking her (sic), "So you
21 have never touched her vagina?" Do you recall --

22 THE COURT: Asking him?

23 MS. CLEMONS: Yeah.

24 BY MS. CLEMONS:

25 Q Sorry, asking the defendant, so you have never

1 touched her vagina? Do you recall what the defendant said?

2 A Yes.

3 Q Okay. What did he say?

4 A He said that he didn't say that.

5 Q Okay. He said that's not what I said?

6 A That's not what I said.

7 Q Okay. And then you asked him again have you touched
8 her vagina, do you recall what he stated?

9 A Yes, but can I --

10 Q Yes.

11 A -- refer back to my --

12 Q Sure. 513 to 515.

13 A Okay, yes.

14 Q Okay. And what did he respond?

15 A He does not recall touching her.

16 Q Okay. Did you also ask her -- or ask him, sorry, if
17 he recalled the first time this happened?

18 A Yes.

19 Q And do you recall what his response was?

20 A Can I read -- look at my report one more time?

21 Q Yeah. It would be 816.

22 A 816? Okay.

23 Q Okay. And what was his response?

24 A He said that he did -- he didn't know, but then he
25 didn't consider -- he didn't know what to consider what the

1 first time.

2 Q Okay. So he wasn't sure what was considered the
3 first time; is that fair?

4 A Correct.

5 Q Okay. And then when you asked her -- asked him -- I
6 don't know why I keep saying her -- when you asked him again
7 about how her pants came down, do you recall what he stated
8 on -- it's 845.

9 A He later said that he -- he pulled -- her pants came
10 down when he pulled her pants down.

11 Q All right. Did he say something about maybe his
12 fingers snagged on her pants?

13 A Yes, that is correct.

14 Q Okay. And then when you asked if it was possible he
15 touched [REDACTED] vagina, do you recall what his response
16 was?

17 A Yes, I do.

18 Q And what was that?

19 A It is possible.

20 Q Okay. And then at the end of the interview, you
21 asked him if there was anything else he wanted to add; do you
22 recall?

23 A Yes, I do.

24 Q Do you recall what his response was?

25 A He said that he was sorry for causing anybody any --

1 I don't know the exact, but he was sorry --

2 Q Just look at --

3 A -- for his actions.

4 Q Look at line 917 to see --

5 A Okay.

6 Q -- just so we get the exact words.

7 A Yes.

8 Q Okay. And what did he want to add at the end of the
9 interview?

10 A He was sorry that he caused her any trouble or any
11 hurt.

12 Q And after the interview ended, what was your next
13 step?

14 A That was when I placed him under arrest.

15 Q Okay. Did you also interview [REDACTED] at the
16 residence?

17 A Yes, I did.

18 Q Okay.

19 MS. CLEMONS: Court's indulgence. Your Honor,
20 nothing further.

21 THE COURT: Cross.

22 CROSS-EXAMINATION

23 BY MR. LEE:

24 Q Detective Hoyt, how are you?

25 A Good, sir. How are you?

1 Q Can you tell me is there a special place in North
2 Las Vegas that's always used to interview young victims like
3 11? Is that the room that you're talking about?

4 A It's -- it's the part of the Detective Bureau.

5 Q Detective bureau?

6 A So we've -- we've interviewed there. We've
7 interviewed --

8 Q Okay. When you did the recording, did you -- was it
9 videotaped?

10 A It was not videotaped, no.

11 Q And is it -- in all your various interviews, is it
12 your procedure usually to videotape the interview or not?

13 A If we have the ability to videotape, then we try to,
14 yes.

15 Q Okay. Did you have that ability at the North Las
16 Vegas station that you indicated?

17 A Not in that room, no.

18 Q Okay. In Clark County, are there other facilities
19 that you can use to videotape an interview or do your
20 forensic interview?

21 A There is, yes.

22 Q Okay. And what facility would that be at?

23 A It's the Children's Assessment Center.

24 Q Okay. And where is that located at?

25 A 701 North Pecos, No. K, Pecos and Bonanza.

1 Q It's sort of like near family court?

2 A It is, yes.

3 Q Okay. Was there a special reason or any -- was
4 there a reason why you decided not to use that facility?

5 A When I spoke to the father on the phone, he was
6 pretty, I don't know if I want to say frantic, but he wanted
7 me to interview his daughter. He was pretty upset about the
8 allegations that were made, and I told him that I can meet
9 with him that day because of his demeanor and his actions.
10 He was really, really upset and asked that I interview
11 [REDACTED] that day. So I told him that he could. When it
12 comes to the Children's Assessment Center, it's something
13 that we have to schedule an appointment for and it could be a
14 day or it could be two weeks, depending on the availability
15 that they have so.

16 Q Okay. Now, and so you just got audio interview of
17 this, correct?

18 A That is correct.

19 Q Okay. And to the best of your memory, do you
20 remember if [REDACTED] responses were spontaneous or did she
21 delay in giving responses or what do you recall?

22 A She was delayed, yes.

23 Q She was delayed?

24 A Yes, she was.

25 Q And was it a abnormal delay or was it like normal

1 from your other experience interview with children of her
2 age?

3 A It was normal.

4 Q Normal, okay.

5 A It was normal.

6 Q And when you were asking her questions, did she
7 speak to you -- what kind of manner did she speak to you? I
8 can't tell from looking at the transcript, but did she speak
9 to you like a calm voice, excited voice or what kind of
10 voice? What was her demeanor?

11 A Her demeanor, she was a very soft talker. You can
12 tell that she had some kind of -- something happened in her
13 life that made her uncomfortable and upset. You could tell.
14 She was not very talkative. She was not very loud when she
15 talked, if that --

16 Q Okay.

17 A -- if that answers your question.

18 Q And during the interview, was she very soft spoken?

19 A Yes, she was.

20 Q At any time it was difficult for you to hear what
21 she was saying or not?

22 A Yes.

23 Q Okay.

24 A Sometimes it was.

25 Q And is it because you couldn't -- difficult to hear

1 what she was saying is because she spoke in a low voice, is
2 that the reason, or soft voice?

3 A Yeah, soft voice, sure.

4 Q Okay, soft voice. Okay. When you interviewed her,
5 did you have to repeat your questions?

6 A Sometimes I did, yes.

7 Q Okay. Okay. And in your interview, did you -- you
8 -- strike that. You try to give open-ended questions,
9 correct?

10 A Try, yes.

11 Q Okay. Would you agree that it's not -- it's not
12 good to suggest any terms, you want to just keep it open?
13 Would you agree that that's a general way to ask questions?

14 A We try.

15 Q You try?

16 A It doesn't happen, but we try.

17 Q Doesn't happen. And do you recall, if you do, any
18 suggestive terms that -- verbs of what happened to her during
19 the interview?

20 A I don't recall any.

21 Q You don't recall. Okay. Did you use an anatomy
22 chart when you spoke to her?

23 A No, I did not.

24 Q Is it usually -- is it usual or unusual for you not
25 to use an anatomy chart?

1 A So when I was speaking earlier about forensic
2 interviewing and how things change through research, and that
3 was one of the things has recently changed was we don't use
4 -- we don't introduce body sheets anymore when we ask for
5 private parts of their body. We just try to ask them to say
6 what the private parts and what they used that body part for.
7 If we have to, we can use a forensic body sheet, but it's a
8 last resort.

9 Q Okay. And you don't usually do that now; is that
10 what you're saying?

11 A I don't --

12 Q Okay.

13 A I do not use -- do not do that now, no.

14 Q Okay.

15 A Unless we have to.

16 Q Okay. Now, in your -- did you interview [REDACTED]
17 before talking to Kenneth Franks or do you recall?

18 A I believe, it was after I talked to Kenneth Franks.

19 Q After, huh?

20 A Yes.

21 Q Okay. How was [REDACTED] demeanor, do you recall, as
22 he spoke to you?

23 A It was okay. He was short with his answers, but he
24 was okay.

25 Q Was he responsive to your questions?

1 A Yes, he was.

2 Q Okay. Do you recall if -- I believe that you said
3 that [REDACTED] said [REDACTED] was in the room, but he was
4 sleeping; is that a correct statement?

5 A I don't recall if she said if he was in the room
6 sleeping or if he was just sleeping.

7 Q You don't recall? Okay. Do you recall if she said
8 he was in the room or not?

9 A I don't believe he was in the room, no.

10 Q Did [REDACTED] indicate whether her brother was in the
11 room or not, do you recall?

12 A [REDACTED] said that her brother was in the room, yes.

13 Q Okay. Do you recall what the brother was -- what
14 she said the brother was doing?

15 A Yes.

16 Q And what was that?

17 A He was jumping on Kenneth's back when he was
18 tickling his sister.

19 Q And did [REDACTED] if you recall, indicate who was
20 home at the time of this incident?

21 A I know that [REDACTED] said that her father was at the
22 house because that's who she left with and who she went there
23 with.

24 Q Do you recall how long your interview was with
25 Kenneth Franks?

1 A Just under an hour.

2 Q An hour? Okay. Was he in a cooperative manner with
3 you?

4 A Yes, he was.

5 Q Yeah?

6 A Um-h'm.

7 Q And I believe that you indicated that initially he
8 denied touching [REDACTED] is that correct?

9 A For the majority of the interview he did deny, yes.

10 Q And at what point did you notice a change in his
11 answers after? Is there anything special you did or any
12 questions you said to him?

13 A We just continued to talk, and something maybe
14 triggered in his head to tell me what really happened, I
15 don't know.

16 Q Okay.

17 MR. LEE: Pass the witness, Your Honor.

18 THE COURT: Redirect?

19 MS. CLEMONS: Real quick, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. CLEMONS:

22 Q Okay. So on [REDACTED] second interview, you had
23 asked her -- because you had received information that
24 [REDACTED] possibly had witnessed some of these incidences; is
25 that fair?

1 A Yes.

2 Q Okay. So do you recall asking her if [REDACTED] had
3 ever seen any of the incidences?

4 A Yes.

5 Q And do you recall what she said?

6 A Yes.

7 Q Okay. What was that?

8 A She said that [REDACTED] had walked in and actually
9 said something when he saw Kenneth touching her.

10 Q Okay. Do you recall her saying something like he
11 just said to stop?

12 A Stop, that's not right, or something, yes.

13 Q And then do you recall following up with her about,
14 so the last time did [REDACTED] see Kenny touching your private
15 part?

16 A Yes, I do.

17 Q Okay. Do you recall what her response was?

18 A No, I do not.

19 Q Okay. Would it help to refresh your recollection to
20 look at the statement?

21 A Yes, it would.

22 Q Okay.

23 A Okay.

24 Q Okay. Does that help refresh your recollection?

25 A Yes.

1 Q What was her response about where [REDACTED] -- if [REDACTED]
2 saw Kenny touching her private part?

3 A She said no, because he was sleeping.

4 Q Okay. And she doesn't indicate which room he was
5 sleeping, just that he's sleeping; is that fair?

6 A Correct, yes.

7 Q Okay.

8 MS. CLEMONS: Nothing further, Your Honor.

9 THE COURT: Thank you. Any recross?

10 RECROSS-EXAMINATION

11 BY MR. LEE:

12 Q Detective Hoyt, just one further question.

13 A Yes, sir.

14 Q Did you recall if she said this incident occurred
15 on a week day or a weekend?

16 A I -- I remember asking her and I think she said it
17 was on a weekend.

18 Q Okay.

19 MR. LEE: I have here a -- I think I marked it.

20 (Clerk/Mr. Lee conferring)

21 MR. LEE: I have here Proposed Exhibit D, and I
22 believe that was stipulated --

23 MS. CLEMONS: That's correct.

24 MR. LEE: -- coming into evidence. Okay. May I
25 publish to the jury?

1 THE COURT: All right, Exhibit D is what?

2 MR. LEE: It's a calendar for month of June 2015.

3 THE COURT: All right. And that's admitted by
4 stipulation; is that correct?

5 MS. CLEMONS: That's correct, yes.

6 THE COURT: All right. It's admitted and you may
7 publish.

8 (Defendant's Exhibit D admitted, by stipulation)

9 MR. LEE: Okay.

10 BY MR. LEE:

11 Q I'm going to present you a calendar for June of
12 2015.

13 A Yes, sir.

14 Q And you indicated that [REDACTED] indicated this
15 occurred in the middle of June; is that correct?

16 A Yes. Middle towards the end, yes.

17 Q Pardon me?

18 A Middle to the end, yes.

19 Q Middle to the end, right? Okay. And so do you see
20 that the dates of the -- she didn't specify a speck weekend,
21 did she?

22 A No, she did not.

23 Q Okay. Did she specify any particular date?

24 A No, she did not.

25 Q Okay.

1 MR. LEE: I don't have any further questions, Your
2 Honor.

3 MS. CLEMONS: Court's indulgence. No further
4 questions from the State.

5 THE COURT: Does this witness -- any questions from
6 the jury first? No, seeing none. All right. Do you him
7 permanently excused?

8 MS. CLEMONS: He's probably subject to rebuttal.

9 THE COURT: Okay. So the subpoena continues if the
10 DA calls you again.

11 THE WITNESS: Okay.

12 THE COURT: All right. Thank you.

13 THE WITNESS: Thank you.

14 THE COURT: You may call your next witness.

15 MS. CLEMONS: At this point, that was State's last
16 witness. So the State will rest. And I believe, Exhibits 1
17 and 2 were admitted, and we were not going to admit 3.

18 THE COURT: Yes, Exhibits 1 and 2 are admitted,
19 right, madam clerk?

20 THE CLERK: Yes.

21 THE COURT: All right. Approach.

22 (Off-record bench conference)

23 THE COURT: All right. So the State has rested.
24 Mr. Lee, do you -- would you like to call any witnesses.

25 MR. LEE: Yes. I would like to call [REDACTED]

1 [REDACTED] please.

2 [REDACTED], DEFENDANT'S WITNESS, SWORN

3 THE CLERK: Please be seated. And then please your
4 first and last name and spell it for the record.

5 THE WITNESS: [REDACTED]

6 THE COURT: State your name first.

7 THE WITNESS: Okay.

8 THE COURT: What's your name?

9 THE WITNESS: [REDACTED]

10 THE CLERK: Okay.

11 THE WITNESS: Yeah.

12 THE COURT: Go ahead and spell it.

13 THE WITNESS: Okay. [REDACTED].

14 THE CLERK: Okay. And your last name?

15 THE WITNESS: [REDACTED].

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION

18 BY MR. LEE:

19 Q [REDACTED] how old are you --

20 A 17.

21 Q -- currently? 17? And what year were you born?

22 A March 6th, 1999.

23 Q Okay. And so you'll be 18 next March; is that
24 correct?

25 A Yes.

1 Q And are you working?

2 A No.

3 Q Are you currently in school?

4 A No.

5 Q Okay. And what's the highest education that you --

6 I mean, that you achieved?

7 A Eleventh grade.

8 Q Eleventh grade?

9 A Yeah.

10 Q Okay. And what high school did you go to?

11 A Odyssey Charter School.

12 Q Okay. And did you graduate?

13 A No.

14 Q Do you plan to get your high school diploma, GED?

15 A Yes.

16 Q Okay. Are you engaged in any sports or have you
17 been, any sports?

18 A No.

19 Q Okay. And do you have any hobbies?

20 A I'm interested in video games.

21 Q Okay. And what kind of video games you like to
22 play?

23 A All sorts of games, like strategy games, turn based.

24 Q Okay. And do you spend a lot of time playing video
25 games?

1 A Yes, pretty much all day.

2 Q Pretty much all day?

3 A Yes.

4 Q Like, if you would say on average a day, how much
5 would you -- how much time would you spend?

6 A Around eight hours.

7 Q Okay. Now, do you own computer games yourself?

8 A Yes, many.

9 Q Okay. What kind of are games do you own?

10 A All sorts.

11 Q Okay. And when did you start playing computer
12 games?

13 A When I was around five I'd say.

14 Q Okay. And in June of 2015 -- well, strike that
15 first, okay? How many bedrooms are in your house?

16 A Around four.

17 Q Four? And who has the -- their own bedroom?

18 A Me and my brother, Kenneth, my dad Raymond, and
19 that's -- and my mom, Maria.

20 Q Okay. Where does your mom sleep?

21 A She sleeps in the living room.

22 Q Living room?

23 A Yeah.

24 Q So you have your own bedroom; is that correct?

25 A Yes.

1 Q And Kenneth has his own bedroom; is that correct?

2 A Yes.

3 Q And how about the other bedroom?

4 A Which one?

5 Q What's that used -- who sleeps in there?

6 A Oh, the -- which room are you referring to?

7 Q Let me -- you said you had four bedrooms; is that
8 correct?

9 A Um-h'm.

10 Q Right? And you said three of the bedrooms are
11 occupied by, you said Raymond. And Raymond's your father; is
12 that correct?

13 A Yes.

14 Q And one bedroom is occupied by you; is that correct?

15 A Yes.

16 Q And the other bedroom is occupied by Kenneth?

17 A Yes.

18 Q So you have one other bedroom. What's in that
19 bedroom?

20 A That's mainly the game room.

21 Q It's the game room?

22 A Um-h'm.

23 Q And what's in that game room?

24 A Two computers, two monitors for that computer for
25 each computer, two -- two shelves, a bathroom and a closet.

1 Q All right. I'd like to show you what's been marked
2 as Exhibit A -- well, A, B and C. I'd like to --

3 MR. LEE: These have been admitted.

4 BY MR. LEE:

5 Q Is that a -- what picture -- what bedroom is --
6 well, which room is that in this picture?

7 A That's the game room.

8 Q Game room? Okay. And is there -- I noticed there's
9 a computer on the back there. Whose computer or game station
10 is that?

11 A That's mine.

12 Q That's yours?

13 A Yes.

14 Q And I noticed there's a dresser to the right when
15 you come in?

16 A Yes.

17 Q And do you recall how has that -- that arrangement
18 in that -- this picture, is this sort of same today?

19 A Yes.

20 Q And --

21 MS. CLEMONS: Objection, Your Honor. Same as what?

22 THE COURT: Sustained.

23 BY MR. LEE:

24 Q Same today as in 2000 and -- how long has it been
25 that this arrangement that you can remember?

1 A Since 2014.

2 Q Okay. Was the bed always facing that window since
3 2014?

4 A Yes.

5 Q Okay. Okay, I'd like to show you what's been marked
6 as Exhibit C. Could you take a look at that photograph. And
7 you can draw on the screen, too, if you want to.

8 A Oh.

9 Q Okay?

10 A Okay.

11 Q Is that the way arranged in the bed, was that the
12 same way as it's been since 2014?

13 A Yes.

14 Q Okay. Now, there's a computer set-up on that
15 particular picture. Whose computer is that one?

16 A That's Kenneth's, my brother, Kenneth's.

17 Q Okay. And you see that dresser that's behind there?

18 A Yes.

19 Q Is that dresser the same way it was since 2014?

20 A Yes.

21 Q Okay. Now, you mentioned there's a master bedroom,
22 a bathroom -- is there a bathroom in that --

23 A Yes, there is.

24 Q -- in this room? Do you call this the master
25 bedroom or game room? What do you call this room?

1 A Mainly the master bedroom.

2 Q Master bedroom?

3 A Yes.

4 Q And now, does there -- is there a master -- is there
5 a bathroom in this room?

6 A Yes.

7 Q And whose bathroom is that one?

8 A My mom's and my dad's.

9 Q Okay. Do you use that bathroom?

10 A No.

11 Q Which bathroom do you use?

12 A I use the one in the hallway.

13 Q Okay. Is the one in the hallway, do you know if the
14 guests use the one in the hallway or they use the one in the
15 master bedroom?

16 A They use the one in the hallway.

17 Q Hallway, okay. All right. Is there like a TV in
18 the master bedroom or game room?

19 A Yes, for my computer. I use it as a monitor.

20 Q You use it as a monitor?

21 A Um-h'm.

22 Q Do you watch TV very much?

23 A No.

24 Q So do you remember in 2015 how you would spend your
25 time?

1 A Well, usually, I would get up and I would go to the
2 game room and usually play video games in that room all day.

3 Q Okay. Is there a door to the game room or the
4 computer room?

5 A Yes.

6 Q And to your knowledge, is that door open, closed or
7 no?

8 A It's open.

9 Q Okay. Is there a lock on that door?

10 A Yes.

11 Q Do you ever lock at that door?

12 A No.

13 Q All right. Does anybody ever lock that door?

14 A No.

15 Q Okay. And you indicated -- that bathroom is used by
16 whom again, the master bed?

17 A My mom and my dad.

18 Q And they come in there and they shower and things
19 like that?

20 A Yes.

21 Q Do they keep their toiletries in just that master
22 bedroom?

23 A Yes.

24 Q Bathroom, I'm sorry?

25 A Yes.

1 Q They do? Okay. Okay. So in June of 2015, how old
2 were you?

3 A 16.

4 Q 16? Okay. Who's Amor Flores?

5 A He's my half brother.

6 Q Okay. And do you -- can you -- do you know if he's
7 married or not?

8 A Yes, he's married.

9 Q Do you know his wife's name?

10 A Janice Flores.

11 Q Okay. And do you know if they have any children?

12 A Yes.

13 Q They do?

14 A Yes.

15 Q And what's their names, sorry?

16 A [REDACTED] and [REDACTED]

17 Q Okay. In June of 2015, do you recall seeing Amor
18 and/or his children at your house? In June of 2015?

19 A Yes.

20 Q Okay. And do you recall when?

21 A Around June 20th -- I remember it being on a
22 Tuesday, June 23rd.

23 Q June 23rd. So could you circle the day that you
24 last saw them. You can just use your finger on the screen.

25 A Oh, wait.

1 Q Okay. So you said that's a Tuesday, right?

2 A Yes.

3 Q Okay. When do you recall seeing him -- well, on
4 June 23rd, who was at home at that time?

5 A Me and my brother, Kenneth.

6 Q Your brother. Were your parents at home?

7 A No.

8 Q Okay. And do you remember what time they came over
9 to your house?

10 A Around 5:00 p.m.

11 Q 5:00 p.m.?

12 A Um-h'm.

13 Q Okay. And who was actually there on the 23rd at
14 your house?

15 A Me and my brother.

16 Q I mean -- I'm sorry, you and your brother, right?

17 A Yes.

18 Q And it was you said Amor came over; is that
19 correct?

20 A Yes.

21 Q And who was with Amor?

22 A It was Amor and his two children.

23 Q Do you know who let them into the house?

24 A Probably my brother, Kenneth.

25 Q Okay. And when did you notice they were there?

1 A When they walked into the game room.

2 Q When you say they walked in the game room, who
3 walked into the game room?

4 A [REDACTED] and [REDACTED]

5 Q Okay. And when they walked into the game room, were
6 you -- what were you doing at the time they walked in?

7 A I was on my computer.

8 Q Okay. And you were -- what were you doing on your
9 computer?

10 A I was playing video games.

11 Q Okay. When [REDACTED] and [REDACTED] came into your room
12 on June 23rd, what did they do?

13 A They were watching what Kenny was showing them on
14 the computer.

15 Q They were watching what Kenny was doing?

16 A Yes.

17 Q Okay. So Kenny opened the door, you said probably
18 Kenny --

19 A Yes.

20 Q -- opened the door. Then did he walk into the room
21 with the children or did he walk in first and they followed
22 him?

23 A He walked in first and they followed him.

24 Q They followed him, okay. And you said they went
25 over to his computer?

1 A Yes.

2 Q And where was their father Amor?

3 A I believe, he was in the living room.

4 Q Living room? Did he ever come into the game room?

5 A No.

6 Q Okay. And can you say again how long they stayed at
7 your house?

8 A Around half an hour.

9 Q Half an hour. Did your parents, Raymond or Maria,
10 ever come into the house while they were there?

11 A No.

12 Q And then did you see them leave or how did you know
13 they were leaving?

14 A My brother, Kenneth, toll me.

15 Q Your brother told you that they were -- did he walk
16 outside or what?

17 A Well, he told me that something had happened.

18 MR. STEPHENS: Objection, Your Honor. Hearsay.

19 MR. LEE: All right.

20 THE COURT: Sustained.

21 MR. LEE: I'm sorry, what was the objection?

22 MR. STEPHENS: Hearsay, sorry.

23 MR. LEE: Oh, okay. All right. I'll withdraw the
24 question.

25 BY MR. LEE:

1 Q So did something happen on the 23rd, that you were
2 aware of, at your house?

3 A No.

4 Q Okay. Did Amor and his children leave abruptly?

5 A Yes.

6 Q Okay. Did they come in to say goodbye to you or
7 anything?

8 A No.

9 Q Okay. Did you ever see Amor while you were there?

10 A No.

11 Q Okay. You just saw the kids; is that correct?

12 A Yes.

13 Q Okay. Now, on June 23, 2015, did you ever see --
14 what did you see Kenny and the kids doing, other than playing
15 computers?

16 A I saw -- well, I only saw really just [REDACTED] and --
17 or Kenny, my brother, showing [REDACTED] something on his
18 computer, that's it.

19 Q Okay. Did you ever see [REDACTED] jump up on Kenneth on
20 June 23rd of 2015?

21 A No.

22 Q Okay. On June 23rd, 2015, did you ever see [REDACTED]
23 with her pants down?

24 A No.

25 Q Did you ever see [REDACTED] with her pants down in June

1 of 2015?

2 A No.

3 Q When was the next time you saw Amor and his children
4 come to your house?

5 A Around August.

6 Q Around August?

7 A Yes.

8 Q Okay. And who was at home when you came over in
9 August?

10 A Everybody.

11 Q Who's everybody?

12 A Oh, my dad, Raymond, my mom, and of course, my
13 brother.

14 Q Okay. And you said they came over. Was that like
15 the first week of August or what?

16 A Yes, around that.

17 Q Okay. And do you know why they came over?

18 A No.

19 Q Do you know how long they stayed?

20 A I'd say around an hour.

21 Q Hour? And did they come to see you -- did they come
22 to see you?

23 A No.

24 Q Who did they come to see?

25 A I'm not really sure exactly. They just usually

1 visit on -- it's a surprise.

2 Q Okay. Did they see Kenny on August 4th, if you
3 know?

4 A August, what?

5 Q Did you see Kenny and Amor and his children on
6 August the 4th?

7 A Yes.

8 Q Okay. And where were they -- where did you see them
9 at, what room?

10 A The living room.

11 Q Living room? On August the 4th, where did you spend
12 that day?

13 A I usually -- I was still in the -- usually in the
14 game room, but I wandered back and forth between the kitchen
15 and the game room to get some -- something to drink and
16 something to eat.

17 Q Okay. Did [REDACTED] or [REDACTED] ever come into the
18 room, your room on August the 4th when you were --

19 A No.

20 Q -- in the computer room?

21 A No.

22 Q Did you ever see [REDACTED] with her pants off any time
23 in 2015?

24 A No.

25 Q Now, Amor's your half brother; is that correct?

1 A Yes.

2 Q Okay. And in 2015, did you visit him at his house?

3 A No.

4 Q Okay. In 2014, did you ever visit him?

5 A Yes.

6 Q Okay. How many times?

7 A Once.

8 Q And was that a good visit?

9 A No, not exactly.

10 Q Why didn't you consider that a good visit?

11 A Well, he kind of got upset at me.

12 Q And what did he get upset at you? Or why did you
13 feel he was -- what was he upset about?

14 A He thought I attacked his children. He thought I --
15 he said I hit him, and he said I also said bad words to them.

16 Q Okay. Do you know if [REDACTED] or [REDACTED] have ever
17 said something that was incorrect?

18 A Yes.

19 Q And what was that?

20 MR. STEPHENS: Objection, Your Honor, hearsay.

21 MR. LEE: Okay. All right.

22 BY MR. LEE:

23 Q Let me just put it another way, okay? You said --
24 did you hit [REDACTED] or [REDACTED]

25 A No.

1 Q And did you feel you were wrongly accused?

2 A Yes.

3 Q And do you remember when was that this August? I
4 mean, sorry, in 2014?

5 A Around April.

6 Q April? And since April of 2014, did you ever go
7 back to Amor's house?

8 A No.

9 Q Okay. What would you say your relationship with
10 Amor and you is like?

11 A Very distant.

12 Q Okay. In 2015, do you ever do things with him?

13 A No.

14 Q I'll be more specific. You ever go out and eat with
15 him?

16 A No.

17 Q You go shopping with him?

18 A No.

19 Q Okay. What's your relationship to [REDACTED] and
20 [REDACTED] in 2015?

21 A Also very distant.

22 Q What do you mean by that?

23 MR. STEPHENS: Sorry, what year was that you said?

24 THE COURT: 2015, he said.

25 MR. STEPHENS: Okay, thank you.

1 BY MR. LEE:

2 Q What do you mean by that?

3 A They just -- they don't talk to me or ever approach
4 me.

5 Q Do they come over and play with you on your computer
6 when you're on there?

7 A No.

8 Q Okay. And do they usually have their own game
9 stations or gaming devices?

10 A Yes. They have a Nintendo 3DS.

11 Q Okay. And do they come -- do they go to talk to --
12 play with Kenny?

13 A Yes.

14 MR. LEE: I'm going to pass the witness, Your
15 Honor.

16 THE COURT: Cross.

17 MR. STEPHENS: Yes, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. STEPHENS:

20 Q [REDACTED] what video game were you playing before you
21 came to court today?

22 A It was -- what was that called? It might have been
23 "Fallout: New Vegas".

24 Q Fallout in Vegas?

25 A No, New Vegas.

1 Q Oh, okay. And you were playing that just before you
2 came to court?

3 A Yes.

4 Q All right. How long were you playing it for before
5 you came to court?

6 A Around an hour.

7 Q An hour? All right. What were you doing before
8 that?

9 A I was asleep.

10 Q All right. Your relationship with [REDACTED] and
11 [REDACTED] as of right now is not very good, correct?

12 A Yes.

13 Q But it hasn't always been terrible, correct?

14 A Yes.

15 Q It has always been terrible?

16 A Please refrain the question.

17 Q Sorry, I apologize. If I ask you a bad question,
18 please ask me to rephrase. Your relationship with [REDACTED]
19 and [REDACTED] hasn't always been bad, correct?

20 A Yes.

21 Q How has it -- how has it gotten course?

22 A I believe, it went worse when they accused me on
23 April twenty fourteenth (sic).

24 Q Okay. They accused of attacking -- of you attacking
25 them, correct?

1 A Yes.

2 Q Okay. Before that, though, you guys were on pretty
3 good terms?

4 A Around mostly.

5 Q Yeah?

6 A Yes.

7 Q What do you mean by mostly?

8 A I mean, they still don't really talk to me. They --
9 yeah, they just don't talk to me.

10 Q Currently they don't, but did they talk to you
11 before they accused you?

12 A No.

13 Q Oh, okay, okay.

14 A At least not as much.

15 Q At least not as much. So they talked to you more
16 after they accused you?

17 A Say that again.

18 Q They talked to you more after they accused you?

19 A No.

20 Q Okay. All right. Let me ask you this question, the
21 -- when was the last time that you saw [REDACTED] and [REDACTED]

22 A August -- around August, the first week.

23 Q August of 2015?

24 A '15, yes.

25 Q Okay, all right. And where was that at?

1 A Say that again.

2 Q Where did you see them at?

3 A Oh.

4 Q Was that at a store, at church, where was it at?

5 A It was at -- it was my house.

6 Q Your house. All right. And how long were they
7 there for?

8 A Around an hour.

9 Q And before that, do you recall when it was that they
10 came, last visited before that?

11 A It was around June.

12 Q It was in June. Okay. You remembered June 23rd,
13 was that the time before they visited you in August?

14 A Yes.

15 Q Okay. So it was June 23rd and then it was early
16 August, those are the two most recent times they visited?

17 A Yes.

18 Q Okay. June 23rd's a special day in your home?

19 A Well, it was my dad, he was -- he was off on Tuesday
20 so --

21 Q Oh, so dad's off on Tuesdays?

22 A Yes.

23 Q All right. Where does your dad work?

24 A He works at RTC.

25 Q Sorry, RTC?

1 A Yes.

2 Q Okay. So you know it was a Tuesday because your dad
3 was at home?

4 A Yes.

5 Q But you don't exactly remember the exact date, then?

6 A Please explain. What do you mean by that?

7 Q So do you know for sure that it was June 23rd that
8 they came over last -- or before August?

9 A Yes.

10 Q How do you remember it was June 23rd, rather than
11 June 16th?

12 A Well, because I usually check on my computer, and I
13 have a calendar there, and yes.

14 Q Okay. So you're conscientious of the date and time?

15 A Yes.

16 Q When you play your games, your date and time still
17 are up in the corner?

18 A Yes.

19 Q Okay. And while you're playing your games, you're
20 checking the date and time?

21 A Yes.

22 Q Because that's more important than the game?

23 A Well, what do you mean by that?

24 Q I mean, you're concentrating on the game or are you
25 concentrating on the date and time?

1 A Well, I mean, I switch back and forth sometimes.

2 Q Okay. So your date and time is not in the corner
3 while you're playing your game?

4 A No.

5 Q Okay. When they came over on June 23rd, you said
6 that they -- that Kenny showed [REDACTED] something on the
7 computer?

8 A Um-h'm.

9 Q And that was on his computer?

10 A Yes.

11 Q Okay. What did he show her?

12 A I believe it was E3, an E3 conference.

13 Q Okay. What's E3? Sorry, I do not know what that
14 is.

15 A It's a video game conference.

16 Q Oh, okay. Is it -- are they exhibiting new games
17 coming out or what is it?

18 A Yes.

19 Q Oh, okay.

20 A For --

21 Q So is he showing her new games he was interested in?

22 A Yes.

23 Q Okay. Your video games that you play, you say you
24 play them most of the time during the day?

25 A Yes.

1 Q And did you testify earlier that it was about eight
2 hours a day?

3 A Yes.

4 Q I wanted to show you a couple photos here.

5 MR. STEPHENS: Your Honor, these have previously
6 been admitted and published. May I publish?

7 THE COURT: Yes, you may.

8 MR. STEPHENS: All right.

9 BY MR. STEPHENS:

10 Q This is Exhibit C here. You said these -- this room
11 has not been rearranged since 2014?

12 A Yes.

13 Q When did you first move into this home?

14 A That was -- must have been around 2003.

15 Q 2003?

16 A Yes.

17 Q And then this room got rearranged in 2014?

18 A Yes.

19 Q And it's still the exact same that it was in 2014?

20 A Yes.

21 Q Nothing different here?

22 A Yes.

23 Q You were talking to Mr. Lee about the things that
24 were inside the room. This bed was still in this room in
25 2014, correct?

1 A Yes.

2 Q But you didn't mention that to Mr. Lee, correct?

3 A No.

4 Q Okay. But the bed was there?

5 A The bed was always there.

6 Q Okay. Who sleeps in that bed?

7 A No one.

8 Q Do you ever take a nap in that room?

9 A No.

10 Q Never?

11 A No.

12 Q Not after getting tired of playing video games?

13 A No.

14 Q Okay. Does Kenny sleep in that bed?

15 A No.

16 Q Never?

17 A No.

18 Q So why has a bed if no one sleeps in it?

19 A Well, it's just mainly used as like a sofa to sit
20 down on.

21 Q Okay. In fact, actually, that actually brings me to
22 another question mere. Let me show you Exhibit A. Over here
23 in this right-hand area where the computer is, I believe this
24 was -- is the computer that you use?

25 A Yes.

1 Q All right. And then it appears that there's a desk
2 here?

3 A Yes.

4 Q All right. And then this is where you would sit on
5 the bed?

6 A Yes.

7 Q Okay. So this is where you would sit on the bed to
8 play the computer game?

9 A Yes.

10 Q All right, fair enough. And let me show you Exhibit
11 B really quickly here. What is going -- what would if we
12 exited this door, where would we be?

13 A Oh.

14 Q What part of the home, sorry.

15 A You'd be going into the hallway.

16 Q This would be the hallway?

17 A Um-h'm.

18 Q And what room is here?

19 A That's the closet.

20 Q And what room's here?

21 A That's the bathroom.

22 Q Okay. All right. Is there an -- I'll show you
23 Exhibit A again here. Is there a Internet cable on this side
24 of the home?

25 A No.

1 Q Is it over here on this side?

2 A No.

3 Q Where is the Internet cable at?

4 A I use WIFI on that computer.

5 Q Okay. Where is your router connected?

6 A It's to my brother's computer.

7 Q All right. Let me show you the brother's computer,
8 then, really quick here. This is Exhibit C.?

9 A Um-h'm.

10 Q Can you see where the router would be located?

11 A Yes.

12 Q All right. Can you point it out for us?

13 A Right there.

14 Q Right here, this thing standing up?

15 A No, no, no, no, no.

16 Q There one right here with the --

17 A Yes.

18 Q -- blue bubbles or blue circles?

19 A Yes.

20 Q Okay. All right. Do you know who took these
21 photos, Exhibits A, B and C.?

22 A I -- it was probably -- probably my dad.

23 Q But you don't know?

24 A No.

25 Q Do you know how I came into possession of these

1 photos? If you don't know, I don't want you to guess?

2 A Not exactly.

3 Q All right, fair enough. Why did the rooms get
4 rearranged in 2014?

5 A What was it called; well, we were trying to find a
6 place to put the computer, so we decided to put it in there,
7 that room.

8 Q What was in there before 2014?

9 A Well, what's it called? Well, I mean, we had to
10 rearrange some stuff due to the Internet, actually.

11 Q All right. What was going on with the Internet?

12 A We had to switch Internet providers.

13 Q Okay.

14 A Um-h'm.

15 Q But you'd still use the same Internet cable coming
16 in, correct?

17 A Not exactly.

18 Q Can you tell me what -- what was different, then?

19 A Well, we had to reposition the room to put the
20 computer here. I can't exactly remember why, though.

21 Q Okay. But you know it was changed in --

22 A Yes.

23 Q -- 2014? It wasn't changed after 2015?

24 A No.

25 Q Okay. When [REDACTED] and [REDACTED] were at your home,

1 how often did you see them in 2015?

2 A I only saw them -- overall in 2015?

3 Q Yeah.

4 A I only saw them around twice.

5 Q Okay. So around twice being June 23rd and then
6 sometime in August?

7 A Yes.

8 Q Those are the only two times you ever saw them?

9 A Yes.

10 Q Okay. And you said at one point, I believe, it was
11 on the June 23rd date, please correct me if I'm wrong, but I
12 believe you said on the June 23rd day that they kind of left
13 abruptly and they didn't say goodbye?

14 A Yes.

15 Q On the August 4th date, did they do the same?

16 A Well, they didn't leave abruptly, but they --

17 Q But they didn't say goodbye?

18 A No, they never really say goodbye.

19 Q Is that because you're too busy on your computer
20 games?

21 A Yes.

22 Q I had a couple questions. I'm almost done here.
23 But I wanted to talk to you a little bit about your
24 conversation with Detective Hoyt; do you recall that?

25 A Yes.

1 Q All right. Do you remember what day it was that you
2 spoke to Detective Hoyt?

3 A I believe, it was -- I believe it was September,
4 around that.

5 Q Sometime in September?

6 A Sometime in September.

7 Q Was that before or after you spoke -- or sorry,
8 before or after the time when you saw [REDACTED] and [REDACTED]

9 A After.

10 Q All right. Was it soon after, a couple days after?

11 A I'm not really sure exactly when the detective
12 interview was, actually.

13 Q Okay. Do you remember the exact day that you last
14 saw [REDACTED] and [REDACTED] the actual date?

15 A No. I'd say around August.

16 Q Sometime in August?

17 A Yeah, around the first week.

18 Q All right. Okay. Well, if I -- would you like to
19 look at your -- did you know that your conversation with
20 Detective Hoyt was being recorded?

21 A Yes.

22 Q All right. And so everything was eventually typed
23 out. Would it help you to look at the transcript for you to
24 tell us what date it was that you spoke to Detective Hoyt?

25 A Yes.

1 Q All right.

2 MR. STEPHENS: Your Honor, may I approach?

3 THE COURT: You may.

4 MR. STEPHENS: All right.

5 BY MR. STEPHENS:

6 Q I'll hand you just the first page.

7 MR. STEPHENS: Mr. Lee, I'm just referring to lines
8 1 through 9-ish.

9 BY MR. STEPHENS:

10 Q And I'll direct your attention to that area, line 5,
11 specifically.

12 A Yes, September 2015.

13 Q September 2015. And was there a date associated
14 with that?

15 A Yeah, the 15th.

16 Q Okay. All right. All right. Can I take this from
17 you?

18 A Yes.

19 Q All right. What was the actual date in September
20 that you spoke to Detective Hoyt?

21 A September 15th.

22 Q All right. So on September 15th, does that help you
23 remember when you last saw [REDACTED] and [REDACTED] at your home?

24 A Yes.

25 Q Okay. What day, then, did you see [REDACTED] and

1 [REDACTED] at your home?

2 A Around August the -- still the first week of August.

3 Q Still the first week. So about a week earlier or
4 so?

5 A Yeah.

6 Q Before the interview? A week earlier before this
7 interview?

8 A No. No, no, no, no. I mean, it's the first week of
9 August when I last saw them, I believe.

10 Q Okay. But do you remember the specific date now
11 that you last saw [REDACTED] and [REDACTED] now that you know when
12 you spoke to Detective Hoyt?

13 A No.

14 Q Okay. Fair enough. All right. With Detective
15 Hoyt, you spoke to Detective Hoyt for a few minutes. Do you
16 remember how long your interview was?

17 A Around seven minutes.

18 Q Okay. How is it that you remembered it was seven
19 minutes?

20 A I don't know, it just didn't seem that long.

21 Q Okay. Did you review your interview with Detective
22 Hoyt before you came to testify today?

23 A Yes.

24 Q Okay. So in that you're familiar with the things
25 you told Detective Hoyt?

1 A Yes.

2 Q Then you'll recall telling Detective Hoyt that you
3 don't remember much about what happened in June, correct?

4 A Yes.

5 Q Okay. But now today you do remember what happened
6 in June? In fact, you remember June 23rd, specifically?

7 A Yes.

8 Q Okay. You also recall that you told Detective Hoyt
9 that you probably last -- or they last visited several years
10 ago; do you remember that?

11 A Yes. I was confused about the question.

12 Q Oh, okay. What did you think the question was?

13 A Well, I meant to say like several months.

14 Q Several months?

15 A Yes.

16 Q Even though you saw them just a week earlier?

17 A Yes, but I was --

18 Q So you were still off?

19 A Yeah, I was confused at the question.

20 Q Okay. You told Detective Hoyt that normally you
21 wake up and your play your video games?

22 A Yes.

23 Q All right. And you also told them -- sorry,
24 Detective Hoyt -- and was there another detective with him?

25 A Not that I know of.

1 Q Okay. You do recall telling Detective Hoyt, though,
2 that you remember seeing your brother, Kenny, tickling

3 [REDACTED]

4 A Please say the question again.

5 Q Did you tell Detective Hoyt that you recalled seeing
6 Kenny, your brother, tickling and wrestling [REDACTED]

7 A Yes.

8 Q What times were those when you saw the defendant
9 tickling [REDACTED]

10 A Around 2014.

11 Q 2014 is when you saw them tickling?

12 A Um-h'm.

13 Q They stopped tickling in 2015?

14 A Um-h'm.

15 Q Okay.

16 THE COURT: Is that a yes?

17 THE WITNESS: Yes.

18 THE COURT: Thank you.

19 THE WITNESS: Sorry.

20 BY MR. STEPHENS:

21 Q The -- you've spoken to the defendant since your
22 interview, correct?

23 A Yes.

24 Q When was the last time you spoke to him?

25 A Just today.

1 Q Did you guys discuss your testimony?

2 A Yes.

3 MR. STEPHENS: I'll pass the witness.

4 THE COURT: Redirect?

5 MR. LEE: Okay.

6 REDIRECT EXAMINATION

7 BY MR. LEE:

8 Q Now, you remember your conversation with Detective
9 Hoyt; do you remember that?

10 A Yes.

11 Q Do you recall you saying when you were asked a
12 question have you ever known [REDACTED] to lie about anything,
13 do you remember what you said then?

14 A Yes.

15 Q And what was it?

16 A It was yes.

17 Q What were you referring to?

18 A Well, I was referring to based on how I think how
19 her father is -- would give -- would perceive things.

20 MR. STEPHENS: Objection, Your Honor, as to what
21 she's potentially perceiving or speculating to.

22 MR. LEE: Yeah, okay, I'll withdraw that.

23 BY MR. LEE:

24 Q What were you accused of that you thought was a lie?

25 A Say that again.

1 Q What were you accused of that you thought was a lie?

2 MR. STEPHENS: Your Honor, this is again hearsay as
3 to what they accused --

4 MR. LEE: I'm asking what was he -- well, let me do
5 it this way.

6 BY MR. LEE:

7 Q Were you accused of anything by [REDACTED] or [REDACTED]

8 A Yes. It was on last year in April, and 2014, I
9 mean.

10 Q And was that what you spoke about before?

11 A Yes.

12 Q Did that ever get resolved?

13 A H'm?

14 Q Did that resolve?

15 A No.

16 Q When you say it didn't resolve, what do you mean by
17 that?

18 A Well, no one ever really discussed about it again.
19 And they never wanted to bring it up.

20 Q Okay. Did you tell Detective Hoyt that you never
21 saw [REDACTED] with her pants down?

22 A Yes.

23 MR. LEE: Pass, Your Honor. Pass.

24 THE COURT: Any recross?

25 MR. STEPHENS: No, thank you, Your Honor.

1 THE COURT: May this witness be excused?

2 MR. LEE: Yes.

3 THE COURT: Thank you for your testimony. Oh, I'm
4 sorry, questions from the jury? No hands, okay. You may be
5 excused. Thank you, marshal for reminding me.

6 THE MARSHAL: Certainly.

7 THE COURT: Call your next witness.

8 MR. LEE: Yes. Court's indulgence, please.

9 (Counsel conferring)

10 MR. LEE: My next witness is going to be Maria
11 Franks.

12 (Mr. Lee/Clerk conferring)

13 MARIA FRANKS, DEFENDANT'S WITNESS, SWORN

14 THE CLERK: Please be seated. And then please
15 state and spell injure first and last name for the record.

16 THE WITNESS: My name is Maria Franks.

17 THE CLERK: Please spell your first name and last
18 name.

19 THE WITNESS: M-a-r-i-a for my first name, Maria.
20 And my last name is Franks, F-r-a-n-k-s.

21 THE COURT: You may proceed.

22 MR. LEE: Okay.

23 DIRECT EXAMINATION

24 BY MR. LEE:

25 Q Maria, how old are you?

1 A 58.

2 Q Okay. And are you married?

3 A Yes.

4 Q And who is your husband?

5 A Raymond Franks.

6 Q And how long have you been married to Raymond
7 Franks?

8 A More than 20 years.

9 Q Okay. And can you tell me what your husband does or
10 who he works for?

11 A He works with RTC.

12 Q And what does he do?

13 A Driving a bus.

14 Q And how long have you known him to be a bus driver?

15 A More than ten years.

16 Q Okay. Now, are you employed?

17 A Yes.

18 Q And where do you work at?

19 A Bellagio Hotel and Casino.

20 Q And what do you do for them?

21 A Front desk representative.

22 Q And --

23 THE COURT: I'm having a hard time understanding
24 her. Could you get close -- pull your chair up there to the
25 microphone.

1 (Pause in the proceedings)

2 BY MR. LEE:

3 Q You can answer slowly, might help a little bit. You
4 said you work at the front desk at the Bellagio?

5 A Yes.

6 Q And what do you do there?

7 A Front desk.

8 Q Front desk?

9 A Yes.

10 Q So and when you work the front desk, take
11 reservations, what do you --

12 A Check in people. We don't take reservations.

13 Q Oh, you check in people, okay. And how long have
14 you been working at the Bellagio front desk?

15 A Almost four years.

16 Q And what's your current work schedule?

17 A Right now I work at 11:00 to -- 11:00 a.m. to 7:00
18 p.m., and my days off are Friday and Saturday.

19 Q Okay. Do you recall what your work schedule was in
20 June of 2015?

21 A Yes.

22 Q And how do you recall that?

23 A Because I -- I only change my schedule twice. So I
24 know the first one. From 11:00 -- from 3:00 to 11:00, and my
25 days off are Wednesday and Thursday.

1 Q Your days off are Wednesday and Thursday, okay. Do
2 you keep a calendar?

3 A Yes, I do.

4 Q And what do you keep on your calendar?

5 A My bills.

6 Q Your bills?

7 A Yes.

8 Q And what else do you keep on --

9 A And my schedules, and my -- if I have overtimes, I
10 will write it down there, and also some tips.

11 Q And your tips?

12 A Yes.

13 Q Do you make tips from your work?

14 A Yes.

15 Q How do you make tips?

16 A Oh, the guests are -- when they are nice, they will
17 hand you money. Sometimes they request to be -- to upgrade
18 them, so to upgrade them you offer them, and if they are
19 happy with what I offer them, they will give me money, and
20 sometimes they right away they will hand you the money and
21 they said I want the best room.

22 Q Has that ever happened before?

23 A Oh, yeah, it does. So I make commission and tips
24 from there, too.

25 Q And when's the last time -- do they tip you very

1 much to do that?

2 A Lately, because I'm always out, but I make a good
3 commission in a month. Sometimes more than -- around -- from
4 2,000 to \$2,500 a month plus my tips.

5 Q Plus your tips? Is that 2,000 to -- are you paid
6 like an hourly rate?

7 A Yes. \$17.49 per hour.

8 Q And you get -- on top of that you get a, you said a
9 commission?

10 A We get commissions, yes.

11 Q On commission -- commission on room sales or what do
12 you --

13 A Yes, room -- we have a competition at work who --
14 who is the best seller, up-seller ass we call them. I
15 usually one of the best three of them, number three. We are
16 all Asians who made those top selling.

17 Q Okay.

18 A I am always number two.

19 Q Okay. I was talking about your calendar. Do you
20 tend to keep -- do you write down on your calendar what you
21 do?

22 A Yes. When -- I check which one is on schedule to
23 pay, so I have to -- so that I can make the bills. And if
24 I'm sitting down -- when I pass by there in my computer
25 table, it's daily, if I have tips, usually I put them in my

1 son's wallet, and I -- I will write down how much I get from
2 there. And when I go to the store, if there is a particular
3 reason, then I have to write it down there, the time where I
4 go.

5 But I save all my receipts, so I don't really need
6 to depend to my calendar for -- for -- for my shopping.

7 Q Okay. Other than the Bellagio, do you have any
8 other source of income in 2015, June 2015?

9 A No.

10 Q Okay. Do you do most of the cooking at home?

11 A During that time, yes, because I have plenty of
12 time.

13 Q Okay. Do you usually cook for your family?

14 A Yes.

15 Q Do you do the housekeeping?

16 A Yes.

17 Q Who else, besides you, does the housekeeping?

18 A My husband sometimes.

19 Q Do your children do the housekeeping?

20 A I don't want to ask them. I don't ask them.

21 Q So it's just usually you and your husband that do
22 the housekeeping? What kind of housekeeping?

23 A Oh, me or my husband?

24 Q I mean, either one that you both do?

25 A Yeah, mostly, it's me who does the work because I --

1 we, as in our culture, even though, yeah, I know we are not
2 supposed to be working as wives, but the only thing is we
3 does the housework all the time.

4 Q Okay. Now, okay, in June of 2015, do you remember
5 if Amor and his children came over to your house?

6 A Yes, I do.

7 MR. LEE: Sorry. Court's indulgence.

8 (Mr. Lee/Clerk conferring)

9 BY MR. LEE:

10 Q I'd like to show you what's been admitted as
11 Defendant's D. Okay. You can see it on your screen, okay?

12 A Oh, yes.

13 Q Okay. Can you mark when's the last time you saw --
14 well, before I ask that, how many children do you have?

15 A I have three.

16 Q And who are they?

17 A Amor is the eldest, [REDACTED] and Kenneth.

18 Q Okay. And who's the father of Kenneth and [REDACTED]

19 A Raymond Franks.

20 Q Raymond Franks. And Amor is from another -- not the
21 same dad, right?

22 A Yes.

23 Q Okay. When's the last time you remember Amor or his
24 children coming to your house? Can you mark it on the
25 calendar?

1 A Last time?

2 Q Do you remember if they came over your house in
3 June?

4 A In the month of June?

5 Q Yes.

6 A Yes. 24th.

7 Q When was that? Okay. So that was a -- you marked
8 off the 24th of June. Is that a day you're normally at work
9 or not?

10 A No, it's my day off.

11 Q Your day off?

12 A And I --

13 Q Were you working that week?

14 A The whole week I'm on vacation.

15 Q And how do you remember specifically that particular
16 week?

17 A Because it's a planned date.

18 Q Because I'm sorry?

19 A It's a planned date.

20 Q Plan, okay. So on June 24th, can you tell me how
21 you start off your day?

22 A I -- I started off my day doing my garden,
23 harvesting my flowers, some kind of vegetables, and then I
24 went to the store because I have to do it early because I
25 know I have plans later. So I went to the store, put gas,

1 sold my merchandise right in front of the Seafood City, and
2 luckily, I sold it right away. So, I went home. Oh, no, I
3 pulled -- I went inside the Seafood City and pick up some
4 stuff and then I went home. Pass by to the Bank of America,
5 oh, then went home.

6 And then I think I was at home past 11:00. Past
7 11:00, I open -- someone knock on the door. When someone is
8 knocking on the door, I will be the one -- if I am home, I'm
9 the only one who can open the door. They are not allowed to
10 open the door because if someone shoot them, I'll be the
11 first one to die.

12 Then it was Amor and the children.

13 Q And when you say children, who specifically?

14 A Oh, my grandchildren, [REDACTED] and [REDACTED]

15 Q Okay. And did you expect them to come over that
16 day?

17 A Yes.

18 Q And why?

19 A Because I'm going to take them for shopping.

20 Q Okay. So what was your plans that date?

21 A I beg your pardon?

22 Q You said you had planned to take them shopping?

23 A Yes.

24 Q Okay. Can you tell us -- tell us, did Amor just
25 drop off the kids or did he stay?

1 A No, he -- he's just in the door and then he left. I
2 said why don't you come in because I brought something for
3 you, but he said, he just left, I have to go somewhere or
4 something like that. He's -- because he -- he has this kind
5 of smile, smile that is really -- I don't know how can I --
6 how -- how can I explain that? Like a devilish smile, and so
7 -- and he was in his cell phone and he left.

8 Q Okay. So he dropped off the kids, right?

9 A Yes.

10 Q And what do the kids do when they usually come to
11 your house?

12 A When they came in, so I locked the door, locked the
13 front door, and my husband was there behind me facing me when
14 -- you know, facing the wall, the book shelves. And then
15 he's -- he and [REDACTED] and the kids were -- went to where the
16 carpeted area is and they told -- [REDACTED] ask me, are you
17 working in the airport with my grandma? I said no, sweetie,
18 I'm working in the hotel where you -- because they been there
19 a week before -- a week of this date -- before this date.

20 Q Okay. Let me go back. Listen to my question
21 carefully because you're talking about something else than
22 what I questioned, asked you. When you opened the door,
23 where do the kids go to when they came?

24 A In the living area.

25 Q They went to the living area.

1 A Yeah.

2 Q Okay. And you said Amor left; is that correct?

3 A Yes.

4 Q Okay. Now, when they went to the living room, did
5 they stay in the living area?

6 A Yes.

7 Q And then what -- you mentioned something about
8 gardening before?

9 A Oh, yes.

10 Q Do you grow vegetables?

11 A Yes, I do.

12 Q And what do you do with the vegetables?

13 A I harvest them and sold them in the -- in the store.
14 Not in the store, right in front of the store.

15 Q You said you sell vegetables? Just you're talking
16 about June of 2015?

17 A Yes, yes, June -- yes. Every Wednesday.

18 Q Every Wednesday what do you do?

19 A I'm selling those vegetables.

20 Q So, Wednesday you sell your vegetables where?

21 A Huh?

22 Q Where do you sell your vegetables at?

23 A Where I sold them?

24 Q Yeah, where do you sell them at?

25 A Yes. Where I sell them right in front of Seafood

1 City where Maryland -- in I think -- yeah, it's in Maryland
2 Parkway. Maryland Parkway, yes. Seafood City.

3 Q Okay. And you said you sell these vegetables in
4 front of the store?

5 A Yes.

6 Q Did you sell vegetables on March 24th of 2015?

7 A September 24th? That month September 24, yes, I
8 did.

9 THE COURT: He said March.

10 BY MR. LEE:

11 Q Oh, sorry. I'm sorry, June, I'm sorry.

12 A June, yeah. June 24th.

13 Q June of 2015, did --

14 A Yes, I did.

15 Q -- on that Wednesday -- it looks like Wednesday --

16 A Um-h'm.

17 Q -- did you sell vegetables at that market?

18 A Yes.

19 Q Okay. And what do you do? You grow the vegetables,
20 you stand there?

21 A I enjoy because they are organic because I cannot
22 eat them all. So and the people, they love those vegetables.

23 Q And --

24 A They are -- they are squash flowers, they are very
25 healthy and then they are favorites when we are cooking the

1 cold (indecipherable), that's the main dish in my country.

2 So --

3 Q And what's your country?

4 A -- they will -- they are willing to pay, it doesn't
5 matter how much you would --

6 Q And what is your country?

7 A Philippines.

8 Q Is that where you were born?

9 A Yes.

10 Q Okay. So going back to June 24th, 2015. Do you
11 remember what time Amor came to your house about?

12 A Yeah, between -- around maybe -- before 11:30.

13 Q Before 11:30, okay. And then he left and then the
14 kids went to the living room, you said, right?

15 A Yes.

16 Q And where did the kids -- what happened next or
17 where did the kids go to next?

18 A They just stay -- they stay there with my husband
19 because I have to have a quick shower, and then because we
20 are planning to go -- I'm planning to take them out. So I
21 have a quick shower, and then I told -- I think before --
22 before 12:00 o'clock we left the house.

23 Q Okay. You left about 12:00 o'clock, okay.

24 A Before.

25 Q Where did you go after 12:00 o'clock? Now, who went

1 -- who went with you at 12:00 o'clock?

2 A My husband volunteered to -- do you want me to come?
3 I said no, because he thought we will go to J.C. Penny. I
4 said no, I don't need you to come with us. And so Kenneth
5 will accompany me. And so we -- we left with Kenneth and the
6 two children.

7 Q Okay. Did the kids ever go -- to your knowledge,
8 did the kids stay in the living room until you left?

9 A Yes, because when I use my -- when I used the
10 bathroom, the bathroom that I'm using, nobody inside that
11 room, so in and out, I don't see no one over there, so I just
12 powdered myself in the hallway -- hallway bathroom.

13 Q Okay. So you -- I'm sorry, what about the hallway
14 bathroom?

15 A I use -- yeah, when I take a shower, I will use the
16 main bathroom, the big bathroom, and I will go out -- outside
17 to the hallway because that is where my powder -- my stuff,
18 my personal things like powders stuff, Q tips and everything.

19 Q Okay.

20 (Mr. Lee/Clerk conferring)

21 BY MR. LEE:

22 Q So you took a shower in, what, your master bedroom;
23 is that correct?

24 A Yes.

25 Q Okay. After shower, do you remember where you went

1 to next?

2 A In the other bathroom.

3 Q No? After you took the shower, all right?

4 A Yeah.

5 Q And do you remember what time you left the house?

6 A Yes, before 12:00 o'clock.

7 Q Before 12:00 o'clock, okay.

8 A Because I don't shower longer.

9 Q And where did you -- who was -- who was with you
10 when you took off next?

11 A I was -- I asked my son Kenneth to go with me to
12 take care of the children, and so we left and then we went to
13 Meadows Mall.

14 Q Okay. Okay. And what did you arrive at the Meadows
15 Mall, do you know, approximately?

16 A Past 12:00 o'clock because I don't really remember
17 the time because I know that I paid, so I paid the food
18 around 12:18.

19 Q Okay. I've got -- would it help if I -- well, let
20 me ask you this; do you -- do you keep -- generally keep
21 receipts of what you do?

22 A I save all my receipts as much as I can. If it is
23 missing --

24 Q And how long would you --

25 A -- I'm get cranky.

1 Q -- save your receipts?

2 A Several years.

3 Q Okay. Did you save receipts to that particular day?

4 A Always.

5 Q If I showed you some receipts, would that help
6 refresh your memory what time?

7 A I -- I will never forget that. I don't need
8 receipts or anything, but it will help, yeah, because that's
9 the first and last time that I took my grandchildren out.

10 Q Okay. Okay. You said you went to Seafood Market
11 that day, correct?

12 A Yes.

13 Q And you sold some vegetables that day; is that
14 correct?

15 A Yes.

16 Q And what time did you get back to the house?

17 A I get back to the house past 11:00 o'clock because I
18 pass by to the bank before I came home.

19 Q Okay.

20 A I need some money.

21 Q Do you remember what time you went to the bank?

22 A I remember it's all -- it -- it was before 11:00
23 o'clock.

24 Q Okay. I'd like to show you what's been marked as
25 Exhibit F. Does this refresh you on the time you went to --

1 THE COURT: Is it proposed?

2 MR. LEE: Oh, proposed. Proposed Exhibit F.

3 BY MR. LEE:

4 Q Does that refresh your time --

5 A Yes.

6 Q -- when you went there?

7 A Okay, let's see. 10:35, I was paying the Seafood
8 City.

9 Q Okay.

10 A Seafood Supermarket.

11 Q Okay. And then you said you went to the bank,
12 right?

13 A Yes.

14 THE COURT: You're in the dead zone there.

15 MR. LEE: Pardon?

16 THE COURT: You're in the dead zone. He's not
17 picking you up on the microphone.

18 BY MR. LEE:

19 Q All right. So you went to -- go you go to Seafood
20 City by yourself?

21 A Yes.

22 Q And what did you do next? Where did you go next?

23 A To the bank, pass by to the bank.

24 Q Okay. Do you remember what time you got to the
25 bank?

1 A Before 11:00, I was there. I don't know the exact
2 time because --

3 Q Okay. I would like to show you what's been marked
4 as Proposed Exhibit G. Does that refresh your memory what
5 time you got to the Bank of America?

6 A 10:59.

7 Q Okay. And what did you do next?

8 A Going home.

9 Q You went home, right?

10 A Yes.

11 Q Okay. And then what's the first thing you did -- do
12 you remember where you went to next?

13 A After home?

14 Q You said Amor came over to your house, right?

15 A Yes.

16 Q And do you remember -- do you recall what time you
17 said that he came over? Was that after you came back from
18 the bank?

19 A Yes, because I was the one who opened the door.

20 Q You opened the door, okay. And he left and then do
21 you know, recall where you went to next?

22 A I beg your pardon, sir?

23 Q What did you do next?

24 A Oh, I -- I let my grandchildren in, closed the door,
25 and then that's where a little bit talk to, I think, [REDACTED]

1 said something. He hardly talk, that boy. We never really
2 talk, and --

3 Q Okay.

4 A -- he asked me do you work at the airport?

5 Q Okay. What I was trying to ask you is where did you
6 go next after you left the house?

7 A Oh, we went to the mall.

8 Q Went to the mall, okay?

9 A Yes.

10 Q And what did you do when you got to the mall?
11 What's the first thing you did?

12 A Oh, I asked them, do you want to eat or shop first?
13 They said they want to eat.

14 Q Okay. And do you remember where you ate at?

15 A Yes.

16 Q And where was that?

17 A Panda.

18 Q Panda? Is that Panda Express?

19 A Yes.

20 Q Okay. Do you remember what time you got to Panda
21 Express?

22 A Around past 12:00 o'clock.

23 Q Okay.

24 A A little bit before --

25 Q I'd like to show you what's been marked as Proposed

1 Exhibit H?

2 MS. CLEMONS: Your Honor, at this point --

3 BY MR. LEE:

4 Q Does that help you to refresh --

5 MS. CLEMONS: -- the receipts that he's -- I
6 believe, there's a couple more, the ones, we'll stipulate to
7 the admission of those so he doesn't have to keep doing this.

8 THE COURT: Okay.

9 THE WITNESS: 12:18.

10 THE COURT: All right, so what are they? What have
11 you marked all these receipts as?

12 MR. LEE: All the exhibits are starting with --

13 THE COURT: F through --

14 THE CLERK: E through M.

15 THE COURT: Oh, E? No, I haven't seen anything
16 shown --

17 MR. LEE: It's Proposed Exhibit E --

18 THE COURT: Okay.

19 MR. LEE: -- F, G, H --

20 THE CLERK: You know what, I can't read my
21 alphabet. I forgot I.

22 THE COURT: You didn't mark I?

23 THE CLERK: H, J, K, L, M. I can change it or I
24 can just leave it, whichever.

25 THE COURT: Let's just leave it. So E, F, G, H, J

1 and then what?

2 THE CLERK: This one -- no, (inaudible) stipulating
3 to that one. They're going to stipulate to --

4 MS. CLEMONS: I'll stipulate through L.

5 THE COURT: J, K and L?

6 MS. CLEMONS: Yeah.

7 THE COURT: Okay.

8 MR. LEE: Okay.

9 THE COURT: Those will be admitted by stipulation.

10 (Exhibits E, F, G, H, J, K, L admitted, by stipulation)

11 MR. LEE: May I publish this to the jury, Your
12 Honor?

13 THE COURT: Yes.

14 BY MR. LEE:

15 Q So then you went to the Panda Express; is that
16 correct?

17 A Yes.

18 Q Okay. And did you see at what time you -- you say
19 you bought a few items there.

20 A Yes, because I --

21 Q And what time was that?

22 A 12:18.

23 Q 12:18, okay. And where did you go next?

24 A To the store because I asked them which store we
25 going to go? They said something. They said some -- some

1 kind of store unfamiliar to me, and then we went to the store
2 that they like.

3 Q Do you remember what store -- name of the store was?

4 A Oh --

5 Q I'd like to show you Exhibit J. Does that refresh
6 your memory?

7 A Yes. That's -- that's one that they wanted to go.

8 Q Okay. Did you buy something there?

9 A Yes.

10 Q And who did you -- do you remember who bought that
11 for?

12 A Yes. My granddaughter wants shoes, and my grandson,
13 he wants shoes also.

14 Q Okay, they both wanted shoes. Okay. And what time
15 did you go to this Journey's Kids?

16 A It's 12:51.

17 Q Okay.

18 A When we are paying already.

19 Q Okay. So you ate rather quickly at 12:18 and you
20 went to the store, right?

21 A Yes.

22 Q Okay. And the store, the kids picked it?

23 A Yes.

24 Q Okay. Did you go to a different store after that?

25 A Yes, because my grandson wants a backpack.

1 Q He wanted a backpack, okay. I'd like to show you
2 Exhibit K. Do you remember what store you went to next?

3 A Same store.

4 Q Same store, okay.

5 A It's different but the same name.

6 Q Same name. Different store but --

7 A Yeah.

8 Q -- also called Journey's?

9 A Um-h'm.

10 Q Okay. And do you remember what time you got to
11 Journey's?

12 A Yeah, that one. 13:00, 1:00, it's 1:00 o'clock.

13 Q Okay. And what did do you then after that?

14 A Okay. I ask them do you want to go to somewhere
15 else? They said no. They want to buy something else? No.
16 So I said okay, we're going back home. First we going to
17 pass by to Costco before we going to go home. I have to pick
18 up something there. And then what do you think we would like
19 to do? They said that they want -- they want me to take you
20 to Circus Circus? Yes.

21 Q Okay. Let me just talk about Costco, okay? Did you
22 go to Costco before you went to home?

23 A Yes.

24 Q Okay. I'd like to show you what's been marked as
25 Exhibit L. And can you tell me what time you got there to

1 Costco?

2 A This time when you get to -- where you get to Costco
3 is I do not know, but time I paid is 13:00 -- 1:00 -- 1:00
4 o'clock and 48 --

5 Q Okay.

6 A -- minutes.

7 Q Now, while you were at the mall, did you all stay
8 together at one time? You said there were four of you at the
9 mall, right?

10 A Um-h'm, yes.

11 Q And did you all stay together all the time at the
12 mall?

13 A Yes, we never separate. Why?

14 Q Okay, so you ate together at Panda?

15 A Yes, we sit together. I don't know if I -- I don't
16 remember if I ate.

17 Q Okay. All right. But you were at the restaurant
18 together at Panda, right? And when you went to the Journey's
19 -- first Journey's store and the second Journey's store, were
20 you all together?

21 A Yes.

22 Q Okay. And when you went to -- did you ever separate
23 when you were at the mall or did you stay together?

24 A No, always together.

25 Q Okay. Then you went to Costco, right?

1 A Um-h'm.

2 Q Okay. At Costco, did you all go into Costco
3 together or not?

4 A Together.

5 Q Went inside, okay. All four of you? Okay. And it
6 says when you paid for your goods at Costco, what time was
7 that?

8 A 1:48.

9 Q Okay. 1:48 okay. And where did you go after you
10 went to Costco?

11 A We went home because we went to change cars also.

12 Q Okay. Now, after Costco, where did you go? I mean,
13 you said you went home. And then what --

14 A We went home.

15 Q -- who was home when you got home?

16 A My house.

17 Q Who was -- [REDACTED] No, who you said was home?

18 THE COURT: She said my house.

19 MR. LEE: Oh, my house.

20 THE COURT: Who was home?

21 MR. LEE: Okay.

22 THE COURT: Who was home when you got home was his
23 question.

24 MR. LEE: Okay.

25 BY MR. LEE:

1 Q And when you went back to your house, who was home
2 when you got there?

3 A I didn't see no one.

4 Q Okay. All right. You didn't see anybody, okay. So
5 what did you do then at the house?

6 A I just dropped the -- I just dropped the goodies or
7 the stuff that I got from Costco, and then I told my son that
8 we going to change cars so we have to change cars. The -- I
9 don't remember the children they came inside the house or not
10 because we did not stay long in the -- long in the house, and
11 I asked my son to ask [REDACTED] if he wants to come with us.

12 Q Which son?

13 A [REDACTED]

14 Q [REDACTED] So [REDACTED] was home also?

15 A They are home, but I didn't see them.

16 Q Okay. Who asked [REDACTED] if he wanted to come?

17 A Kenneth.

18 Q Kenneth, okay. And then did [REDACTED] go with you?

19 A No, he --

20 Q No? Okay.

21 A -- he did not go with us.

22 Q And where were you heading to next?

23 A Circus Circus.

24 Q Circus Circus. And who picked Circus Circus?

25 A Actually, it's me who -- it's me who -- because we

1 used to go there when my children were young. It's me who
2 pick it up, and I just -- if my grandchildren will agree,
3 then I will take them there. They said yes.

4 Q Okay. What were you going to do at Circus Circus?

5 A If they want rides or if they want play games in the
6 arcade.

7 Q Okay. And do you remember how long you stayed at
8 Circus Circus?

9 A Quite a while.

10 Q Quite a while? And when you were at Circus Circus,
11 did you split up together or did you all stay together?

12 A Always together.

13 Q You stayed --

14 A Oh, no.

15 Q No?

16 A When we went in the arcade, Kenneth and my
17 granddaughter, they were -- they were playing. And I have to
18 catch my grandbaby, my boy, the [REDACTED] --

19 Q [REDACTED]

20 A -- because he keep running, keep running.

21 Q Okay. So Kenneth and [REDACTED] went to play games; is
22 that correct?

23 A Yes.

24 Q And then you and [REDACTED] stayed together; is that
25 correct?

1 A Yes, um-h'm. I catch him.

2 Q And did -- was [REDACTED] playing games himself or not?

3 A Yes, he's playing -- I just have to provide him in
4 the money.

5 Q I'm sorry?

6 A I just have to provide him the money.

7 Q Oh, you just provided him money?

8 A Um-h'm.

9 Q Did he pick the games he wanted to play?

10 A Oh, yes. I have to keep following him.

11 Q You were following him?

12 A Yeah, I have to run.

13 Q Okay. And after playing the game, do you remember
14 approximately, when you -- I mean, what did you do after
15 playing the games?

16 A They -- when they are running out of money, they
17 come to me. And when I -- so I said, oh, there's a show.
18 We're going to watch the show. And but then it started, so I
19 said later. Then we came back when we start -- they started
20 it, we -- we went to the stairs and watched the show.

21 Q Do you remember what's the name of the show?

22 A No.

23 Q Do you remember --

24 A Circus.

25 Q -- where it was at?

1 A It's always the circus.

2 Q It's a what, I'm sorry?

3 A I like -- circus.

4 Q Okay.

5 A It's been a while.

6 Q It's been a while, okay. So do you remember how
7 long -- when you left the show?

8 A We did not really leave. It's just right there.

9 Q Okay. Okay. Do you remember what show that was at
10 all?

11 A It's a circus something, I don't know. The people
12 are playing circus.

13 Q Okay. I'm going to show you what was marked -- or
14 what is marked as Proposed Exhibit M that was not submitted.
15 Does this refresh your memory?

16 A That one is to -- when my grandson rode an airplane
17 before we went to the -- to the -- to the -- what do you call
18 that place where the circus is? To the -- you know, where
19 the children are playing. It's a different part. The
20 Adventure Dome is on this side, and you have to go all the
21 way to the other side. It's a long walk to -- it's that
22 place where they would like to go. And this one, my grandson
23 rode a plane because his sister doesn't want to ride a plane.
24 I have to take my grandson to -- to that airplane, and my --
25 my son and my granddaughter stay on the other side.

1 Q Okay. Did you go -- does this -- does this tell you
2 or remind -- refresh your memory about where you went to
3 besides Circus Circus?

4 A I don't -- I cannot forget it. Yes, I will --

5 Q What's the name of the place?

6 A What they call that place? Where there -- there was
7 the Circus Circus on the --

8 Q Okay. Can you look at this?

9 A No, it will not be there. It's a different part.

10 THE COURT: The court recorder is not able to hear
11 you at all.

12 MR. LEE: Oh, okay, all right.

13 THE WITNESS: It was not there. It was -- we went
14 there first and then we went to the arcade -- arcade is the
15 place where they spent most of their time playing.

16 BY MR. LEE:

17 Q Okay. Do you remember when you left Circus Circus?

18 A There is still light. I don't really remember what
19 time we left.

20 Q Do you remember what time you got home?

21 A No. I don't check -- I don't check time. I don't
22 have cell phones that time.

23 Q Okay. When you got home, who was home?

24 A I didn't see no one. I know my son, [REDACTED] was
25 there.

1 Q This is -- this is the second time you came home,
2 right?

3 A Yes.

4 Q Okay.

5 A Um-h'm. I had to pick up something for my son,
6 Amor. You know, the -- the thing that I buy for -- for him.
7 And so because he's always expecting something from me if I
8 went -- if I -- he knows that I been to the store.

9 Q Okay. Now, after you got home, what did the kids
10 do?

11 A They are outside. They are -- they are waiting for
12 me because I -- let me water the garden. After that, I going
13 to bring the food of your father. And they waited for me.
14 And -- and my granddaughter, she went a little bit inside to
15 get the cloth to dry -- to clean her shoes because she wore
16 them when we went to -- to the arcade. So -- and so she want
17 them to look -- to look new.

18 But they did not bring the bags or nothing so she
19 just -- she's holding them and we went to their house.

20 Q Okay. What was she holding again, I'm sorry?

21 A Her shoes. Her shoes.

22 Q Oh, her shoes, okay.

23 A They are no longer in the bags.

24 Q Okay. In the box, okay. So when you -- you said
25 you -- they -- you were outside, you had to water the garden?

1 A The front lawn because I don't know what time I will
2 come back.

3 Q So when you said you're outside, they were outside,
4 you mean outside the house, right?

5 A Yes.

6 Q Okay. And then did you drive the kids home that
7 night?

8 A Yes.

9 Q You did?

10 A I had to drop them, yes.

11 Q Okay.

12 A Because their -- their father -- that's what we make
13 a deal with their father because he has to go to work.

14 Q Okay. So Amor was not at your house at that time,
15 correct?

16 A No.

17 Q And do you remember what time you -- if you do, do
18 you remember what time you got the kids back to their home?

19 A I don't really know the time.

20 Q It was nighttime?

21 A Nope, it's still -- it's still bright and shiny
22 outside. There's still sun.

23 Q It's still bright outside, right? But you don't
24 remember what time, right? Okay.

25 A It's summertime.

1 Q Okay. Did you receive a phone call from Amor the
2 night you took the kids shopping?

3 A Yes, I did.

4 Q Okay. And was that after you got home, or when?

5 A When we were at Circus Circus, he called his
6 daughter first. He said it's time to go home. And after I
7 drop the children in the night when I'm already settling in,
8 around 9:00 o'clock, he called me and he said --

9 MS. CLEMONS: Objection, Your Honor.

10 BY MR. LEE:

11 Q Okay. I'm not -- don't say what he said, okay? My
12 question was did he call you at home, right?

13 A Yes, he did.

14 Q Okay. And do you remember approximately, what time
15 that was?

16 A Around 9:00 o'clock like that.

17 Q 9:00 o'clock? Okay. After your phone call, was it
18 your impression that the kids had a good time?

19 A Yes.

20 Q Okay. So is it your testimony that the only time
21 you saw Amor in June of 2015 was on the date that you
22 circled, June 24th?

23 A No, he came to my work before that week.

24 Q Let me just talk to -- let me say that question
25 again. On June of 2015, was that the only time you remember

1 seeing Amor at your house?

2 A Yes.

3 Q Now, you were -- when did you -- did you see Amor
4 any time before June 24th, June of 2015?

5 A They came to see me in my work.

6 Q He came to your work? Did he come to your work by
7 himself or with his children?

8 A With the children.

9 Q With the children, all right. And when was that, do
10 you recall about when?

11 A A week before the -- a week before the plan. I
12 think that is where I -- that is where I invited -- that is
13 where I asked him that it's my vacation next week, do you
14 want me to take your children for shopping?

15 Q And you had planned to take the --

16 A He said yes.

17 Q -- children? Okay.

18 A Um-h'm.

19 Q So other than that, date, is there any other date in
20 June that he came to your house that you can recall?

21 A No. They -- they -- he came on the 23rd. My
22 children told me when I came home on the 23rd night.

23 Q But you didn't see him on the 23rd, right?

24 A I did not see him that time. He did not wait for
25 me.

1 Q Okay. After June of 2015, do you know if Amor and
2 his family went anywhere?

3 A Yes. The children told us when we went -- while
4 they're -- they were --

5 Q I'll -- I'll ask you where, okay? But where did
6 they go to? Do you know?

7 A They say they will go to New Jersey and Canada.

8 Q Okay. And did they come back to your home again
9 after -- what was the next time they came back to your home?

10 A Yes.

11 Q When?

12 A August 4, 2015.

13 Q How do you know so sure that it was August the 4th?

14 A Because --

15 THE COURT: What is this?

16 THE WITNESS: Oh.

17 THE COURT: D? Is this August? Is it June?

18 THE WITNESS: I cannot see. It was August 4. The
19 last time they visited us, it was August 4. It was August 4.
20 He told me.

21 BY MR. LEE:

22 Q Okay. So the last time you visit -- and when he
23 came on August 4, who was there at that time?

24 A August 4, my husband, my -- Kenneth was up the time.
25 I did not see [REDACTED] up, not yet.

1 Q Do you think he was at home or not?

2 A Who? [REDACTED]

3 Q [REDACTED]

4 A Oh, yes. He's always home. He never go nowhere.

5 Q Okay. And did they stay very long on August 4th?

6 A Not really.

7 Q On August 4, did they --

8 A Because I was not there when they left.

9 Q You were there when they left?

10 A No, I was not there when they left.

11 Q Oh, you -- what did you do?

12 A When they -- when I open the door for him, I was
13 surprised, why did you come or why you did not call, I'm
14 going to work early today.

15 Q Okay.

16 A I have overtime. I have to -- I have to be at work
17 at 11:00 -- 1:00 o'clock. So I have to leave at 12:00
18 o'clock.

19 Q Okay. So they were still in your house when you
20 left, right?

21 A Yes, um-h'm.

22 Q Okay.

23 A I told them to eat because I cook.

24 Q You cooked?

25 A And you can take -- you can take whatever you want

1 there.

2 Q That was in August, right?

3 A Yes, August 4.

4 Q And did you see him after August 4th of 2015?

5 A No. He's expecting me but I didn't come. He
6 invited me -- on August 4, he invited me to come to his
7 house, and I didn't come.

8 Q Okay. And August 4th, when you saw him, did -- was
9 everything normal plus -- with every visit or not?

10 A No. It was -- when Amor wants something, he -- you
11 will feel it. He will put his children in the living room,
12 sit there. He will never tell them to go nowhere. They
13 cannot talk, they cannot do anything. My husband is talking
14 to the children, he was the one answering them or answering
15 him.

16 Q Okay.

17 A I know he wants something from me that time.

18 Q What's your relationship with -- what was your
19 relationship like with Amor in June of 2015?

20 A It was not -- it -- it's -- I don't -- it was not
21 really good because the only thing I need to be civil because
22 he's my son. I wish I will not -- I did not open the door
23 for him, but because he's my son and he brings my
24 grandchildren, that's the only reason I open the door for
25 him. Otherwise, if he calls me, I don't answer the phone.

1 That's why he removed his number in the telephone and so that
2 he can -- he can call me and then I will answer the phone.
3 Why did you remove your -- why you not -- this is your not --
4 your number. There's no number.

5 Q Okay. I'll go back to Amor in a second. What's
6 your relationship with your grandchildren?

7 A I just want to see them, but they don't talk to me,
8 nothing.

9 Q But they -- when you took them shopping, when's the
10 last time you took them shopping?

11 A That's the first and last time.

12 Q First and last time? And why did you decide to take
13 them shopping?

14 A I'm -- now I'm making more money. I'm getting --
15 I'm getting paycheck, so that's the only reason. And I -- at
16 least they will remember me even they will not see me again.

17 Q Okay. Let's go to Amor. You said your -- why --
18 you said, what was your relationship with Amor in 2015, June?

19 A I'm trying to avoid him that time because I know he
20 wants something from me. He already -- when I saw him last
21 in April, he's trying to -- he tried to say something. He
22 already say what he wants the time, but I ignore it. And
23 then when he -- I was surprised when he knocked the door that
24 day and said why you did not call, meaning to say if he call,
25 I will not answer anyway. Why you did not call? And he just

1 -- he just dropping in like that all the time because he knew
2 if he will call, I will not answer the telephone.

3 Q Okay. So you say you don't answer his calls when he
4 calls you?

5 A That was then, yes, because he always want something
6 from me. The reason why I try to avoid talking to him.

7 Q Does he give you money?

8 A He gave me money, yes. When he want -- when he sues
9 -- he sue the insurance because he got an accident. He game
10 me \$400. But he get more than that several times.

11 Q So he's given you money before, right?

12 A He gave me that one because he told me if I apply
13 for citizenship, he will pay for it. He did not.

14 Q In 2015, did he give you any money?

15 A No. Oh, yeah. 2015, yeah. When he came in April,
16 he gave me first \$100, and then after that, I walked to my
17 computer table, and then he handed me another \$100. He told
18 me buy a cell phone. I -- but I -- I'm not planning to buy a
19 cell phone. And then at the same time at that moment he told
20 me, why don't you move to another state, mother?

21 Q He asked you in April of 2015 why don't you move to
22 another state?

23 A Yes.

24 Q Why would he say that to you?

25 MS. CLEMONS: Objection. Speculation.

1 MR. LEE: Well --

2 THE COURT: Sustained.

3 MR. LEE: I'll refrain, all right.

4 BY MR. LEE:

5 Q Were you surprised whatever he said to you in April
6 of 2015?

7 A Yes. I was thinking the time did he
8 (indecipherable) Las Vegas that I have to move away.

9 Q Okay. Did -- he was born where? He was born where,
10 Amor?

11 A Philippines.

12 Q Where was Amor born?

13 A Philippines.

14 Q Philippines, okay. And when did he come to the
15 United States?

16 A 2000.

17 Q 2000? Who petitioned him?

18 A My husband.

19 Q As his stepson?

20 A Yes.

21 Q Okay. And -- okay.

22 MR. LEE: I'm going to pass the witness, Your
23 Honor.

24 THE COURT: Cross.

25 MS. CLEMONS: Your Honor, can we approach real

1 quick --

2 THE COURT: Yes.

3 MS. CLEMONS: -- about scheduling?

4 (Off-record bench conference)

5 THE COURT: So ma'am, you're going to need to come
6 back tomorrow at 2:00 o'clock, all right? And ladies and
7 gentlemen the court recorder has just told me, she just
8 looked at the calendar for tomorrow. We have 110 people in
9 drug court so I know I'm going to be going right up to 2:00
10 and then you'll get here and we'll go right into -- back into
11 trial.

12 So ladies and gentlemen, we're going to take an
13 overnight recess. During this recess, it is your duty not to
14 converse among yourselves or with anyone else on any subject
15 connected with the trial or to read, watch or listen to any
16 report of or commentary on the trial or any person connected
17 with the trial or by any medium of information, including
18 without limitation, newspaper, television, radio or Internet.
19 You are not to form or express an opinion on any subject
20 connected with this case until it's finally submitted to you.

21 And as always, don't do any research into anything
22 connected with this case, any of the locations mentioned
23 during the testimony, anything of that nature. And I'll see
24 you tomorrow at 2:00 o'clock.

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

1 (Outside the presence of the jury)

2 THE COURT: And the record will reflect the jury
3 has departed the courtroom. Any matters outside the
4 presence?

5 MS. CLEMONS: None from the State.

6 MR. STEPHENS: No, Your Honor. Did we want to
7 admonish the defendant at this time or did we want to do that
8 tomorrow?

9 THE COURT: Has he decided whether he's going to
10 testify or --

11 MR. LEE: You can admonish him now, Your Honor.

12 THE COURT: All right. All right. Mr. Franks,
13 under the Constitution of the United States and under the
14 Constitution of the State of Nevada, you cannot be compelled
15 to testify in this case. Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: You may, of course, at your own
18 request, give up this right and take the witness stand and
19 testify. But if you do, you're going to be subject to
20 cross-examination by the district attorney, and anything that
21 you may say, be it on direct examination or
22 cross-examination, it will be the subject of fair comment by
23 the district attorney when they make closing arguments to the
24 jury. Do you understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Okay. Now, if you choose not to
2 testify, the Court will not permit the district attorney to
3 make any comments to the jury because you have not testified.
4 In other words, suggesting to the jury that you haven't
5 testified or that they should infer from that, that there's
6 -- you know, that is evidence of your guilt. I would not
7 allow such a thing to be done. Do you understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Okay. Now, if you elect not to
10 testify, the Court will instruct the jury, but only if you
11 specifically request this through your attorney, that the law
12 does not compel a defendant in a criminal case to take the
13 stand and testify, and no presumption may be drawn and no
14 inference may be drawn -- or no presumption may be raised and
15 no inference drawn by the failure -- your failure to take the
16 stand and testify, and do you understand that as well?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Okay. And so do you have any questions
19 about these rights?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Okay. You don't have any felony
22 convictions in the past, correct?

23 THE DEFENDANT: No.

24 THE COURT: Okay. So have you made a decision as
25 to whether you wish to testify?

1 THE DEFENDANT: Yes, I wish to.

2 THE COURT: You are going to? You'd like to
3 testify?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Okay. And, all right, and so we'll
6 expect that tomorrow after the conclusion of the present
7 witness.

8 MR. STEPHENS: Okay.

9 THE CLERK: And do we only have M?

10 MR. LEE: I'm sorry, Your Honor?

11 THE CLERK: Exhibit M?

12 MR. LEE: Exhibit M they didn't stipulate to.

13 MS. CLEMONS: Right, but she still needs it because
14 it's marked.

15 THE CLERK: I still need it back.

16 MR. LEE: Oh, okay, yeah.

17 THE COURT: It's marked.

18 MR. LEE: I didn't give it back.

19 THE COURT: All right. And anything else? No?
20 All right. We'll be in recess until tomorrow at 2:00.

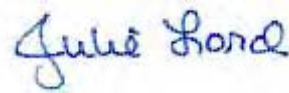
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22 December 6, 2016, at 2:23 P.M.)

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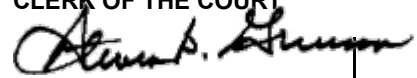
1 ATTEST: I hereby certify that I have truly and correctly
2 transcribed the audio/visual proceedings in the above-
3 entitled case to the best of my ability.

4 

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6 _____
7 JULIE LORD, INDEPENDENT TRANSCRIBER
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Exhibit 4

Exhibit 4



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-15-311519-1
	.	
Plaintiffs,	.	DEPT. NO. V
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
KENNETH FRANKS,	.	
	.	
Defendant.	.	
.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 7

TUESDAY, DECEMBER 6, 2016

FOR THE STATE:	JENNIFER M. CLEMONS, ESQ. ROBERT STEPHENS, ESQ. <i>Chief Deputy District Attorneys</i>
FOR THE DEFENDANT:	BENSON LEE, ESQ.

COURT RECORDER:

LARA CORCORAN
District Court

TRANSCRIPTION BY:

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<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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<u>DESCRIPTION</u>	<u>ADMITTED</u>
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(No exhibits admitted)

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 6, 2016, 2:23 P.M.

2 (In the presence of the jury)

3 THE MARSHAL: Your Honor, all members of the jury
4 as well as the two alternates are present.

5 THE COURT: Thank you. Please be seated. And this
6 is the continuation of Case C-311519, State of Nevada versus
7 Kenneth Franks. The record will reflect the presence of
8 Mr. Franks with his counsel, the Chief Deputies District
9 Attorney prosecuting the case and all officers of the court.
10 All 12 members of the jury are present as well as the two
11 alternates. Good afternoon, ladies and gentlemen.

12 Sorry to keep you waiting. My drug court went past
13 2:00, but -- and we had some people we needed to get out of
14 the courtroom before we could bring you in. But we're ready
15 to proceed. And we're at the process where Ms. Franks, who
16 is on the stand, and was testifying yesterday, is now going
17 to be on cross-examination. Ms. Franks, you're still under
18 oath, and please keep your voice up and cross.

19 MS. CLEMONS: Thank you, Your Honor.

20 MARIA FRANKS, DEFENDANT'S WITNESS, PREVIOUSLY SWORN

21 CROSS-EXAMINATION

22 BY MS. CLEMONS:

23 Q Good afternoon, Ms. Franks.

24 A Good afternoon.

25 Q How are you doing?

1 A I'm fine, thank you.

2 Q How did you get to court today?

3 A I drove with them.

4 Q You drove with who?

5 A I drive -- oh, I rode with them, our lawyers.

6 Q Okay, I cannot understand you so --

7 A I rode with the lawyers.

8 Q You rode with the lawyers? You rode with Mr. Lee?

9 A Yes.

10 Q Who else rode in your car?

11 A My son, Kenneth.

12 Q Your son, Kenny? Okay. So just the three of you

13 guys?

14 A Yes.

15 Q Okay. Did he pick you up at your house or did you

16 guys go from his office?

17 A No. Well, we drove in his -- in his office.

18 Q Okay. And then from his office you -- all three of

19 you came here?

20 A Yes.

21 Q Okay. So I know you have Kenny and [REDACTED] as sons,

22 and then Amor. Do you have any other children?

23 A No.

24 Q Okay. What country was Amor born?

25 A Philippines.

1 Q And did you live in the Philippines --

2 A I did.

3 Q -- at that time? You did live in the Philippines --

4 A I did.

5 Q -- at that time?

6 A Yes.

7 Q Okay.

8 A Um-h'm.

9 MS. CLEMONS: Should we raise the microphone? I
10 don't know if it's just me, but I cannot hear her.

11 (Pause in the proceedings)

12 THE WITNESS: Thank you.

13 BY MS. CLEMONS:

14 Q Okay. Let's see if that helps. When did you come
15 to the United States?

16 A 1992.

17 Q And did Amor come with you?

18 A Oh, I'm sorry, I'm sorry. 1993.

19 Q 1993, okay.

20 A August 3, 1993.

21 Q Okay. And Amor come with you or did he stay?

22 A No.

23 Q Where did he live in the Philippines when you left?

24 A He live with -- he lives with my -- my mother.

25 Q Okay. Do you remember how old Amor was when you

1 left?

2 A The first time I left is he's almost two years old.

3 Q And then so did you leave -- come back and leave a
4 second time?

5 A I keep going home and leaving.

6 Q Okay. So when you -- you left when he was two. And
7 when's the next time you went back to the Philippines?

8 A The following year.

9 Q So was Amor three?

10 A He's more than three. He was more than three years
11 old the time.

12 Q Okay. And when you came back to the Philippines,
13 how long did you stay in the Philippines that time?

14 A I stayed quite longer because I have to put an
15 application again to a different place.

16 Q Okay. To come to the U.S.?

17 A No, not in the U.S. I work in the middle east.

18 Q Oh, okay, I'm sorry. I just -- I kind of assumed it
19 was U.S..

20 A No.

21 Q So the first time you left the Philippines, what
22 country did you go to?

23 A Kuwait.

24 Q Kuwait?

25 A Yes.

1 Q And was that for work?

2 A Yes.

3 Q Okay. And then you came back to the Philippines,
4 and what's the next country that you went to?

5 A Saudi Arabia.

6 Q Was that also for work?

7 A Yes.

8 Q Okay. And did you go back to the Philippines after?

9 A Yes.

10 Q And what year did you go back after Saudi Arabia?

11 A I think the following year.

12 Q So do you remember how old Amor was when you came
13 back to the Philippines?

14 A '86, '87 -- '87 when I went back to the Philippines,
15 maybe that was almost two years, and Amor was -- '87, he was
16 -- he will be almost -- weighs born in '81. So around six
17 years or something.

18 Q So the second time when you went to Saudi Arabia,
19 did he still stay with your mother?

20 A Yeah, he lives there for all the time.

21 Q All the times? Okay. And after you came back from
22 Saudi Arabia in '87, did you leave again?

23 A Yes.

24 Q And what year did you leave then?

25 A '87, '88 -- I don't stay longer in the Philippines

1 so I think I leave -- I left again sometimes in '89 -- '88 or
2 '89 like that.

3 Q Okay. Where did you go that time?

4 A Still the same place, Saudi Arabia.

5 Q Saudi Arabia? Okay.

6 A Um-h'm.

7 Q And then did you go back to the Philippines?

8 A Yes.

9 Q And what year was that?

10 A The time I did not stay longer, and so I -- I think
11 it -- the following year, I went back home because I'm always
12 living in the -- almost halfway of the year.

13 Q Okay.

14 A So --

15 Q So like '89 or '90, does that sound about right?

16 A Something like that, '89. Yeah.

17 Q Did you leave again?

18 A Yes.

19 Q And what year did you leave again?

20 A '90.

21 Q And where did you go that time?

22 A Doha, Qatar.

23 Q Oh, to Qatar?

24 A Um-h'm.

25 Q And did you go back to the Philippines?

1 A No.

2 Q So after you went to -- in 1990, you went to Qatar
3 -- or Qatar or however you pronounce it, where did you go
4 after that?

5 A Kuwait after the war.

6 Q Okay. Do you remember what year that was?

7 A It was -- it must be '90.

8 Q Okay.

9 A After the war. Right after the war.

10 Q Okay. After the first Gulf War?

11 A Gulf War, yes.

12 Q Okay. And then after Kuwait, where did you go?

13 A Philippines to visit.

14 Q And who did you visit in the Philippines that time?

15 A My -- my family, my -- Amor.

16 Q Amor? Okay. And he stayed in the Philippines the
17 whole time you're kind of going back and forth --

18 A Yes.

19 Q -- is that right?

20 A Yes, uh-huh.

21 Q Okay. And after you go to the Philippines to visit
22 Amor, where do you go then?

23 A Back to Kuwait.

24 Q Do you remember what year that was?

25 A '92.

1 Q And where do you go after Kuwait in '92?

2 A '93 I left Kuwait, I came to the U.S.

3 Q Did you ever go back to the Philippines between
4 Kuwait in '92 and the U.S. in '93?

5 A No.

6 Q Okay. And when you came to the U.S., Amor stayed in
7 the Philippines; is that right?

8 A Yes.

9 Q And was he still living with your mom or was he
10 living with other relatives?

11 A No. With my mother.

12 Q With your mother? Okay. Do you have any other
13 family members in the Philippines besides your mom?

14 A All of them.

15 Q All of them? So do you have any brothers or
16 sisters?

17 A Yes.

18 Q How many --

19 A Nine --

20 Q -- brothers and sisters?

21 A We -- we are ten. Six girls and four boys.

22 Q Okay. So a big family?

23 A Yes.

24 Q So when you come to the U.S. in '93, do you ever go
25 back to the Philippines to --

1 A No.

2 Q -- visit Amor?

3 A No. No.

4 Q No? Okay. So when's the next time after '92 -- oh,
5 geez. When's the last time you went to the Philippines
6 before you --

7 A I did not leave. I did not --

8 Q -- came to the U.S.?

9 A Oh, '92 is the last time I went to the Philippines.

10 Q Okay. How old was Amor in '92?

11 A '92, he will be 10 -- 11.

12 Q Okay. So you saw Amor when he was 11 years old, and
13 how old is he the next time you see him?

14 A 20.

15 Q 20?

16 A Almost -- more than 20 or almost 20.

17 Q Okay. And is that when he came to the U.S.?

18 A Yes.

19 Q Okay. So when Amor is in the -- living in the
20 Philippines with your mom, do you guys write letters or talk
21 on the phone?

22 A Talk on the phones.

23 Q How often do you talk on the phone?

24 A He called a lot.

25 Q Would he mainly call you?

1 A Yes. Oh, no, I have -- I think I have to be -- I
2 have to be the one to call because it's expensive if they
3 call from there. Not very often as far as I know because
4 it's costly.

5 Q Yeah, I would --

6 A Um-h'm.

7 Q -- it's expensive to --

8 A Yes.

9 Q -- call. What about writing letters? Did you guys
10 ever write letters?

11 A No.

12 Q No? Okay. So you would talk occasionally, it
13 sounds like?

14 A Occasionally, yes.

15 Q All right. Because it's very expensive?

16 A Um-h'm, yes. Sorry.

17 Q So when Amor came to the U.S., did he move to Las
18 Vegas?

19 A No. We -- we were living in my mother's-in-law's
20 house the time. We live -- we live for nine years. And Amor
21 live with us there.

22 Q Okay. And was that -- where was that in the U.S.?

23 A Monterey, California.

24 Q Okay. So when Amor came to the United States, he
25 lived with you and your husband?

1 A And with my mother-in-law and my sister-in-law.

2 Q Okay. And so how did you get to Las Vegas?

3 A Oh, I wish I never come here, but I'm trying to get
4 a house. And when Amor was there, he helped me to find a
5 house in Sacramento but wasn't able to get there because my
6 husband was very, very sick that time. So I -- we are doing
7 transactions, but it never goes. And so when my friend told
8 me why don't you try Las Vegas? And they said the economy's
9 getting better, but I have a good job over there in Monterey.
10 And then we visited Las Vegas. I like the weather. That's
11 the thing about -- because, you know, I work in the middle
12 east for almost ten years so I like the weather over there,
13 and I like the Philippines weather, too.

14 Q So this weather was kind of similar a little bit to
15 the middle east? Maybe not as hot?

16 A Similar.

17 Q Similar?

18 A Almost the same. Rain once a year.

19 Q Okay.

20 A Oh, yeah.

21 Q So what year did you come to Las Vegas?

22 A We visited and then we moved in July of 2002.

23 Q Okay. Did Amor move with you guys?

24 A No.

25 Q Where did he stay?

1 A He moved to -- to New Jersey because he -- after a
2 few months he went back to the Philippines, and I told him
3 don't come back here with us.

4 Q You told him not to come to Las Vegas?

5 A Yes -- no, not to come to Monterey anymore.

6 Q Okay. Why is that?

7 A Because after a few months, maybe -- probably six or
8 seven months, he left me. I said, I spent all this money for
9 you, and then you will be going home. I did not know that he
10 was planning to get married that time. He did not tell me.

11 Q Okay. So you had spent a lot of money for him; is
12 that what you said, and when you guys --

13 A Yeah. We have to process the paperworks --

14 Q Okay.

15 A -- with a lawyer.

16 Q And then you were -- were you mad at him for going
17 back to the Philippines then?

18 A Not really. I'm glad he left because I -- that's
19 the first time I live with him so how do expect me to feel
20 about him?

21 Q Right.

22 A So I'm glad he left, though. But then I'm -- I'm
23 the one who call him back.

24 Q So you wanted him to come back?

25 A Because I don't have company because my husband was

1 working, driving a big rigs the time so he's out for the
2 whole month.

3 Q Oh, okay.

4 A But --

5 Q So did Amor go to the Philippines to get married?

6 A Yeah -- oh, no, planning to. The lady rejected.
7 Oh, the lady withdrew, meaning to say, they are setting up,
8 they calling me, they keep calling me, they are arranging it.
9 And then he -- he was, what do you call it, engaged to be
10 married that time, but I did not -- he did not mention it to
11 me the whole time we were together. The only thing he did --
12 he did that to me is blaming me, blaming me. Oh, I -- I put
13 my jewelry in the pawnshop. Well, what are you doing with
14 the money that I sent you?

15 Q Okay. So did he go to the Philippines to get
16 married or no? Or did it not work out?

17 A It did not work out.

18 Q Okay.

19 A They -- the arrangement --

20 Q It's okay.

21 A The arrangement is almost ready, they are calling
22 me, who's the father of Amor, who's this, who's that, who's
23 that and everything, they ask me, and I told they are going
24 to get married. But I think he called me crying. He said,
25 his -- her father punch me or something like that, I don't

1 remember.

2 Q Okay. So it didn't end up working out. So did he
3 end up going to the Philippines and then went to New Jersey?

4 A Yes.

5 Q Okay. And --

6 A The --

7 Q -- what's in New Jersey, do you know?

8 A My cousins were there. My -- his -- his godmother.

9 Q Okay. And did you ever visit him while he was in
10 New Jersey?

11 A No, I don't travel.

12 Q Okay. Did he ever come visit you in Las Vegas?

13 A No.

14 Q How long was he in New Jersey?

15 A Oh, I don't know. I don't keep track because I
16 don't know what time he left the Philippines.

17 Q Okay. But at some point you ask him to come to Las
18 Vegas?

19 A Yes.

20 Q Okay. Do you remember what year he came to Las
21 Vegas?

22 A Yes.

23 Q When was that?

24 A 2003.

25 Q Okay. Was he married to Janice at that time?

1 A No.

2 Q Okay. Did he get married to Janice while he was
3 living in Las Vegas?

4 A I think so.

5 Q Okay.

6 A He never told me.

7 Q Did they just go off and get married and there was
8 no big wedding?

9 A I think so. That's what he told me.

10 Q Okay. And so his two kids, [REDACTED] and [REDACTED]
11 were they better than in Las Vegas?

12 A Yes.

13 Q Okay. So have you -- you've known them since
14 they've been babies?

15 A No. When Amor left my house, because he brought his
16 girlfriend and his mother-in-law with him -- or not
17 mother-in-law that time -- and I cannot stand him. So I've
18 been rude. And they left my house, and my -- Amor called me
19 and said, I'm sorry, but I have to choose my wife because --
20 or, girlfriend because she's pregnant. So they left.

21 And see, he showed back again. But he has a job
22 already when -- before he left because I help him looking for
23 a job. And --

24 Q Let me stop you real quick. Is this when he came to
25 Las Vegas in 2003?

1 A 2003, yes.

2 Q So he -- he comes back and he lives with you?

3 A For a while, yes.

4 Q And then he also brings his girlfriend --

5 A Girlfriend.

6 Q -- and her mother?

7 A No. Girlfriend.

8 Q Just girlfriend?

9 A Because the father of the girl -- the father of
10 Janice kick her out from -- from -- from their house.

11 Q Okay. So is the girlfriend now his wife?

12 A Yes.

13 Q Okay. So you didn't like her?

14 A I -- totally at the time I preferred her than Amor.

15 Q Okay. But Amor was living with you?

16 A Yes.

17 Q When you asked him to come back?

18 A Yes.

19 Q Okay. So Amor and Janice, obviously, have two kids.
20 So you said you have not known them since they were --

21 A No.

22 Q -- babies?

23 A When Amor left, the girl was pregnant, and she was
24 six months pregnant. That was June of 2003. And they showed
25 the girl -- they showed the kid to me in 2005, when she was

1 18 months old, and he --

2 Q Is this [REDACTED]

3 A [REDACTED] yes.

4 Q Okay. So when you said the girl, you mean Janice?

5 A Janice, yes.

6 Q Okay. And the kid is [REDACTED]

7 A Yes.

8 Q Okay. So you didn't meet [REDACTED] until she was 18
9 months old?

10 A Yes.

11 Q Okay. How old was [REDACTED] when you first met him?

12 A Oh, I saw him -- I did not really saw him -- I did
13 not saw him when he was born, but they brought him when he
14 was younger.

15 Q Is he still a little baby?

16 A Yes, because my mother was here so they have to come
17 all the time to visit my mother.

18 Q Okay. So they were -- do you know what year [REDACTED]
19 was born?

20 A Sometimes in '88 -- not '88, 2008. Sorry, sorry.
21 And 2008 sometimes in October, if I am not mistaken.

22 Q So it sounds like in 2008 --

23 A Yeah. Actually, I don't know where -- when the
24 childrens were born.

25 Q That's fine. Okay, but sometime around 2008, you

1 said your mother was living with you?

2 A Yes. She came from the Philippines.

3 Q Okay. And it sounds like Amor and his kids were
4 over at your house a lot in 2008?

5 A And they even sleep there.

6 Q Yeah. Because Amor had lived with your mom in the
7 Philippines for a long time, right?

8 A Yes.

9 Q Yeah. So were they pretty close?

10 A They are pretty close. My mother raise her when he
11 was two weeks old and now he abandon him -- her.

12 Q Oh, okay. But she basically raised Amor for you
13 because you had to go to work --

14 A Yes.

15 Q -- in other countries? Okay. Prior to -- well,
16 since 2008, though, Amor and his kids have been to your house
17 several times, right?

18 A Lots of times, yes.

19 Q And you have two kids also, [REDACTED] and Kenny,
20 right?

21 A Yes.

22 Q And Amor's kids go and play with [REDACTED] and Kenny
23 in the game room sometimes, don't they?

24 A During that time, I don't -- I don't -- Amor was
25 with them, so they are all together.

1 Q You have never seen [REDACTED] and [REDACTED] in the game
2 room since 2008 --

3 A No.

4 Q -- with Kenny and [REDACTED]

5 A Sometimes Amor and -- Amor and the children, when
6 they come, I let them sleep in that game room because I sleep
7 in the floor. So we don't use that room.

8 Q Where do you usually sleep?

9 A Floor. Every since I purchased that house.

10 Q In any particular room do you sleep on the floor?

11 A I like the floor. Even with mother-in-law's house,
12 I sleep in the floor.

13 Q Okay. Which room do you sleep on the floor?

14 A Right in front of the TV.

15 Q So in the living room?

16 A Yes.

17 Q Okay. So your testimony is you have never seen
18 [REDACTED] and [REDACTED] in the game room with your two kids?

19 A Oh, yeah, I have to see them. When they -- they're
20 always with their father during that time because Amor was
21 the one babysitting those children. Janice always work.

22 Q So have you not or have you seen them in the game
23 room with [REDACTED] --

24 A Yes.

25 Q -- and Kenny?

1 A Because I have to pass by there.

2 Q Okay. In 2000 -- so you remember June 24th of 2015
3 because you guys went on the shopping trip?

4 A Um-h'm.

5 Q Right? And that was a planned date, and it sounds
6 like everybody had a really great time?

7 A Um-h'm.

8 Q Is that fair? Everyone had a good time on the
9 shopping trip?

10 A Oh, yes.

11 Q Yes, okay. Prior to June of 24th, when's the last
12 time Amor and his kids came over to your house where were you
13 present?

14 A No. No.

15 Q You don't remember or they never came over?

16 A They never came over.

17 Q Okay. So but you did mention that since 2008, they
18 have come over and you have seen them in the game room with
19 your kids, so when would that have happened?

20 A Oh, you mean to say before June 24?

21 Q Yes.

22 A When -- when -- okay. 2015, Amor came by himself
23 because when Amor is working, he doesn't show up with me. I
24 was wondered he came this April, but the children are not
25 with him that time. So when he came, he's talking to me

1 about the car. He said when I buy a car, I like the electric
2 car. And right now I'm using my mother-in-law's car. He
3 doesn't mind -- she doesn't mind because I have -- as long as
4 I drop her in her -- in her work, she doesn't care, and she
5 even put the gas. Okay. That's what they did to me in the
6 beginning.

7 Q Okay.

8 A And then --

9 Q So -- okay, let me just stop you. So Amor came over
10 in April? That's the last time he had been to your house
11 before June?

12 A No, he came -- he came afterwards, after one week
13 because when he gave me the money, after one week he called
14 me. Mother, I need \$100.

15 Q Okay, I don't want you to know -- I don't want to
16 hear what Amor told you because that's hearsay so you can't
17 talk about what he told you.

18 A Okay.

19 Q I just want to know, so you saw Amor drop the kids
20 off on June 24th. Prior to June 24th, when the last time you
21 saw Amor at your house?

22 A He came with the children that time because he have
23 to pick up the \$100 he's borrowing from me.

24 Q Okay. When was that?

25 A It's sometimes April -- at the end of April.

1 Q End of April. And when did he give you the \$400?

2 A Oh, the \$400 years back when -- when he won from
3 suing somebody. I don't know.

4 Q Okay. So April is the last time that you saw Amor
5 at your house?

6 A Yes.

7 Q Okay.

8 A Uh-huh.

9 Q What about the time before April?

10 A Before -- huh.

11 Q When's the last -- before April, when's the last --

12 A No, he did not show up.

13 Q So --

14 A Like I said, when Amor is working, he doesn't pop up
15 in my house.

16 Q So the entire 2015, Amor has never been to your
17 house besides April and June?

18 A April and June and August.

19 Q And the August, okay. What about 2014, has he been
20 to your house?

21 A Oh, yes, he -- because he came in February, but I
22 was not there. February -- April, sometimes in April of
23 2014, May, June. June he came by himself because he -- he
24 wanted to tell me that his graduation -- he reminds me of his
25 graduation.

1 Q Okay.

2 A And then I did not come to his graduation because I
3 forgot the date. And then because I didn't -- I said I will
4 write it down. Oh, he will call me back, and he -- or he
5 would come back. And then so I did -- I missed the
6 graduation. July I saw -- I saw -- end of July I saw his
7 mother-in-law in the store telling me that why you did not --

8 Q I don't want to hear about what other people told
9 you, okay? I know that's hard because you want to --

10 THE COURT: Okay. All right, so Ms. Franks --

11 THE WITNESS: Yes, ma'am.

12 THE COURT: -- you need to listen to the
13 questions --

14 THE WITNESS: Yes.

15 THE COURT: -- and answer only the questions.

16 THE WITNESS: Yes.

17 THE COURT: Okay?

18 THE WITNESS: Thank you.

19 MS. CLEMONS: Okay, thanks.

20 BY MS. CLEMONS:

21 Q So it sounds like in 2014, Amor came to your house
22 quite a bit?

23 A Yes.

24 Q And sometimes he came by himself and sometimes he
25 brought the kids?

1 A Um-h'm.

2 Q Okay. When Amor comes over, what do you and Amor
3 do?

4 A Sometimes I'm cooking. He will come. He always
5 come after 11:00 o'clock before I leave for work.

6 Q Okay. Do you cook him any particular types of food?

7 A No.

8 Q No?

9 A I cook what -- I cook the food that I prepared or I
10 feed him the food that I prepared. But my children, [REDACTED]
11 and Kenneth, and my husband, they have different food from my
12 food.

13 Q Okay. Do you like to eat Filipino food?

14 A Who?

15 Q Do you like to eat Filipino food?

16 A Sometimes, yes. I cook international food. I cook
17 Mexican, Indian.

18 Q Okay.

19 A Arabic.

20 Q And your kids don't like that kind of food?

21 A No.

22 Q No? Okay. And so would Amor eat the food that you
23 cooked with you?

24 A Yes.

25 Q Okay. Would his kids sometimes eat the food, too?

1 A Yes.

2 Q All right. I want to change course here and show
3 you what's been marked as Defendant's Exhibit A. This is a
4 picture of the game room; is that right?

5 A Yes.

6 Q And this room was remodeled in 2015; isn't that
7 right?

8 A No.

9 Q When was it remodeled?

10 A February -- July 3. It's not remodeled. I just
11 moved them because they cleaned the carpet. July 3 --

12 Q And when was that?

13 A -- 2014.

14 Q Why do you remember July 3rd of 2014?

15 A Because I have a receipt. I check it.

16 Q Did you check that before you came to court?

17 A Because you're -- they are always asking about that
18 room so I check it.

19 Q Okay.

20 A I check it.

21 Q When did you check the receipt for the room and the
22 carpet cleaning?

23 A When I -- when -- long time ago because I know that
24 I have to -- when I'm looking for all the receipt that I
25 have.

1 Q So what is a long time ago?

2 A When -- when they ask me those receipts when I get
3 the lawyer, when I get another lawyer.

4 Q So in the past, like, six months or so that's when
5 you looked to see --

6 A I have --

7 Q -- the receipt for the carpet cleaning?

8 A -- a -- so -- I look everything that I did. They
9 need to ask me.

10 Q And would that be in the past six months?

11 A Yes, maybe.

12 Q Well, when did you get Mr. Lee as a lawyer?

13 A When did I get Mr. Lee? I forgot it.

14 Q Okay. You didn't write that one down in your
15 calendar?

16 A That -- no, I did not. I have -- I have only the
17 receipt, but did not bother to check it.

18 Q Okay. So when you pulled all the receipts for June
19 24th, that's when you pulled the receipt for the carpet
20 cleaning?

21 A The June 24?

22 Q For this room?

23 A Yes.

24 Q Okay. Do you know who took those pictures?

25 A No, I -- Mr. Lee asked my husband to take a picture

1 of them, and I ask my husband to take a picture of them.

2 Q Okay. Do you know how I got the pictures?

3 A From -- maybe from Mr. Lee.

4 Q Okay. So you're saying this was room was changed in
5 2014?

6 A 2014, yes.

7 Q Okay. You didn't bring that receipt to court today?

8 A No, I did not.

9 Q Okay.

10 A I can bring it for you. Oh, yes, I can.

11 Q So let's go back to your calendar.

12 A Here. I only wrote it down here in my calendar.

13 Q Okay. So is that the calendar that you keep all the
14 dates on?

15 A This is my calendar that I -- yeah, every time I
16 write down what I write -- need here.

17 Q So it's a paper calendar? It's not on the computer?

18 A Paper calendar only, no.

19 Q And so you keep the calendars from each year?

20 A Each year I save them all. I don't know why, but I
21 save them all since 1994. Lately, I shred the other ones
22 because they said that they going to -- the IRS will audit
23 you, that's why I'm saving them.

24 Q Okay. So you're worried with getting audited so
25 you're very diligent about keeping everything?

1 A No, it's just a habit that I save the receipt all
2 the time to balance my account.

3 Q Okay. Do you save receipts just for credit cards or
4 for cash, too?

5 A For cash, everything.

6 Q Everything? Okay.

7 A Um-h'm.

8 Q And so Mr. Lee went through your employment. You
9 work at the Bellagio front desk, correct? And then you also
10 get tips at the front desk?

11 A Yes.

12 Q Okay. And then do you also make money from selling
13 your vegetables?

14 A No, it's just a hobby that if I have -- you know, I
15 don't want them to get spoiled so why not share them with
16 those Filipinos because they cannot find those type of
17 flowers.

18 Q Okay.

19 A They will never find them nowhere. So instead of --
20 I collected them and then sell them afterwards or --

21 Q Okay, so you do sell them for money, though? You
22 don't just give them away?

23 A Oh, yes.

24 Q Okay. And then you said your work schedule's only
25 changed two times --

1 A Yes.

2 Q -- is that right? Okay. When did it change the
3 first time?

4 A The first time it was in -- when I become full-time.
5 Do you mind if I will pick it up? I'm looking at it in the
6 morning?

7 THE COURT: Have you seen the calendar?

8 MS. CLEMONS: I have not seen the calendar.

9 THE COURT: All right. You can approach and get
10 that calendar and look at that since she brought it. And did
11 you look at your calendar before you -- as you prepared to
12 testify?

13 THE WITNESS: Yeah. No, it is -- I'm just looking
14 at them earlier.

15 MR. STEPHENS: Your Honor, can approach, too, just
16 to view it?

17 THE COURT: Yes.

18 THE WITNESS: Here. When I -- when I started my
19 work at the Bellagio, it's this month, and then this one they
20 changed our shift and I started Friday, April the 1st of 2016
21 when they changed it.

22 BY MS. CLEMONS:

23 Q Okay. So your Bellagio paperwork shows a seniority
24 date --

25 A Yes.

1 Q -- and then you handwrote a date next to that?

2 A Yes.

3 Q All right.

4 A Because I want to take what date they change my
5 shift because all of us, we bid. So that depend on the
6 seniority what -- you know, and I bid for that -- for those
7 hours, which I don't like, actually.

8 Q Okay. So I kind of -- we're doing a lot of things
9 up there. So when did your shift change?

10 A April 1st of 2016.

11 Q So what hours do you work now?

12 A 11:00 to 7:00?

13 Q A.M. or P.M.?

14 A 11:00 a.m. to 7:00 p.m.

15 Q So prior to that shift change, what were your hours?

16 A 3:00 to 11:00 p.m.

17 Q 3:00 p.m. to 1100 p.m.? And what days of the week?

18 A During that time, the first one?

19 Q Yeah, the first one, the 3:00 p.m.?

20 A My day off is -- so from Friday to Tuesday.

21 Q So it looks like on your calendar, a lot of what you
22 write on there are -- is where you went shopping that day.

23 A Yes.

24 Q Is that fair?

25 A Um-h'm.

1 Q Okay. So is that to help you with organizing your
2 receipts?

3 A Yes. Reminding me, too.

4 Q Where do you keep those receipts in your house?

5 A Oh, they are in the backs. If you go in my house,
6 they are on the side. Usually, I put them in the -- in the
7 garage, but they dried up so I leave them inside the house.

8 Q So did you lose some receipts when they dried up?

9 A Yeah, you cannot read them anymore, but I don't need
10 them anymore.

11 Q Yeah.

12 A And then I -- with the old ones, I just have to --
13 since I got that -- what do you call it? You know, the --
14 where you -- where you can shred the paper. Oh, I got the
15 shredder.

16 Q Oh, okay.

17 A So I started to shredder from the old ones.

18 Q Okay. What year did you shred up to?

19 A 1994, 1995, '96, '97, up to 2008, if I'm not
20 mistaken.

21 Q 2008, okay. So on June 24th, you mentioned you had
22 marked that on your calendar because it was kind of a special
23 day; is that right?

24 A Yes.

25 Q Okay. And then you testified that you ran some

1 errands in the morning and then Amor dropped his kids off?

2 A Yes.

3 Q Okay. And you said that you are the only one that
4 answers the front door at your house; is that right?

5 A Yes.

6 Q Because you said --

7 A All the time.

8 Q -- you were worried about someone getting shot?

9 A Yes. Because -- yes.

10 Q Is that -- why is that?

11 A Because we live in North Las Vegas, and people, when
12 they open their doors, some incident that they will get shot
13 -- shots, and you know, and I don't want strangers my family
14 will talk to. They were young that time. So --

15 Q Your kids were young at the time?

16 A Yes.

17 Q So in 2015, how old was Kenny?

18 A Kenneth was already old that time, but yeah.

19 Q How old was he in 2015?

20 A 2015, he will be 15, '94. He will be almost 21.

21 Q Okay. And what about [REDACTED] How old was he in
22 2015?

23 A 2015, [REDACTED] '99, 15 -- 16.

24 Q 16? Okay. So then you also said -- but you knew
25 that Amor was supposed to come over, correct --

1 A Yes.

2 Q -- to drop the kids off?

3 A Um-h'm.

4 Q Okay. Is that a yes?

5 A Yes.

6 Q Okay.

7 A Um-h'm.

8 Q So then the kids were there and you took a shower;
9 is that right?

10 A Yes.

11 Q In the master bedroom?

12 A Um-h'm.

13 Q Is that a yes?

14 A Yes.

15 Q Okay. Can you see into the game room from the
16 shower?

17 A Yes.

18 Q So the shower looks directly into that bedroom?

19 A Yes.

20 Q Okay. Do you shower with the door open or closed?

21 A It -- I don't lock it.

22 Q Is the door opened or closed to the bathroom?

23 A I close it, but I don't lock it.

24 Q Okay. So fair to say when you're in the bathroom
25 showering, you can't see into the game room because the

1 shower -- because you shut the door?

2 A Yes, but I pass by there, nobody there.

3 Q Okay. [REDACTED] wasn't in there playing a game?

4 A No.

5 Q Okay. Do you know what [REDACTED] was doing?

6 A Sleeping.

7 Q All right. And then you guys go shopping, and you
8 got [REDACTED] and [REDACTED] some backpack and shoes; is that
9 right?

10 A Yes.

11 Q Okay. And then you guys go to the arcade and play
12 some games and that sounds like that was fun and everyone had
13 a good time; is that right?

14 A Yes.

15 Q Okay. And then you mentioned on the way home you
16 bought something for Amor at the store?

17 A No.

18 Q No, you didn't say that?

19 A I didn't say that. I said I -- I will pick -- I
20 will -- we will go back home, and I will pick up the foods
21 that I prepare for -- or I purchased for your father and I
22 will -- and the food that I prepare for him.

23 Q So you made Amor food --

24 A Yes.

25 Q -- to bring to his house?

1 A Yes.

2 Q When did you make the food?

3 A The previous days or no, it was frozen, actually.
4 So it was prepared long time ago.

5 Q Okay. So were they like leftovers?

6 A Because it was my birthday. He said he's coming for
7 my birthday, and he did not come so I have to bring that food
8 for him.

9 Q So when was your birthday?

10 A May 29.

11 Q Okay. So you brought him food that was almost a
12 month old?

13 A Oh, yes, we freeze them.

14 Q You froze it?

15 A Yes.

16 Q Okay. Was it the food that he likes, that your kids
17 don't like?

18 A Yes.

19 Q Okay. And you also testified that Amor always
20 expects something from you.

21 A Yes.

22 Q What is -- what do you mean by that?

23 A Oh, in 2008, he asked me if he can use -- he can --
24 if I can purchase a car for him. He use my credit.

25 Q Okay. So --

1 A And --

2 Q -- what about 2015, what did Amor want from you in
3 2015?

4 A Oh, like I said, on -- on April when he comes, he
5 said what he wants, a type of car, but he cannot get a car
6 because it has a big interest if he will be the one to use
7 it.

8 Q Okay. So he needed your -- it sounds like he needed
9 your --

10 A Credit.

11 Q -- assistance in purchasing a car?

12 A He used my credit. Actually --

13 Q Okay, can you -- okay, I'm going to ask you a
14 question, and I know it's hard because you want to anticipate
15 what I'm asking --

16 A Uh-huh.

17 Q -- but the court reporter can only take down one
18 person at a time.

19 A Oh, okay. Sorry.

20 Q Okay. So it sounds like he was asking your help in
21 purchasing a car --

22 A Yes.

23 Q -- is that correct? Okay. Other than the car, is
24 there -- what else do you feel like Amor was always wanting
25 from you?

1 A When he has no job, like in -- when they -- when he
2 brought his daughter in my house, he said my mother-in-law
3 wants you to see my daughter.

4 Q Okay. So when -- in 2015, what else did Amor want
5 from you?

6 A Oh, because he saw this car this 2014, he want -- he
7 mention that he wanted to buy another car, but I --

8 Q Okay. So other than --

9 A -- just ignore it.

10 Q -- the car, is there anything else that Amor wanted
11 you to help him with in 2015?

12 A Only cars, I'm sure of that.

13 Q Okay. So you said the last time they visited was
14 August 4th of 2015?

15 A Yes.

16 Q Were you home?

17 A Yes.

18 Q Okay. And what happened when they came over? Who
19 came over?

20 A [REDACTED] and [REDACTED] I opened the door, and I said I
21 was surprised. What are you doing, I'm -- you know, why you
22 did not call, and I am almost ready to go to work. So I let
23 them in, and then he instructed the children to sit in the
24 living room where I sleep, and I was with me talking, and
25 while I'm cooking, I said you can -- you can eat, and you can

1 take it with you whatever leftover is there.

2 Q Okay. So what about August 4th, makes you remember
3 that day particularly?

4 A Yes.

5 Q So why do you remember August 4th?

6 A Because that's -- because when Amor is -- he wants
7 something or he's upset, he will let his children sit in the
8 floor.

9 Q Okay. So what about that makes August 4th stick out
10 in your mind?

11 A No, it's not a stick out in my mind. All the --
12 because it's not really that far. It -- because I -- my
13 husband was asking him about their trip because they just
14 came back from -- from -- from New Jersey or Canada where
15 they been. And I only remember that because he make his
16 children again sit in the floor.

17 Q Okay. So you're saying August 4th of 2015 isn't
18 that far ago so that's why you remembered the specific date?

19 A The August? No, I just -- it is in my calendar,
20 too.

21 Q You marked down that they came over on August 4th in
22 your calendar?

23 A It's not that I mark it down. I know because it --
24 I'm -- like I said, I'm -- like I said, I'm ready to leave
25 because I have overtime that day. I have to leave around

1 12:00 o'clock.

2 Q Okay.

3 A And I have --

4 Q So really there's nothing that stands out about
5 August 4th? That's just the day that you --

6 A No.

7 Q -- say you remember?

8 A No. The thing about it while we are talking, I'm
9 cooking and I'm washing dishes, he told me, mommy, why
10 Kenneth is no longer coming to my house? And of course, I
11 will not answer. Even though he ask me question, I don't
12 really answer him. I put -- I thought in my head, you're
13 disrespecting my children, and you want them to come to your
14 house.

15 Q So how was he disrespecting your children?

16 A He embarrass my children when they go to his house.

17 Q When's the last time they went to his house?

18 A Kenneth went there when he -- we are supposed to
19 deliver gift for [REDACTED] It was in December of 2014.

20 Q Okay. So we're talking about a year-and-a-half
21 later you're upset at Amor for disrespecting your children?

22 A No.

23 Q Okay. But you just took his children shopping; is
24 that correct?

25 A Yes.

1 Q Okay. So you also testified that you had -- you
2 don't answer Amor's phone calls; is that right?

3 A Yes.

4 Q Okay. So had you ever answered his phone calls or
5 was that a recent thing?

6 A I do -- that was -- that was before, and just recent
7 if I -- no, that was before because he always wants
8 something.

9 Q Okay. So when was -- when did you answer his phone
10 calls, what year?

11 A When I answer the phone, he was there, because he
12 remove the numbers in the phone so we --

13 Q Okay. So --

14 A -- will -- we are still talking.

15 Q -- the question is, when did you answer -- what year
16 were you answering Amor's calls when he would call you?

17 A The last time it was in -- the last time he called
18 me, it was June of 24, that night, around 9:00 o'clock.

19 Q Okay. So you did answer his phone calls --

20 A I did.

21 Q -- June 24th of 2015?

22 A Um-h'm.

23 Q Right?

24 A Yes, um-h'm.

25 Q Okay. But you're saying prior to that phone call,

1 you have not been answering Amor's calls; is that right?

2 A I just ignore the telephone.

3 Q Okay. But for whatever reason, you answered the
4 phone that night?

5 A Yes.

6 Q Okay. You also testified your grand kids do not
7 talk to you; is that right?

8 A Yes.

9 Q Okay. Is that recent or is that happening in June?

10 A All the time ever since -- the reason -- I don't
11 know why they're not talking to me. When they come, kiss
12 your grandma, and I said no, that's okay, go ahead. Go
13 inside.

14 Q So what about when you went shopping, they didn't
15 talk to you that entire time?

16 A You have to ask them question. They will not talk.

17 Q Okay. But you said everybody had a great time
18 shopping --

19 A Yes.

20 Q -- is that right?

21 A Um-h'm.

22 Q Okay. Yet, they didn't speak to you one time during
23 that trip?

24 A We thought -- yeah. I have to ask them question to
25 speak to me.

1 Q Okay. How did you find out about this case?

2 A I beg your pardon?

3 Q How did you find out about this case?

4 A All right. In -- in September 15, I was in the
5 garden, the back, and then there was a cop right there where
6 I can see them, you know, in the backyard on the sides. They
7 said, good morning, I want to talk to [REDACTED] but I think
8 [REDACTED] was a minor so if I can talk to Kenneth, please.

9 Q Okay.

10 A So I went inside and opened the door for them. And
11 I let them in, and so but my son Kenneth, was coming out from
12 his room and said, hi, Kenneth, they wanted to talk to you.
13 So he just woke up. He went to use the restroom. Then I
14 said -- because I was -- I just wonder, maybe that's because
15 my children are playing in the computer. And so I let them
16 in, and they where can we talk privately?

17 He said oh, you can go to the master bedroom. You
18 can -- yeah. And then I'm cleaning -- I pretend to clean the
19 bathroom so that I will know what they want, but they told me
20 to leave.

21 Q Okay. So that's how you kind of found out about
22 this case?

23 A Yes. That day, yes.

24 Q So what day did the police come to your house?

25 A Morning. I don't really know.

1 Q What's the date? What day in September? What's the
2 date?

3 A Tuesday, because I'm supposed to go to work that
4 time.

5 Q But the number? The number of the date?

6 A 15.

7 Q The 15th of September?

8 A September 15.

9 Q And what makes you remember that day?

10 A You will never forget what a bad day it is.

11 Q Okay. Did you mark that in your calendar, too?

12 A Yes.

13 Q Yes? Okay. And did you bring the 2015 calendar
14 with you or just 2014?

15 A Yes. I have my 2015 calendar in there.

16 Q All right. Can we see the 2015 calendar just to see
17 that you marked that?

18 A My son was pick up.

19 Q Okay.

20 MS. CLEMONS: Can I approach, Your Honor?

21 THE COURT: Yes.

22 BY MS. CLEMONS:

23 Q That's what that says, my son was picked up?

24 A Yes.

25 Q Okay.

1 A I'm supposed to work for overtime that day.

2 Q Is there a reason why some of those entries are in
3 pen and some of them are in pencil?

4 A I like pencil, I don't like pens.

5 Q Okay. But the one about your son was in pen.

6 A Yeah, because I -- I mark it later. The thing --
7 yeah.

8 Q Okay. So when did you mark it that he was picked
9 up?

10 A That day -- that day he was pick up.

11 Q Okay. But so you said you marked it later and
12 that's why you used a pen?

13 A Yes.

14 Q Later in reference to what?

15 A Maybe that the one that -- that I draw. But I -- I
16 like pencil.

17 Q Okay. So did you mark it that say day or was it a
18 different day?

19 A That same day, yes.

20 Q Okay. So you're mad Amor because he never told you
21 what was going on; isn't that right?

22 A It's not that because -- I don't feel nothing. That
23 day that they pick up my son, I don't feel nothing. Just
24 like I'm numb.

25 Q Okay. What about later, though, because obviously,

1 this case involves your grandchild [REDACTED] right?

2 A Yes.

3 Q And so you're mad that Amor never told you, hey,
4 this is what's going on with [REDACTED]

5 A That time I don't feel mad.

6 Q You're not mad at him?

7 A Maybe I'm -- I'm always mad with him ever since, but
8 my feelings never change. It's the same thing.

9 Q So --

10 A Just I become numb from that time.

11 Q So you've been mad at Amor his entire life?

12 A It's not that I mad. Just he manipulates me.

13 Q Okay. That's how you feel?

14 A Yeah, he manipulates me.

15 Q Your feelings towards Amor have not changed based
16 upon this case?

17 A No. It's just the same.

18 Q Okay. And Kenny lives with you, right?

19 A Yes.

20 Q Okay. And when's the last time you talked to Kenny?

21 A Kenneth?

22 Q Yes.

23 A Today.

24 Q Today? Okay.

25 MS. CLEMONS: Nothing further, Your Honor.

1 THE COURT: Redirect?

2 MR. LEE: Court's indulgence, please.

3 (Counsel conferring)

4 REDIRECT EXAMINATION

5 BY MR. LEE:

6 Q You indicated that you shredded your receipts from
7 way back in the '90s to 2008; is that correct?

8 A Yes, because I got the shredder. Excited to use it.

9 Q Do you collect the receipts like -- like stamps or
10 what?

11 A No, Attorney. I -- because -- I just like to --
12 when the month is over, I staple all the groceries --
13 groceries receipts. Put them all together so that just in --
14 it is not because I will need it, but usually sometimes I
15 will need them.

16 Q Okay. Those receipts that you produced on -- of
17 what you did on June 24th of 2015, how did you happen to have
18 those? Is it just part of your collection of receipts?

19 A Yeah, I save -- I save all my receipts, including
20 that \$2, a penny, whatever it is, it was saved, if I can save
21 it. If I see a receipt in the car, I will save it. I will
22 pick it up, put it in my purse and then put it in my table.
23 And later on I put it in -- on file.

24 Q Okay. And you save all kinds of receipts. On that
25 day --

1 A No, only my receipt. The one that I spend with my
2 money.

3 Q Oh, anything you spend your money on you --

4 A Yeah.

5 Q -- keep the receipts, huh?

6 A Um-h'm.

7 Q Do you do it for taxes or you just do it as a hobby?

8 A No. With taxes, yeah, you can get -- I know -- I
9 know how to do that, but that one -- it's just -- it's just
10 (indecipherable) meaning to say stuff that they -- how do you
11 say the words? Just I want to have on my records. Sometimes
12 -- you see, one time my brother-in-law when I sold my car,
13 oh, this one have a warranty. So I have to dig into those
14 receipts. It has a warranty so I find that receipt, I gave
15 it to him, he use it.

16 Q Okay. We just looked at a calendar in 2014. I've
17 never -- do you carry your calendars around?

18 A No.

19 Q No?

20 A No. I -- I have a different -- once I get home,
21 then that's the time that I will sit in my computer table,
22 then I will put stuff there.

23 Q Okay. And when I was asking you about what kinds of
24 things, do you remember, that you put in your calendar, you
25 said you put tips, you put your calendar, your hours, where

1 you go to; is that correct?

2 A Yes.

3 Q Is it kind of like your diary?

4 A Like my diary, yes.

5 Q So your calendar's more like your diary, huh?

6 A Yes. Because I don't have a diary.

7 Q And do you bring your calendar to your accountant
8 when you figure out your taxes?

9 A No, I'm doing my taxes all the time.

10 Q You do the taxes --

11 A Except once.

12 Q Okay. You do the taxes yourself?

13 A Yes. Because I used to work with H&R Block and
14 Jackson Hewitt.

15 Q Is that where you got the habit from collecting
16 receipts?

17 A Maybe, yes.

18 Q And when you --

19 A No ever since. Even before I learned the taxes, I
20 collected it because I remembered -- I remember way back when
21 I did all -- all the taxes of my husband cut them all into
22 pieces, and I did not -- I said too much paper so -- and then
23 later on we will need those papers. So from that time, I
24 save everything.

25 Q And again, when did you work for H&R Block?

1 A I worked with H&R Block sometimes in -- when I was
2 in Monterey, California.

3 Q Okay. I -- I don't -- you have never shown me a
4 2014 calendar; is that correct?

5 A I don't do -- when I -- when I work with H&R Block
6 around 2000 like that. That was long time ago.

7 Q Okay. Okay. Now, if I told you on 2014 because you
8 have lots of receipts that day?

9 A They are at home, yes.

10 Q If I told you that Amor said he -- you picked up the
11 kids at his house, would that be correct or not?

12 A No. I never pick up the children in his house.

13 Q Okay. So but on the morning of June 24, 2015, he
14 dropped the kids off at your house, right?

15 A Yes, he dropped them.

16 Q Okay. Now, if I told you that Amor picked up the
17 kids on 2015, would that be correct or not?

18 A No.

19 Q 24th, 2015?

20 A No.

21 Q And who was it that took the kids home?

22 A I did.

23 Q Okay. And you said you went to Circus Circus, you
24 went to eat at different places. I believe, you even said
25 all the places you ate at. I don't remember them, but did

1 [REDACTED] and the kids seem happy that day?

2 A Yes.

3 Q Okay. Do you know if you wanted to do that again
4 with them?

5 A No. It is -- I can do that again, but they are the
6 one who ask me if they can do that again. I said we cannot
7 do it tomorrow. They said -- I told them if we can do it
8 next week, but they did not -- they did not show up. That is
9 -- that is July 1st.

10 Q Okay. And do [REDACTED] and Amor and [REDACTED] visit you
11 at your work?

12 A Yes, they did. That's the -- that's why I offered
13 them if I can take them for shopping because how will I
14 contact them if they did not see me at my work the week
15 before the -- before my vacation?

16 Q Okay. If I told you Amor loves you very much, would
17 you say that's correct?

18 A He told me he loves me, but I don't response. I
19 don't believe it because when he was younger, he hated me
20 like hell. He doesn't even want to come with me. Maybe
21 because I was away for a long time.

22 Q Okay. You said -- did you say that he was raised by
23 your mother?

24 A Yes.

25 Q And but you said -- I think you testified that he

1 gave up on her or did you say that?

2 A No, he -- right now he abandon my mother. Well,
3 when he was staying with -- in their house, he told my mother
4 to go back to --

5 MS. CLEMONS: Objection to hearsay.

6 MR. LEE: Okay. It's --

7 THE COURT: Sustained.

8 MR. LEE: It's all right. That's fine.

9 BY MR. LEE:

10 Q I just -- now, how is your relationship with your --
11 with [REDACTED] You said they don't talk to you or what?

12 A No. They just come there. If they told them to
13 kiss me, they will kiss me. Otherwise, nothing.

14 Q Do they call you?

15 A No. They gave me the telephone -- they gave me the
16 telephone number of [REDACTED] but I did not call her.

17 Q So in 2015, did you call [REDACTED] or [REDACTED]

18 A No.

19 Q Okay. And you said you have your own -- you have a
20 -- a new cell number now? Is that --

21 A Yes.

22 Q Did you say that? Okay. And do you know if Amor
23 has that number?

24 A No.

25 Q Why don't you give it to him?

1 A He cut the relationship when they pick up my son.
2 How will I give it to him when he had -- we have no
3 relationship?

4 Q Okay. You have a house phone, right?

5 A Yes.

6 Q And a house phone has all stayed the same; is that
7 correct?

8 A Yes.

9 Q When Amor wants to contact you, does he usually --
10 early in 2015, does he call you on your house phone?

11 A He just drop in. He doesn't call.

12 Q Okay.

13 A Very seldom that he call.

14 Q Okay.

15 MR. LEE: Court's indulgence, please. I don't have
16 any further questions. Pass the witness.

17 THE COURT: Recross?

18 MS. CLEMONS: Briefly, Your Honor.

19 RE CROSS-EXAMINATION

20 BY MS. CLEMONS:

21 Q Did you bring your calendars to court yesterday?

22 A I beg your pardon?

23 Q Did you bring your calendars to court yesterday?

24 A Yes.

25 Q Yes? Okay. Did you talk to your attorney about

1 what you testified to yesterday?

2 A I beg your pardon?

3 Q Did you talk to Mr. Lee about what you had testified
4 about yesterday?

5 A At that -- they did not ask me.

6 Q So after court you guys didn't discuss your
7 testimony?

8 A No, they did not discuss it. They discussed other
9 matters, I think.

10 Q Other matters? Okay. Has Kenny been diagnosed with
11 any kind of issues with his hands?

12 A With his hands? Just on allergies?

13 Q Allergies? That's it?

14 A Yes.

15 Q Okay. Have you marked down on the calendar every
16 time that Amor and his kids came over since 2008?

17 A No.

18 Q Okay. Because sometimes he comes over unexpectedly,
19 right?

20 A Yes.

21 Q And you haven't spoken with Amor since August of
22 2015, correct?

23 A Yes. August -- August -- August 4. No, I talked to
24 him once September 15.

25 Q Okay. So September -- the day that the police

1 came --

2 A Yes.

3 Q -- to your house?

4 A Um-h'm.

5 Q Did you call Amor or did he call you?

6 A I called him.

7 Q Okay. And what did you say to him?

8 A I told him, what did you do to my son?

9 Q Okay. What, were you angry?

10 A Not really.

11 Q You weren't angry that your son was just --

12 A Calm.

13 Q -- arrested?

14 A Yes.

15 Q Yes, you were angry or no, you were not?

16 A I think I have a loud -- a little bit loud voice

17 that time, yes.

18 Q Okay. And that's the last time you spoke to him

19 when you asked him what --

20 A Yes.

21 Q -- did you do to my son?

22 A Because -- yeah, he -- because he -- he told me that

23 he cut -- he's cutting out the relationship.

24 Q Okay.

25 MS. CLEMONS: Nothing further. Thank you.

1 REDIRECT EXAMINATION

2 BY MR. LEE:

3 Q On your -- Kenneth, was Kenneth -- does Kenneth go
4 to school -- did he go to school in 2015?

5 A Yes.

6 Q And do you know where he went to school at?

7 A ITT, as they call it.

8 Q Okay. Was it you that paid for his tuition?

9 A Yes. I use his -- the -- the school ask me to
10 co-sign for my son. (Indecipherable) his credit and then I
11 just co-sign for him.

12 Q Okay. And when you used the credit, did he have to
13 maintain good grades?

14 A Not necessarily, but when he -- when he got his
15 first grade, we went there because I amended my taxes, and
16 then they -- the lady -- the counselor told me, he gave me
17 his grades and he told -- and in front of me, they offered my
18 son a job.

19 Q Oh, did you see what kind of grades he had?

20 A I --

21 MS. CLEMONS: I'm going to object to relevance.

22 THE WITNESS: I have been -- I even

23 THE COURT: Sustained.

24 THE WITNESS: -- I even --

25 THE COURT: Stop her.

1 THE WITNESS: Okay.

2 MR. LEE: Okay.

3 BY MR. LEE:

4 Q Do you know when Kenneth got out of school in 2005
5 when he finished his classes for that --

6 MS. CLEMONS: I'm going to object to relevance.

7 THE COURT: Yeah, 2005 is not relevant.

8 MR. LEE: No, I'm sorry, 2015.

9 THE COURT: Sustained.

10 MR. LEE: I'm sorry. This is for relevance.

11 THE COURT: And what was the question? What was
12 the question?

13 BY MR. LEE:

14 Q Do you recall when Kenneth got out of school in June
15 of 2015?

16 THE COURT: I'll allow that. Overruled.

17 THE WITNESS: Yeah. Kenneth is taking care of
18 himself. He --

19 THE COURT: No, no, no, the question is do you --
20 it's a "yes" or "no" answer.

21 THE WITNESS: No.

22 THE COURT: Do you recall? No. The answer is no.

23 BY MR. LEE:

24 Q You don't remember when he got out of school, huh?

25 A No.

1 Q Okay.

2 MR. LEE: No further questions, Your Honor.

3 MS. CLEMONS: Nothing from the State.

4 THE COURT: All right. May this witness be
5 excused?

6 MR. LEE: Yes.

7 THE COURT: Any witness -- or any jury questions
8 for this witness? All right. You may be excused, ma'am.
9 Thank you for your testimony.

10 MR. LEE: Court's indulgence.

11 THE COURT: You may call your next witness.

12 MR. LEE: No further witnesses, Your Honor.

13 THE COURT: All right. Approach.

14 (Off-record bench conference)

15 THE COURT: All right. Ladies and gentlemen, we're
16 going to take a 15-minute break. So during this recess, it
17 is your duty not to converse among yourselves or with anyone
18 else on any subject connected with the trial, or to read,
19 watch or listen to any report of or commentary on the trial
20 by any person connected with the trial or by any medium of
21 information, including without limitation, newspaper,
22 television, radio or Internet. You are not to form or
23 express an opinion on any subject connected with this case
24 until it's finally submitted to you.

25 So 15 minutes.

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

2 (Outside the presence of the jury)

3 THE COURT: All right. The record will reflect the
4 jury has departed the courtroom. So Mr. Franks, yesterday
5 when I canvassed you about whether or not you wanted to
6 testify, and I talked to you about your rights, you indicated
7 to the Court that you wanted to testify. Have you changed
8 your mind this morning, or this afternoon, I mean?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Okay. So you do not wish to testify?

11 THE DEFENDANT: I do not wish to testify.

12 THE COURT: Okay. And are you going to be
13 requesting that the jury be instructed, Mr. Lee, that they
14 can't --

15 MR. LEE: Yes, Your Honor.

16 THE COURT: -- consider that? Okay. So we'll need
17 to pull that will instruction because I'm not anticipating
18 that --

19 MR. STEPHENS: That's correct.

20 THE COURT: -- he wasn't going to. All right.
21 We'll go off the record and we'll briefly discuss these jury
22 instructions.

23 (Court recessed at 3:24 p.m. until 3:47 p.m.)

24 (In the presence of the jury)

25 THE COURT: I think you indicated that you had no

1 further witnesses.

2 MR. LEE: Yes, Your Honor.

3 THE COURT: And are you resting, defense?

4 MR. LEE: And defense rests.

5 THE COURT: All right, thank you.

6 MR. LEE: Thank you.

7 THE COURT: So ladies and gentlemen, we will be
8 instructing you tomorrow afternoon on the law and then you'll
9 hear closing arguments by the attorneys in the case and then
10 you'll go to deliberate.

11 So, we'll finalize the instructions this afternoon.
12 You'll get a early out, but we'll finalize those, so we'll be
13 ready for you. I have my criminal docket calendar in the
14 morning. It's 19 pages long, but I think we should be able
15 to get through it by -- and so we can start at 1:00 o'clock.

16 So make sure you have some lunch before you come
17 in, and then we'll conclude the case tomorrow and you'll have
18 it for your deliberations, all right?

19 And so I will see you tomorrow. During this
20 overnight recess, it is your duty not to converse among
21 yourselves or with anyone else on any subject connected with
22 the trial or to read, watch or listen to any report of or
23 commentary on the trial by any person connected with the
24 trial or by any medium of information, including without
25 limitation, newspaper, television, radio or Internet. And

1 you are not to form or express an opinion on any subject
2 connected with this case until it's finally submit to you.

3 And of course, as always, no investigation of any
4 kind about anything that you've heard about or, you know,
5 just everything you're going to make your decision upon will
6 be based upon what you heard in the courtroom. All right.
7 Thank you. I'll see you tomorrow at 1:00.

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

9 (Outside the presence of the jury)

10 THE COURT: All right. And the record will reflect
11 that the jury has at the parted the courtroom. So if you
12 want to join me in chambers, maybe we can come up with those
13 definitions we were talking about. And do you want your
14 client to remain then for when we go ahead and put it on the
15 record? Or do you want -- I mean, it's up to you as to
16 whether you want him present when we actually then put it on
17 the record.

18 MR. LEE: He should be present.

19 THE COURT: Okay.

20 MR. LEE: Okay. Thank you.

21 THE COURT: All right, so he can just remain.

22 Marshal, the defendant's going to remain in the courtroom so.

23 (Court recessed at 3:50 p.m. until 4:22 p.m.)

24 (Outside the presence of the jury)

25 THE COURT: All right. We're back on the record,

1 outside the presence of the jury. The defendant is present
2 with his counsel, the chief deputies district attorney
3 prosecuting the case are present, as are all officers of the
4 court.

5 So are counsel each familiar with the Court's
6 proposed Jury Instructions, which have been numbered 1
7 through 20?

8 MR. LEE: Yes.

9 MS. CLEMONS: Yes.

10 THE COURT: Does the State object to the giving of
11 any of these instructions?

12 MS. CLEMONS: No, Your Honor.

13 THE COURT: Does the State have any additional
14 instructions to propose?

15 MS. CLEMONS: No.

16 THE COURT: Does the defendant object to the giving
17 of any of these instructions?

18 MR. LEE: No, Your Honor.

19 THE COURT: And does the defendant have any
20 additional instructions to propose?

21 MR. LEE: No, Your Honor.

22 THE COURT: And do either, all counsel request that
23 the jury be instructed prior to closing arguments?

24 MS. CLEMONS: Yes.

25 MR. LEE: Yes.

1 THE COURT: All right. So we'll do that, and I
2 will see you tomorrow at 1:00 o'clock, and we'll instruct and
3 argue tomorrow and give the case to the jury.

4 MS. CLEMONS: Great.

5 MR. STEPHENS: Okay.

6 MR. LEE: Okay.

7 THE COURT: 1:00 o'clock.

8 MS. CLEMONS: All right, thank you.

9 MR. STEPHENS: Thank you.

10 MR. LEE: Take care.

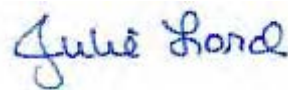
11 (Court recessed at 4:23 P.M., until Wednesday,
12 December 7, 2016, at 1:04 P.M.)

13 * * * * *

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

17

18



19

20

JULIE LORD, INDEPENDENT TRANSCRIBER

21

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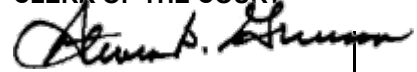
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Exhibit 5

Exhibit 5



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-15-311519-1
	.	
Plaintiffs,	.	DEPT. NO. V
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
KENNETH FRANKS,	.	
	.	
Defendant.	.	
.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 8

WEDNESDAY, DECEMBER 7, 2016

FOR THE STATE:	JENNIFER M. CLEMONS, ESQ. ROBERT STEPHENS, ESQ. <i>Chief Deputy District Attorneys</i>
FOR THE DEFENDANT:	BENSON LEE, ESQ.

COURT RECORDER:

LARA CORCORAN
District Court

TRANSCRIPTION BY:

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1 LAS VEGAS, NEVADA, WEDNESDAY, DECEMBER 7, 2016, 1:04 P.M.

2 (In the presence of the jury)

3 THE COURT: All right. This is Case No. C-311519,
4 State of Nevada versus Kenneth Franks. We're outside the
5 presence of the jury. Defendant is present with his counsel,
6 the Chief Deputies District Attorney prosecuting the case are
7 present, and are all officers of the court are present,
8 except the Marshal who is outside with the jury.

9 Ladies and gentlemen, I remembered last evening
10 that there was an additional Instruction that we all forgot
11 about, and that's that new Instruction that the Supreme Court
12 wants us to give about no investigation. Yeah, it's a fairly
13 new case that came down a couple, three months back,
14 something like that. And so let me -- why don't you
15 approach, and I'll give you all copies of it and then we'll
16 figure out where we want to put it in our -- we can just
17 number it and then put A or something.

18 (Counsel approach Bench to receive document)

19 THE COURT: So apparently, this was precipitated by
20 a juror -- a couple of jurors getting together and doing an
21 experiment out in the hallway or something, and so the --

22 MS. CLEMONS: Okay.

23 THE COURT: -- the Court wants to make sure we also
24 give them a Jury Instruction specifically. I admonish them
25 every time just because we seem to have continual issues with

1 it, but then this covers it is while they're also
2 deliberating and they get that final.

3 So where shall we put this? We've already numbered
4 the Instructions. Does either party have any objection to
5 this new Instruction, which we will --

6 MR. LEE: Not me, no.

7 THE COURT: -- now --

8 MS. CLEMONS: No, none from the State.

9 THE COURT: -- agree on a number? Okay. So let's
10 see, I'm thinking how about right after 17, and we could make
11 it 17A?

12 MS. CLEMONS: Yep, that works for us.

13 THE COURT: Okay. So I'll mark that as 17-A. All
14 right. Anything else outside the presence of the jury?

15 MS. CLEMONS: None from the State.

16 MR. LEE: Nothing, Your Honor.

17 THE COURT: Marshal, do we have everyone?

18 THE MARSHAL: Yes.

19 THE COURT: All right. We're ready.

20 THE MARSHAL: Okay. All rise for the jury, please.

21 (In the presence of the jury)

22 THE MARSHAL: Your Honor, all members of the jury
23 and the two alternates are present.

24 THE COURT: Thank you. Please be seated. And the
25 record will reflect the presence of all 12 members of the

1 jury as well as the two alternates. And this is the time,
2 ladies and gentlemen, that I'm going to instruct you on the
3 law in this case. Now, you're going to have these
4 Instructions with you so you don't need to take notes. You
5 just need to listen, and because I have to read them to you.
6 I can't just kind of informally discuss them because they are
7 very carefully prepared, and the way they're written is
8 important. So, I'm going to read them to you.

9 But like I say, you'll have these Instructions with
10 you in your jury deliberation room so you don't need to worry
11 about taking notes.

12 (THE COURT READS JURY INSTRUCTIONS TO THE JURY)

13 THE COURT: State, your first closing argument.

14 MR. STEPHENS: Thank you, Your Honor.

15 STATE'S CLOSING ARGUMENT

16 MR. STEPHENS: So I'm sure after you heard all
17 those Instructions, it's all clear now as to what it is you
18 need to do. My job here is going to be to try to explain the
19 law a little bit to you and apply the facts that you heard in
20 court to the law and assist you at coming to the correct
21 verdict.

22 This is case of State of Nevada versus Kenneth
23 Franks. In this case and in every case, the State
24 prosecutes, the State must prove beyond a reasonable doubt
25 two things, that a crime occurred and that it was the

1 defendant that committed that crime. Those are the two
2 things that the State must prove beyond a reasonable doubt.

3 So let's start with the second one, the defendant
4 committed this crime. The testimony that we have, [REDACTED]
5 testified that Uncle Kenny touched her on the vagina. She
6 identified the defendant as that person. She said it
7 occurred about five times; once when the defendant was
8 tickling her, and once she recalled the time where she was
9 sitting at the computer and he touched over the clothes. She
10 said it was about five different times. [REDACTED] testified
11 and identified the defendant.

12 No one else was even mentioned as a possible
13 suspect or as a possible perpetrator. [REDACTED] never touched
14 her. Uncle Ray, most of the time no one even knew where he
15 was. So the only person that could have done it was the
16 defendant. And [REDACTED] identified him.

17 Beyond that we have the defendant's own statements
18 to Detective Hoyt. He said that he remembers that her pants
19 were pulled down, and he testified that he possibly touched
20 her vagina. So we know that it was the defendant. The
21 second part that the State has to prove was that the
22 defendant committed the crime. That has been established
23 beyond a reasonable doubt.

24 The first thing that we are supposed to prove, that
25 we need to prove and that we have proven is that a crime

1 actually occurred. So the only allegation that is made here
2 is that it was a lewdness with a child under the age of 14.

3 So what must the State prove then to show that this
4 crime actually occurred? That's Jury Instruction Number 6,
5 and it tells us, again, that State must prove two different
6 elements or two separate things. First, the State must prove
7 that the vagina in this particular instance was touched or
8 fondled. And secondly, that when the vagina was touched or
9 fondled, that it was done with the intent to arouse, appeal
10 to or gratify the sexual desires, lusts or passions of either
11 one of those individuals, either [REDACTED] or the defendant.

12 So let's talk about these two separate things now a
13 little bit further. The first part. Any person who fondles
14 or touches the vagina. Jury Instruction 8 says that it does
15 not to be a touching on the skin itself. Now, in this case,
16 it's clear the defendant remembers that her pants were pulled
17 down and even admits to possibly touching her vagina.

18 [REDACTED] testified that it was actually touching on the vagina
19 also, that it wasn't through the clothing.

20 But this is an important Instruction so you know
21 that it does not need to happen necessary on the vagina skin
22 to skin. The second part. With the intent to arouse, appeal
23 to, or gratify the lusts and passions. Jury Instruction
24 Number 7 tells us that the actual lusts, passions, the
25 desires, they don't actually have to be aroused, okay? So

1 and this would make sense, right, for people that have a
2 difficult time maybe getting aroused, they shouldn't be
3 allowed to just go ahead and touch people like they want.

4 The lusts and passions do not need to be aroused.
5 The only thing that needs to happen is that when the touching
6 occurred, the intent was to create that feeling, the arousal.
7 So this is what testimony we had and we heard. [REDACTED]
8 testified that Uncle Kenny was tickling her in the game room
9 or the master bedroom, however you want to refer to it as.

10 She testified that Uncle Kenny pulled down her
11 pants, and testified that once her pants were pulled down,
12 that Kenny touched her on the vagina with his fingers.
13 That's her testimony. Proof that this crime occurred. We
14 also have [REDACTED] that testified. And he testified that
15 Uncle Kenny was harming -- I couldn't think of the proper
16 word, but he felt like [REDACTED] was in sort of harm. And so
17 he climbed on Uncle Kenny's back to rescue [REDACTED] And as
18 he did that, he remembered a very important piece of
19 evidence, a fact; he remembered that he saw [REDACTED] butt.
20 That was his testimony. Proof again that the pants came
21 down.

22 Now, we also have the defendant's own statements to
23 Detective Hoyt. And you'll recall, as we've already
24 discussed a little bit here, that he and [REDACTED] used to
25 tickle and wrestle at times. He told Detective Hoyt that he

1 may have accidentally pulled down her pants and later it was
2 that he remembered her pants actually coming down.

3 And then lastly, we have also that he possibly, may
4 have, happened to touch her vagina. That was his statement
5 to Detective Hoyt. The evidence that you heard from all the
6 witnesses, State witnesses and defense witnesses, none of
7 those witnesses testified that this did not happen. [REDACTED]
8 and Maria, the defense's own witnesses, none of them came in
9 and testified that it did not happen.

10 So the State has proven that a crime has occurred,
11 and State has proven that defendant committed it. It seems
12 pretty simple. We also must prove that it was with the
13 intent to arouse, and this is where I would refer you to the
14 common sense instruction. This is Jury Instruction Number
15 15. Use your common sense and use your experience in
16 determining whether or not, what the intent actually was when
17 he did this.

18 Your common sense. Many of you told us during jury
19 selection that you have children. Maybe you've wrestled with
20 your children, and used your common sense and experience
21 during your wrestlings and interactions with them, how many
22 times have the pants accidentally come off? More so, when
23 the pants have, if ever, accidentally come off, how many
24 times have you accidentally, perhaps, touched the bare
25 vagina. Use your common sense.

1 There's no other reason to remove pants from
2 11-year-old girl. There's no other reason to then touch her
3 on the vagina other than for the intent to arouse either
4 yourself or her.

5 [REDACTED] also testified a little bit, at least
6 inferentially, circumstantially about his intent. He
7 testified that generally Uncle Kenny would play with [REDACTED]
8 more than he would play [REDACTED]

9 Jury Instruction 24. I want to talk about this one
10 a little bit. Sorry, I said 24; I meant 14. Jury
11 Instruction 14 tells us that are if you believe that there
12 were incidents, right? [REDACTED] testified that it was about
13 five times that these things happened. They may be used to
14 prove motive or intent, right? So we cannot use the other
15 four incidents to prove that he's a bad person. That's not
16 what those are used for. What they can be used for, though,
17 is for you guys to determine what the intent of the defendant
18 was when he removed her pants after tickling her and touching
19 her vagina. What was that actual intent?

20 You know that this was not a one-time thing. There
21 was that time on the computer where she's playing at the
22 computer and he touches her over the clothes. That helps
23 prove the intent of the time when he actually removed her
24 pants. And there were other times also that she testified
25 to. His intent was to arouse, appeal to or gratify sexual

1 desires.

2 Consent is not a defense. This is Instruction
3 Number 10. So if you believe that [REDACTED] -- and I don't --
4 I submit to you that there wasn't any consent at all, but if
5 you have this question in your head whether [REDACTED] actually
6 wanted this to happen, it's still not a defense. There's no
7 evidence I submit to you that it was consensual. There is no
8 requirement, as you'll see in the law that the Court recently
9 provided you, there's no requirement that the -- that [REDACTED]
10 had to scream, that she had to fight, that she had to tell
11 someone immediately, that she had to run away, that she had
12 to cry, that she had to fear. There's no requirement for
13 that.

14 There was a lot discussion during jury selection as
15 to how you think a victim may react. You promised that you
16 would not hold the way you would react, to the witness.
17 Think about it, an 11-year-old girl, being touched by an
18 uncle, and she does not want to break up her dad's
19 relationship with his mom. Don't hold that against her if
20 she did not react the way you may have reacted.

21 [REDACTED] testified that she even tried to scoot out
22 of the room as she was being touched. She described trying
23 to pull herself out of the room as she was on the ground.
24 Proof that this was not consensual. Even if you think it
25 was, that's not a defense.

1 She testified the defendant even grabbed her legs
2 to prevent her from leaving. The last point I then want to
3 talk to you guys about, then, is do you believe [REDACTED] and
4 do you believe her story? Because that's what it comes down
5 to, to prove it beyond a reasonable doubt, then. Do you
6 believe her story? Do you believe her testimony that was
7 given to you under oath?

8 Jury Instruction 13 assists you in determining the
9 credibility of any witness, not just [REDACTED] but all
10 witnesses. You can look at their manner upon the stand, the
11 relationship to the parties, fears, motives, interests or
12 feelings, opportunities to observe it, the reasonableness of
13 the statements and the strength of the actual recollections
14 themselves.

15 I submit to you that the defense will stand up soon
16 after me and argue that this was all fabricated. That
17 [REDACTED] made this up, that Amor encouraged this, and that
18 this was somehow a fabricated story. So let's talk a little
19 bit about that.

20 You'd have to believe that everyone that the State
21 called lied. That all of them committed perjury on that
22 stand, every single one of them, including [REDACTED] including
23 May, people not even associated with the family itself.

24 So if it's fabricated, what's the motive then? The
25 only motive came from Maria Franks, and she told you what

1 that motive may be. There was a time in about April of 2015
2 when Amor requested assistance to purchase a vehicle. So if
3 that's the case, in April 2015, Amor is so angry at his mom
4 that he's going to wait until September to contact police and
5 speak to them about this? Does that make sense? Is that
6 reasonable?

7 Moreover, he's so mad that in April of 2015, that
8 he continues to visit his mom. He went over to the house on
9 June 23rd, June 24th and August 4th. Those were dates
10 specifically identified by [REDACTED] and Maria Franks
11 when he stopped by the house. Other witnesses said it was
12 more often than those. But we at least know that at least
13 three of the times before the police were actually contacted,
14 Amor came over to the house. Is that indicative of someone
15 who is so mad and so frustrated that his mom would not assist
16 him in purchasing a vehicle, that he's going to make the
17 story up?

18 Another point that I want to talk to you about.
19 Maria Franks also mentioned that there was a time in 2008,
20 also, where he asked for assistance to purchase a car. He
21 didn't make up a story then in 2008. He didn't make it up
22 then. Why would he make it up now?

23 Maria Franks also testified that there were times
24 when Amor gave her a couple hundred dollars. I believe,
25 Maria Franks' testimony. Rely upon your own recollection of

1 the testimony. But it was my belief and understanding that
2 Maria said she received about \$400 in cash from Amor. Does
3 this appear to be someone who is financially strapped for
4 cash needing assistance from the person he's giving money to,
5 to help purchase a car?

6 Even if that's the case, is that really a motive to
7 do this? Let's just assume just for discussion purposes only
8 that Amor decided you know what, this is what I'm doing, I'm
9 making up a story, I'm going to get Kenneth in trouble and my
10 mom is going to be fuming mad. Let's just assume that that
11 actually happened.

12 So what else then must we know to be true? Well, I
13 first submit to you that Amor is not some sort of evil
14 genius, some sort of master mind conspirator. Because if he
15 was, would you trust the most important aspects of the
16 testimony to three young kids? Is that what you're going to
17 do? Or are you going to be the one to go down and tell the
18 police this is what happened?

19 No. If you believe this is the case, Amor master
20 mind himself, said you know what, I've got three brilliant
21 kids who are going to help me get my mom in trouble, make my
22 mom really mad. [REDACTED] who was 11 at the time, [REDACTED]
23 who was 6 at the time, and [REDACTED] who was about 10 at the time.
24 These are the people that he trusted the most important
25 details to, to make sure that this all goes to plan.

1 [REDACTED] you'll remember her testimony on the stand. She was
2 quiet. She paused. There were several things she could not
3 remember.

4 You'll recall Ms. Clemons several times having to
5 go up, show her the statement that she made to he detective
6 to assist in helping her remember some of those details.
7 Even after she looked at the statement she made to Detective
8 Hoyt, she didn't remember the details. She was quiet. There
9 were long pauses. If Amor is really pulling all this -- he's
10 the puppet master behind all this, he's going to trust
11 [REDACTED] with this, the quiet person? She should have had
12 that memorized.

13 September of 2015, it's been more than a year for
14 Amor to make sure [REDACTED] knows the story and so she can come
15 in here and be bold and confident in expressing her testimony
16 as to what happened. Let's talk about [REDACTED] testimony.
17 He couldn't even identify Uncle Kenny. Couldn't even do
18 that. You'll recall that his dad's -- Amor's final words
19 before he testified was "be brave". It wasn't, make sure you
20 stick it to Kenny. Oh, make sure grandma knows. It wasn't
21 any of that. It was be brave.

22 Think about what it must be like to be up there
23 testifying in front of 14 strangers, a relative, a Judge.
24 And wouldn't it have been better for Amor to have made sure
25 [REDACTED] testified oh, yeah, I saw Uncle Kenny touching her,

1 yep, right on the vagina. That would have been a little bit
2 stronger of a case for us. It seems like that would be an
3 important detail for Amor to make up to ensure that this goes
4 to plan.

5 [REDACTED] This might have been one of my most stressful
6 moments in trial. When I'm asking [REDACTED] do you remember this,
7 do you remember this, do you remember this? Nope, nope,
8 nope. You might have seen my face go a little bit white at
9 that time. Eventually, he understood my questions. I was
10 probably asking bad questions, I don't know, but I panicked.
11 [REDACTED] eventually remembered what was going on here. He was
12 eventually able to understand my questions and he was able to
13 testify.

14 Again, the three potentially most important
15 witnesses in the case, those are the people that Amor chose
16 to make sure we got a dead bang winner. Not only that, but
17 now you've got to get these three kids to coordinate and work
18 with May Denina because the way the story unfolds is this;
19 [REDACTED] waits several months to tell [REDACTED] Eventually she
20 tells [REDACTED] [REDACTED] then forgot for three weeks until he's in
21 Walmart, one of the other siblings says, hey, we should talk
22 to mom about this. And eventually, [REDACTED] like oh, yeah,
23 yeah, yeah. That's an important thing I need to talk to mom
24 about. He interrupts the shopping, tells mom what goes on.
25 Mom then talks to the three kids, all the three kids give a

1 consistent statement, but within that statement May's not
2 even sure which uncle we're talking about.

3 So Amor, the master mind himself says, you know
4 what, let's just risk it that [REDACTED] going to remember to tell
5 mom immediately after [REDACTED] discloses. Not only that,
6 let's make sure it's really confusing as to who -- which
7 uncle actually committed the offense. Not only that, but
8 then May, when she calls Janice, she tells her, I'm calling
9 you, but I'm calling the cops no matter what.

10 Wouldn't it just have been easier for Amor to just
11 call the cops rather than go through all this? Let's cut out
12 the middleman. Let's make it simple. [REDACTED] you told me
13 what happened, I'm calling the police. Two witnesses. A lot
14 easier than putting a lot of kids up there who didn't
15 remember everything, didn't remember much. That's way
16 easier. Much stronger case.

17 The emotion of Amor. There are only two witnesses,
18 I'll submit to you, you may recall this, but there were two
19 witnesses that showed great emotion as they testified. Amor
20 and his mom. His mom's emotion was anger. Amor's motion,
21 let's talk about that. There was frustration, sadness and
22 even anger when he decided -- or sorry, when he described
23 learning about the facts, what happened to his daughter,
24 committed by Uncle Kenny. He said he was angry, and he said
25 he was upset. And at this time, you might have seen him on

1 the stand. He was at the front of his seat, a little bit
2 louder, little bit more heavy breathing. You saw it on the
3 stand.

4 Is that a normal reaction? You'll recall that May
5 and Janice both testified that he was angry when first
6 learned it also, and he was still upset on the stand. There
7 was another time where he showed emotion, and this was kind
8 of his inner struggle with his mom and his relationship with
9 his mom. This was someone who was abandoned as a kid. Left
10 in the Philippines at a very young age to be watched and
11 provided for by a grandma.

12 You heard Maria testify that she was gone for long
13 periods of time, and she she'd be home in the Philippines for
14 a short period of time and then back and forth, back and
15 forth. At some point when she came to the United States, it
16 was about seven years, my recollection of the testimony,
17 where he didn't see her. He's now trying to build that
18 relationship. He's trying to build that relationship. You
19 saw that inner struggle. You heard him testify, I love my
20 mom.

21 It was genuine? Is that someone who's fabricating
22 this to make his mom upset, annoyed, angry, somebody he wants
23 to get back at? [REDACTED] also testified that the one reason
24 she waited several months to tell anyone about this was
25 because she was very nervous and even saddened by the fact

1 that this could hurt and potentially even ruin her dad's
2 relationship with his mom. These emotions, I submit to you,
3 were genuine.

4 So let's talk a little bit, then, about the
5 credibility of the defense witnesses. [REDACTED].

6 [REDACTED]' testimony primarily focused on June 23rd of
7 2015. That's kind of where the focus was. I don't really
8 know why that's where the attention was focused, but he
9 seemed to remember that specific day because his dad was home
10 from work. Or at least that's what he said.

11 I can't remember what I did for my birthday in such
12 detail about a month ago. But he even remembered what his
13 brother was doing. He said I remember he showed [REDACTED] an
14 E3 video. Somebody who's so focused on his games, playing
15 for eight or nine hours a day, can recall exactly a year-and-
16 a-half ago I remember, yep, my brother showed her this video
17 on that day. Is that a reasonable statement? Is that a
18 reasonable statement? Or is it fabricated?

19 Can you remember what you were doing June 23rd of
20 2015? And if you remember what you were doing, can you
21 remember what your brother was doing with your niece? He
22 seemed to be able to remember perfectly. He also seemed to
23 remember that this room was rearranged in 2014. To be
24 honest, I don't even know why that's an important incident.
25 Whether it was rearranged or not, it could have happened in

1 2015. Not like the whole room was covered. That there was
2 no way to get in to have these things happen in that room.
3 But he seemed fixated on the fact that it was rearranged in
4 2014, not 2015, or afterwards.

5 You'll recall that Amor testified that these
6 pictures weren't the exact same they were in 2015. He
7 couldn't remember the specifics of everything, but he
8 recalled that it was different. Yet, he seemed positive to
9 remember exactly that this was the time. He -- [REDACTED]
10 testified that it was rearranged because of some Internet
11 issue. I don't know, but his mom came and in contradicted
12 that. Mom came in and said no, it was carpet cleaning. In
13 fact, I have a calendar to show you that this is what it was.

14 He seemed to remember. The credibility of [REDACTED]
15 [REDACTED] This I thought was a key point. I submit to you it
16 was. One of the final questions I asked him was did you talk
17 to your brother today? He said, yes. And I asked him did
18 you talk about your testimony? He answered, yes. That tells
19 a significant portion of the story. That they were talking
20 being his testimony.

21 Remember the Instruction on credibility, there's
22 various factors you can consider; the reasonableness of the
23 statements, motives and interests, relationship to the
24 parties. Credibility of [REDACTED].

1 Maria Franks. Her testimony seemed to focus on a
2 June 24th incident of 2015, and this is where she discussed
3 this wonderful day that she was having with the grandkids
4 where she took them all over town, she got some Panda
5 Express, purchased some sneakers and a backpack, went to
6 Adventure Dome, all these wonderful things. Or was it a
7 wonderful day?

8 By the end of her testimony, she said it wasn't a
9 wonderful day because the grandkids wouldn't talk to her.
10 They didn't ask her questions. Is that a reasonable
11 statement? Think about what else you heard during her own
12 testimony. She said she bought them several gifts, took them
13 to lunch and took them to the Adventure Dome. Is at that
14 indicative that it was not a good day? You do all these
15 wonderful things for people because it's just a terrible day?

16 Why not after the kids are being a little bit of a
17 pill or not as nice as you want them to be, why not just take
18 them home? Why keep spending money on them to punish your
19 own self to go to Adventure Dome and watch kids play arcade
20 games? Man, why would you do that if it's such a terrible
21 time?

22 Also, I submit to you that it was very interesting
23 that Amor, allegedly called [REDACTED] while they were at the
24 Adventure Dome. He said, you need to come home. It's such a
25 bad day, isn't grandma excited, all right, kids, everybody

1 back in the car, time to go home, right? If it's such a dad
2 day, okay, perfect time, let's get out.

3 No, instead she takes all the kids home after the
4 Adventure Dome. She randomly picks up the phone for the
5 first time in who knows how long since she's answered a phone
6 call from Amor, and then oh, okay, it's time for me to take
7 the kids home. Everyone in the car, let's go home. Does
8 that make any sense? You pack them up right then and there
9 at the Adventure Dome and you take them home if you're not
10 having a good time.

11 She chose the son that she's raised for 20 years,
12 not the son she barely knows. The gist of the defense
13 witnesses is that it did not happen on June 23rd or June
14 24th. It's more or less the quick summary of their
15 testimony. Still could have happened on those days. Still
16 could have happened. There's no testimony to the contrary
17 that it did not happen on June 23rd.

18 The fact that [REDACTED] remembers that day, he can
19 remember what -- he at least knows that Kenny and [REDACTED]
20 were together because Kenny's showing her videos. The kid
21 who's gaming constantly, do you think he's paying close
22 attention all day long to what Kenny and [REDACTED] are doing?
23 Still could have happened on the 23rd.

24 On the 24th, Maria testified there was a time where
25 she went to take a shower. Could have happened then. She

1 testified at some point after the Adventure Dome they came
2 home. Could have happened on those days. But Jury
3 Instruction 9, I want you to consider one more thing. The
4 State does not need to prove the specific day it happened.
5 What the State must prove as alleged in the Amended
6 Information is that it occurred sometime between June 1st and
7 June 30th. The defendant, in his statements to Detective
8 Hoyt, recalls them coming over in early June. [REDACTED] said
9 it happened before they went to New Jersey in late June. It
10 happened in June. It happened in June by the victim's own
11 statements and by the defendant's own statements. That's
12 when it happened.

13 We do not need to prove a specific date. I submit
14 to you that the State has proven beyond a reasonable doubt
15 that the defendant is guilty of the charge of lewdness with a
16 child under the age of 14. [REDACTED] said it happened.

17 [REDACTED] said he saw his sister's butt when the defendant was
18 hurting or harming her. [REDACTED] told a consistent story that was
19 told by [REDACTED] May Denina said all her children gave
20 consistent versions of the events. The defendant himself
21 said that he pulled the pants down, remembered the pants
22 coming down and that he possibly touched her on the vagina.

23 The State has proven beyond a reasonable doubt that
24 these things happened. Proven by credible witnesses. The
25 State asks you to find the defendant guilty beyond a

1 reasonable doubt. Thank you.

2 THE COURT: Mr. Lee.

3 MR. LEE: Yes, I'm going to use the Elmo.

4 (Mr. Lee/Clerk conferring)

5 DEFENDANT'S CLOSING ARGUMENT

6 MR. LEE: Good afternoon, ladies and gentlemen.

7 That was a passionate closing by the State (inaudible).

8 Now, as we mentioned about Amended Information, the Amended
9 Information is a allegation. It's not evidence of anything
10 that happened. So what I'm going to do right now is tell you
11 or give you a -- my approach as far as how you judge this
12 case, okay?

13 And of course, like I indicated or as Court
14 indicated to you, the defendant didn't have to produce any
15 evidence, didn't have to do anything, and State had to
16 produce -- or prove each and every one of the material
17 elements of the case, okay?

18 So when you look at the material elements of the
19 case, and I put this together here, there's a time frame.
20 And the time frame, as the State indicated, doesn't have to
21 be a specific day, but it has to have occurred between June
22 1st, 2015 and June 30th of 2015. They also have to have an
23 act, okay? A act in this particular case, as alleged in the
24 Amended Information, of touching the genital area of [REDACTED]
25 who is a child under 14.

1 And this has to be proven -- I mean, this has to
2 also be done with the requisite intent, you know, why this
3 was done. And of course, act and intent you get from the
4 evidence that's presented in this case. Now, let me go
5 through these material elements here and say what happened.

6 What happens if it was not June 1st and June 30th?
7 And it happened in April or something happened some other
8 time? Is that time frame proven? The State has to prove
9 that it was in that time frame. So there's a Instruction and
10 it was mentioned in Jury Instruction Number 14, that evidence
11 that the defendant committed an offense other than the date
12 on which he was charged, if believed was not received and may
13 not be considered by you to be proved that he's a person of
14 bad character in this case here.

15 So any other crime that was committed at any other
16 time the State has to show. That's why when I started my
17 opening statement, I indicated the evidence will show that
18 the only days that [REDACTED] went over to the Franks' home was
19 June 23rd and June 24th. Now, I'll just talk about Maria.
20 I have never seen a person who can keep so many receipts and
21 so many details for something that occurred so long ago until
22 she testified, and I believe, that because of her -- of her
23 working with H and R Block that she just develop this had
24 habit of doing this.

25 But her timetable and all the receipts that she had