

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

GARY LAMAR CHAMBERS

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

S.Ct. No. 73446

D.C. No. C292987-1

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**APPELLANT'S APPENDIX**

**Volume 7**

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**Chambers v. State Case No. 73446**

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1 consider all three penalties?

2 PROSPECTIVE JUROR NO. 362: Yes.

3 MS. THOMSON: Pass for cause.

4 THE COURT: Mr. Yanez, your turn.

5 MR. YANEZ: Mr. Linton, you just told us that  
6 unfortunately you were the victim of a robbery at gunpoint.  
7 Anything that happened during that incident that you think  
8 would prevent you from being fair and impartial in this case?

9 PROSPECTIVE JUROR NO. 363: No.

10 MR. YANEZ: Thank you. And same thing with the  
11 house, burglaries that you were the victim of, nothing in  
12 those incidents, things that might impact you to be fair and  
13 impartial here in this case?

14 PROSPECTIVE JUROR NO. 363: I do not believe so, no.

15 THE COURT: I forgot to ask them if they have any  
16 connection, close connection to law enforcement. Feel free to  
17 ask them that if you want.

18 MR. YANEZ: Per the Judge's question, any connection  
19 to law enforcement?

20 PROSPECTIVE JUROR NO. 363: No. Not for me, no.

21 MR. YANEZ: I talked earlier about the presumption  
22 of innocence and how Gary starts out right now and remains  
23 that way only if -- I can change only if the State can prove  
24 that beyond a reasonable doubt. You understand that's part of  
25 our criminal justice system here?

1 PROSPECTIVE JUROR NO. 363: I do.

2 MR. YANEZ: How do you feel personally about that?  
3 Do you think that's fair that we have that in our country? Do  
4 you think that's unfair, it should be changed?

5 PROSPECTIVE JUROR NO. 363: I believe that's very  
6 fair. You're innocent until proven guilty without a doubt.

7 MR. YANEZ: Something you might have some experience  
8 on based on what you said. Would you agree with me or would  
9 you disagree with me that a police officer's investigation is  
10 only as good as the information that they receive from  
11 witnesses and things they gather during their investigation?

12 PROSPECTIVE JUROR NO. 363: I would agree with that.

13 MR. YANEZ: If witnesses are telling an inaccurate  
14 or false things that can cause the investigation going the  
15 wrong direction?

16 PROSPECTIVE JUROR NO. 363: Information being the  
17 key. If it's false information it's not going to work.

18 MR. YANEZ: How do you feel about a situation if  
19 you're selected as a juror in this case where you go back in  
20 the jury room to deliberate and there's 11 other jurors on one  
21 side and you're on the other side, are you the type of person  
22 to try to convince all of those 11 other people or are you the  
23 type to say you know what, the majority's right, I'm the odd  
24 man out, so I'm going to go ahead and agree? Or maybe  
25 somewhere in between?

1 PROSPECTIVE JUROR NO. 363: I am very much my own  
2 person. I make up my own mind. I run my own company. That's  
3 -- I can think on my own.

4 MR. YANEZ: So you have no problem trying to  
5 convince those other 11?

6 PROSPECTIVE JUROR NO. 363: If that's what I have to  
7 do.

8 MR. YANEZ: Earlier I brought out a kind of phrase  
9 that we have in our society, that there's always two sides to  
10 a story. Do you believe in that? Think there's more than two  
11 sides?

12 PROSPECTIVE JUROR NO. 363: I would always say  
13 there's probably a third view.

14 MR. YANEZ: Is there any question that the Judge,  
15 prosecution or myself haven't asked you that you think would  
16 be important for us to know, either about yourself or a close  
17 family member, friend, that could have an impact on this case?

18 PROSPECTIVE JUROR NO. 363: No.

19 MR. YANEZ: Thank you. Mr. Vasquez. Mr. Vasquez,  
20 the same question to you. You heard the conversation earlier  
21 about the presumption of innocence that we have in our  
22 criminal justice system here.

23 PROSPECTIVE JUROR NO. 362: Correct.

24 MR. YANEZ: How do you feel personally about that?  
25 Do you think that's something that's fair? Something that

1 should be changed? That both sides should start at the  
2 same --

3 PROSPECTIVE JUROR NO. 362: No, it's fair.

4 MR. YANEZ: How about investigation, police officers  
5 investigating cases? We all talked about how police officers  
6 in our society are generally believed to be credible, we  
7 believe them. But information they receive is not right or is  
8 false. Do you think that it could have an impact on the  
9 accuracy of their investigation?

10 PROSPECTIVE JUROR NO. 362: Oh, yes, yes. Just any  
11 accurate information.

12 MR. YANEZ: Do you think police officers are  
13 perfect, never make mistakes?

14 PROSPECTIVE JUROR NO. 362: No.

15 MR. YANEZ: I asked earlier about [indiscernible]  
16 criminal defense attorneys. Have any opinions as to criminal  
17 defense attorneys? Are they liars trying to pull the wool  
18 over my eyes?

19 PROSPECTIVE JUROR NO. 362: No, it's part of our  
20 system. They're needed. That's how a system works.

21 MR. YANEZ: You had, I believe you told the Judge  
22 that the criminal trial that you served as a juror on, any bad  
23 taste in your mouth from that? Any bad thoughts, something  
24 you didn't like about it?

25 PROSPECTIVE JUROR NO. 362: No.

1 MR. YANEZ: Nothing in that case that would impact  
2 your ability to be fair and impartial in this case?

3 PROSPECTIVE JUROR NO. 362: No, nothing.

4 MR. YANEZ: And if you were sitting where Gary's  
5 sitting, would you want a juror like yourself in judgment?

6 PROSPECTIVE JUROR NO. 362: I believe so.

7 MR. YANEZ: Thank you, sir. Thank you, Judge.

8 THE COURT: All right. Ladies and gentlemen, one of  
9 the jurors -- something came up and I need to talk to one of  
10 the jurors outside of your presence. So I'm going to need to  
11 take a five-minute recess. So if you will please excuse us.  
12 Everybody except for juror number nine, if you please stay, so  
13 I need to talk to you. Everybody else, the prior admonishment  
14 applies. Please do not converse among yourselves about the  
15 case, don't do any research, don't form any opinions, don't  
16 talk to anybody in the hallways, any of the attorneys. Thank  
17 you. Please be ready to come back in five minutes.

18 (Prospective jury panel recessed at 2:38 p.m.)

19 THE COURT: All right. We're outside the presence  
20 of the jury. Mr. Brown, what's up?

21 PROSPECTIVE JUROR NO. 189: So [inaudible] I was  
22 asked about my thoughts about the case and I said safety.  
23 [inaudible] because my wife is a nurse, she does home care  
24 part time. And most of her patients are in north side of the  
25 town. And incident happened is in north side.



1 THE COURT: This incident that we're talking about  
2 here?

3 PROSPECTIVE JUROR NO. 189: Yes. So that bothers me  
4 a lot. Even though I go with her, I drive her to see her  
5 patients, that's still -- that's my only concern, the safety  
6 of us because every time we see her patients or she sees her  
7 patients, we bring our two kids because no one's going to  
8 watch them.

9 THE COURT: Are you saying -- I have to be frank  
10 here. Are you saying you're concerned about the defendant's  
11 friends or family or associates contacting you or harassing  
12 you in the future? Is that what your concern is? If not,  
13 maybe I'm jumping to the wrong --

14 PROSPECTIVE JUROR NO. 189: Not necessarily.

15 THE COURT: Are you concerned about safety or are  
16 you concerned about -- you have no reason to believe that this  
17 defendant or any of his friends or family are going to do  
18 anything wrong, right? There's no reason to believe --

19 PROSPECTIVE JUROR NO. 189: I can't say that.

20 THE COURT: Right now you should have no negative  
21 feelings against the defendant.

22 PROSPECTIVE JUROR NO. 189: No, no, no.

23 THE COURT: So, I don't understand safety. When you  
24 say safety, who's going to threaten your safety? What do you  
25 think -- how do you think your safety might be threatened?

1 PROSPECTIVE JUROR NO. 189: I would say I'm not  
2 comfortable being a juror if that's what happened. Like I  
3 said, most of the time I drive with my two kids in the car  
4 every time my wife go out and see her patients on the north  
5 side of the town. Since day one, that bothers me. That's my  
6 only concern, the safety, because she deal not just with the  
7 patient but the family members and the community, you know.

8 THE COURT: She deals with some troubled people.

9 PROSPECTIVE JUROR NO. 189: Yes.

10 THE COURT: But that's different -- just because  
11 your wife deals with troubled people, that doesn't mean you  
12 should view the defendant that way. So that shouldn't affect  
13 -- your safety here is not an issue. This is a safe  
14 courthouse, safe facility.

15 PROSPECTIVE JUROR NO. 189: Oh, not here. My  
16 [indiscernible] when we go to the area, you know, to the north  
17 side of the town where she sees patients because most of her  
18 patients --

19 THE COURT: Do you think other people that your wife  
20 deals with that have nothing to do with this defendant might  
21 challenge or threaten your safety just because you served as a  
22 juror?

23 PROSPECTIVE JUROR NO. 189: I don' t know because  
24 awhile ago somebody, the lawyer, asked us about if we have  
25 concern about safety of our relatives.

1 THE COURT: Right. Okay.

2 PROSPECTIVE JUROR NO. 189: So that makes me decide  
3 to let you guys know about it.

4 THE COURT: I appreciate that. I'm just trying to  
5 understand. So do you think that your concern about safety is  
6 going to interfere with your ability to pay attention to the  
7 evidence?

8 PROSPECTIVE JUROR NO. 189: I think so, yeah.

9 THE COURT: Do you guys have any follow-up questions  
10 for this gentleman?

11 PROSPECTIVE JUROR NO. 189: I mean, I'm honored to  
12 be here. I really want to be a juror because --

13 THE COURT: You made it pretty far in the process so  
14 far.

15 PROSPECTIVE JUROR NO. 189: Yeah. But then, it's  
16 bothering me. Yeah, it's bothering me.

17 THE COURT: Mr. Yanez.

18 MR. YANEZ: Quick question, Mr. Brown. Why do you  
19 think that this case occurred on the north side of town?

20 PROSPECTIVE JUROR NO. 189: I heard it the first --  
21 yesterday. It was mentioned yesterday.

22 THE COURT: Oh, it was mentioned?

23 PROSPECTIVE JUROR NO. 189: Yeah.

24 MR. YANEZ: That was it, Judge.

25 THE COURT: All right. Thank you. Why don't you

1 rejoin the other jurors and we're going to talk about what to  
2 do. Thank you, sir. Give the microphone back to the Marshal.

3 Bring in juror no. 268. Hi, you are Crystal Teen?

4 PROSPECTIVE JUROR NO. 268: Yes.

5 THE COURT: All right. Why don't you just sit where  
6 you've been sitting. Perfect. All right. You wanted to see  
7 us outside the presence of the other jurors. What's on your  
8 mind?

9 PROSPECTIVE JUROR NO. 268: Yeah. Well, there was a  
10 question that was asked yesterday that I was a little  
11 apprehensive to answer because of my own personal history, and  
12 it was when we were asked whether or not we had a problem with  
13 viewing photographs from an autopsy table. A gentleman had  
14 mentioned that no, he's seen enough dead bodies in military --

15 THE COURT: That was the Marine Corps gentleman,  
16 right?

17 PROSPECTIVE JUROR NO. 268: Yeah. Unfortunately, in  
18 my own personal experience I saw enough in high school and it  
19 would be kind of difficult --

20 THE COURT: Why high school? Who shows that kind of  
21 stuff in high school?

22 MS. THOMSON: Judge, she was the individual who was  
23 in the school shooting.

24 THE COURT: Oh, my gosh. Thank you for reminding  
25 me. Oh, my gosh, that's horrible.

1           PROSPECTIVE JUROR NO. 268: It was unfortunate that  
2 it was --

3           THE COURT: That's very traumatic.

4           PROSPECTIVE JUROR NO. 268: Well, I was in close  
5 proximity to it, so it was something that I was a firsthand  
6 witness to. And it gets uncomfortable to discuss.

7           THE COURT: No, I know.

8           PROSPECTIVE JUROR NO. 268: And I don't think that  
9 it makes me biased opinion or anything, but my comfort level  
10 dealing with the deceased is a little compromised, I would  
11 say. I just needed to make you aware because I would like  
12 everybody to know that I would be definitely uncomfortable  
13 looking at images of dead bodies. I don't know that it  
14 wouldn't cloud my head in any way.

15           THE COURT: Is that something you have pictures of?

16           MS. THOMSON: We do, from the autopsy.

17           PROSPECTIVE JUROR NO. 268: I just felt that it was  
18 something that I should mention because I don't want it to get  
19 to that point and then --

20           THE COURT: I really don't like looking at that  
21 stuff either, but it's my job and I kind of like agreed to do  
22 that when I took on this job. But it's not something the  
23 average person, and you with your past experience, it's --  
24 it's something I really don't want to have to force you to do.  
25 Do you guys want to ask her any questions?

1 MS. THOMSON: I don't.

2 MR. YANEZ: No, Judge.

3 PROSPECTIVE JUROR NO. 268: I apologize for --

4 THE COURT: No, no, no, nothing to apologize for.

5 PROSPECTIVE JUROR NO. 268: I just felt that it  
6 should be something that I should mention because I don't want  
7 it to get to a point where it's something that matters and I  
8 can't get my head around it.

9 THE COURT: Why don't you go join the other jurors  
10 and we'll talk about that. Thank you very much.

11 PROSPECTIVE JUROR NO. 268: Thank you.

12 THE COURT: All right. We're outside the presence.  
13 I feel very uncomfortable forcing her to look at those photos.  
14 Given the trauma that she's had with the mass school shooting,  
15 looking at people. That's very traumatic.

16 MS. THOMSON: I'll submit to whatever --

17 MR. YANEZ: Yeah, I don't think it's any different  
18 than the gentleman we excused who had PTSD from Iraq. It  
19 sounds somewhat similar.

20 THE COURT: I'm going to excuse juror 268, Crystal  
21 Teen, based on cause. All right? She's sitting in seat  
22 number 24. All right? We'll fill her seat in a minute. What  
23 about so -- Mr. Brown. I didn't quite understand what his  
24 concern is. I tried. I'm not sure. Did you guys -- what are  
25 your thoughts on him? Was I missing his point?

1 MR. YANEZ: I didn't fully understand it either. I  
2 want to say, and obviously I'm from the defense side so maybe  
3 I'm biased for what I interpret, but it sounded like he's  
4 concerned for the safety so he'd be more inclined to find him  
5 guilty just in case to keep the community safe. That's kind  
6 of where I was going with it. But again, that's my -- my  
7 visor's on and that's the way I looked at it. That's the way  
8 I understood it. But I agree with Your Honor. He wasn't  
9 fully clear on where he was going with the safety thing.

10 Another reason why I do think that is his answer,  
11 that whole safety thing, came up when I asked him about the  
12 charge of murder and just the fact that it was a murder  
13 charge, what are your thoughts on that. My memory is that's  
14 what his response was.

15 THE COURT: All right. What's your thoughts on  
16 this, Ms. Thomson?

17 MS. THOMSON: I didn't understand what he was  
18 saying.

19 THE COURT: I tried. He did say at the end he's  
20 concerned that it might be held against him somehow if he were  
21 to sit through this trial. He didn't articulate how or why he  
22 felt that way.

23 MS. THOMSON: I agree.

24 THE COURT: I don't think he was just making  
25 something up to get out of serving. It seems like there was

1 some genuine anxiety there. I sensed some genuine anxiety  
2 from the way he was answering. But I'm not sure I can  
3 articulate why. And I think -- any objection to me excusing  
4 him? I think there was anxiety that he expressed would  
5 interfere with his ability to serve as a juror.

6 MS. THOMSON: No, Your Honor.

7 MR. YANEZ: No, Judge.

8 THE COURT: I mean, anyone who's coming up with that  
9 type of position at this stage in the process I tend to  
10 believe is a genuine concern. All right. Well, I'm going to  
11 excuse 189 based on cause also.

12 So here's what we're going to do. Since we've got  
13 to fill the positions in the order in which I excuse them,  
14 since I did excuse 268 first, that's seat number 24, you're  
15 going to now fill seat number 24 with next in order, which I  
16 believe is Crystal Alder.

17 THE CLERK: Yes.

18 THE COURT: All right. And then, we're also  
19 excusing for cause seat number nine, which is Johnny Brown is  
20 being excused and we're going to fill that seat with Aubrey  
21 Anderson.

22 THE CLERK: Correct.

23 THE COURT: Let's bring them in.

24 THE MARSHAL: One of the jurors happened to know one  
25 of the witnesses and he's juror 193.



1 THE COURT: Bring him in. Hello, Mr. Morgan.

2 PROSPECTIVE JUROR NO. 293: Hi. How are you?

3 THE COURT: Good. Why don't you come down and have  
4 a seat right up here in the witness chair. You guys can all  
5 be seated. Mr. Morgan, so you think you might know one of the  
6 witnesses? Why don't you tell us which one?

7 PROSPECTIVE JUROR NO. 293: I don't know if it's a  
8 witness or not, Your Honor.

9 THE COURT: Tell us which name. We'll try to figure  
10 it out.

11 PROSPECTIVE JUROR NO. 293: Last name Hernandez.

12 THE COURT: What's the first name. There's a lot of  
13 Hernandezes.

14 PROSPECTIVE JUROR NO. 293: That I don't know. I  
15 wouldn't know if I saw it or heard it.

16 THE COURT: Okay. So what Hernandez -- so you don't  
17 know which one, but it was a Hernandez?

18 PROSPECTIVE JUROR NO. 293: It's a gal.

19 THE COURT: It's a gal. And what does she do?

20 PROSPECTIVE JUROR NO. 293: She's a Teamster or  
21 works out at -- in the trade show industry.

22 THE COURT: Trade show industry. All right. Do you  
23 have anybody like that on the list? How old is she?

24 PROSPECTIVE JUROR NO. 293: I'd be guessing. Forty,  
25 forty something.

1 THE COURT: I'm just trying to help them out.

2 PROSPECTIVE JUROR NO. 293: I can't -- I don't know  
3 her first name.

4 THE COURT: How would you know her?

5 PROSPECTIVE JUROR NO. 293: Well, I'm in management  
6 with one of the large --

7 THE COURT: Trade show management, so you deal with  
8 the laborers and Teamsters.

9 PROSPECTIVE JUROR NO. 293: Yes. And she wouldn't  
10 know me by name.

11 THE COURT: She would know you by name.

12 PROSPECTIVE JUROR NO. 293: Because I am the  
13 manager.

14 THE COURT: Okay. All right.

15 MS. THOMSON: Your Honor, we do have a witness in  
16 the hallway because we didn't know what was going to happen  
17 this afternoon.

18 THE COURT: Is that Hernandez? Let's bring her in  
19 and see if they know each other.

20 MS. THOMSON: We can do that. Okay.

21 PROSPECTIVE JUROR NO. 293: I don't know if she's  
22 just visiting or it's part of the program.

23 THE COURT: Either she doesn't know him, then she  
24 doesn't know him, maybe we'll excuse him. Thanks for letting  
25 us know.

1 PROSPECTIVE JUROR NO. 293: I thought it was  
2 something you'd be very concerned about.

3 THE COURT: Can't have jurors judging people they  
4 know. Hi, ma'am, how are you doing?

5 MS. PAPOUTSIS: Fine.

6 THE COURT: What's your name?

7 MS. PAPOUTSIS: Lisa Papoutsis.

8 THE COURT: Last name what?

9 MS. PAPOUTSIS: Papoutsis.

10 THE COURT: Papoutsis. Oh, okay. I thought you  
11 were bringing in Hernandez. Did your name used to be  
12 Hernandez?

13 MS. PAPOUTSIS: No.

14 THE COURT: All right.

15 MR. SCHWARTZ: We don't have a Hernandez. We just  
16 thought maybe this was the person --

17 THE COURT: Oh, you don't know this person?

18 PROSPECTIVE JUROR NO. 293: No. I thought I  
19 recognized this young lady in the back here.

20 THE COURT: Is your name Hernandez?

21 MS. HERNANDEZ: Yes, it is, but I have nothing to do  
22 with the case.

23 THE COURT: You have nothing to do with the case.

24 MS. HERNANDEZ: No.

25 THE COURT: All right. You're not a witness in the

1 case. All right. You're just --

2 MS. HERNANDEZ: I'm with the court.

3 THE COURT: You're with the court.

4 MS. HERNANDEZ: I'm moral support for Lisa.

5 THE COURT: Oh, moral support for Lisa. Ms.

6 Hernandez in the back, do you work for Teamsters?

7 MS. HERNANDEZ: Yes, I do.

8 THE COURT: Oh, okay. So do you know this  
9 gentleman?

10 MS. HERNANDEZ: Yes, I do.

11 THE COURT: All right. So you're here because  
12 you're moral support for the witness.

13 MS. HERNANDEZ: Yes.

14 THE COURT: All right. But you're not a witness  
15 yourself.

16 MS. HERNANDEZ: No.

17 THE COURT: All right. I don't think that's a  
18 problem. Anybody want to ask any questions of this guy about  
19 any of this?

20 MS. THOMSON: Yes, but I would ask that --

21 THE COURT: Let's do it outside the presence of the  
22 witness. All right. Thank you, ma'am, for coming in. Ms.  
23 Hernandez, why don't you step outside too momentarily. Thank  
24 you very much. Appreciate it. We'll get to the bottom of  
25 this. All right. So this is continued voir dire. You guys

1 have any questions of Mr. Morgan?

2 MS. THOMSON: Thank you, Your Honor. So the female  
3 who was standing, you don't recognize or know?

4 PROSPECTIVE JUROR NO. 193: No.

5 MS. THOMSON: Okay. Anything about the fact that  
6 she came with another individual who you have in the past  
7 worked with affect your ability to judge the evidence as  
8 presented and weigh it fairly?

9 PROSPECTIVE JUROR NO. 193: No. I have no issue  
10 there. I just -- I recognized somebody and I didn't know  
11 where they fell in the program, so I wanted to bring it to  
12 your attention.

13 THE COURT: You did the exact right thing. I  
14 appreciate it.

15 PROSPECTIVE JUROR NO. 193: It would be  
16 uncomfortable for me if she was involved in that. I mean, it  
17 would have a carryover lasting effect for me, possibly.

18 MS. THOMSON: Thank you.

19 THE COURT: So Hernandez is not going to testify,  
20 right?

21 MS. THOMSON: No.

22 THE COURT: Mr. Yanez.

23 MR. YANEZ: Just briefly, Mr. Morgan. Did you hear  
24 that she said she was here for moral support?

25 PROSPECTIVE JUROR NO. 193: I did.

1 MR. YANEZ: And that person's going to testify at  
2 the trial. Knowing that someone that you know is here for  
3 moral support for that witness, does that make an impact on  
4 you on you being able to be fair and impartial in this case?

5 PROSPECTIVE JUROR NO. 193: Absolutely not. I just  
6 brought it to the Court's attention because I didn't want  
7 someone to find out later and that be an issue.

8 MR. YANEZ: Thank you. I appreciate it.

9 THE COURT: All right. Thank you for your answers  
10 and your honesty. You may be excused, sir. Rejoin the other  
11 jurors and we're going to be bringing everyone back in  
12 momentarily.

13 PROSPECTIVE JUROR NO. 193: We get more exercise  
14 than at a health club.

15 THE COURT: All right. No more notes, Marshal?

16 THE MARSHAL: No more notes, Judge.

17 THE COURT: All right. We good to go?

18 MS. THOMSON: Yes, Your Honor.

19 MR. YANEZ: I want to make sure I'm on the same  
20 page.

21 THE COURT: Seat 24 is Crystal Alder, 365, that's  
22 going to be sitting over there. And in seat number nine  
23 appears Aubrey Anderson, 378. When they come in I'm going to  
24 announce that and they'll be sitting here. And then I'm going  
25 to let you guys ask more questions.

1 MR. YANEZ: Sixty-five is over here, correct?

2 THE COURT: 365 is seat 24. Oh, you're right, yes.

3 Thank you.

4 MR. YANEZ: I'm on the same page. Thank you.

5 THE COURT: Let's bring them in, Marshal.

6 (Potential jury panel reconvened at 3:02 p.m.)

7 THE COURT: Thank you for your patience. As you  
8 know, this is very important, it's serious business, and we've  
9 had -- sometimes I don't anticipate things that come up. So  
10 we had more things to talk about than just that one -- than  
11 the issue I needed to talk about with the one juror.

12 I am going to do two things. I am going to excuse  
13 -- why don't you announce the two people that are being  
14 excused for cause?

15 THE CLERK: Okay. And that was Mr. Brown, badge  
16 number 189.

17 THE COURT: Mr. Brown, you're excused. Please  
18 gather your belongings. With the thanks of the Court you're  
19 excused, sir.

20 THE CLERK: And next is badge number --

21 THE COURT: It was Teen, Ms. Teen.

22 THE CLERK: Badge 268, Crystal Teen.

23 THE COURT: Crystal Teen, you're excused. Thank  
24 you, ma'am, with appreciation of the Court for your time. All  
25 right. Now we need to fill those two seats. We have the next

1 in order. Taking seat number nine was badge number 378,  
2 Aubrey Anderson. Will you please approach and take seat  
3 number nine? Ms. Anderson, thank you very much. Actually,  
4 the person before that was Crystal Alder taking seat 24, 365.  
5 Good afternoon, Ms. Alder. Thank you very much. You're going  
6 to sit right there in seat number 24. And Ms. Alder is in  
7 seat number nine. Very good. Thank you. All right.

8 So, let me talk to both of you. Let me talk to Ms.  
9 Alder first. Okay, since the Marshal's here, talk to Ms.  
10 Anderson first. Ms. Anderson, please provide us with the  
11 information that's on the form there.

12 PROSPECTIVE JUROR NO. 378: My name's Aubrey  
13 Anderson and my badge number is 378. I have education, some  
14 college and some Air Force technical training. Right now I'm  
15 a singer and I'm married. I don't have children. And this is  
16 my first time serving on a jury.

17 THE COURT: All right. Have you ever been a victim  
18 of a violent crime or have anybody close to you that's been a  
19 victim of a violent crime?

20 PROSPECTIVE JUROR NO. 378: My sister, yeah.

21 THE COURT: Can you tell us about that, please?

22 PROSPECTIVE JUROR NO. 378: She was a drug addict  
23 and so she was attacked and raped.

24 THE COURT: I'm sorry. How long ago did that  
25 happen?



1 PROSPECTIVE JUROR NO. 378: Probably seven years  
2 ago, maybe five.

3 THE COURT: Did it happen here in Clark County?

4 PROSPECTIVE JUROR NO. 378: Yeah.

5 THE COURT: Did they catch the person who did that?

6 PROSPECTIVE JUROR NO. 378: No. She didn't report  
7 it.

8 THE COURT: Is your sister better now from that  
9 traumatic incident and her drug problems?

10 PROSPECTIVE JUROR NO. 378: Much better, yeah.

11 THE COURT: Have you ever been arrested?

12 PROSPECTIVE JUROR NO. 378: No.

13 THE COURT: Do you have any connection to law  
14 enforcement?

15 PROSPECTIVE JUROR NO. 378: No.

16 THE COURT: Are you a U.S. citizen?

17 PROSPECTIVE JUROR NO. 378: Yes.

18 THE COURT: Are you able to serve for a week?

19 PROSPECTIVE JUROR NO. 378: Yes.

20 THE COURT: Anything you want to tell us? These  
21 guys might have some specific questions, but I'm just giving  
22 you a chance to say anything that might be on your mind that  
23 you think we might want to know.

24 PROSPECTIVE JUROR NO. 378: I think that's it, yeah.

25 THE COURT: Okay. Thank you very much. I

1 appreciate that. Give the microphone to the Marshal. All  
2 right. Ms. Alder, how are you this afternoon?

3 PROSPECTIVE JUROR NO. 365: Fine. Thank you.

4 THE COURT: Thank you for being here. Why don't you  
5 provide us with the same information?

6 PROSPECTIVE JUROR NO. 365: My name is Crystal  
7 Alder. My badge number is 365. High school education.  
8 Previously I was a dispatcher for tribal police and I'm  
9 currently an employment specialist with Caesar's  
10 Entertainment. I'm married, I have two children, ages four  
11 and 14. And I've never served on a jury.

12 THE COURT: All right. Have you or anybody close to  
13 you ever been a victim of a violent crime?

14 PROSPECTIVE JUROR NO. 365: My sister, domestic  
15 violence.

16 THE COURT: How long ago was that?

17 PROSPECTIVE JUROR NO. 365: About 10 years ago.

18 THE COURT: Did that happen here in Clark County?

19 PROSPECTIVE JUROR NO. 365: Yes.

20 THE COURT: Who was the culprit or the person  
21 that --

22 PROSPECTIVE JUROR NO. 365: Her husband.

23 THE COURT: Her husband? All right. What happened  
24 to him?

25 PROSPECTIVE JUROR NO. 365: He moved to Colorado.

1 THE COURT: Did he ever get arrested?

2 PROSPECTIVE JUROR NO. 365: For that, no.

3 THE COURT: Okay. How's your sister doing now?

4 PROSPECTIVE JUROR NO. 365: She's better.

5 THE COURT: Is she still here in Clark County?

6 PROSPECTIVE JUROR NO. 365: Yes.

7 THE COURT: Do you stay in touch with her?

8 PROSPECTIVE JUROR NO. 365: Yes.

9 THE COURT: Is there anything about that incident

10 that would make it difficult for you to serve in this case?

11 This case doesn't involve domestic violence.

12 PROSPECTIVE JUROR NO. 365: No.

13 THE COURT: All right. Do you have any connections

14 to law enforcement?

15 PROSPECTIVE JUROR NO. 365: I was a dispatcher for

16 tribal police for about 10 years.

17 THE COURT: What's tribal police?

18 PROSPECTIVE JUROR NO. 365: Tribal police, it's the

19 police department for the Las Vegas Paiute tribe.

20 THE COURT: Oh, tribal police. Oh, very good.

21 Okay. All right. So having worked with police and law

22 enforcement, are you able to do what we've talked to some of

23 the other folks about, is setting aside any respect,

24 preexisting respect you might have for the police who come in

25 here and judge their credibility based on what you see and

1 hear on the stand, based on their demeanor, based on their  
2 motives and the evidence?

3 PROSPECTIVE JUROR NO. 365: Yes.

4 THE COURT: You think you can do that?

5 PROSPECTIVE JUROR NO. 365: Yes.

6 THE COURT: All right. Can you give the defendant  
7 here a fair trial?

8 PROSPECTIVE JUROR NO. 365: Yes.

9 THE COURT: Are you going to hold it against him if  
10 he decides not to testify?

11 PROSPECTIVE JUROR NO. 365: No.

12 THE COURT: All right. Anything else you need to  
13 tell us?

14 PROSPECTIVE JUROR NO. 365: No.

15 THE COURT: All right. Thank you very much. I'm  
16 going to let the attorneys ask a few questions. Ms. Thomson.

17 MS. THOMSON: Thank you, Your Honor. Did your  
18 sister report that incident?

19 PROSPECTIVE JUROR NO. 365: No.

20 MS. THOMSON: With the tribal police, did you have  
21 contact with other law enforcement agencies or were you just  
22 strictly within your own agency?

23 PROSPECTIVE JUROR NO. 365: No, we also worked with  
24 Metro and Highway Patrol.

25 MS. THOMSON: With your contact with Metro

1 specifically, did you form any opinions about Metro as a  
2 whole?

3 PROSPECTIVE JUROR NO. 365: No.

4 MS. THOMSON: You heard the questions that I've  
5 asked today and asked yesterday, yeah?

6 PROSPECTIVE JUROR NO. 365: Yes.

7 MS. THOMSON: Anything about those that I should be  
8 asking you?

9 PROSPECTIVE JUROR NO. 365: No.

10 MS. THOMSON: Would you be concerned either if you  
11 were the State or the defendant to have someone like yourself  
12 as a juror?

13 PROSPECTIVE JUROR NO. 365: No.

14 MS. THOMSON: Why not?

15 PROSPECTIVE JUROR NO. 365: Because I think I can  
16 listen to both sides fairly.

17 MS. THOMSON: If I can have you pass the microphone  
18 down to Ms. Anderson, who is badge number 378. Thank you.  
19 You indicated that you have some Air Force training I think?

20 PROSPECTIVE JUROR NO. 378: Yeah.

21 MS. THOMSON: Was that training as a civilian or  
22 were you in the Air Force for a period of time?

23 PROSPECTIVE JUROR NO. 378: I was in the Air Force  
24 National Guard, so part of my duties were full-time Air Force  
25 National Guard paid under the State, so it wasn't active duty,

1 but it was -- you're in a civilian spot, but you're in your  
2 Air Force uniform doing your Air Force job and you could be  
3 activated or deployed at any time. It's a reserve position.

4 MS. THOMSON: Because I'm not familiar with how it's  
5 structured, is any of that police like?

6 PROSPECTIVE JUROR NO. 378: Not what I did, no. But  
7 some of the people that I worked with on the base, like some  
8 of them were cops and then they would also be reservists. So  
9 I guess in that way I worked with some guys that were.

10 MS. THOMSON: No kind of relationship where it would  
11 affect your opinion of someone who was testifying?

12 PROSPECTIVE JUROR NO. 378: No.

13 MS. THOMSON: I'll pass for cause. Thank you.

14 THE COURT: Fine. Mr. Yanez, you have the floor,  
15 sir.

16 MR. YANEZ: Thank you. I'll just stay with Ms.  
17 Anderson since she has the microphone. The incident with your  
18 sister, how do you feel the fact that it wasn't reported? How  
19 do you feel about that?

20 PROSPECTIVE JUROR NO. 378: I understand that  
21 there's -- you know, like when she was involved with drugs  
22 there's a lot of things going on illegally that people don't  
23 report because of the nature of if they did they could get in  
24 trouble. So that's -- yeah, I understand that's kind of part  
25 of the reason why she didn't.

1 MR. YANEZ: And it sounds like from how you  
2 described it the drug addiction or -- yeah, the drug addiction  
3 is kind of what put her in that position for that to happen.  
4 Is that fair to say?

5 PROSPECTIVE JUROR NO. 378: Yeah.

6 MR. YANEZ: I don't know if the Judge asked you  
7 this, and if he did I apologize. Have you ever served on a  
8 jury?

9 PROSPECTIVE JUROR NO. 378: No.

10 MR. YANEZ: Nothing about the fact that that crime  
11 happened against your sister going to cause any prejudice or  
12 bad thoughts towards Gary that hey, someone needs to pay,  
13 there has to be some type of punishment?

14 PROSPECTIVE JUROR NO. 378: I feel like because of  
15 what happened that I understand that people can make mistakes,  
16 but I also understand the gravity of crimes against people  
17 too. So I feel like it gives me a compassionate perspective  
18 for both sides. It would be completely based on totally what  
19 I would be presented, like I wouldn't be one way or the other  
20 because I see, you know, I've seen what victims go through and  
21 see what, you know, someone who is breaking the law. Because  
22 she was a drug dealer.

23 MR. YANEZ: So, nothing from what you know about  
24 that experience and your sister obviously being your sister  
25 you think would impact you in being unfair or impartial in

1 this case?

2 PROSPECTIVE JUROR NO. 378: No. I feel like it  
3 would make me care more.

4 MR. YANEZ: Okay. You have the quite entertaining  
5 job of being a singer.

6 PROSPECTIVE JUROR NO. 378: Yeah.

7 MR. YANEZ: Work wise, I know a lot of times  
8 musicians, singers, they perform at night. Would that be --  
9 your employment be any type of obstacle or problem with you  
10 serving as a juror?

11 PROSPECTIVE JUROR NO. 378: They're being really  
12 understanding about me being here. So, no, it shouldn't be a  
13 problem.

14 MR. YANEZ: Do you have an actual employer? Do you  
15 sing at a certain place or are you contracted out?

16 PROSPECTIVE JUROR NO. 378: Yeah. I sing at the  
17 Venetian. I'm an opera singer for the Renaissance shows. So,  
18 it's like a regular show that's there. Every day we do like  
19 six shows a day. It's not like I'm gigging and I'm losing my  
20 gigs, it's more like, you know, we're a cast and somebody else  
21 can step in, hopefully, if someone's available.

22 MR. YANEZ: Okay. So your employer is actually the  
23 Venetian?

24 PROSPECTIVE JUROR NO. 378: [indiscernible] Agency.

25 MR. YANEZ: Okay. I asked earlier the questions.



1 Hopefully, you heard about our presumption of innocence  
2 standard that we have here. That's the law. How do you feel  
3 about it personally? Do you think that's fair that the State,  
4 the prosecutors have to prove the case beyond a reasonable  
5 doubt or do you think that should be changed?

6 PROSPECTIVE JUROR NO. 378: Yeah. No, I think it's  
7 right.

8 MR. YANEZ: What's your thought on police and police  
9 officers?

10 PROSPECTIVE JUROR NO. 378: I've had good  
11 experiences and bad experiences. I think people are people  
12 and that just because you belong -- especially being in the  
13 Air Force, I felt the same way about it. I feel like each  
14 person should be taken individually. I don't think that just  
15 because you're a police officer that you're good, and I don't  
16 think, you know, because I've had a bad experience with a  
17 police officer that that means that the police are bad.

18 MR. YANEZ: Can you give me one example of each, of  
19 a good example and a bad example you had with police?

20 PROSPECTIVE JUROR NO. 378: Yeah. I got in a really  
21 severe car accident and this police officer came and he took  
22 care of me. He stayed the whole time. He was really, like  
23 wonderful and kind, and tried to, you know, do the right thing  
24 as far as the person that hit me because they didn't have a  
25 license and all that. And then, I would say when I was

1 younger we had like some stalkers and some things like that,  
2 and the police didn't really step up and stop it. We've been  
3 robbed too. I mean, there's a lot of things that have  
4 happened. Sorry.

5 MR. YANEZ: No, that's fine. I appreciate it.  
6 Would you agree -- I talked earlier about police officers and  
7 their investigation and the information they receive.  
8 Assuming the police officer's not a witness to a crime, would  
9 you agree that their investigation or the -- how sound and  
10 reliable that investigation is based on the witness's  
11 information that they gather?

12 PROSPECTIVE JUROR NO. 378: Yeah. Witnesses and  
13 evidence, uh-huh.

14 MR. YANEZ: Thank you. I'll pass -- I'll grab the  
15 microphone. Juror 365, Ms. Alder. You mentioned the  
16 incident, the crime that your sister went through with her  
17 husband. How do you feel about the fact that it was never  
18 reported?

19 PROSPECTIVE JUROR NO. 365: I was disappointed in  
20 her, but that's her decision.

21 MR. YANEZ: You think that's something that should  
22 have been reported?

23 PROSPECTIVE JUROR NO. 365: Yes.

24 MR. YANEZ: Anything about the fact that it wasn't  
25 reported that you think would make you unfair in this case,

1 want to unfairly treat Gary because your sister's husband  
2 wasn't properly punished?

3 PROSPECTIVE JUROR NO. 365: No.

4 MR. YANEZ: Have you ever served on a jury?

5 PROSPECTIVE JUROR NO. 365: No.

6 MR. YANEZ: How long did you work as a dispatcher  
7 for tribal police?

8 PROSPECTIVE JUROR NO. 365: Ten years.

9 MR. YANEZ: And I'm assuming you had conversations,  
10 friendships with police officers based on that?

11 PROSPECTIVE JUROR NO. 365: Yes.

12 MR. YANEZ: Would you say that you're kind of biased  
13 towards police officers based on that or you still think  
14 you're fair and wouldn't necessarily give police officers a  
15 head start from our side?

16 PROSPECTIVE JUROR NO. 365: No, I would look at them  
17 fairly. There's no taking one side over the other.

18 MR. YANEZ: And the presumption of innocence, like  
19 Gary as he sits here today is innocent and remains innocent  
20 only if the State can prove beyond a reasonable doubt that  
21 he's guilty. How do you feel about that personally? Do you  
22 think that's fair that we have the law here in our country?

23 PROSPECTIVE JUROR NO. 365: Yes.

24 MR. YANEZ: Thank you. Thank you, Judge.

25 THE COURT: All right. So you guys have choices.

1 Do you both pass for cause subject to any prior objections  
2 that are on the record which you don't waive or do you want to  
3 approach and put anything on the record outside the presence?

4 MS. THOMSON: We'll pass for cause.

5 MR. YANEZ: Pass for cause, Judge.

6 THE COURT: All right. So you guys both pass for  
7 cause subject to any prior objections and comments that are  
8 already on the record.

9 So, ladies and gentlemen, at this time we need to  
10 proceed with what's called the peremptory challenge phase of  
11 the jury selection. And until that phase is done, I can't  
12 excuse the folks in the back, but it's becoming less likely  
13 that we're going to need you. In the peremptory challenge  
14 phase, since we have now what's called prequalified for cause  
15 32 of you, the attorneys now have a form that they pass back  
16 and forth. What they do is they each get to remove nine  
17 people. So they deselect nine people. They do it one at a  
18 time, it just goes back and forth, back and forth, back and  
19 forth, until 18 people have been removed and whoever is left  
20 is on the jury team. You guys got it?

21 You don't need to do anything other than just sit  
22 here quietly. This process takes -- it's probably going to  
23 take a half an hour. I don't mind if you guys stretch a  
24 little bit, you can stand up, you can stretch, move around a  
25 little bit. Just stay generally in your seat area. I don't

1 think there's any objection to you guys chit-chatting with  
2 each other a little bit, just don't talk about the case, don't  
3 form any opinions, don't do any research, don't use your cell  
4 phones, none of that.

5 With that, just please be at ease a little bit for a  
6 few moments. We need to do this with you present so they can  
7 look at you and be reminded of what some of the things you  
8 guys said. All right? We'll go off the record for this part.  
9 All right?

10 (Session paused from 3:20 p.m. until 3:51 p.m.)

11 THE COURT: Let's go back on the record. Counsel,  
12 any objection to the peremptory challenges that are made by  
13 the parties being accepted by the Court?

14 MR. YANEZ: No, Judge.

15 THE COURT: All right. Let's go ahead and hand that  
16 over to the Court clerk and she will take a moment to enter  
17 those. Are you done? Can we cross-check?

18 THE CLERK: Yes.

19 THE COURT: Okay. Sorry. I do it, then she does  
20 it, then we cross-check. All right. Sometimes there's a  
21 minor discrepancy, but we got it figured out. All right. At  
22 this point the Court clerk will announce the final list of  
23 jurors and two alternates. You won't know if you're one of  
24 the alternates, so we have a group of a total of 14 jurors.  
25 That's the regular jurors and the two alternates. All right.

1 If you hear your name, that means you are selected to be one  
2 of the jurors. If you don't hear your name, wait until we're  
3 done calling all the names and then I confer with the  
4 attorneys to make sure their records show the same information  
5 that mind do. And then I'll excuse you. All right? And then  
6 I'll tell you guys what comes next. Madam Clerk, you may go  
7 ahead and announce the jurors by badge number and name,  
8 please. Pay attention to make sure your records are the same.

9 THE CLERK: Juror number one is badge number 181,  
10 Tommy Eastham. Juror number two is badge number 183, Vicki  
11 Smith. Juror number three is badge number 185, Kiley Georgi.  
12 Juror number four is badge 186, Richard Casselman. Juror  
13 number five is badge number 343, David Henry. Juror number  
14 six is badge 363, J. Linton. Juror number seven is badge  
15 number 378, Aubrey Anderson. Juror number eight is badge  
16 number 195, Stephanie Ocampo. Juror number nine is badge  
17 number 222, Anne Alipon. Juror number 10 is badge number 252,  
18 Karen Tackett. Juror number 11 is badge 265, Danielle  
19 Opperman. Juror number 12 is badge number 365, Crystal Alder.  
20 Juror number 13 is badge number 275, Nelson Brown. Juror  
21 number 14 is badge 289, Carrie Lee.

22 THE COURT: All right. If your name wasn't called,  
23 then you are going to be excused at this time. Let me check  
24 with the attorneys. Do your records match the Court clerk's  
25 records?

1 MS. THOMSON: Yes, Your Honor.

2 MR. YANEZ: Yes, Your Honor.

3 THE COURT: All right. So let me tell the folks  
4 that sat through this process that on behalf of the Eighth  
5 Judicial District Court we greatly appreciate your time and  
6 dedication and being subjected to very personal questions.  
7 This is a very important process in our judicial system, and  
8 it can't work without your involvement and your time. So,  
9 thank you very much for your participation. You may grab your  
10 belongings and feel free to leave at this time. The rest of  
11 you, please stick around.

12 The folks in the back, you are all now excused.  
13 Thank you very much for your participation in this process and  
14 attentiveness. You're also excused with the thanks of the  
15 Court and released from any prohibition on discussing what  
16 you've observed. All right? Thank you very much everybody.  
17 Let's count and make sure we've got 14 people here. We've got  
18 14. That should work.

19 Ladies and gentlemen -- we're outside the presence  
20 of the excused proposed jurors. You can all be seated now. I  
21 have some preliminary stuff I want to do. We'll get around to  
22 -- tomorrow I need to officially swear you in. I'm not going  
23 to do that today. What I need to do now is just read some  
24 preliminary instructions so you'll know better what your  
25 official responsibilities are going to be. All right?

1           Ladies and gentlemen, tomorrow you will become the  
2 official jury in this case. You'll have to be officially  
3 sworn in. I want to take a few minutes to tell you something  
4 about your duties as jurors and give you some preliminary  
5 instructions. At the end of the trial I will give you more  
6 detailed, written instructions that will control your  
7 deliberations. When you deliberate it will be your duty to  
8 weigh and to evaluate all the evidence received in the case,  
9 and in that process, to decide the facts. To the facts as you  
10 find them, you will apply the law as I give it to you, whether  
11 you agree with the law or not.

12           You must decide the case solely on the evidence and  
13 the law before you and you must not be influenced by any  
14 personal likes or dislikes, opinions, prejudices, or sympathy.  
15 Please do not take anything I may say or do during the trial  
16 as indicating what I think of the evidence or what your  
17 verdict should be. That is entirely up to you. It is  
18 important that you keep an open mind and not decide any issue  
19 in the case until the entire case has been submitted to you  
20 for deliberation.

21           This is a criminal case brought by the State of  
22 Nevada. The State charges the defendant with alleged crimes.  
23 The charges against the defendant are contained in the  
24 information. All right. The document called the information  
25 is -- simply describes the charges that the State brings



1 against the defendant. The information is not evidence and  
2 does not prove anything. The clerk will now read the  
3 information to the panel.

4 (Information read - not transcribed)

5 THE COURT: Very good. So as you heard, defendant  
6 has pled not guilty to the charges and is presumed innocent  
7 unless and until the State proves the defendant guilty beyond  
8 a reasonable doubt. In addition, the defendant has the right  
9 to remain silent and never has to prove innocence or to  
10 present any evidence.

11 My apologies. I should have had you guys all sit in  
12 the more comfortable chairs. Why don't -- before I finish  
13 reading some of my preliminary instructions, why don't you  
14 guys go ahead and all grab a seat in the comfortable chairs.  
15 You need to stay in the same order that you're in now, so  
16 whoever's to your left needs to stay to your left. Let the  
17 folks in the back slide on down and leave two seats open there  
18 for the two ladies here in the middle seats. All right? Yep,  
19 you take seat number nine -- or number eight back there.  
20 Everyone needs to stay in the same order they're in. So just  
21 sliding down. Let's keep -- yeah, we'll keep eight, and then  
22 fill up the front row. All right. You guys did that well.  
23 Thank you. A little more comfortable. I apologize for not  
24 getting you there sooner.

25 All right. Let me read you a few more instructions

1 here. So, what is evidence? The evidence you're to consider  
2 in deciding what the facts are consists of: the sworn  
3 testimony of any witness -- Marshal, don't take their badges  
4 yet. Let them keep their badges because I haven't  
5 administered the oath yet.

6 The evidence you're to consider in deciding what the  
7 facts are consists of: the sworn testimony of any witness,  
8 the exhibits which are received in evidence, any facts which  
9 the parties agree upon.

10 The following things are not evidence and you must  
11 not consider them as evidence in deciding the facts of this  
12 case. Number one, statements and arguments of the attorneys.  
13 Number two, questions and objections of the attorneys. Number  
14 three, any testimony that I instruct you to disregard. And  
15 Number four, anything you may see or hear when the Court is  
16 not in session, even if what you see or hear is done or said  
17 by one of the parties or by one of the witnesses.

18 Evidence may be direct or circumstantial. Direct  
19 evidence is direct proof of a fact, such as testimony by a  
20 witness about what that witness personally saw or heard or  
21 did. Circumstantial evidence is indirect evidence. That is,  
22 it is proof of one or more facts from which one can find  
23 another fact. You are to consider both direct and  
24 circumstantial evidence. Either can be used to prove any  
25 fact. The law makes no distinction between the weight to be

1 given to either direct or circumstantial evidence. It is for  
2 you to decide how much weight to give any evidence.

3 Let me talk about objections. There are rules of  
4 evidence that control what can be received in evidence. When  
5 a lawyer asks a question or offers an exhibit in evidence, the  
6 lawyer on the other side thinks it is not permitted by the  
7 rules of evidence, that lawyer may object. If I overrule the  
8 objection, then the question may be answered or the exhibit  
9 received. If I sustain the objection, then the question  
10 cannot be answered or the exhibit cannot be received.

11 Whenever I sustain an objection to a question, you must ignore  
12 the question and you must not guess what the answer would have  
13 been.

14 Sometimes I may order that evidence be stricken from  
15 the record and that you disregard or ignore the evidence.  
16 That means that when you are deciding the case you must not  
17 consider the evidence that I told you to disregard.

18 Credibility of witnesses. In deciding the facts of  
19 this case you may have to decide which testimony to believe  
20 and which testimony not to believe. You may believe  
21 everything a witness says, or part of it, or none of it. It's  
22 up to you. In considering the testimony of any witness, you  
23 may take into account the following things. Number one, the  
24 witness's opportunity and ability to see or hear or know the  
25 things testified to. Number two, the witness's memory.

1 Number three, the witness's manner while testifying. Number  
2 four, the witness's interest in the outcome of the case, if  
3 any. Number five, the witness's bias or prejudice, if any.  
4 Number six, whether other evidence contradicted the witness's  
5 testimony. Number seven, the reasonableness of the witness's  
6 testimony in light of all the evidence. And number eight, any  
7 other factors that bear on believability. The weight of the  
8 evidence as to a fact does not necessarily depend on the  
9 number of witnesses who testify about it.

10 All right. You must decide this case based solely  
11 on the evidence received in the case and on my instructions as  
12 to the law that applies. And you must not be exposed to any  
13 other information about the case or to the issues involved  
14 during the course of your jury duty.

15 At the end of the trial you will have to make your  
16 decision based on what you recall of the evidence. You will  
17 not have a written transcript of the trial. I urge you to pay  
18 close attention to the testimony as it is given.

19 Taking notes. If you wish, you may take notes to  
20 help you remember the evidence. The Marshal will provide to  
21 you tomorrow notepads and pens. If you do take notes, please  
22 keep them to yourself until you and your fellow jurors go to  
23 the jury room to decide the case. Do not let note taking  
24 distract you from being attentive. When you leave Court for  
25 recesses, your notes should be left in the courtroom. No one

1 will ever read your notes. Whether or not you take notes, you  
2 should rely on your own memory of the evidence. Notes are  
3 only to assist your memory. You should not be overly  
4 influenced by your notes or those of your fellow jurors.

5 Let me talk about your opportunity to ask questions.  
6 You will be given the opportunity to ask written questions of  
7 any of the witnesses called to testify in the case. You are  
8 not encouraged to ask a large number of questions because that  
9 is the primary responsibility of the attorneys. Questions may  
10 only be asked in the following manner. After both lawyers  
11 have finished questioning of the witness, and only at this  
12 time, if there are additional questions that you would like to  
13 ask the witness, you may then seek permission to ask that  
14 witness a written question.

15 Should you desire to ask a question, write your  
16 question down with your name and your juror number on a full  
17 sheet of clean paper and then raise your hand. All questions  
18 from jurors must be factual in nature and designed to clarify  
19 information already presented. Jurors must not place any  
20 undue weight on the responses to the questions.

21 So after you've written your question down and  
22 raised your hand, the Marshal will then pick up your question  
23 and give it to me. And all questions should be written as if  
24 it is you directly posing the question to the witness. I will  
25 look at your question and then consult with the attorneys and

1 then make a determination whether your question is legally  
2 permissible and whether I can answer it -- or ask it. If I  
3 determine that your question may properly be asked, I will ask  
4 it. If I don't ask your question, please, no adverse  
5 inference should be drawn if the Court does not allow a  
6 particular question. All right?

7 If you can't hear a witness, please raise your hand  
8 as an indication and I'll ask the witness to speak up or speak  
9 closer to the microphone. If you need to use the restroom or  
10 if you feel ill, also please raise your hand as an indication.  
11 I have no objection to jurors bringing drinks in the  
12 courtroom, but please be careful with them. And I don't allow  
13 any eating of food while you're here.

14 Regarding cell phones, iPads, any other similar  
15 electronic devices, you may keep them with you. However, you  
16 must keep them turned off and must not use them while Court is  
17 in session. And you must never use them to do any research or  
18 seek or obtain any information about the case during the  
19 trial.

20 Tomorrow the next phase of the trial will begin.  
21 And in this trial, first, each side may make an opening  
22 statement. An opening statement is not evidence. It is  
23 simply an outline to help you understand what that party  
24 expects the evidence will show. A party is not required to  
25 make an opening statement. After opening statements the State

1 will then present evidence and counsel for the defendant may  
2 cross-examine. Then, if the defendant chooses to offer  
3 evidence, counsel for the State may cross-examine.

4 After all the evidence has been presented, I will  
5 instruct you on the law of the case. Then, the attorneys will  
6 make closing arguments. After that you will go to the jury  
7 room to deliberate on your verdict.

8 Counsel, are there any clarifications that you would  
9 like to provide to the preliminary instructions that I just  
10 gave the future jury?

11 MS. THOMSON: No, Your Honor.

12 MR. YANEZ: No, Your Honor.

13 THE COURT: All right. Let's talk about logistics.  
14 I checked my calendar. I'll probably be done with my criminal  
15 calendar tomorrow at 10:30, so I'm available to start tomorrow  
16 at 11. Can you both be here at 11?

17 MS. THOMSON: Yes, Your Honor.

18 MR. YANEZ: Yes.

19 THE COURT: All right. So I'm going to direct the  
20 jurors to be here at 11 tomorrow. We'll probably go for an  
21 hour and a half and then take a lunch break and then continue.  
22 We're going to start tomorrow with opening statements. All  
23 right? Tomorrow when you come in you'll have your notepads,  
24 your pens, any beverages, and we'll be ready to go. Any  
25 questions from you all? Yes, ma'am.

1 JUROR NO. 14: I just have one. We're anticipating  
2 this will be over by next Friday.

3 THE COURT: Before next Friday. I'm anticipating  
4 Wednesday, actually.

5 JUROR NO. 14: Okay.

6 THE COURT: But I have an extra day built in just in  
7 case. I'm hoping it's done by Wednesday.

8 JUROR NO. 14: Okay.

9 THE COURT: That's my goal. Yes.

10 JUROR NO. 5: On our parking tickets, where do we  
11 get them validated?

12 THE COURT: When can they start to get validated?  
13 Can they do that tonight?

14 THE MARSHAL: Actually tomorrow, because I'll be  
15 reassigning where you guys are going to park.

16 THE COURT: All right. So tomorrow you will notify  
17 them where to park?

18 THE MARSHAL: [indiscernible] validate them  
19 tomorrow.

20 THE COURT: Do they know where to park tomorrow?

21 THE MARSHAL: I'm going to discuss it as soon as  
22 we --

23 THE COURT: Okay. So he'll discuss that with you  
24 when you exit the courtroom. All right. Yes, ma'am.

25 JUROR NO. 12: Do you expect to finish each day by



1 about 5:00?

2 THE COURT: Yes. I expect to finish about five.  
3 Sometimes it might be a few minutes early; sometimes it might  
4 be 10, 15 minutes after. All right? Friday, just to give you  
5 an update on the schedule. Friday, we'll start at nine, go  
6 until five. Next Monday, I think I have a hearing in the  
7 morning. Next Monday we're going to start at 10, I believe,  
8 and go until about five. And then next Tuesday we'll start at  
9 11 and go until five. All right? Then the Wednesday,  
10 probably 11 to five also. All right?

11 Thank you all for your attentiveness. Tomorrow  
12 we'll swear you in and we'll begin the official business. All  
13 right? Thank you very much. Have a nice evening. Oh, the  
14 prior admonishment applies. Please do not discuss the case  
15 with anybody. Do not do any research on any of the case  
16 subject matter or issues. Do not form any opinions. Do not  
17 read, watch, or listen to any report of or commentary on the  
18 trial. With that, you're excused for the evening. Please  
19 report out here tomorrow by 11 a.m. Thank you very much.

20 (Jury panel recessed at 4:23 p.m.)

21 THE COURT: We're outside the presence of the jury.  
22 Please be seated. Give me a report. I want you guys to be  
23 here like five minutes before 11 to give me a report on  
24 witnesses, and then you need to give me a heads up -- if  
25 you're going to do a motion to continue, isn't that called

1 like a Bustos-type motion and you need to have a written  
2 motion with an affidavit?

3 MS. THOMSON: Yes, Your Honor. My expectation at  
4 this point is that that is not what's going to occur. We have  
5 had contact with Arizona. That is part of why I stepped out  
6 during the process of perempts. The witness has been served  
7 for her hearing on Friday to come before the Court there for  
8 the purposes of the compelling order. So at that point,  
9 either she will be ordered to come back home or she'll be  
10 arrested and we'll go pick her up. Or, as an alternative,  
11 because of the information I received, there is a possibility  
12 that she may be ordered to testify but not forced to travel,  
13 in which case I'm going to start the process tomorrow morning  
14 seeking the ability to have her testify via -- and it's not  
15 Skype but there's a word for it.

16 THE COURT: Videoconference.

17 MS. THOMSON: Thank you. Videoconference.

18 THE COURT: And that would probably be Monday then.

19 MS. THOMSON: Well, my goal would be to have it done  
20 at that hearing on Friday if that were to be the determination  
21 of that court. Obviously, my preference, and I think the  
22 better scenario, is her physically here. But if that's not  
23 something that we can accomplish, then second best would be  
24 the videoconferencing. And I think for purposes of making  
25 sure that her end is secure, it makes sense to have her in the

1 courtroom doing it. So the goal would be to inconvenience  
2 that jurisdiction as little as possible.

3 MR. YANEZ: I'll reserve any objections as to  
4 videoconference and all that. Let's see what happens.

5 THE COURT: You can reserve your objections and I'll  
6 hear from you on that as we move closer. Thank you, sir.

7 All right. Have a good evening and I guess I'll see  
8 you guys tomorrow at 10:55. Oh, my clerk told me, I guess I  
9 don't have a hearing Monday. So maybe we can start Monday at  
10 nine. I'll double check on that. All right. Thank you, have  
11 a good evening. Court's adjourned.

12 (Court recessed for the evening at 4:26 p.m.)  
13  
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ACKNOWLEDGMENT:

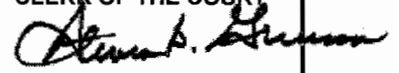
Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

A handwritten signature in cursive script, reading "Kimberly Lawson", is written over a horizontal line.

KIMBERLY LAWSON  
TRANSCRIBER

UNCERTIFIED ROUGH DRAFT

AA649



TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C292987-1
	)	DEPT NO. II
vs.	)	
	)	
GARY LAMAR CHAMBERS,	)	<b>TRANSCRIPT OF</b>
	)	<b>PROCEEDINGS</b>
Defendant.	)	

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 3**

THURSDAY, FEBRUARY 23, 2017

APPEARANCES:

For the State:	MEGAN S. THOMSON, ESQ. Chief Deputy District Attorney BRYAN S. SCHWARTZ, ESQ. Deputy District Attorney
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For the Defendant:	ABEL M. YANEZ, ESQ.
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RECORDED BY DALYNE EASLEY, COURT RECORDER  
TRANSCRIBED BY: KARR Reporting, Inc.

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1       **LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 23, 2017, 11:31 A.M.**

2                               \* \* \* \* \*

3                       (Outside the presence of the jury.)

4               MS. THOMSON: During my investigation, along with  
5 the investigation of my investigator and some Metro  
6 individuals, I came to the conclusion that it's the State's  
7 position that we would rather not make a record of  
8 specifically what we're doing until we're actually asking the  
9 Court to make a decision on the motion to admit prelim  
10 transcripts. I would note that the female who's been present  
11 for nearly all of the proceedings so far, the defendant's  
12 wife, is on Ms. Graham's Facebook as being her children's  
13 grandmother, has the defendant as her children's grandfather.  
14 That gives me concern that there's information being filtered  
15 back to her as to how -- what we're doing to go about looking  
16 for her.

17               Additionally, I would note that when -- before Ms.  
18 Graham's children were taken away, they were in the custody,  
19 or at least for a term Ms. Chambers, Dawn Chambers was listed  
20 as a family member and had custody of her children. So those  
21 two factors lead me to believe that to tell the Court  
22 specifically what we're doing will ultimately result in her  
23 having a better idea how to evade us.

24               THE COURT: Understood. As long as at the point in  
25 time when you want me to make a decision on the motion, at

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1 that point in time I need to be assured that you've undertaken  
2 reasonable efforts to try to locate the witness.

3 MS. THOMSON: Yes, Your Honor.

4 THE COURT: That's still to the standard. If I  
5 don't need to address it now, then I suppose we can move on.  
6 You haven't presented me with a written motion to continue, so  
7 we'll just proceed.

8 MS. THOMSON: Thank you, Your Honor.

9 THE COURT: All right. Does defense need to put  
10 anything on the record?

11 MR. YANEZ: Not at this time, Judge.

12 THE COURT: All right. Let's bring the jurors in.  
13 Where do we stand? We need to swear them in and then we can  
14 have opening statements.

15 MS. THOMSON: Yes, Your Honor.

16 THE COURT: All right. Very good. Thank you. We  
17 always have the option of having a closed hearing also. I  
18 could -- sometimes I hear from one side and not the other  
19 side. Got to be careful, though, when it's the State because  
20 [indiscernible] the due process rights. But it's something  
21 that you can consider.

22 MS. THOMSON: Okay. Once we're getting to the point  
23 of asking you to make a decision I have no problem. But  
24 providing the affidavit with everything we've done at that  
25 point, it's either -- it is or it isn't. But doing it along

1 the way just doesn't make sense.

2 THE COURT: I'm fine with that. Let's just keep  
3 going. I'm okay going until 12:30 or a little bit longer,  
4 depending on how much time you guys need for your openings.

5 MS. THOMSON: Thank you. We also have a couple  
6 witnesses waiting.

7 THE COURT: Okay. We'll see what happens.

8 (Jury panel reconvened at 11:35 a.m.)

9 THE COURT: Please be seated everybody. The Marshal  
10 needs to give the headphones to the jurors that need them.  
11 Mr. Eastham and Mr. Henry, is your equipment working?

12 JUROR NO. 1: Yes, sir.

13 THE COURT: All right. Very good. This is State  
14 versus Chambers, C29298. We're ready to proceed. At this  
15 point in time the Court clerk needs to administer the oath to  
16 the jurors.

17 (Jurors sworn)

18 THE COURT: All right. Jurors all answered in the  
19 affirmative. Ladies and gentlemen, as I indicated yesterday,  
20 we're now going to proceed with the opening statements. The  
21 State has the right to present the first opening statement.  
22 You may proceed, Ms. Thomson.

23 MS. THOMSON: Thank you, Your Honor.

24 STATE'S OPENING STATEMENT

25 MS. THOMSON: On July 9th, 2013, Lisa Papoutsis and

1 Gary Bly were in Lisa's trailer, Number 45, at Van's Trailer  
2 Oasis on North 20 that morning. Daniel Plumlee had done some  
3 maintenance on her front door, chatted with them, and then  
4 left out the back door of that trailer. By 10:21, Lisa was  
5 shot in the hand and Gary lay dying with a bullet through his  
6 head. As Daniel Plumlee was walking away from that trailer  
7 that morning, he observed the defendant going through the  
8 front gate, headed towards the front door. By the time Daniel  
9 had gotten across the street to the office of the trailer  
10 park, he had the first shot ring out. He then returned back  
11 to that trailer and he saw the defendant coming down the steps  
12 of the trailer.

13 Daniel was not the only person out in front of that  
14 trailer, and you'll hear that as the defendant was coming out  
15 of that trailer, coming down those steps, he was putting a  
16 revolver in his pocket. He then went to the vehicle that he  
17 had parked a trailer down and got into that vehicle and drove  
18 away. You'll hear that when the detectives arrived Lisa and  
19 Gary Bly had both been transported to the hospital.  
20 Obviously, Gary Bly did not make it. You'll hear the  
21 detectives interviewed the individuals who were outside in  
22 front of the trailer. They interviewed Lisa. And they were  
23 able to determine a couple locations the defendant may be  
24 staying.

25 They searched each of those locations; an apartment

1 on Dwarf Star and an apartment on Carroll Avenue. In those  
2 searches they did not find the defendant, but they found power  
3 records showing that he paid for power, found identifying  
4 information linking him to those addresses. Ultimately, that  
5 evening you'll hear he was arrested at a Jack in the Box.

6 During this case you'll hear testimony from lots of  
7 witnesses, have lots of photographs given to you, and you'll  
8 hear Lisa tell you she didn't know why the defendant was  
9 coming to her trailer that day. But at the conclusion of the  
10 evidence, it will be clear why he was coming to the trailer  
11 that day, and that was to rob Lisa, to take money from her,  
12 and ultimately, he murdered Gary Bly, shot Lisa in the hand.  
13 At the conclusion of the evidence we will ask you to find the  
14 defendant guilty of all Counts. Thank you.

15 THE COURT: All right. Thank you. Mr. Yanez, you  
16 may now present your opening statement to the jury.

17 MR. YANEZ: Thank you.

18 DEFENDANT'S OPENING STATEMENT

19 MR. YANEZ: Good morning, ladies and gentlemen. On  
20 the morning of July 9th, 2013, Gary Bly, a person the  
21 prosecution says is a victim in this case, was fueled, fired  
22 up and flying high on methamphetamines. The coroner who  
23 performed the autopsy on his body described in his autopsy, in  
24 his report, and you will see the results of that autopsy,  
25 including the bloodwork. The description was that he had a

1 very large amount of methamphetamines in his body.

2 Methamphetamines is a drug that causes people to hallucinate,  
3 active aggressively, erratically, and violently.

4 That morning, Mr. Bly was inside the trailer of Lisa  
5 Papoutsis. Lisa is another person that the prosecution claims  
6 is a victim in this case. Lisa ran a business out of her  
7 trailer, and that business was selling drugs. One of her  
8 customers was Gary Chambers. Gary, at that time, was a  
9 methamphetamine user. That morning of July 9th he called Lisa  
10 by telephone, asked if he could come over to buy some drugs.  
11 Lisa said yes. Gary got in his car, went over to the trailer.  
12 He walked up to the front door which was wide open, walked in,  
13 sees Lisa, takes out his wallet to buy the methamphetamines.  
14 This wasn't nothing new between Lisa and Gary. Gary had  
15 bought drugs off of Lisa before. Only this time, on this  
16 particular occasion, they had a disagreement over the amount  
17 that was to be paid for the drugs.

18 This disagreement turned into a heated argument.  
19 Lisa started shouting at Gary, why you shortchanging me, why  
20 you trying to rob me. She felt she was being shortchanged or  
21 robbed because he wasn't paying the full price that she wanted  
22 for the methamphetamine. Hearing this commotion, this loud  
23 noise, Gary, all fired up on methamphetamines, comes storming  
24 out of the back of the trailer to the front and confronts  
25 Gary. He gets in his face, bumps his chest against him. Mr.

1 Bly had a gun. Gary had no other option but to defend  
2 himself.

3 A struggle ensues over Mr. Bly and Gary over control  
4 of the gun. And during that struggle, Mr. Bly is shot in the  
5 head and Lisa is shot in the hand. Confused and dazed over  
6 what just happened, Gary goes out of the trailer back towards  
7 his car. Witnesses will say that they overheard him say that  
8 bitch is crazy. Now, Gary had just been there to purchase  
9 drugs. He didn't think the police were going to believe his  
10 story, so he never called the police that morning or right  
11 after the incident. Later that day, neighbors had called the  
12 police. They do arrest him. The police speak to Lisa. And  
13 based in large part on Lisa's interview, the police arrested  
14 Gary.

15 What actually happened in this case is not how the  
16 prosecution is going to try to convince you how it happened.  
17 What I just described to you is going to be the evidence  
18 that's going to be presented. We're going to talk again once  
19 you've heard all the evidence, and I'm going to explain to you  
20 at that point why the evidence supports a not guilty finding  
21 in this case. And at that point I'm going to strongly urge  
22 you to find Gary not guilty of all charges. Thank you.

23 THE COURT: Thank you, Mr. Yanez. State may now  
24 call its first witness.

25 MS. THOMSON: State calls Lance Berg.

1 LANCE BERG, STATE'S WITNESS, SWORN

2 THE CLERK: Thank you. Please be seated. Will you  
3 please state and spell your first and last name for the  
4 record?

5 THE WITNESS: Lance Berg. L-a-n-c-e, B-e-r-g.

6 THE COURT: All right. The prosecutor, Ms. Thomson,  
7 will have some questions for you. And then after that the  
8 defense counsel will have some questions. Thank you.

9 DIRECT EXAMINATION

10 BY MS. THOMSON:

11 Q Good morning, sir. I'm going to direct your  
12 attention back to July 9th of 2013. At that time, were you  
13 working at Van's Trailer Park?

14 A Yes, I was.

15 Q And was that located at 3610 North Las Vegas  
16 Boulevard, here in Clark County, Nevada?

17 A Yes, ma'am.

18 Q What did you do for Van's at that time?

19 A I was a maintenance man.

20 Q Can you describe generally what your duties were?

21 A Build cabinets, remodel trailers, repair trailers.

22 Q Were you working in the morning hours of July 9th?

23 A I was, yes.

24 Q Do you recall what shift you worked then?

25 A The day shift.

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1 Q On that morning at about 10:00, where were you when  
2 the first thing that kind of caught your attention happened?

3 A I was in the shop cleaning up.

4 MS. THOMSON: May I approach the witness?

5 THE COURT: Yes.

6 BY MS. THOMSON:

7 Q I'm going to show you what's been marked as State's  
8 Proposed Exhibits 3, 4, and 5. Do you recognize what's  
9 depicted in each of these photographs?

10 A I do.

11 Q Do these accurately reflect Van's Trailer Oasis on  
12 July 9th?

13 A They do.

14 MS. THOMSON: Move for admission of State's Proposed  
15 Exhibits 3, 4, and 5.

16 MR. YANEZ: No opposition, Judge.

17 THE COURT: They're admitted.

18 (State's Exhibit 3, 4, and 5 admitted.)

19 MS. THOMSON: Permission to publish?

20 THE COURT: Yes.

21 BY MS. THOMSON:

22 Q You said that you were in the shop that morning. Is  
23 this the -- one of the entrances into Van's?

24 A This is a view from the south end.

25 Q And where is the shop in relationship to the office?



1           A     In front of that cruiser by the tape, to the  
2 right-hand side of that.

3           Q     I'm going to zoom in a little bit. Can you mark on  
4 -- if you touch the screen it will make marks. Can you mark  
5 sort of where the shop was?

6           A     (Witness complies)

7           Q     And was trailer 45 also in this photograph? I'll  
8 zoom out just a little bit.

9           A     Yes.

10          Q     Are you able to mark on the screen now where trailer  
11 45 is?

12          A     (Witness complies)

13          Q     Okay. So it's almost right across from the shop; is  
14 that fair?

15          A     Almost, yes.

16          Q     While you were in the shop, you heard something that  
17 caught your attention. What was it that you heard?

18          A     Loud voices in argument.

19          Q     When you heard that, what did you do?

20          A     I looked up and tried to find out where it came  
21 from, and then I moved from inside the shop outside and I  
22 identified it coming from space number 45.

23          Q     And as you came out of the shop, did you hear  
24 anything more than just argument?

25          A     At that point voices were raised to a more profound

1 level and there was cursing going on.

2 Q Other than cursing, could you hear the content of  
3 what was being said?

4 A No.

5 Q Okay. When you heard the cursing and the more  
6 profound level of voices, what if anything did you do?

7 A I was -- I had attempted to go over there and ask  
8 them if they might tone it down some.

9 Q And as you were doing that, did any of the other  
10 employees of the park arrive in that area?

11 A The property manager or park manager had just drove  
12 up and drove past unit number 45 and parked his vehicle.

13 Q Is that Bradley Grieve?

14 A Yes.

15 Q As Brad was parking, I assume he then got out of his  
16 vehicle?

17 A He did.

18 Q As he was parking, getting out of his vehicle, did  
19 anything change with what was happening at trailer 45?

20 A There was still arguing going on when he exited his  
21 vehicle and he was going to do the same thing that I was going  
22 to do.

23 MR. YANEZ: I'm going to object as to speculation,  
24 Judge.

25 THE COURT: Sustained. You need to lay a foundation

1 before you can express what the other individual was going to  
2 do. So the jury will disregard that last statement. Please  
3 go ahead.

4 BY MS. THOMSON:

5 Q When Brad got out of his vehicle, did you see in  
6 what direction he went?

7 A Yes. He went to the rear of his vehicle, the  
8 general location of space number 45.

9 Q And as Brad was approaching space 45 and you were  
10 approaching space 45, did you hear anything more than arguing?

11 A Three shots.

12 Q And can you describe for the jury how the pattern of  
13 those shots were? Were they all back to back or spaced out in  
14 any way?

15 A The first two were right after another. There was a  
16 space of probably about, a little more than half a second, and  
17 then a third shot.

18 Q When you heard those three shots, what if anything  
19 did you do?

20 A I was still walking toward the unit, the gate of the  
21 yard of the unit. At that time somebody walked out of the  
22 door.

23 Q And the person who walked out of the door, did you  
24 know that person from any prior contact with that individual  
25 that you recalled?

1           A     No, I've never seen him before.

2           Q     That individual, did you think that you'd be able to  
3 recognize him again?

4           A     Yes.

5           Q     And why was it that you believed you'd be able to  
6 recognize him again?

7           A     Because of what I heard. I assumed that I would be  
8 as I am today right here.

9           Q     So is that to say that you were focused on paying  
10 attention to the characteristics of that person?

11          A     Yes.

12          Q     And can you describe for us generally what that  
13 individual looked like on that day?

14          A     It was a black male adult, approximately 5-10, 5-11,  
15 roughly about 200 pounds.

16          Q     And is that individual present in the courtroom  
17 today that you recognize?

18          A     I don't recognize him today, no.

19          Q     When you were approaching the trailer and he, the  
20 individual was walking out of the trailer, did you pay  
21 attention just to their face area or were you paying attention  
22 to the entirety of their body?

23          A     From about chest high up.

24          Q     When he came out of the trailer and exited sort of  
25 the gate around the trailer, did you see where he went?

1           A     He went to a gray SUV, went into the driver's side,  
2 entered the vehicle, and drove off.

3           Q     Can you show us on this map where that vehicle was  
4 parked?

5           A     (Witness complies)

6           Q     So in front of the trailer just this side of trailer  
7 45?

8           A     Yes.

9           Q     At that time was there a vehicle in front of trailer  
10 45?

11          A     The property manager's vehicle was just a little bit  
12 -- well, his vehicle was right here (indicating).

13          Q     So the property manager's vehicle, that's the one  
14 that Bradley Grieve arrived in?

15          A     Yes.

16          Q     And you said that you saw the individual go to a  
17 gray SUV; is that correct?

18          A     Yes.

19          Q     Do you remember if there was anything unique about  
20 the plates?

21          A     It was handicap plates.

22          Q     And did you see whether the individual got into the  
23 driver's side or the passenger side of that vehicle?

24          A     He got in the driver's side.

25          Q     Were you able to tell whether there was anyone else

1 in that vehicle?

2 A I seen in the mirror there was a female, black  
3 female.

4 Q And is that in the passenger mirror?

5 A Yes.

6 Q And what if anything did you see that vehicle do?

7 A Drove off.

8 Q When you saw the individual leaving trailer 45 and  
9 getting into the driver's side of that vehicle, was that  
10 individual running or walking or something else?

11 A He was walking.

12 Q And trailer 45, did you know the occupants  
13 personally at that time?

14 A No, I did not.

15 Q Would it be fair to say that you knew at least the  
16 main occupant by sight, if not by name?

17 A By sight.

18 Q And as maintenance in that park, how long have you  
19 been working there at that time, approximately?

20 A Approximately three years.

21 Q Would you describe yourself then as sort of having  
22 an understanding of what the reputations of different trailers  
23 and different people in that park were?

24 A Yes.

25 Q And would you describe the female from trailer 45 as

1 having a reputation as a place where you can get drugs?

2 A Yes, I would.

3 Q When you were out in front of trailer 45 that day,  
4 between the time that you heard the arguing to the time that  
5 the black male got into that SUV, did you see anyone else exit  
6 that trailer other than the female who resided there?

7 A No.

8 Q Would it be fair to say that you were still there  
9 when police arrived?

10 A Yes, ma'am, that would be a fair assumption.

11 Q Did they ask you to write a statement and give a  
12 verbal statement?

13 A They did.

14 Q And did they also ask you to look at some  
15 photographs?

16 A They did.

17 MS. THOMSON: May I approach?

18 THE COURT: Yes.

19 BY MS. THOMSON:

20 Q Showing you what's been marked as State's Proposed  
21 Exhibit 112, do you recognize the writing on the bottom half  
22 of this page?

23 A I do.

24 Q And there's some typed -- a typed paragraph at the  
25 top half. Did the detective either read that to you or ask

1 you to read it before you looked at photographs?

2 A Yes.

3 Q And is that your signature just below that typed  
4 paragraph?

5 A It is.

6 Q On page two of this exhibit, is that your signature?

7 A It is.

8 Q And did you write the paragraph at the bottom half  
9 of the first page after you looked at those photographs?

10 A Yes.

11 MS. THOMSON: I move for admission of State's  
12 Proposed Exhibit 112.

13 MR. YANEZ: Submitted, Judge.

14 THE COURT: All right. 112 is admitted.

15 (State's Exhibit 112 admitted.)

16 MS. THOMSON: Thank you. Permission to publish?

17 THE COURT: Yes.

18 BY MS. THOMSON:

19 Q Now, I realize it's probably been awhile since you  
20 went through that initial paragraph, but would it be fair to  
21 summarize as telling you that the photographs may look  
22 different but because like hairstyles can change, clothing can  
23 change, that kind of thing, and to only identify someone if  
24 you recognize them?

25 A Yes.



1 Q And then, when you were shown the photographs on  
2 page two of Exhibit 112, you signed underneath a photograph.

3 A Yes.

4 Q And is that the person in position number two?

5 A Yes.

6 Q And why was it that you signed underneath that  
7 photograph?

8 A Because of the eyes and the shape of the jaw.

9 Q Was that the individual that you recognized as  
10 having been the one you saw coming out of trailer 45?

11 A Well, he didn't look exactly like that, but yes.

12 Q And when you say he didn't look exactly like that,  
13 was his hair different?

14 A It was.

15 Q Facial hair a little bit different?

16 A At that time I don't think he had any facial hair.

17 Q Okay. And then, after you signed under photograph  
18 number two, you wrote the statement on the bottom half of the  
19 page; is that correct?

20 A Yes.

21 MS. THOMSON: Pass the witness.

22 THE COURT: All right. Cross-examination.

23 CROSS-EXAMINATION

24 BY MR. YANEZ:

25 Q Good afternoon, Mr. Berg.

1           A     Good afternoon.

2           Q     A couple points I just want to make sure I'm clear  
3 on and the jury's clear on. This black male that you saw and  
4 that you identified, you never saw him going into trailer 45,  
5 correct?

6           A     Correct.

7           Q     And during the time that you heard the arguing, the  
8 commotion, you weren't inside trailer 45, correct?

9           A     Yes, that is correct.

10          Q     And during the time that you heard the gunshots, you  
11 described them as three gunshots.

12          A     Yes.

13          Q     You weren't inside trailer 45 at that point either,  
14 were you?

15          A     No, sir.

16               MR. YANEZ: I have nothing further, Judge.

17               THE COURT: All right. Anything on redirect?

18               MS. THOMSON: No, Your Honor.

19               THE COURT: All right. Mr. Berg, you are excused.

20 I don't see any hands from the jurors. This would be the time  
21 now if you had a question to raise your hand and give me your  
22 question. I don't see anything, so I will go ahead and excuse  
23 you. Thank you, sir.

24               THE WITNESS: Yes, sir.

25               THE COURT: State may call its next witness.

1 MS. THOMSON: Thank you, Your Honor. The State  
2 calls Amy Nemcik.

3 AMY NEMCIK, STATE'S WITNESS, SWORN

4 THE CLERK: Thank you. Please be seated. Will you  
5 please state and spell your name, first and last name for the  
6 record.

7 THE WITNESS: Amy, A-m-y, Nemcik, N-e-m-c-i-k.

8 MS. THOMSON: May I proceed?

9 THE COURT: You may proceed.

10 DIRECT EXAMINATION

11 BY MS. THOMSON:

12 Q Good morning, ma'am.

13 A Good morning.

14 Q How are you employed?

15 A I am a crime scene analyst supervisor with the Las  
16 Vegas Metro Police Department.

17 Q Fair to assume you haven't always been a supervisor?

18 A That is correct.

19 Q How long have you had the position of supervisor?

20 A I've been a supervisor for three years now.

21 Q So back in 2013, were you just a crime scene  
22 analyst?

23 A I was a senior crime scene analyst in 2013.

24 Q And can you describe what the job of a senior crime  
25 scene analyst is?

1           A     Absolutely. Senior crime scene analysts with the  
2 Las Vegas Metro Police Department are in charge of responding  
3 to and documenting crime scenes and identifying items of  
4 potential evidentiary value, collecting, processing, and  
5 preserving those items.

6           Q     And in 2013, how long had you been with Metro?

7           A     I'm sorry, I have to do math.

8           Q     How long have you been with Metro now?

9           A     With Metro for 12 years.

10          Q     And what training or education do you have to have  
11 that position?

12          A     We are required to have a minimum -- currently we're  
13 required to have a minimum of 60 credit hours from an  
14 accredited university or college, 14 of that has to be in  
15 natural sciences. I have a bachelor's degree in anthropology.  
16 I've also attended and completed the Crime Scene Analyst  
17 Academy, as well as field training program, and hundreds of  
18 hours of additional training on the job.

19          Q     So July 9th of 2013, do you recall what shift you  
20 were working at that time?

21          A     I was on day shift.

22          Q     That would be like six a.m. to three p.m.?

23          A     Six a.m. to four p.m.

24          Q     Okay. On that date, did you receive a call that  
25 caused you to go out to 3610 North Las Vegas Boulevard and

1 specifically trailer 45?

2 A Yes, I did.

3 Q And were you the only crime scene analyst out there  
4 or were there multiple?

5 A There were several crime scene analysts, as well as  
6 a supervisor out there.

7 Q And what is the reason for having more than one  
8 crime scene analyst on a scene like this one?

9 A Typically, in more complex crime scenes we have more  
10 than one crime scene analyst respond. We break up the  
11 workload. We also have a supervisor on those scenes as well  
12 to supervise, ensure that we have the guidance and the  
13 communication between our staff, as well as any detectives  
14 that may be present.

15 Q Who was the lead CSA at that scene on that date?

16 A Technically I was. I was the senior crime scene  
17 analyst out there.

18 Q As the senior crime scene analyst, would you divvy  
19 out responsibilities while you're there?

20 A That's typically the responsibility of the  
21 supervisor.

22 MS. THOMSON: At this point, Judge, I move for  
23 admission of State's Proposed Exhibits 1 through 72.

24 THE COURT: Photographs?

25 MS. THOMSON: Yes, Your Honor. 91 through 96, 105,

1 106, and 107, which I don't think counsel has an objection to.

2 THE COURT: So is there a stipulation because we  
3 don't have foundation yet?

4 MR. YANEZ: Yes. It's the ones we discussed. I  
5 have no opposition to the ones we discussed.

6 MS. THOMSON: And it is.

7 THE COURT: All right. So 1 through 72, 91 to 96,  
8 105, 106, and 107 are admitted based upon stipulation of the  
9 parties.

10 MS. THOMSON: Thank you, Your Honor.

11 (State's Exhibit 1-72, 91-96, and 105-107 admitted.)

12 BY MS. THOMSON:

13 Q What is the -- when you come into a scene -- let's  
14 talk specifically about homicide. When you come into a  
15 homicide, what is the plan of action?

16 A It depends on the case. In this particular case the  
17 first thing we did was we took a very limited walk through the  
18 yard areas on either side of the trailer, as well as the  
19 trailer itself to determine what the scene held for us. At  
20 that point the supervisor designated different job  
21 responsibilities to the three crime scene analysts that were  
22 on scene. The next step is to photograph the scene as is with  
23 no evidence markers, no searching, just to do an overall  
24 documentation of the scene with photography.

25 Q So even if your job isn't to photograph, you've seen

1 everything at that scene.

2 A That is correct.

3 Q And one of the tasks at a scene is to document in a  
4 more general way so you have kind of a map of everything. Is  
5 that a fair statement?

6 A We do create a sketch on the crime scene and then at  
7 a later date that sketch is converted using a computer-aided  
8 drafting system into a diagram.

9 Q Showing you what's been marked as State's Exhibit 2.  
10 Is this a diagram that was created that day or via computer  
11 system after that day, but from information from that day?

12 A Is that correct.

13 Q Okay. And so, this is trailer 45?

14 A Yes, it is.

15 Q On this diagram, if you'll touch the screen, can you  
16 show us where the entrance door and exit door to the trailer  
17 45 are?

18 A The entrance was on the left side, so it was here.  
19 And the, I guess, exit, it's a smaller door over on the east  
20 side was there.

21 Q When you arrived on scene you said you did a  
22 walk-through; is that correct?

23 A That is correct.

24 Q And were you the first law enforcement personnel to  
25 arrive or had others arrived before you?

1           A     Patrol had arrived and I believe that homicide  
2 detectives were also present on scene about the same time that  
3 we were.

4           Q     At that time when patrol was driving like the Crown  
5 Vics I think is what we call them, would they use any part of  
6 that a vehicle as sort of a central note taking place?

7           A     Yes. Typically, on larger events, especially with a  
8 lot of patrol response, the trunk area of the Crown Victorias  
9 were used as kind of a staging area for critical information.  
10 So the officers would write out information that they had that  
11 they needed to communicate with the detectives.

12          Q     And that way nothing gets forgotten and doesn't not  
13 get to the right places.

14          A     In theory, yes, that is correct.

15          Q     Showing you what's been marked as State's Exhibit 1.  
16 Is this an example of that from that scene?

17          A     Yes, it is.

18          Q     So you document that so that any of those notes  
19 don't get lost when someone washes the car.

20          A     That is correct.

21          Q     Now, I'm just going to walk you through some of  
22 these photographs. We won't go through all of them. As you  
23 approach the trailer park, State's Exhibit 3, is this the --  
24 one of the entrances off of Las Vegas Boulevard?

25          A     Yes, it is.



1 Q And can you tell us, is this the north entrance or  
2 the south entrance?

3 A I do not recall.

4 Q Okay. However, when you come in from that entrance,  
5 do you see what's shown in State's Exhibit 4?

6 A Yes. That is the east/west oriented driveway. So  
7 coming off of Las Vegas Boulevard, that's one of the main  
8 driveways that accesses all of the different residences in the  
9 area.

10 Q And can you see trailer 45 in this photograph?

11 A I believe --

12 Q If I zoom in will it help?

13 A I believe it's the one with the blue tarp attached  
14 to the chain link fence there on what would be, I guess the  
15 left side of the photo.

16 Q And in this photograph we see yellow crime scene  
17 tape. Fair to say that that wasn't there at the time of the  
18 incident?

19 A I don't know what was there at the time of the  
20 incident, but that's typically put up by patrol after they  
21 respond to a crime scene.

22 Q Showing you State's Exhibit 5. Is that trailer 45?

23 A Yes, it is.

24 Q And that's the blue tarp you talked about just a  
25 second ago?

1           A     Yes, it is.

2           Q     Showing you what's been marked as State's Exhibit 7.  
3     Is that the same trailer and just closer up to the gate?

4           A     Yes. You can see on the right side of that  
5     photograph the door I indicated would be considered the front  
6     door from the diagram.

7           Q     Okay. And when you arrived, was that front door  
8     open?

9           A     Yes. The outer door was open. There's kind of a  
10    mesh screen just on the interior that was partially open.

11          Q     Showing you State's Exhibit 8. We can see that mesh  
12    screen just a little bit better.

13          A     Uh-huh. Yes.

14          Q     So then you document the outside and the inside of  
15    the trailer from different angles so that you don't miss  
16    anything; is that fair?

17          A     That is correct.

18          Q     For example, State's Exhibit 9, photograph of the  
19    same area but from the back of the yard?

20          A     That is correct.

21          Q     And not every photograph taken has any particular  
22    significance to you necessarily at that time, it's just so  
23    that you have an overall and you can go back later if there's  
24    any questions; is that fair?

25          A     We do a lot of overall photography just to show the

1 general condition of everything within the area so that at a  
2 future date we can demonstrate what that environment looked  
3 like.

4 Q Now, we talked about the front door, as shown in  
5 that photograph. There was also a back door, correct?

6 A Yes.

7 Q Showing you what's been marked as State's Exhibit  
8 10. Is this a photograph of that back door?

9 A Yes, it is.

10 Q And along that back door, was there an area of  
11 particular interest to you and the detectives?

12 A There was the stairs leading up to that door had an  
13 area of apparent blood right there (indicating).

14 Q And showing what's marked State's Exhibit 11. Is  
15 that a closer photograph of that blood?

16 A Yes, it is.

17 Q And then, State's Exhibit 12 where that blood went  
18 over the edge and onto the hose?

19 A Yes.

20 Q Now, going through the trailer, did you go into each  
21 room and look for any possible blood, given that you had blood  
22 outside the trailer?

23 A Yes, we did.

24 Q And did you find blood inside the trailer?

25 A Yes, we did.

1 Q Starting with State's Exhibit 15, back on the front  
2 door. Was the first location that you found blood pretty  
3 closely inside that door?

4 A I recall that we found an area of apparent blood on  
5 the screen. It's a very loose -- it's not a screen door, it's  
6 just like a screen sheet. And that is right -- it's attached  
7 to the doorframe. We found an area of apparent blood on that.

8 Q Showing you State's Exhibit 21. Is that the screen  
9 you're talking about?

10 A Yes. The edge of that screen is right here. It's a  
11 little difficult to see with the contrast, but that's the  
12 screen just immediately inside the doorway.

13 Q And State's Exhibit 22, a closer up.

14 A Yes. That is the screen.

15 Q Once you walked into the trailer or basically stood  
16 in the doorway, would that have been the room you walked into?

17 A Yes. That's the view of the central living room  
18 area of the trailer as if you were standing just inside that  
19 front door.

20 Q So that would block -- you don't have in this  
21 photograph the area just along the wall that attached the  
22 door. Is that a fair statement? If you walked perfectly,  
23 directly in.

24 A That is correct. This is at about a 45-degree angle  
25 if you were standing inside the doorway.

1           Q     Showing you what's been marked as State's Exhibit  
2     24. Would this reflect that area if you were standing  
3     perfectly in the doorway?

4           A     Yes. If you're standing at 90 degrees and facing  
5     straight in the doorway, this would be the view that you would  
6     have.

7           Q     Okay. And this is the same entertainment center we  
8     saw in the other photograph?

9           A     Yes.

10          Q     At the base of this table that we see in the bottom  
11     left-hand corner of that exhibit, showing you what's been  
12     marked as State's Exhibit 25, is that what you came into  
13     contact with or observed?

14          A     I observed that, yes. So the front door is up in  
15     the upper left-hand corner of this photograph, and that's  
16     where the photographer was standing, taking those two prior  
17     photos that you saw.

18          Q     And you observed all of this yourself.

19          A     Yes.

20          Q     Now, we talked about the couch that is observed in  
21     State's Exhibit 24 that you see as you walk in through the  
22     doorway. Showing you what's been marked as State's Exhibit  
23     26. Is this photograph taken from basically in front of that  
24     couch?

25          A     Yes, it is.

1 Q And then, there are photographs that document all  
2 the way around that room, correct?

3 A That is correct.

4 Q And you documented throughout the rest of the house?

5 A Yes, we did.

6 Q Now, we talked about the blood on the screen and the  
7 blood at the base of that larger couch just in front of the  
8 end table. Was there also blood in another location or  
9 locations in the house?

10 A Yes.

11 Q Can you describe for the ladies and gentlemen of the  
12 jury where you found blood in the rest of the house?

13 A Yes. We located areas of apparent blood on the  
14 kitchen floor, in that area. I believe there was some on the  
15 refrigerator. And then this back hallway, in that area, there  
16 was blood also on the floor as well as the walls. There was  
17 also blood on that back door.

18 Q But there was not blood in the other rooms?

19 A We did not locate any, no.

20 Q But you did look for it.

21 A Yes, we did.

22 Q Showing you what's been marked as State's Exhibit  
23 40, is this a photograph leading into the kitchen where you  
24 can see some of that blood?

25 A Yes, it is.

1 Q And then State's Exhibit 43, better photograph of  
2 that blood?

3 A Yes, it is.

4 Q Showing you 45 -- 46, I'm sorry. And it's not a  
5 super bright picture, but is there blood along the bottom of  
6 the refrigerator and then you can see back into the hallway  
7 area?

8 A Yes.

9 Q Okay. And specifically, we see a water dispenser;  
10 is that fair?

11 A Yes.

12 Q Showing you State's Exhibit 47. Is this that same  
13 water dispenser in the bottom corner?

14 A Yes, it is.

15 Q And this photograph was taken to display the blood  
16 along the wall?

17 A Yes, it is.

18 Q And if one were to stand sort of at the edge of the  
19 carpet that we see in that exhibit, would we be looking at  
20 what we see in State's Exhibit 49?

21 A Yes. So the photographer in this -- to take this  
22 photograph is standing right next to the refrigerator. The  
23 refrigerator would be immediately to their left, photoed down  
24 the hallway to the north in the trailer.

25 Q And that documents both hallway and the blood along

1 the hallway?

2 A Yes, it does.

3 Q State's Exhibit 51, again, documenting the blood. I

4 realize it's not super clear on the screen.

5 A Yes.

6 Q And then at the back door, you indicated there was

7 blood outside. Fair to say there was also blood along the

8 edge?

9 A Yes.

10 Q As one was moving backwards or through the trailer

11 is a better way to phrase that, were there any items of

12 evidence that caught your attention as being potentially

13 related to the crime?

14 A There was a damaged cell phone that was in three

15 different pieces, kind of scattered throughout the living room

16 area.

17 Q And you documented each of those pieces?

18 A We did.

19 Q What were those pieces, if you can describe as each

20 part of the cell phone?

21 A One -- we had the battery, the back cover, back

22 panel, and then the front face that was damaged. Those were

23 the three parts of that cell phone.

24 Q Showing you what's been marked as State's Exhibit

25 41, can you see the cell phone on the floor here?



1           A     Yes.

2           Q     And can you describe for us where this is in the  
3 trailer?

4           A     Yes. I apologize. This is the -- so if you're  
5 standing in the front door of the trailer, if we go back to  
6 that image, and facing to the north, which is where the  
7 kitchen was, the cell phone was located on the floor right --  
8 very, very close to the threshold between the living room and  
9 the kitchen. So this area right here is actually the kitchen  
10 floor. And then, the phone is here located in close proximity  
11 to where the kitchen starts.

12          Q     Showing you State's Exhibit 23. Is that the  
13 photograph you were talking about?

14          A     Yes. So the cell phone -- you can see this rod back  
15 here. The cell phone is just on the other side of that.

16          Q     And State's Exhibit 42. Is that in fact the front  
17 part of the cell phone that you talked about?

18          A     That is correct.

19          Q     Going through the trailer, what else were you  
20 looking for other than blood?

21          A     We did a search for firearms-related evidence  
22 through the trailer as well as the blood and any items that  
23 appeared to be damaged or out of place.

24          Q     And as you were doing so, did you find a projectile  
25 on the entertainment center we referenced earlier?

1           A     Yes.

2           Q     Showing you what's been marked as State's Exhibit  
3 37. Is that an overall top of that entertainment center?

4           A     Yes, it is.

5           Q     And State's Exhibit 38, a little bit closer up so we  
6 can see where the projectile is.

7           A     Yes.

8           Q     And can you circle on the photograph where that is  
9 for us?

10          A     I can certainly try (indicating).

11          Q     Perfect. And State's Exhibit 49, a super closeup of  
12 that same projectile.

13          A     Yes, that is correct.

14          Q     What's the reason for -- in this example we have  
15 three photographs that basically document the same thing. Why  
16 is that?

17          A     That is specifically so people who are not on the  
18 scene can understand where that item of evidence was,  
19 especially something this small. It's very difficult to see  
20 in just a general overall photograph. So we always do  
21 orientation, showing you where in the general scheme of things  
22 the item is, the relationship of that item to maybe a larger  
23 item that's easier to see, and then an identification  
24 photograph showing the specific item of interest.

25          Q     And when you were documenting the inside of the

1 trailer, did you also take a photograph of the coffee table  
2 that was in the center of that room?

3 A A photograph was taken of the coffee table, yes.

4 Q I say you, and I'm meaning you, but you also  
5 observed that coffee table, correct?

6 A I did, yes.

7 Q Showing you what's been marked as State's Exhibit  
8 32. Is this one of the photographs taken of that coffee  
9 table?

10 A Yes, it is.

11 Q And showing you what's been marked as State's  
12 Exhibit 36, which is going to be the ashtray there. Is there  
13 anything within this photograph that was of note to you in  
14 your documentation of the scene?

15 A Yes. There's the small plastic baggie here  
16 (indicating), which I recovered and impounded.

17 Q And why was the plastic baggie of significance?

18 A The detectives were interested in that. It  
19 corresponds with potential elicited substances, although I do  
20 not know exactly what was inside that baggie.

21 Q In addition to physical evidence in terms of like  
22 items that you could take and impound, did you also find  
23 anything of note in the ceiling of the trailer?

24 A We did. We noticed a defect in the ceiling of the  
25 trailer that corresponds with the trajectory of a bullet.

1 Q Showing you what's been marked as State's Exhibit  
2 57. Is this an overall back from that loveseat of that area?

3 A Yes, it is.

4 Q Can you mark for us what we're looking at in this  
5 photograph?

6 A In the ceiling area there's a pink sticker that has  
7 been applied directly next to the defect in the ceiling that  
8 we noticed.

9 Q And showing you what's been marked as State's  
10 Exhibit 59. Is that that same defect much closer up?

11 A Yes, it is.

12 Q What if anything can you do when you find a hole  
13 like this to learn something about what happened?

14 A We're able to estimate the angle of impact. So the  
15 angle that the projectile struck that surface at, and give a  
16 general trajectory as to what area or where the general area  
17 of source of that projectile may have been.

18 Q How do you go about doing that?

19 A Well, in this particular instance the bullet  
20 actually exited the roof. It's a very thin roof, so we were  
21 able to locate on the exterior the exit. So we were able to  
22 use a trajectory rod using that entry and that exit to give a  
23 visual as well as a general measurement of the angle of  
24 impact.

25 Q And you referred to you were able to find the hole

1 on the roof. Showing you State's Exhibit 66. Is the hole in  
2 this photograph?

3 A Yes, it is. It's right there (indicating).

4 Q State's Exhibit 67, a closer up, little bit easier  
5 to see?

6 A Yes.

7 Q Because there was a hole in the actual exterior of  
8 the trailer, fair to say that the bullet did not stay lodged  
9 in the trailer?

10 A That is correct. We did search the roof, as well as  
11 the surrounding area, and we were unable to locate a  
12 projectile corresponding with this.

13 Q The trajectory rods you spoke about. Showing you  
14 what's been marked as State's Exhibit 63. Is that an example  
15 of a photograph with the trajectory rod in it?

16 A Yes, it is.

17 Q And can you make a line where the trajectory rod is?

18 A Yes. It's right there (indicating).

19 Q That screen isn't like super perfect in terms of --

20 A It's very close to the line that I just applied to  
21 the screen.

22 Q So that tells you that the firearm was located  
23 somewhere along the line that would extend from there; is that  
24 correct?

25 A That is correct, in that general area, yes.

1           Q     And showing you what's been marked as State's  
2 Exhibit 64, can you describe for the ladies and gentlemen of  
3 the jury what we're seeing in this photograph?

4           A     Absolutely. That trajectory rod that you just saw  
5 in the last photograph, what we do is we take a measuring  
6 tool, we set it in line with that trajectory so we can  
7 estimate a general angle of left to right, as well as up to  
8 down that we're able to document then into our notes and  
9 report.

10          Q     So you have multiple, or at least a couple angles,  
11 State's Exhibit 65. Is that the same angle or is that the  
12 opposite angle?

13          A     That's actually the opposite angle. So the white  
14 surface that you see is the ceiling. So this is actually, if  
15 you turned it 90 degrees would probably be a little bit more  
16 -- there we go. So the white is the ceiling and then we've  
17 got our measuring device there, the trajectory rod that you  
18 can see through it.

19          Q     In addition to taking the trajectory of the  
20 projectile that made that hole, did you attempt to collect any  
21 evidence via fingerprints, DNA, anything like that at the  
22 scene?

23          A     Yes, we did.

24          Q     And can you explain for the ladies and gentlemen of  
25 the jury what you did in that area?

1           A     We did fingerprint process, specifically the front  
2 door area.

3           Q     Showing you State's Exhibit 68. Can you describe  
4 for the ladies and gentlemen of the jury generally what we're  
5 looking at here? I have a couple closer ups also.

6           A     Absolutely. This is the exterior of that front door  
7 that we discussed earlier. And the dark areas that you see on  
8 there is latent print power residue.

9           Q     And showing you what's been marked as State's  
10 Exhibit 69, a closer up of that same door. What are the  
11 little white things?

12          A     Those are small scales that we attach on a surface  
13 when we find areas of ridge detail that meet our suitability  
14 criteria. We'll identify those areas with a small scale,  
15 specifically for not only this overall photograph to show you  
16 the location of those areas, but also when we do  
17 identification and comparison photography we have a size  
18 within that photograph of that detail that we've developed.

19          Q     And when you say meets your comparison suitability  
20 -- is that the correct phrase?

21          A     Criteria for suitability, yes.

22          Q     Does that mean that any fingerprint that you collect  
23 will be able to be matched to something else?

24          A     No, it does not.

25          Q     It just means that you're not collecting random

1 smudges that have no detail.

2 A That is correct.

3 Q Once you finished at the scene, were there physical  
4 items that were impounded?

5 A Yes, there were.

6 Q Can you describe the process of impounding?

7 A Absolutely. So once an item of potential  
8 evidentiary value is identified, it is documented in its  
9 original location and state. It's photographed again for  
10 identification purposes, typically in a clean environment,  
11 either back at our laboratory or on a clean bag. That item is  
12 then stored or packaged for future analysis, if necessary.  
13 There's a label affixed to the exterior of the bag identifying  
14 what the contents are, as well as our event number, the date  
15 it was collected, the individual collecting it. And then that  
16 package is sealed, per our policy with the individual's  
17 initials and date written across the seal of the package.

18 Q And you probably already said this and I missed it.  
19 Does that package also include the event number?

20 A Yes.

21 Q Can you describe what an event number is?

22 A Absolutely. An event number, the way the Metro  
23 Police Department generates them, is the year, the month, and  
24 the day, followed by a four-digit specific indicator number  
25 that's chronological, starts with the first call that comes in



1 after midnight, and continues on until 11:59, the end of the  
2 day. That unique identifier is specifically for that case and  
3 that event only. We don't recycle numbers. So that specific  
4 event number is only for that case.

5 Q So in this instance the beginning of the event  
6 number would have been 130709?

7 A That is correct.

8 Q Okay. And you described the packaging. On the  
9 outside of the packaging does it list what items are inside  
10 the package?

11 A Yes, it does.

12 Q And do each of those items get an assigned number?

13 A Yes, they do.

14 Q Showing you what's been marked as State's Exhibit  
15 39. This specific projectile, when it was impounded, was it  
16 marked as item number five?

17 A I would have to refer to my evidence impound to  
18 verify that number.

19 Q And would that refresh your recollection?

20 A Yes, it would.

21 Q And was the evidence impound report created at the  
22 time of the impound or near the time of the impound?

23 A Yes. I created the evidence impound as I was  
24 impounding the evidence.

25 MS. THOMSON: May I approach?

1 THE COURT: Yes.

2 BY MS. THOMSON:

3 Q I believe this is the correct report. If I'm wrong,  
4 let me know.

5 A Yes, this is the correct report.

6 Q And does that refresh your recollection as to the  
7 item number of that particular projectile?

8 A Yes. That bullet was impounded as item number five.

9 Q When you were going through the home you said you  
10 were looking for blood and any firearm-related evidence,  
11 correct?

12 A That is correct.

13 Q Now, oftentimes in cases where you have had a report  
14 of a shooting, will you find what is called casings?

15 A No, we will not. We will find cartridge cases.

16 Q And can you describe what a cartridge case is?

17 A Absolutely. A cartridge case is -- it looks like a  
18 very small metal cup and it's what holds the -- on that metal  
19 cup will be the primer. Interior of that is the gunpowder,  
20 the actual accelerant, then the bullet. And a full cartridge  
21 case would be placed on top of that and sealed. So a  
22 cartridge case is what's left over after a firearm has been  
23 shot once the projectile separates from the gunpowder and that  
24 metal cup.

25 Q And in every case that you have been involved in

1 where there was a report of a shooting, have you always found  
2 cartridge casings?

3 A No, I have not.

4 Q Okay. And what if any reasons could contribute to  
5 that?

6 A One of the reasons could be that a revolver was  
7 used. A revolver will -- the cylinder after fire will just  
8 typically cycle, it will turn, and that cartridge case will  
9 not be expended. Also, cartridge cases are very, very light.  
10 It doesn't -- it gets very windy here, so sometimes the wind  
11 will move those cartridge cases into a location we're unable  
12 to locate them at the time. They can get kicked, run over by  
13 a patrol vehicle, caught up in the tread of a fire engine  
14 truck. Or had a variety of different actions that can either  
15 destroy or remove a cartridge case. It's also possible for  
16 the shooter or another individual to pick up those cartridge  
17 cases and remove them from the scene prior to law enforcement  
18 arriving.

19 Q So the lack of cartridge casings can be indicative  
20 of a revolver, but is not an absolute. Is that a fair  
21 statement?

22 A That is correct.

23 Q Now, once you had finished with trailer 45 and the  
24 area of the immediate scene, did you again get called out  
25 related to this case that day?

1           A     Not that day.

2           Q     How about the next day?

3           A     Yes. The next day I was asked to do some follow-up

4 work in relation to this case.

5           Q     And where did you go for that?

6           A     Into the garage that is attached to our lab.

7           Q     What did you encounter when you went into that

8 garage?

9           A     There was a vehicle there that was sealed.

10          Q     And when you say sealed, I'm going to show you

11 State's Exhibit 94. Can you explain for us what you mean by

12 sealed?

13          A     Yes. That large orange sticker that you see on the

14 rear of the vehicle, those are placed on all openings. So if

15 there was a sunroof, all of the doors, cargo area, and hood to

16 ensure that those doors or access points were not opened. And

17 if they are, we would have tearing in that seal. So we would

18 know that someone had tampered with the interior of that

19 vehicle.

20          Q     So it's much like the evidence impound, so you know

21 it's in the same condition as when you released it or removed

22 it or at least who has accessed it, if not?

23          A     That is correct.

24          Q     When you came into contact with the vehicle, were

25 the seals all still intact?

1           A     Yes, they were.

2           Q     And what if anything was your goal when you were  
3 processing this vehicle?

4           A     Again, looking for areas or items of potential  
5 evidentiary value.

6           Q     And did that include same as at the residence with  
7 dusting for fingerprints?

8           A     Yes. Fingerprint processing, I conducted  
9 fingerprint processing as well as a search of the interior of  
10 the vehicle.

11          Q     I'm going to show you State's Exhibit 91. Is this  
12 the front driver's side?

13          A     Yes, that's the front driver's side door.

14          Q     And there appears to be a little bit of tape on the  
15 rearview mirror. Can you describe what that is?

16          A     Yes. The areas that you can see that look like they  
17 have kind of really large scotch tape on, so here and also on  
18 this area. I believe there's some on the window and the door.  
19 So the process that we go through for latent print processing,  
20 we apply powder if we see an area of interest. We can either  
21 apply those scales like you saw on the scene on the exterior  
22 of the door. If the surface is nice and smooth, a better way  
23 to recover that area of latent print detail is to apply clear  
24 tape that protects the detail. We pull that -- we then  
25 document it with a photograph showing where that latent print

1 detail was developed. We pull that off of the original  
2 surface and place it onto a white card. That card is then  
3 impounded for further examination at a later date.

4 Q And showing you State's Exhibit 92. That's a closer  
5 up of that tape before it's lifted onto the card?

6 A That is correct.

7 Q In addition to the driver's side rearview mirror,  
8 showing you State's Exhibit 93, were you able to also lift a  
9 print from the back driver's side door?

10 A Yes.

11 Q And State's Exhibit 95, from the lift gate at the  
12 back of the vehicle?

13 A Yes. That's the rear cargo door, and that's the  
14 bottom edge where the door seats in right next to the bumper  
15 on the rear of the vehicle.

16 Q So it's where you would traditionally kind of grab  
17 it to close it?

18 A Potentially, yes.

19 Q And showing you State's Exhibit 96. Is that the  
20 front of that vehicle?

21 A It is.

22 Q And did you impound each of these lifts the same way  
23 you described prior impound with the projectile from the  
24 scene?

25 A Yes. The lifts, like I said, go onto a white card.

1 That event number, as well as very specific information, the  
2 information regarding me, the date the lift was recovered, the  
3 specific location, all of that goes into an envelope, again  
4 with all of that event information, date, location on the  
5 exterior, and that envelope is sealed and impounded into  
6 evidence.

7 Q When you impound these lifts, do they go in under  
8 the same event number as the scene that you responded to the  
9 day before?

10 A Yes.

11 Q And why is that?

12 A It is all related. This was just a follow up per  
13 the detectives.

14 Q If there were for some reason, for example,  
15 processing that related to two different event numbers, can  
16 you log the fingerprints that you're collecting under both  
17 event numbers so they're accessible and related to both cases?

18 A That can be done, yes.

19 Q And that wasn't something that was done here.

20 A To my knowledge, no.

21 MS. THOMSON: Court's indulgence. I'll pass the  
22 witness.

23 THE COURT: Do you want to start for a few minutes  
24 or a good time for lunch? Your choice, Mr. Yanez.

25 MR. YANEZ: Maybe we should break for lunch.