

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY LAMAR CHAMBERS

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Aug 09 2018 08:43 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
S.Ct. No. 73446
D.C. No. C292987-1

APPELLANT'S APPENDIX

Volume 12

JEAN J. SCHWARTZER, ESQ
Nevada Bar No. 11223
Law Office of Jean J. Schwartzer
10620 Southern Highlands Pkwy
Suite 110-473
Las Vegas, Nevada 89141
(702) 979-9941
Attorney for Appellant

STEVEN B. WOLFSON, ESQ.
Nevada Bar No. 1565
Clark County District Attorney
Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155
(702) 671-2500
Attorney for Respondent

Chambers v. State Case No. 73446

AMENDED INDEX TO APPELLANT'S APPENDIX

<u>Document</u>	<u>Page</u>
Affidavit of CDDA Megan Thomson filed 2/27/2017	199-205
Defendant's Motion in Limine filed 1/26/2016	147-157
Defendant's Proposed Jury Instructions Not Used At Trial filed 2/27/2017	192-198
Defendant's Reply to State's Opp to Motion in Limine filed 4/28/2016	166-169
Defendant's Sentencing Memorandum filed 5/22/2017	290-301
Guilty Plea Agreement filed 3/1/2017	271-280
Information filed 10/10/2013	1-4
Instructions to the Jury filed 3/1/2017	206-267
Judgment of Conviction filed 6/5/2017	302-303
Notice of Appeal filed 7/2/2017	304-306
Notice of Intent to Seek Punishment as a Habitual Criminal filed 2/21/2017	170-172
State's Motion to Admit Preliminary Hearing Transcript filed 2/22/2017	173-175
State's Motion to Use Audio Visual Testimony filed 2/24/2017	176-191
State's Proposed Jury Instructions Not Used At Trial filed 2/27/2017	195-198
State's Opposition to Motion in Limine filed 3/2/2016	158-165
State's Sentencing Memorandum (no exhibits) filed 4/10/2017	281-289
Verdict Form filed 3/1/2017	268-270

<u>Transcript</u>	<u>Page</u>
Transcript of Hearing on Motion in Limine filed 9/13/2017	307-309
Transcript of Jury Trial Day 1 filed 10/30/2017	329-478
Transcript of Jury Trial Day 2 filed 10/31/2017	479-649
Transcript of Jury Trial Day 3 filed 10/31/2017	650-818
Transcript of Jury Trial Day 4 filed 10/31/2017	819-990
Transcript of Jury Trial Day 5 filed 10/31/2017	991-1106
Transcript of Jury Trial Day 5 Errata filed 8/3/2017	1216-1270
Transcript of Jury Trial Day 6 filed 10/31/2017	1107-1194
Transcript of Jury Trial Day 7 filed 10/31/2017	1195-1215
Transcript of Sentencing filed 9/13/2017	310-328

1 So the admonishment applies. Do not do any
2 research. Do not read any accounts of this, whether by
3 Internet or otherwise. Don't form any opinions. Don't talk
4 to anybody about issues in the case, including witnesses,
5 attorneys, or any parties. You may now take a 15-minute
6 recess. Thank you.

7 (Jury recessed at 3:45 p.m.)

8 THE COURT: We're outside the presence of the jury.
9 Should we go off the record and finish the jury instructions,
10 folks?

11 MR. YANEZ: Yes.

12 THE COURT: All right. We can do this off the
13 record, so the officers can allow the defendant to use the
14 restroom or whatever he needs to do. All right.

15 (Court recessed at 3:46 p.m. until 4:27 p.m.)

16 THE COURT: State versus Chambers, C292987. Are we
17 ready to go?

18 MS. THOMSON: Yes, Your Honor.

19 MR. YANEZ: Yes, Your Honor.

20 THE COURT: All right. Thanks, guys for working so
21 hard to get it done. Let's bring the jury in. You guys all
22 look exhausted.

23 MS. THOMSON: Thank you.

24 (Jury reconvened at 4:28 p.m.)

25 THE COURT: Got the jury instructions done. Anyway,

1 we're back on the record. We're ready to go. I have 60
2 instructions I'm going to read for you. Are we all ready to
3 go, counsel?

4 MR. YANEZ: Yes, Judge.

5 MS. THOMSON: Yes, Your Honor.

6 THE COURT: I'll just tell you guys right at the
7 start there's going to be a complete set of these back in the
8 deliberation room, so don't feel like you need to write all
9 this down. If you hear a particular instruction that you want
10 to take note of, you can jot down the number or feel free to
11 write down whatever you want, of course, but you will have
12 this complete set back in the jury deliberation room. All
13 right?

14 (Jury instructions read - not transcribed.)

15 THE COURT: Original instructions are signed by the
16 Court, and I'll provide it to the Court clerk. Will counsel
17 for the State please remember tomorrow to provide a revised
18 instruction number one?

19 MS. THOMSON: Yes, Your Honor.

20 THE COURT: Anything that we need to clarify with
21 the jury before we dismiss them for the evening?

22 MS. THOMSON: No, Your Honor.

23 MR. YANEZ: No, Judge.

24 THE COURT: All right. Give me a moment. We're
25 going to resume tomorrow at one; is that correct, counsel?

1 MR. YANEZ: Yes, Judge.

2 MR. THOMSON: Yes, Your Honor.

3 THE COURT: All right. Let me read the official
4 admonishment one official time for you before you go home.
5 You're admonished, it is your duty not to converse among
6 yourselves or with anyone else on any subject connected with
7 the trial. You must not read, watch, or listen to any report
8 of or commentary on the trial, or any person connected with
9 the trial by any medium of information including, without
10 limitation, newspapers, television, radio, or Internet. You
11 must not form or express any opinion on any subject connected
12 with the trial until the case is finally submitted to you.
13 You must not perform any research about the case, the facts of
14 this case, the subject matter of the case, or the issues of
15 the case.

16 Ladies and gentlemen, I will direct you to please
17 return to the hallway outside this courtroom tomorrow at 1:00.
18 We're then going to proceed with closing arguments and then we
19 will allow you to retire for deliberations. All right?
20 Please have a safe and enjoyable evening. I'll see you back
21 tomorrow. Leave your notepads and your pens.

22 (Jury recessed at 5:17 p.m.)

23 THE COURT: All right. We're outside the presence
24 of the jury. Anything that we need to put on the record or
25 discuss outside the presence?

1 MS. THOMSON: No, Your Honor.

2 MR. YANEZ: No, Judge.

3 THE COURT: All right. I'll see everybody tomorrow
4 at 1:00. How long do we anticipate? Can I get a rough
5 estimate?

6 MS. THOMSON: I'm going to guess I'll talk for about
7 a half hour in rebuttal.

8 MR. SCHWARTZ: About 45 minutes for closing.

9 THE COURT: Forty-five, 45, half hour?

10 MR. YANEZ: Forty-five to an hour.

11 THE COURT: All right. Forty-five, 45 to an hour,
12 and then a half an hour.

13 MR. SCHWARTZ: A little over two hours total.

14 THE COURT: Yeah. All right. That sounds good.
15 Thank you.

16 MS. THOMSON: Thank you.

17 THE COURT: One more thing, guys. Assuming they
18 start deliberating and don't finish, I'll have them come back
19 Wednesday at nine, even though I have my civil calendar at
20 nine. My civil day's probably going to go from nine to 11,
21 just to let you know. Okay?

22 MS. THOMSON: Thank you.

23 THE COURT: If something -- if they come back with a
24 conviction on first-degree murder, then we can roll right into
25 a penalty hearing.

1 MS. THOMSON: No matter what they come back with
2 we'll need to roll into the ex-felon. And then after that, if
3 it was a first we can either roll right in or my request would
4 be, because we're flying the mother in from Tennessee I think,
5 she didn't want to be here for the trial. She has other stuff
6 and frankly, didn't think she'd emotionally be able to sit
7 here for it. But she wants to testify in penalty if we get
8 there. And because it's Tennessee, instead of bringing her
9 out to potentially [indiscernible] we're waiting until we get
10 a verdict and then we'll get her on a plane like within hours.

11 THE COURT: All right. Let's try to expedite that
12 once we know -- if we know it's happening.

13 MS. THOMSON: Yes, Your Honor.

14 THE COURT: Thank you. Have a good evening. Thank
15 you, Marshals.

16 (Court recessed for the evening at 5:19 p.m.)
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ACKNOWLEDGMENT:

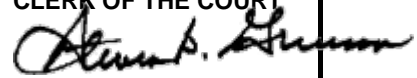
Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

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

KIMBERLY LAWSON
TRANSCRIBER

UNCERTIFIED ROUGH DRAFT

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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE

JURY TRIAL - DAY 6

TUESDAY, FEBRUARY 28, 2017

APPEARANCES:

For the State:	MEGAN S. THOMSON, ESQ. Chief Deputy District Attorney BRYAN S. SCHWARTZ, ESQ. Deputy District Attorney
For the Defendant:	ABEL M. YANEZ, ESQ.

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I N D E X

CLOSING ARGUMENTS:

By Mr. Schwartz 5

By Mr. Yanez 32

REBUTTAL CLOSING ARGUMENT:

By Ms. Thomson 60

1 **LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 28, 2017, 1:34 P.M.**

2 *** * * * ***

3 (Outside the presence of the jury.)

4 THE COURT: Please be seated. State vs. Chambers,
5 C292987. All right. I understand from my Marshal that one of
6 the jurors is still not available, it's juror number 8,
7 Stephanie Ocampo. Is that correct, Marshal?

8 THE MARSHAL: Yes, sir.

9 THE COURT: All right. I've waited 35 minutes, the
10 juror's still not here. I'm not inclined to wait any longer.
11 What do you say?

12 MS. THOMSON: I agree.

13 THE COURT: Anybody want to put any objection on the
14 record? I've tried to be patient. I appreciate the juror had
15 some issue with her son in the hospital, but we can't delay
16 this any longer.

17 MR. YANEZ: We're just moving juror number 13 into
18 that spot?

19 THE COURT: Nobody moves anywhere.

20 MR. YANEZ: Theoretically.

21 THE COURT: Yes. The effect of that is that that
22 opens up a spot on the main group and the first alternate
23 would now become one of the main jurors, one of the regular
24 jurors. Okay?

25 MR. YANEZ: That's fine, Judge.

1 THE COURT: All right. I am hereby declaring that
2 juror number 8, Stephanie Ocampo is hereby excused due to
3 hardship and the first alternate is now on the regular panel.
4 Let's bring the jurors in. Let's begin. Tell Ms. Ocampo that
5 we appreciate her attention and diligence, but I couldn't wait
6 any longer and she can call after this case is over and be
7 informed of the results.

8 THE MARSHAL: Absolutely.

9 THE COURT: And remind her also, Marshal, not to
10 have any communication with anybody about this case until the
11 case is completely over.

12 THE MARSHAL: Okay.

13 (Jurors reconvened at 1:37 p.m.)

14 THE COURT: Welcome back, ladies and gentlemen.
15 Please be seated everybody. The Court had to excuse juror in
16 seat number eight. Please don't concern yourself with why I
17 had to do that. Trial will go on, this matter will go on
18 because one of you is an alternate. All right? This will
19 still work out.

20 All right. So, let's proceed. The State may now
21 present its closing argument to the jury.

22 MR. SCHWARTZ: Thank you, Your Honor. May I
23 proceed, Your Honor?

24 THE COURT: Yes, Mr. Schwartz.

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STATE'S CLOSING ARGUMENT

MR. SCHWARTZ: You know what this is about. Lisa, you know what his is about. Ladies and gentlemen, now you know what this is about. This is about a robbery. This is about attempt robbery, a killing, a murder. This is about the defendant over there, Mr. Gary Chambers a/k/a Money. He was tired of Lisa. He was tired of Lisa shorting him. He was going to rob her, even if it meant putting a bullet through Gary Bly's head and shooting Lisa.

Let's talk about some of the different people involved on July 9th, 2013. We have Lisa, right? She's the one who lives at trailer 45, and she had Gary Bly as a roommate previously, but he was also there on July 9th. He had spent the night the night before. And we heard from Daniel Plumlee, Charles Braham, Lance Berg, and Brad Grieve. These are all gentlemen that work at Van's Trailer Park, and they were present on July 9th, 2013. We have the defendant, Gary Chambers, Money, and we heard testimony, this is the lady we actually heard on the TV, right, Cynthia Lacey. That was his fiancé at the time. And Bridgett Graham.

Now Bridgett Graham, you didn't see her in court today or yesterday. She was the testimony that was read into the record by Ms. Mendoza. That was her prior testimony. But Bridgett Graham is actually not the defendant's daughter, but his daughter's best friend. Bridgett actually calls the

1 defendant her dad.

2 Now, in every criminal case, whether it's a parking
3 ticket or it's a murder case, the State must prove beyond a
4 reasonable doubt two things. First, that the crime or crimes
5 were committed, and that the defendant, Mr. Chambers, is the
6 one who committed that crime. In this case we really don't
7 have to worry about that last issue. We know that Mr.
8 Chambers, the defendant, is the one who was there. The
9 defense told you in his opening the defendant was there. He
10 went to trailer 45. So really, what you ladies and gentlemen
11 of the jury are going to concern yourselves with is what
12 crimes did he commit on July 9th. Okay?

13 Now, yesterday the Judge instructed you on
14 credibility and believability. This is instruction number 54.
15 And he told you this is what the law says. As the jury, you
16 get to determine the credibility of the witness. You look at
17 their manner on the stand, their fears, motives, interest or
18 feelings, their opportunity to observe what they testified
19 about, and their relationship to the parties. So, let's keep
20 this in mind as we talk about the evidence that we heard.

21 The Judge also instructed you on common sense, which
22 is instruction number 57. You're encouraged as jurors to
23 bring your everyday common sense to the table. You don't have
24 to check it at the door when you come in here. You get to use
25 that. You're not limited solely to what you hear up on the

1 stand. You can draw reasonable inferences using your common
2 sense. I want you to keep these two things in mind as we go
3 through the charges.

4 And here are the charges. Count One, burglary while
5 in possession of a firearm. Count Two, murder with the use of
6 a deadly weapon. Count Three, attempt robbery with use of a
7 deadly weapon. Count Four, attempt murder with use of a
8 deadly weapon. And Count Five, battery with use of a deadly
9 weapon.

10 We're going to talk about what the elements of these
11 five charges are and how the State has proven beyond a
12 reasonable doubt that these charges were committed by the
13 defendant.

14 So you'll notice that every one of these charges has
15 a deadly weapon reference. And in the jury instructions,
16 specifically number 45, the Judge told you yesterday the law
17 says that a firearm is a deadly weapon. So that's what we're
18 talking about in this case, the firearm that the defendant
19 had. Cynthia Lacey saw it a couple days before. The firearm
20 that the defendant took to trailer 45, the firearm that he
21 used to put a bullet through Gary Bly's head, that's a
22 firearm. That's a deadly weapon in each one of these charges
23 that we're talking about. Okay?

24 Let's start with murder with use of a deadly weapon.
25 It's going to be the first charge I'd like to talk to you guys

1 about. Murder is defined as killing of a human being with
2 malice aforethought. What does malice aforethought mean?
3 Kind of an interesting word there. Jury instruction number
4 17, and this is just a quote and I'm going to read it to you
5 and then we're going to talk about it. But the condition of
6 the mind described as malice aforethought may arise, not alone
7 from hatred -- anger, hatred, revenge or particular ill will,
8 spite or grudge for the person killed, but could also result
9 from any unjustifiable or unlawful motive or purpose to injure
10 another.

11 So what does that mean? I mean, what does this long
12 definition mean? Really, you intentionally do something
13 wrong. Okay? That's what it means. Now, there's two degrees
14 of murder. Ladies and gentlemen, this case, the reason we've
15 had you sit here through all this evidence, is because we're
16 talking about first-degree murder. That's what this case is
17 about. But there are two degrees of murder. We're going to
18 go through both in this discussion here.

19 First-degree murder can be proven and has been
20 proven by the State in two ways. It can either be felony
21 murder, which we're going to talk about what that means. It
22 can also be premeditated murder. There's two different ways
23 that the State can show and has shown first-degree murder.

24 We're going to start with felony murder. Now, this
25 is going to be instruction number 23. Basically, a killing

1 occurs during an attempted robbery. And really, the
2 definition is during certain felonies, certain dangerous
3 felonies. But in this case, a killing occurs during an
4 attempted robbery. You're guilty of first-degree murder. The
5 killing itself can be intentional. It can be unintentional.
6 It can be completely an accident, as long as it happens during
7 an attempted robbery. The State only needs to prove that the
8 defendant intended to commit that attempted robbery, not the
9 killing, just the attempted robbery.

10 Let's talk about that kind of as an example. I go
11 downstairs, I take my gun with me, and I go to Capriotti's,
12 and I'm going to rob Capriotti's. I take this gun, I don't
13 know how to use it, I just brought it, right, because I'm
14 going to try to scare the clerk into giving me money. I
15 demand the money from the clerk, he starts giving me money,
16 I'm reaching for it, and all of a sudden, this gun goes off,
17 shoots the clerk in the head, kills him. I run out. Money
18 goes everywhere, I run out. I didn't at all intend to use the
19 gun, I didn't intend to kill that clerk. But because I
20 intended to commit the robbery and a killing occurred by
21 accident, I'm guilty of first-degree murder.

22 And the law is that way. The legislature has
23 determined that because certain felonies, certain crimes are
24 inherently dangerous, we want to discourage those crimes, such
25 as attempt robbery. So, we're discouraging use of firearms in

1 attempt robbery with this felony murder rule.

2 So, let's talk about that underlying crime, the
3 attempt robbery, which I said, if a killing occurs while the
4 attempt robbery is being committed, first-degree murder. No
5 question about it. So, the law is going to instruct you on
6 attempt. You intend to commit a crime, you perform an act
7 toward its commission, but you fail to complete it. Makes
8 sense, right? You try to do something, but it doesn't work
9 out. Robbery, again, taking a personal property from the
10 person or presence by force or violence. Again, some of these
11 instructions, just to make them simple, you try to take
12 something from someone with force; i.e., a gun in this case,
13 right, and you take the personal property from them.

14 For all these charges that we're going to talk
15 about, we're asking you to try to figure out what's going on
16 in this man's head when he commits these crimes. That's kind
17 of why you're here. And the law tells you that to figure out
18 what's going on in his head, because usually people don't go
19 into crimes and say hey, my intent is to rob you, here we go.
20 Right? You've got to figure it out by the circumstances. You
21 can infer the intent based on the circumstances. That's what
22 the law tells you. We don't need direct evidence of his
23 intent. Okay?

24 So, how do we know that the defendant attempted to
25 rob Lisa? That's what we're talking about, attempt robbery

1 here. Well, to start, Lisa told you that. Right? Let's talk
2 about Lisa for a second. The State of Nevada, myself, Ms.
3 Thomson, we don't get to pick our victims that walk through
4 the door. This crime did not happen in a church where a
5 priest could come in and testify before you guys. Right?
6 This is real life. This is a drug dealer. Lisa sells drugs.
7 Drug dealers get robbed because they have money and they have
8 drugs. This is the real world. That doesn't make her any
9 less of a victim than the priest in the church. She's still
10 entitled to protections and the justice under the law.

11 But you know who got to pick the victim that day on
12 July 9th? The defendant got to pick the victim. Right? He
13 picked Lisa, the drug dealer. And sure, when she testified
14 she wasn't exactly forthcoming about being someone who sells
15 drugs. But nonetheless, that is not an element of any one of
16 these crimes. The State does not have to prove whether or not
17 she sold drugs. And in fact, the State gave you all the
18 evidence to show that she actually sells drugs. Right?

19 You had Mr. Braham testify. He was one of the first
20 gentlemen from Van's Trailer Park. He told you that he'd go
21 to trailer 45, Lisa's trailer, to get drugs. That's what
22 Bradley Grieve said. And you saw the signs in her house.
23 Right? The house rules. Come on now, let's use our common
24 sense. She sells drugs. But, simply because she wasn't
25 necessarily forthcoming about that, that doesn't mean that her

1 testimony when she says the defendant came over, he brought a
2 gun, he pointed it at me, he tried to rob me, he shot my
3 friend Gary, he shot me. That doesn't mean that that
4 testimony is discredited. Because that testimony is supported
5 by independent evidence. There's other evidence at the scene,
6 physical evidence. Other eyewitnesses that corroborate her
7 testimony, making it credible.

8 So, let's talk. Let's go through what she said.
9 Right? She said the defendant called her before he came over.
10 She said he called her twice before he came over. So, what
11 evidence do we have of that? Well, we have the defendant's
12 cell phone records from that morning. And here's a clip of
13 the cell phone record. And each one of these columns tells us
14 something important. The date, July 9th, 2013, we have an
15 outgoing phone call, meaning from defendant's phone to someone
16 else's phone. This is the time of the call, 10:17, about
17 10:18. The duration of the call is next here, 47 seconds, 20
18 seconds. Again, two different calls. The phone number that
19 he's calling, 702-482-3372. And then again, whether it's a
20 completed call. Did the person on the other end pick up?

21 So, what do we know about this? We know Lisa's
22 phone number, she testified to, 482-3372. So, he did in fact
23 call her twice before he went over. And to give you a little
24 context, the 9-1-1 call came out at 10:21. So these calls
25 would have been just before. So her testimony about that is

1 corroborated by independent evidence.

2 And remember what Bridgett Graham said as well, the
3 testimony that was read to you? She said that when the
4 defendant got out of the vehicle heading to 45, he was on the
5 phone, he said yeah, I'm heading in there now, or something to
6 that effect. What else did she say? She said defendant went
7 to trailer 45. We know that, defense told you that in
8 opening, he went to trailer 45. Mr. Plumlee saw the defendant
9 approaching the gate as he left the trailer. Remember, Mr.
10 Plumlee was there that morning. He was fixing the door or
11 something inside 45. He left, the defendant was coming in.

12 Lisa said that Gary Bly was with her at trailer 45.
13 Well, we know that's true, right? He was found dead in
14 trailer 45. Mr. Plumlee also testified that he saw Gary Bly
15 in the trailer that morning. She said no one else was there.
16 Again, it's corroborated by what the gentleman from Van's
17 Trailer Park said. They heard the shots. They kind of were
18 outside the front of the trailer. Plumlee, Grieve, Lance
19 Berg, they only saw one person exit that trailer that day
20 after the shots. It was the defendant. And then Charles
21 Braham, remember, he was kind of scared. He said he was
22 backing away. From the front of the trailer he could see the
23 back of the trailer. And remember what he said? He said he
24 only saw Lisa holding her hand at the back of the trailer. So
25 again, corroborated by other pieces of evidence.

1 Okay. So the defendant, she said, had a black gun
2 with a cloth holster on it. And that's corroborated by the
3 testimony that we heard from Cynthia Lacey. Cynthia Lacey,
4 when she testified for this trial, didn't remember much,
5 right? She said I don't remember, I don't remember, I don't
6 remember. But yesterday with the detective, we played you the
7 audio from her recording on July 9th, 2013, that day. She
8 told you she remembered seeing the defendant with a black gun
9 in a cloth-like holster two days before this robbery. And we
10 know there was a gun there because some people got shot,
11 right?

12 Okay. She also said that the defendant had a wallet
13 and his keys. He had a gun, wallet, keys. That's
14 corroborated because the wallet, his wallet was found at the
15 scene a couple days after. Remember, Lisa got home from the
16 hospital, found his wallet. It also makes sense that he had
17 keys there, right, because he had to leave the scene and he
18 was seen leaving in a car. And he was seen driving the car.
19 Got his car keys in his hand. Makes sense. It's
20 corroborated.

21 Okay. So she also said that -- and this is
22 important -- Gary confronted the defendant. Remember,
23 defendant had the gun out, Gary confronted him. And the
24 confrontation was between the two couches kind of in the front
25 door area. That's her testimony. Ladies and gentlemen,

1 that's corroborated as well. Let's first look at sort of the
2 placement of where she's saying this happened. She's saying
3 it happened by the front door, kind of between the two
4 couches. She's saying Gary approached -- Gary Bly approached
5 the defendant. Well, that makes sense, right, because the
6 defendant would have had to come through this door and Gary
7 would have been somewhere inside the trailer. So he would
8 have approached him that way.

9 And we know that it happened over there for another
10 reason. Remember the bullet, the trajectory route? There was
11 a bullet recovered -- the bullet wasn't recovered, but there
12 was a bullet hole found. Remember what CSA Amy Nemcik said.
13 There was a bullet hole through the ceiling out the trailer.
14 And they used this, what they call I think a trajectory rod to
15 see where the bullet would have been fired from. And it
16 basically would have been fired from where this picture is
17 taken, right, which is right kind of by the -- between the
18 couches and on our left would be the front door.

19 If you imagine for a second that the defendant is
20 standing, facing this way, and he's got the gun, and Gary Bly
21 comes at him trying to get him to stop, not point the gun at
22 his friend, there would be a struggle. And the first thing he
23 would do, use your common sense, someone else has a gun,
24 you're going to confront them? You're going to try to get the
25 gun to not be pointed at you or at Lisa. Well, if the

1 defendant, maybe the gun, Gary Bly grabbed his hand, pointed
2 up, discharges into the ceiling. That's what makes sense with
3 this trajectory rod.

4 It also makes sense, if you look at Gary Bly, his
5 physical injuries on his hand. Remember this little mark that
6 the medical examiner yesterday said looks kind of new and
7 could be consistent with a burn, something hot on your hand.
8 Be consistent with Gary Bly grabbing onto that gun and it
9 going off up into the ceiling causing the hot metal of the gun
10 to leave that mark.

11 She also said, as we've already talked about, the
12 location of this struggle. We know that it happened where she
13 says it happened because that's where Gary Bly was found.
14 That's where his blood and brain matter were found. Office
15 Brosnahan, first responding officer, said Gary was found lying
16 there in a semi-fetal position, which is again consistent with
17 what Lisa said. He was shot and he immediately crumbled to
18 the ground. He didn't move from that spot where he was found.

19 After he shot Gary Bly, Lisa said that he turned the
20 gun on her. He pointed it at her midsection. And she had a
21 phone in her hand. Remember, she was trying to describe
22 trying to open the phone so she could call for help. And as
23 the gun's pointed at her, she testified she hit it out of the
24 way, probably saving her life. Hit it out of the way. Let's
25 think, ladies and gentlemen. Is that testimony consistent

1 with the physical evidence?

2 Let's start with her hand. Looks like a bullet went
3 through it. Remember, it was a through-and-through they said,
4 through one end, out the other. I thought she had her phone
5 in her hand. Like that phone took a shot right there. It's
6 consistent with her testimony, the physical evidence. Again,
7 she said that there were gunshots in the trailer. The
8 gentlemen outside all heard gunshots, approximately three to
9 four gunshots. Also, a bullet was found at the scene, bullet
10 hole in the ceiling. Consistent with her testimony.

11 Then she said she ran to the back door, right? She
12 went to the back door after she got shot. And we know that
13 the physical evidence supports that because you can follow the
14 blood trail through her house, down that hallway, and out the
15 back door. And that's consistent with what Charles Braham
16 said. Remember the guy who was a little -- he was kind of
17 scared, a little skittish. He saw her at the back door
18 yelling, holding her hand after the gunshots. So, ladies and
19 gentlemen, Lisa's testimony is absolutely supported by the
20 independent physical evidence.

21 But that's not all. That's not all. We have other
22 indicia that the defendant, proof that the defendant went over
23 there and attempted to rob Lisa. Remember what he told
24 Cynthia? Remember what Cynthia said? He told her a few weeks
25 before this I'm going to rob her. Not only did he say I'm

1 going to rob her, he told her why. She's a big-time dope
2 dealer, right? She's got a lot of money and I'm going to rob
3 her, I'm going to take that money. She's a b-i-t-c-h, Lacey
4 said, right? He told you. He told you what his intent was.
5 And remember when I said intent can be inferred from the
6 circumstances? Well, ladies and gentlemen, he's telling you
7 his intent. Okay? He's telling you why he went over there,
8 what he's doing over there.

9 Who else does he tell? Not just Cynthia. He tells
10 his second daughter, Bridgett. Remember, at the prior hearing
11 where she testified, she said the day or two before the
12 murder, about when Cynthia saw him with the gun, remember,
13 Cynthia saw him bring home the gun, around that timeframe he
14 told Bridgett and Erika, I'm going to come up. And Bridgett
15 said that that could mean a couple things, one of which I'm
16 going to get money because I'm going to rob someone. That's
17 what she said. Money's going to get money, right?

18 That's not all he told Bridgett, of course, right?
19 He talked about he was going to hit a lick. Sure, Bridgett
20 didn't think he was being honest, but he's telling her I'm
21 going to hit a lick, which again, she tells you, to her that
22 meant he was going to commit a robbery.

23 I mean, he brought the gun, loaded gun to Lisa's
24 home, her trailer. He brought it there for a reason. He
25 brought it there to rob her. It makes sense. It all adds up

1 if you look at each piece together. He's also seen leaving
2 the trailer with that same gun. Right? The testimony was
3 that it was kind of tucked in his pocket, they could see the
4 butt of the firearm, black butt of the firearm. He was seen
5 leaving in a gray Saturn Vue, which is corroborated because
6 it's found at Cynthia Lacey's house that day. The license
7 plate, 96679, is the same license plate that Plumlee, Daniel
8 Plumlee saw right after the defendant left trailer 45.

9 Remember? He followed, he saw the license plate and he gave
10 it to Officer Brosnahan right when Officer Brosnahan arrived.

11 Also, let's think about what Bridgett said.
12 Remember, Bridgett's in the car. She's in the Saturn Vue
13 outside 45. She hears some gunshots, but also, she hears Lisa
14 yelling, he's trying to rob me, he's trying to rob me. Let's
15 use our common sense, ladies and gentlemen. What's he doing
16 in there?

17 He also never returned the car, right? If we look
18 back at what Cynthia Lacey said, she said that he woke up that
19 morning, he took the car, and he left. And he was supposed to
20 be back because they were going to take -- they were going to
21 go pick her son up, right? They were going to go pick her son
22 up. He never came back with the car. Instead, Erika
23 Chambers, his daughter, brought it back. He actually never
24 returned to his home at all that day. And while he is not
25 returning home, after he's left the scene, trailer 45, he

1 calls Cynthia. Remember? Remember what Cynthia said?
2 Defendant called me and said I'm in some shit, erase the call
3 log. Cynthia, get rid of the call log.

4 Ladies and gentlemen, use your common sense to
5 determine whether or not that shows you any consciousness of
6 guilt on his behalf. Ladies and gentlemen, the evidence when
7 you look at it as a whole shows that the defendant is guilty
8 of attempt robbery with use of a deadly weapon. He went
9 there, he tried to rob her, he failed, which is why it's an
10 attempt robbery. So when you go back to the jury deliberation
11 room, you'll have a verdict form, a piece of paper that looks
12 something like this. Right now we're talking about Count
13 Three. And it asks you to check the guilty of attempt robbery
14 with use of a deadly weapon for that Count.

15 So, remember the felony murder rule. Right? That
16 was my example if I went to Capriotti's and I tried to rob
17 them and my gun goes off. He went to the trailer, he tried to
18 rob her. Gary Bly got killed in the process. Under the law,
19 ladies and gentlemen, that's first-degree murder, felony
20 murder. That's what I'd ask you to find him guilty of, murder
21 with use of a deadly weapon in the first degree. Doesn't
22 matter if that killing's accidental, unintentional,
23 intentional. That's the law.

24 And again, I said there's two types of first-degree
25 murder, right? Felony murder, premeditated murder. There's

1 three things the State must prove to show that a premeditated
2 murder occurred, and that the defendant willfully,
3 deliberately premeditatedly committed that murder. So what
4 does each one of these words mean? Well, we've got to look at
5 the state of mind of the killer. Again, we don't need direct
6 evidence, as we talked about, it can be inferred. Willful,
7 the intent to kill. The defendant had the intent to kill that
8 night, and it does not need to be a certain amount of time
9 between when you determine I'm going to intend to kill and the
10 killing. The law doesn't have a specific amount of time that
11 it has to be. It just says -- again, let's talk about intent
12 to kill.

13 Determined by the facts and circumstances, like
14 we've said, and the law of this specific instruction is very
15 helpful in showing intent to kill. It could be because of the
16 way a weapon was used and that that type of weapon could cause
17 death. That would be a way to see if someone is intending to
18 kill. You use a weapon that can kill, right? That makes
19 sense. And how it's used, of course.

20 Now, willful deliberation. You determine to kill,
21 it can be a short period of time. That's what the law says.
22 It doesn't have an amount of time where you have to determine
23 to kill. Finally, premeditation. Again, the law is not
24 explicit. It need not be for a day, an hour, even a minute.
25 It can be as quick as instantaneous, successive thoughts of

1 the mind. I'm going to Capriotti's, I decide I'm going to
2 kill the clerk, I take the gun, I pull the trigger.
3 Instantaneous successive thoughts in a row. I intended, I
4 determined and I thought about it. That's how quick it can
5 be.

6 So if you look at the evidence in this case, ladies
7 and gentlemen, the defendant is guilty of first-degree murder
8 under premeditated theory as well. Because again, he went to
9 the trailer with a firearm. He at some point had, according
10 to Lisa, the holster on the firearm, which is what Cynthia
11 described the firearm as well, it had a holster on it. But at
12 some point, maybe when Gary's confronting him, Lisa says he
13 took the holster off, he took out that deadly weapon, he had
14 to point it at another human being, Gary Bly, in the head,
15 nonetheless. You point a gun at someone's head and you fire,
16 only one intent. It's a kill shot. He intended to kill him
17 when he pointed that gun at Gary Bly and he fired that shot.
18 Instantaneous successive thoughts are enough for first-degree
19 murder.

20 Now, the 12 of you that go back and deliberate must
21 be unanimous that it's first-degree murder. You don't
22 necessarily have to be unanimous as to which one of the
23 first-degree murders that we just talked about. Ten of you
24 could believe it's felony murder, two of you -- the other two
25 could believe it's premeditated. That's enough for you to

1 return a verdict of guilty first-degree murder. You don't
2 have to agree on the way you get there, you just have to agree
3 that it's first degree.

4 So when you go back there, here's the verdict form
5 you're going to see, Count Two. And because of the
6 premeditated and felony murder rules we talked about,
7 defendant's guilty of first-degree murder [inaudible]. And
8 we've talked about Count Three, attempt robbery. Count Two,
9 murder with use. There's also, ladies and gentlemen, I -- as
10 I said, we brought you here for this trial because it's a
11 first-degree murder trial. That's what the defendant
12 committed.

13 There's also a second-degree murder. What is that?
14 Well, you need malice aforethought. Again, intent to do
15 something wrong. But it doesn't have to be premeditated or
16 deliberate. Remember those three things we talked about just
17 now? You don't have to think it out, instantaneous thoughts,
18 none of that. So in the event that you don't think that he
19 committed this killing during a robbery, in the event that you
20 don't believe he premeditated, intended to kill, right, he's
21 still guilty of second-degree murder because he killed Gary
22 Bly with malice aforethought.

23 When you go into a trailer with a gun, take it out,
24 you end up pointing it at Mr. Bly, discharging it into his
25 skull, leaving him there, you did that with malice

1 aforethought. You intended to do something wrong. That's why
2 he's guilty of second-degree murder, in the event that you
3 don't think he committed the robbery and the willful
4 premeditated [inaudible].

5 There's also an instruction on voluntary
6 manslaughter. Ladies and gentlemen, we're going to talk about
7 it. It's not applicable in this case. Okay? It's absolutely
8 not applicable. And we're going to talk about the definition
9 so you understand why this is not voluntary manslaughter.
10 It's a killing, so now we don't need malice aforethought. We
11 don't need deliberation, premeditation, none of that. But it
12 must be a killing -- and this is how the definition is in the
13 law -- upon the sudden quarrel or heat of passion cause by
14 provocation sufficient to make the passion irresistible. You
15 kill because something provokes you in such a way that you
16 have a passion that's irresistible.

17 The law, again, will tell you. These are in the
18 instructions, instruction number 28. It talks about what
19 provocation is sufficient for this voluntary manslaughter,
20 right? The first one, a serious and highly provoking injury
21 is inflicted upon the killer such to excite an irresistible
22 passion in a reasonable person. What does that mean? The
23 defendant would have had to suffer a serious and highly
24 provoking injury, such that he was excited to an irresistible
25 passion. Well, we know that this doesn't apply. And how do

1 we know that? Well, the defendant left the trailer without a
2 scratch on him. Right? He didn't get shot through the head.
3 He didn't get shot through the hand. He left, and he was
4 found later that day by the police with no injury whatsoever.
5 Nothing to provoke him to react.

6 Another provocation that the law talks about is that
7 there's an attempt by the person killed to commit a serious
8 personal injury on the person killing him. So that would mean
9 that Gary Bly, the person killed, attempted to commit a
10 serious personal injury on the defendant.

11 Ladies and gentlemen, the evidence showed that only
12 one person went into that trailer with a loaded firearm. That
13 was the defendant. And the evidence showed that Gary Bly
14 tried to stop him from using the firearm. But the evidence
15 didn't show whatsoever that he tried to inflict a serious
16 personal injury on him. No weapon's recovered at trailer 45.
17 No indication that Gary Bly had ammunition, firearms, weapons
18 of any sort in that trailer that he was threatening the
19 defendant with. Nothing found right there where he was found.
20 Right? The only person that went in there and attempted to
21 kill anybody was the defendant. So, this doesn't apply. It's
22 not voluntary manslaughter.

23 On top of that, also because in addition to not
24 meeting the definition, this murder, this killing was
25 committed during the course of attempted robbery. Immediately

1 has to be first-degree murder. That's what the law says.
2 Voluntary manslaughter does not apply.

3 So, ladies and gentlemen, after all that, the State
4 has proven beyond a reasonable doubt that the defendant
5 committed first-degree murder when he put the bullet through
6 Gary Bly's head killing him, murdering him.

7 Let's move on to the next charge, attempt murder
8 with use of a deadly weapon. This is in regards to what
9 happened to Lisa, what the defendant did to Lisa. An attempt
10 murder is defined for you at jury instruction number 31. You
11 commit an act which tends to kill a human being with malice
12 aforethought. So you do something that could kill a human
13 being, pointing a gun at them, you pull the trigger, but you
14 fail to actually kill them. That's why it's an attempt
15 murder, right?

16 Well, he tried to kill her. He pointed the gun at
17 her midsection. You point a gun at someone -- remember, we
18 talked about that intent to kill instruction -- you point a
19 firearm, a deadly weapon, loaded, at someone's person,
20 midsection, and you pull the trigger, you intend to kill them.
21 He just shot Gary Bly in the head, right? She only didn't get
22 killed because she hit the gun right before it went off.
23 That's the only reason she's not laying over there with Gary
24 Bly. Again, the injuries of her hand, that phone that was in
25 her hand when it was shot.

1 Also, battery with use of a deadly weapon is the
2 next charge. That is similar, but much different than attempt
3 murder. Talk about the same thing that he did to her. But
4 again, battery is a willful use of force or violence on the
5 person of another. You do some sort of act against that
6 person, you shoot them, you punch them, you kick them, use of
7 force. You don't have to do anything with intending to kill.
8 That's the difference. But he did, the defendant, when he
9 shot her, and she definitely got shot, you saw her hand, he
10 used force and violence on her with that gun. So that's why
11 he's also guilty of battery with use of a deadly weapon.

12 So, again, with the verdict form. When you go back
13 there, Count Four, attempt murder for trying to kill Lisa.
14 Again, that deadly weapon, that same firearm we've been
15 talking about. Same thing for battery with use of a deadly
16 weapon. So we can check these two off, Count Four and Count
17 Five.

18 The last charge, burglary while in possession of a
19 firearm. Now, burglary is an interesting one because people
20 think about burglary in the everyday or the TV sense. You go
21 into someone's house, you rob them, you run out. Under the
22 law, burglary is simpler than that. All you have to do is you
23 have to enter somewhere. In this you enter her trailer. And
24 at the moment you enter, you have an intent to commit a crime,
25 a larceny, a battery, an assault, any felony, a robbery in

1 this case. Regardless if any crime is committed inside that
2 trailer, we're looking at his intent when he enters. And if
3 he entered that trailer with the intent to commit any of these
4 crimes, robbery too, he's guilty automatically of burglary.
5 It's the intent with which you enter.

6 So what's a larceny? Well, basically the same thing
7 as a robbery, but there's no force used. I take someone's
8 cell phone when they're not looking, I walk away. You take
9 goods from another, and you don't intend to give it back. You
10 steal something, but you don't use force. You don't
11 necessarily need to punch them, kick them, shoot them to get
12 the item, you just take it. An assault, again, you try to use
13 physical force, you try to punch someone and you miss, or you
14 do something that places them at a reasonable apprehension
15 [indiscernible]. You do something that scares them. Right?
16 Point a gun at them.

17 It doesn't matter for burglary that Lisa consented
18 to him coming over. It doesn't matter. The fact that he was
19 invited over is irrelevant to your consideration of burglary.
20 What matters again is his intent when he walked over there,
21 when he went inside. So what is his intent? Let's use our
22 common sense. He brought a gun. He told people he was going
23 to rob her, and he went inside that building. Immediately
24 upon entering he points the gun at Lisa. You know what this
25 is about. His intent when he went to that trailer on July 9th

1 is clear, ladies and gentlemen. That's why he's guilty of
2 burglary while in possession of a firearm, because he again,
3 went there with that firearm and with that intent to commit a
4 robbery.

5 That's all the charges. That's what he's charged
6 with, that's what he's guilty of. Defense told you in their
7 opening that poor Mr. Money, he was just going there to buy
8 his drugs, and he --

9 MR. YANEZ: I'm going to object, Judge, to anything
10 disparaging Mr. Gary Chambers, Judge.

11 MR. SCHWARTZ: I'm just referring to what the
12 defense presented in their opening statement.

13 MR. YANEZ: It's disparaging the defense as well.

14 THE COURT: I'm going to overrule. I'm going to let
15 the jury think back through the evidence admitted in this
16 case, and the evidence that was admitted shall be the guide as
17 to how they view this particular defense of self-defense. All
18 right? I don't view that the comment is disparaging.
19 Continue with your closing.

20 MR. SCHWARTZ: Thank you, Your Honor.

21 You recall what the defense said. He went over
22 there, he didn't have a gun. He acted in self-defense. The
23 dead guy attacked him, right? Mr. Bly had the gun. Ladies
24 and gentlemen, this is not a case of self-defense. There's an
25 instruction that tells you if there is some evidence of

1 self-defense, the State must prove it. And I totally accept
2 that responsibility. However, when there is no evidence of
3 self-defense, all that there is is the defense opening
4 statement telling you he acted in self-defense. There's no
5 evidence of self-defense. Therefore, the State is not
6 obligated to disprove it in any shape or form. This is not a
7 case of self-defense.

8 Flight instruction, that's going to be number 47.
9 It tells you that basically flight, you leave after a crime.
10 It's the idea of deliberately going away with a consciousness
11 of guilty. And if there's evidence, if you believe there's
12 evidence that the defendant fled from the crime, you can use
13 that evidence for this reason. It's the idea, again, of going
14 away with a consciousness of guilt and for the purpose of
15 avoiding apprehension or prosecution.

16 So, let's consider what did he do after the crime?
17 What did he do? What didn't he do? He left, right? He
18 didn't stay and talk to police, anything like that. He didn't
19 tell his story, right?

20 MR. YANEZ: Object, Judge. I'm going to object as
21 to that last comment. We can approach.

22 THE COURT: Sustained. Do you still want to
23 approach?

24 MR. YANEZ: Go ahead, Judge.

25 THE COURT: All right.

1 MR. SCHWARTZ: I'll withdraw that.

2 THE COURT: The jury will disregard the last remark
3 of the prosecutor regarding telling his story. Please strike
4 that from your minds and don't consider it. Counsel may
5 continue.

6 MR. SCHWARTZ: Thank you, Your Honor.

7 He left the scene. He didn't call 9-1-1. He never
8 contacted police. He ditched the phone. We know that, right?
9 The phone was found on the steps by Detective Merrick. He
10 distanced himself from the car. And what I mean by that is he
11 didn't return the car. He left the car with Erika to take
12 back for him.

13 He got the call logs deleted, right? Remember, he
14 called Cynthia and got those call logs deleted. He never went
15 home. The gun's not with him when he's found. You heard the
16 testimony from the officers, the detectives, that they
17 searched high and low for that gun in the area where they knew
18 he was. Helicopters, canines, that's what the detective
19 testified to, right? No gun was found. He missed his
20 meeting. Remember, the detective said they hoped to find him
21 at a two p.m. meeting, but they were unsuccessful.

22 Now, the State's proven this case beyond a
23 reasonable doubt. This whole time we've been talking about
24 reasonable doubt. Let's talk about the actual instruction,
25 and you'll have the instruction back there with you, but it

1 must be actual doubt, not possibility of doubt, speculation.
2 If you have an abiding conviction the truth, proof beyond a
3 reasonable doubt. That's what the instruction is.

4 Ladies and gentlemen, human life is precious. And
5 on July 9th, 2013, the defendant took that life from Gary Bly,
6 cut it short. And for what, to go rob Lisa? The defendant
7 made his choice on that day. And now, ladies and gentlemen,
8 you're going to have your opportunity to make your choice.
9 I'd ask you to hold him responsible for what he did, provide
10 justice to the senseless murder --

11 MR. YANEZ: I'm going to object to that last
12 comment, Judge, in regards to justice.

13 MR. SCHWARTZ: That's what the last jury instruction
14 says, equal and exact justice.

15 THE COURT: Overruled. Just arguing instructions.
16 Go ahead.

17 MR. SCHWARTZ: Find him guilty. Find him guilty for
18 what he did.

19 Thank you.

20 THE COURT: All right. Thank you, Mr. Schwartz.
21 Mr. Yanez, this is your turn.

22 MR. YANEZ: Thank you, Judge. I'm going to switch
23 over to my computer here.

24 DEFENDANT'S CLOSING ARGUMENT

25 MR. YANEZ: Good afternoon, ladies and gentlemen.

1 Court's permission, I'm going to move the podium
2 over here.

3 Ladies and gentlemen, there's something I want you
4 to consider when you look at the evidence in this case and
5 when you listen to my argument this afternoon, and that is the
6 factor of trust. Just like a house that has a faulty or a
7 weak foundation can't stand, a criminal conviction can't stand
8 when the evidence is faulty and weak.

9 If you can't trust Lisa, you can't trust the police
10 investigation. Lisa is the State of Nevada's star witness.
11 And whether it was to the police, whether it was to a judge at
12 a prior hearing where she testified under oath, or whether it
13 was before you ladies and gentlemen, Lisa lied about big
14 things. She lied about small things. She lied about things
15 that I still have no idea why she would even lie about.

16 During jury selection we talked a lot about police
17 officers and their investigation. If you can't trust Lisa,
18 you can't trust the police investigation. And if you can't
19 trust the police investigation, you can't trust the
20 prosecution. During jury selection we all agreed that a
21 police investigation is only as good as the information they
22 receive. If they receive information that is faulty, if they
23 receive information that is misleading, if they receive
24 information that is a lie, that is going to destroy the
25 investigation, which is supposed to seek the truth.

1 All the detectives and officers, when they
2 testified, I asked them and they all agreed that they depend
3 on witnesses to be truthful to them. Now, one detective
4 yesterday I think from the State's questioning did say well,
5 we look at all the witnesses, not just one witness. There's
6 differences in witnesses. For example, in this case, the
7 first witness that was called, Mr. Berg, he provided a little
8 bit of information in regards to what he saw, the shots that
9 he thought he heard. Compare that witness with Lisa. If Mr.
10 Berg gets the amount of gunshots wrong or maybe even lies
11 about it, is that really going to have an impact on the
12 investigation? Is that going to have an impact on the
13 prosecution's case? Probably not.

14 But you get the star witness in here, the supposed
15 eyewitness to this murder and robbery and burglary, and you
16 get her lying, deceiving. That's going to affect the entire
17 investigation. And that investigation is going to affect the
18 entire case that the prosecution presents to you. And if you
19 can't trust the prosecution's case, you have to find Gary
20 Chambers not guilty of all charges.

21 We've been here now for about a week. I know you
22 guys have come in and out of the courthouse. Downstairs on
23 the first floor there's a quote from President Lincoln's
24 Gettysburg Address. There's another quote of President
25 Lincoln that I want you to consider when you're looking at the

1 evidence of this case and listening to argument this
2 afternoon. No person has a good enough memory to be a
3 successful liar. Absolutely, 100 percent true in this case
4 when it comes to Lisa.

5 Now, I commend the State for finally coming up here
6 and telling you and admitting the obvious, that Lisa was a
7 drug dealer. I wish they maybe would have said that in their
8 opening statement, or maybe when Lisa was on the stand
9 testifying, maybe they could have asked her that. That
10 information came out because I cross-examined her on the
11 evidence in this case. That's why the State now can come up
12 to you and say she was a drug dealer. Because saying anything
13 different would be laughable. It is clear that she was a drug
14 dealer. It's just not that easy to sweep everything aside and
15 say okay, she's a drug dealer, big deal. Drug dealers can get
16 off. It is a big deal. It's a big deal as to whether she
17 came here and told you the truth.

18 The State can't have it both ways and try to dissect
19 testimony of Lisa and say well, you know, put this part aside,
20 all these lies, put that aside, but this part you can believe.
21 No, one is dependent on the other. If you can't believe a
22 large part of Lisa's story, you cannot believe any of her
23 store, because the question then becomes why lie about it.
24 Even the detective, when he was questioning her, he told her
25 I'm not here for the drugs, I've got bigger fish to fry.

1 Let's give Lisa the benefit of the doubt, and maybe initially
2 when she spoke to the police she was scared, maybe they're
3 going to arrest me, maybe they're not, I don't know. I don't
4 want to take that chance so I'm going to say I'm not a drug
5 dealer. I'm going to say I never met Gary Chambers. I'm
6 going to say I wasn't selling him drugs.

7 What about three months later when you testified
8 before the judge? How about now, three years later? You
9 haven't been prosecuted. Why don't you come before the ladies
10 and gentlemen of the jury and tell them the truth? She
11 didn't. She kept insisting that she is not a drug dealer,
12 despite obvious evidence otherwise.

13 This is the outside of Lisa's trailer hours or maybe
14 even minutes after the shooting. Now, this is the front door.
15 And if you see, there's a sign, which we're going to see a
16 little bit clearer here, that says what don't you guys
17 understand, no one after eight p.m. Don't even bother
18 knocking. Now, it seems like there's something going on here,
19 but when I asked Lisa about that she was just saying oh,
20 that's just a general sign for people not to come in after
21 8:00. Maybe she likes her peace and quiet, but that's what
22 she told you with a straight face.

23 When you go up onto that porch and you look inside
24 of her trailer, this is the first thing you see. And right
25 over here, I'm going to show it on the next slide, is the

1 rules of the house. Now, a lot of people have rules to their
2 house. Typically, the rules are take your shoes off, don't
3 walk on the carpet, no eating in the living room, do your
4 dishes after you eat, don't leave them in the sink. These
5 house rules are a little bit different. This is not an
6 ordinary house, this is a drug house. She's in the business
7 of selling drugs. And even though the State today finally
8 admitted that, Lisa has never admitted that. These are the
9 rules which clearly indicate that this house was used for
10 selling drugs.

11 And remember, Lisa tried to pass the buck once again
12 and say well, that's not my sign, that was some guy named Leo
13 McGowan, who we've never heard from here in this trial.
14 That's what Lisa said, some guy named Leo McGowan. She told
15 you on July 9th she was the only one living at that trailer.
16 The lease was in her sole name. But she will not accept
17 responsibility for what was going on in this house. The same
18 person who wants you to believe that she got robbed or
19 attempted to get robbed and that Gary Bly was murdered by Gary
20 Chambers.

21 Clearly, number two, no fucking trades. That's
22 obviously dealing with drugs. Someone can't come in here and
23 give you a watch -- that's the question I asked her -- in
24 exchange for drugs. What I find most disturbing and of
25 particular relevance here are the threats in regards to not

1 following the rules. Any rules are broken, I will stab you in
2 the neck, no exceptions, bitches. I don't think that was, you
3 know, hey, just for your advice, I think that's an order. And
4 as the detectives told you, people who sell drugs many times
5 have guns. And they have guns because they have to protect
6 their drugs and they have to protect their money.

7 As she says, it's nothing personal, it's just
8 business. So again, if she's the drug dealer, it's been three
9 years, no one has tried to prosecute her. She didn't tell us
10 anything about the police filing charges against her. Why not
11 tell you, ladies and gentlemen of the jury, you know what, I
12 would sell drugs, but I was still robbed. She can't even be
13 honest about that. And you can't separate the truth. You
14 can't take part of her statement and throw that out and I'm
15 just going to believe this part.

16 This was a defense exhibit, and you guys will have
17 it in the back. Lisa attempted to supplement her income as a
18 drug dealer by having the State of Nevada pay money to help
19 her with rent, to help her with healthcare, to help her with
20 loss of income. So the detective, based on the information he
21 received at this point, which is about a little bit shy of a
22 month after the incident, August 5th, Detective Raetz submits
23 this form to the State of Nevada. And he actually puts in
24 there the question that is asked, was the victim innocent of
25 wrongdoing. No. Victim is reported drug dealer in trailer

1 park.

2 That is the information Detective Raetz probably
3 received from the other people who lived at the trailer park.
4 So the detective is basing this on the information he is
5 receiving. Lisa told you that she didn't get any money from
6 the State of Nevada. And it's probably easy to understand why
7 she didn't. She's not innocent of wrongdoing. Her claim was
8 rejected.

9 So just to summarize it, because we have the State
10 already now admitting that she's a drug dealer, she has her
11 business hours posted outside the trailer, she's got her rules
12 of business posted inside of the trailer. Police admitted it,
13 that's what the Victims of Crime form was you just saw. The
14 neighbors knew it. You have Plumlee, you have Berg, all of
15 them come in here and say there's a reputation that she was
16 selling drugs out of there. And Lisa admitted it. I don't
17 know about that last one.

18 The problem is, when she testified at the prior
19 hearing before a judge -- and so you know, at that hearing the
20 district attorney is there representing the State of Nevada, I
21 was there, Mr. Chambers was there, and there was a judge
22 there. And she took an oath, the exact same oath she took on
23 that bench before you to tell the truth, the whole truth, and
24 nothing but the truth. At that hearing she did admit oh, I
25 did sell drugs and I sold drugs to Gary Chambers. But she

1 comes before you and looks you in the eye and tells you that's
2 not true, I wasn't a drug dealer, I didn't sell drugs to Gary
3 Chambers.

4 Again, I don't understand the reason to lie about
5 that when she has already said under oath. The only
6 conclusion that can be drawn is she does not take her oath to
7 tell the truth seriously. It means nothing to her when she
8 can go in front of a judge one time, say one thing, and come
9 before a jury and say something completely different.

10 Another fact that you need to take into
11 consideration because it plays a role in this part on
12 everyone's state of mind, is that Lisa used methamphetamines
13 sometime shortly before the shooting. If you remember, this
14 was the baggie that was found at Lisa's apartment in the
15 ashtray. I asked her some questions about it. Once again,
16 she was being deceptive and not telling the truth. She tried
17 to convince all of us here in this courtroom that that was
18 just a baggie of marijuana and she hadn't used any drugs.

19 If you remember, the question I asked was a question
20 from the prior hearing, which was did you use any type of
21 illegal drugs within 48 hours before the shooting? That was
22 the question. At that prior hearing, under oath once again,
23 she said no, I didn't. She repeated that to you, ladies and
24 gentlemen. And she said well, that's not methamphetamine,
25 that's a baggie for marijuana.

1 We had both the CSA and the detectives say that
2 there was a white residue. Now, the police never tested the
3 residue to determine what it was, but the detective told you
4 that it was consistent with methamphetamines, as
5 methamphetamines is white in color. And everyone should -- I
6 believe everyone knows, even if you don't smoke marijuana,
7 that marijuana is green in color. But Lisa still wanted to
8 insist that that was it. So she lies under oath about it. At
9 the prior hearing that I told you, she said I didn't use any
10 illegal drugs within 48 hours of the shooting. She told you
11 the exact same thing, I didn't use any type of illegal drugs
12 within 48 hours of the shooting.

13 However, the documents that you have that have been
14 admitted are Lisa's UMC records when she went to the hospital.
15 And you're going to see one of those records, one of those
16 documents is a medical report from a doctor. And the date of
17 service, as you can see, is July 9th of 2013, the day of the
18 incident. And there's a little bit of background here as to
19 her social history. And it says here, I've highlighted it,
20 occasionally uses pot and speed. Last use occurred yesterday.

21 Now, we know she's not talking about marijuana
22 there, because the drug test from UMC was negative. And I
23 think that's one of the questions the jurors had, was she
24 positive for marijuana. She wasn't. She was positive for
25 amphetamines, which is the metabolite or the breakdown the

1 body uses to break down methamphetamines. So once again, we
2 know she's not being truthful.

3 And what your state of mind is when there's
4 something as important as this case, her state of mind when
5 she's claiming a robbery or she's claiming murder, attempt
6 murder, your state of mind matters. So she's trying to
7 cleanse her appearance. She's trying to make herself appear
8 like she is this perfectly innocent person who had nothing to
9 distract her mental health wise as to drug usage, that she has
10 no motive to lie in this case. We know she's a drug dealer
11 and we know that she was under the influence of drugs, both
12 from her own statements to the hospital and from the results
13 from the urine test.

14 This to me is, if not the most important, one of the
15 most important pieces of evidence in this case. And it's Gary
16 Chambers' wallet and identification that is found in trailer
17 45. And this is why it's so critical. You cannot believe
18 Lisa's story while also believing that this wallet was found
19 where it was found when it was found. It's impossible. Is
20 the prosecution or Lisa's story that Mr. Chambers went over
21 there with a gun in a holster to rob Lisa, which is what their
22 theory of this case is, but he has his wallet out at the same
23 time he's going to commit a robbery? Doesn't that defeat the
24 purpose of a robbery? The point of a robbery is to get
25 something without paying for it.

1 The fact that the wallet is found inside of Lisa's
2 trailer is 100 percent consistent with what I told you during
3 opening statements. Mr. Chambers went over there to buy
4 drugs. He takes his wallet out to pay for the drugs and an
5 argument occurs between Lisa and Gary over the amount that is
6 to be paid. That is 100 percent consistent with his wallet
7 being found there. Lisa's story about the wallet being found
8 there doesn't even make sense.

9 We had three or four crime scene analysts who were
10 there at the scene. We have police officers who first
11 responded. We had detectives who showed up. None of them,
12 not a single one said that they saw a wallet. And if this was
13 a robbery -- let's just assume, putting aside common sense, if
14 this was a robbery where Gary shows up with a gun in a holster
15 and his wallet in the other hand, and during the melee the gun
16 goes off, he shoots Gary, he shoots Lisa, and the wallet
17 drops. The wallet would be found somewhere around where Gary
18 Bly was at. But Lisa told you that the wallet was found
19 inside but on top of her purse where this is a phone book on
20 top of that. That makes no sense, unless Lisa picked up the
21 wallet and moved it.

22 You also have to consider why didn't Lisa call the
23 police herself when she got back to her trailer from UMC a few
24 days later? Why not call the police and say hey, you guys
25 must have missed this, I don't know, but his wallet's over

1 here and his ID. No. She calls one of her neighbors, has him
2 come pick up the wallet, and then, that person turns it over
3 to the police. Lisa never got involved. She never got
4 involved because she knows her story makes no sense, and she
5 knows that her story is untrue.

6 This is a case where Gary went over there to buy
7 drugs, a fight happened, an argument happened. Gary Bly came
8 out of the back of that trailer and confronted Gary Chambers.
9 That's what happened in this case.

10 This is another quote from a philosopher from a long
11 time ago, but I think it makes a point or it's going to help
12 me make a point to you, ladies and gentlemen. It says I'm not
13 upset that you lied to me, I'm upset that from now on I can't
14 believe you. I hope you don't misunderstand my argument in
15 this case. I'm not trying to assassinate the character of
16 Lisa. I'm not trying to say the mere fact that she is a drug
17 dealer makes her less believable.

18 If you remember, during jury selection I talked to
19 you about questions that I might ask, maybe I might have to be
20 aggressive with the questioning. I knew with Lisa I was going
21 to have to ask these tough, difficult questions. So my
22 argument isn't Lisa's a bad person, therefore you should find
23 Gary Chambers not guilty. No. The argument is because she's
24 an untruthful person, documented time and time again right
25 before your very eyes, that is why you shouldn't believe her,

1 not because I think she's a bad person or because drug dealers
2 lie more than other people. That is why I asked you to
3 consider this in looking at Lisa's testimony.

4 Here's why Lisa can't be trusted. She was
5 untruthful to the police. The very same day, July 9th, she
6 interviewed with the police later that day at UMC. She never
7 told the police that Gary had left his wallet there. She
8 never told the police that she sold drugs. She never told the
9 police that she previously sold drugs to Gary Chambers. In
10 fact, again, when the detective said to her I don't care about
11 the drugs, I feel like you're leaving something out. Rather
12 than saying okay, fine, you know, I was selling drugs to Gary
13 Chambers, she accuses Gary Chambers of being the drug dealer.
14 This is not a person who can be trusted.

15 The oath means nothing to her, whether it was at the
16 prior hearing where she testified before the judge, whether it
17 was before you guys saw her, you saw her demeanor, you saw her
18 responses. I believe one of her responses to my question
19 about her prior testimony testifying under oath, I think she
20 said I didn't understand the question. Then I think she
21 switched gears and said well, you know, I was under the
22 influence of drugs, medications I had been taking for months.
23 She does not take her oath seriously. And she's been
24 untruthful to you, ladies and gentlemen. Again, you cannot
25 separate and split her testimony and her story.

1 One jury instruction -- I'm only going to go over a
2 few because there's a lot of the and you're going to have them
3 in the back to review them, is jury instruction number 54.
4 I'd ask you guys to take a very close look at that one. I'm
5 not going to read the whole thing. You obviously can read the
6 whole thing in the back. But what it says, which is very
7 relevant to what I've just been discussing with you, ladies
8 and gentlemen, is if you believe that a witness has lied about
9 any material fact in the case, you may disregard the entire
10 testimony of that witness.

11 That's what I'm telling you to do respectfully in
12 this case. You just cannot take Lisa's testimony credibly.
13 It is an unbelievable story. And you're entitled as the jury
14 to completely disregard and throw away the testimony that she
15 gave to you based on all the lies she has told throughout this
16 case, from the police to here.

17 Now, let's put Lisa aside for a second. Let's take
18 all of her story and put it aside. Looking at the evidence
19 that is left, there's still no murder, there's still no
20 robbery, attempt robbery or burglary. Let's look at the
21 testimony of Bradley Grieve and how that is 100 percent
22 consistent with what I told you during opening statement. He
23 talks about an argument, some yelling and some screaming. And
24 he says that Lisa sounded mad at someone. Now, with common
25 sense, in general if you're going to be a victim of a robbery,

1 you're generally not mad at someone. You're mad at someone
2 when you have a disagreement or that person upsets you in some
3 way. Typically, people who are about to be robbed aren't mad.

4 But then that changes, and her tone changes from
5 anger to fear. And this is probably at the point where Mr.
6 Gary Bly had confronted Gary with a gun, chest bumped him, and
7 a fight ensued, a struggle ensued over the gun. That's when
8 the tone of her voice likely changed from anger to fear.

9 Bradley Grieve also said afterwards when he saw Gary Chambers
10 leaving the trailer, that he looked rattled and surprised. I
11 believe his words were also something to the extent of he
12 looked like he couldn't believe what happened. Is that the
13 look someone who's planned out a robbery, is he going to be
14 rattled and surprised? No, he's going to expect that. He's
15 there to commit a robbery. He's there with a gun.

16 Not a single piece of property was taken. If the
17 whole point was to commit a robbery, wouldn't you take at
18 least one piece of property, something of value? Nothing was
19 taken. Nothing was taken from Mr. Bly, who was apparently
20 dead on the floor. Nothing was taken from Lisa. Nothing was
21 taken from her trailer. Lisa had approximately \$264 in cash
22 on her person. According to Lisa, Gary Chambers didn't even
23 try to pat her down, shake her down, nothing. All this money,
24 the whole point of being there is a robbery, and nothing's
25 taken.

1 She had jewelry on her. Again, if you're going
2 there to rob, you're not going to leave without taking
3 something. The story doesn't make sense. You can't have a
4 robbery and not at least attempt to steal something. And that
5 is one of the charges the State has brought against him is
6 attempt robbery. One of their theories for murder is what's
7 called felony murder, that he was there to commit a robbery
8 and someone died as a result of that attempt to commit the
9 robbery. Yet, no property is taken.

10 I want to talk a little bit about Gary Bly because
11 we haven't had a lot of information about him. Here is what
12 we do know from the testimony. The State's own medical
13 examiner who did the actual autopsy in this case testified
14 under oath and said that Mr. Bly had a very large amount of
15 methamphetamine in his system. Both that medical examiner,
16 the medical examiner who actually testified, and the expert
17 that we provided, Dr. Levy, all of them agreed meth can cause
18 hallucinations and delusions. It can cause irrational
19 behavior. Meth can cause aggressive behavior. And we know
20 that there was a confrontation, both from the witnesses
21 outside who heard argument, yelling and screaming. Lisa said
22 that Gary Bly confronted Mr. Chambers and chest bumped him.

23 So who's more likely to have the gun in this
24 scenario? In general, people who have guns are the ones who
25 control the scene. They're the ones who are controlling the

1 action. According to Lisa, it's Mr. Bly who is being the
2 aggressive one. He's the one that's confronting Gary
3 Chambers. He's the one that's chest bumping him. Would that
4 really happen when someone is holding a handgun? Or is it
5 more likely he's the one on methamphetamine, aggressive, maybe
6 even hallucinating or delusional, and he has the gun and he's
7 attacking or chest bumping Gary Chambers, because Gary
8 Chambers is not giving Lisa the full amount for the
9 methamphetamines. That is the more likely scenario under
10 these facts. And that's what you have to decide based on all
11 the evidence.

12 There's two ways to get to first-degree murder. I
13 touched upon it briefly, what's called the felony murder rule.
14 As I said just a few seconds ago, that is when the State is
15 trying to prove beyond a reasonable doubt that someone was
16 trying to commit a robbery or a felony and during that
17 attempted commission or commission someone died. I think and
18 I hope that I made it clear that there was no robbery. There
19 was not even an attempt to commit a robbery. It doesn't make
20 sense under the facts of this case. It doesn't make sense
21 with Mr. Gary Chambers' wallet being left at the scene.

22 The other way, and I want to make sure this is clear
23 because the prosecutor was calling it premeditated murder.
24 There's actually three elements to first-degree murder under
25 this theory. They all stand for something different and it's

1 defined in your jury instructions, so I'm not going to repeat
2 that right now. You have to find every single one of those.

3 Putting aside Lisa's testimony, what do we have?
4 There's no evidence that there was ever any bad blood between
5 Gary Chambers and Gary Bly. There was no previous threats,
6 anything like that, that might indicate that Gary Chambers was
7 going over there willfully, deliberately, and premeditatively
8 to kill Gary Bly. We don't have any of that. All we have is
9 Lisa's testimony.

10 Now, this is first-degree murder. And the jury
11 instructions tell you that if you don't find first-degree
12 murder, then you consider second-degree murder and voluntary
13 manslaughter. One thing I did want to make clear, because I
14 think it was left a little confusing, with all due respect to
15 the prosecutor, on the instructions. The prosecutor told you
16 that Mr. Chambers walked out of there uninjured, he didn't
17 have any injuries, that it was Gary Bly and Lisa that had
18 injuries.

19 And this is jury instruction number 28. You don't
20 have to have physical injury for you to find him guilty if you
21 think the State has proven that beyond a reasonable doubt of
22 voluntary manslaughter. The full sentence is the serious and
23 highly provoking injury which causes the sudden heat of
24 passion can occur without direct physical contact. The
25 typical example that's given is voluntary manslaughter a lot

1 of times is if a spouse comes home, finds the other spouse in
2 bed with another lover, takes out a gun and shoots him.

3 So if you don't think the State has proven their
4 case beyond a reasonable doubt as to murder, whether first
5 degree or second-degree murder, and you think that there was
6 some type of fight or argument sufficient enough to raise the
7 passions where a person couldn't willfully, deliberately,
8 premeditate and commit the crime of murder, you can find him
9 guilty of voluntary manslaughter. Again, if they've proven it
10 beyond a reasonable doubt. You don't have to have physical
11 injury. However, in this case, I don't think you even get to
12 second-degree murder or the voluntary manslaughter. This is a
13 self-defense claim.

14 The other instruction in dealing with self-defense
15 is number 36. You'll have it back there again. But I want to
16 make it clear. It's the State, it's the prosecutors who have
17 to show to you beyond a reasonable doubt that there wasn't
18 self-defense in this case. If you have a reasonable doubt
19 whether there was self-defense in this case, you have to find
20 Gary Chambers not guilty. Although I attempted to provide the
21 evidence through my questioning to show you that this is a
22 self-defense case, it's not my job to do that. It's not my
23 obligation to do that, it's the prosecutor's. Just like it's
24 their duty to prove every single element of every single crime
25 that they have charged Mr. Chambers with.

1 This is something we all discussed during jury
2 selection. You all agreed that you would hold the State to
3 that burden. And I'm asking you respectfully to do that. Not
4 only as to the presumption of innocence in proving the
5 charges, each element of the charge, but also proving beyond a
6 reasonable doubt that this was not a case of self-defense.

7 The other instruction dealing with self-defense that
8 I want to make sure is clear is instruction number 34. It's
9 kind of a stand your ground, no duty to retreat instruction.
10 What the law is in Nevada is if you reasonably believe that
11 you are facing either serious bodily injury or death, you
12 don't have to retreat. You can stand your ground and defend
13 yourself. Whether that's physically fighting back, whether
14 that's wrestling a gun away from the person who has it and
15 shooting that person, that is standing your ground. And it
16 makes no difference, ladies and gentlemen, whether you're in
17 someone else's house. Stand your ground, no duty to retreat
18 applies anywhere where you're at.

19 So if you go over to a neighbor's house to watch
20 Monday Night Football and that neighbor's high on
21 methamphetamines and he pulls out a knife or a gun and starts
22 making threats to you, you don't have to excuse yourself from
23 his house and step outside to defend yourself, you can defend
24 yourself right there and then. Just like Mr. Chambers had the
25 right to right there and then defend himself inside of trailer

1 number 45.

2 I talked extensively during jury selection about the
3 presumption. And we all agreed that that is how our law
4 should be. No one disagreed that we shouldn't have that
5 presumption and that the State should have to prove it beyond
6 a reasonable doubt to overcome that presumption.

7 So what has the prosecution actually shown you in
8 this case? An unbelievable witness in Lisa. Cynthia Lacey
9 and Bridgett Graham. Two witnesses who didn't come here today
10 or yesterday during testimony and stare you in the eye and
11 tell you what happened. Two witnesses who during that time in
12 July of 2013 were meth users. In particular, if you remember
13 from the testimony, Bridgett Graham admitted to smoking or
14 snorting methamphetamines hours before the shooting, after the
15 shooting, and before her interview with the police.

16 Neither one of these witnesses said yeah, I spoke to
17 Gary after the shooting, Gary Chambers, and he told me that
18 there was a robbery. Neither one of these witnesses said they
19 saw him with a gun on July 9th or saw him with a gun after the
20 shooting. Bridgett Graham's in the back of the car. You
21 don't hear any testimony during that transcript that she saw
22 him with a gun at any point, including, and most importantly,
23 going inside of that trailer.

24 This confused me when the State was showing you a
25 picture of a random black gun holster. I'm not sure what the

1 insinuation was from the State. I started thinking well, you
2 know, maybe they're trying to claim that that's the black gun
3 holster that was used in this case. That black gun holster
4 was found at an apartment. Mr. Chambers didn't live there.
5 It was, I believe, 1934 Dwarf Star. The detective told you
6 that he didn't send this black gun holster to forensics, maybe
7 get it tested for DNA, for fingerprints. I'm assuming if the
8 police believed -- even in a small amount believed that that
9 was the holster that was used, they would have sent it for
10 forensics. That makes sense.

11 So I don't know if the prosecution's just trying to
12 throw something against the wall and seeing what sticks, but
13 that black gun holster wasn't brought to you. It was shown to
14 you in a picture, but there's absolutely no evidence, besides
15 the fact that it's a black gun holster, that it's in any way
16 connected to this case.

17 Same thing with the other things they found at that
18 apartment. A tan gun holster, some bullets. All of that was
19 -- what's the relevance of that to this case? There is none.
20 If you remember, there was two or three witnesses where I
21 didn't ask a single question because their testimony was
22 completely irrelevant to this case and I don't even know why
23 it was presented. There was DNA testimony presented that the
24 bullet that went through Mr. Gary Bly had his DNA in it.
25 Okay. I think that's expected. And that a fingerprint of

1 Gary Chambers was found on the car that he drove. Again, no
2 connection to this case. It's irrelevant.

3 As well as the photo lineups. They showed, they
4 went through a bunch of witnesses who identified Mr. Gary
5 Chambers through a photo lineup. As the prosecution itself
6 admitted during their closing a few minutes ago, this is not a
7 who done it. I don't think I said anything in my opening
8 statement that even remotely came close to saying you've got
9 the wrong guy, he wasn't there. The fact that these other
10 witnesses identified him and they had to go through the whole
11 photo lineups is irrelevant. Gary Chambers has always said
12 he's been there.

13 There's another jury instruction that I'd ask you to
14 take a closer look at. This is instruction 53. It talks
15 about your obligation under certain circumstances when the
16 evidence -- you take a piece of evidence and it might support
17 the prosecution's case or if you look at it a different way,
18 it might support Gary Chambers' case. What the instruction
19 says, I'm only going to read a portion of it, but read the
20 whole thing when you're back deliberating. It says, if you
21 can draw two or more reasonable conclusions from the
22 circumstantial evidence and one of those reasonable
23 conclusions points to innocence and another to guilt, you
24 must, you must accept the one that points to innocence.

25 So again, the benefit of the doubt goes to Gary

1 Chambers. Just like if any one of us was sitting where Gary
2 Chambers was at, we would have that same benefit. It's a
3 benefit in our constitution and it protects all of us.

4 This is not a mistake. I use this to kind of help
5 explain what I just explained as to the two reasonable
6 interpretations. In baseball there's kind of an unwritten
7 rule that when the batter hits the ball, he goes running to
8 first base, and at that exact same time the first baseman
9 receives the ball, the tie goes to the runner. That's what we
10 have here in this case. Besides the presumption of innocence,
11 besides the fact that the State has to prove beyond a
12 reasonable doubt that there wasn't self-defense in this case,
13 Gary Chambers gets the benefit of the doubt. He is the batter
14 who runs to first base.

15 I'm going to be done talking here. I know I've
16 talked long enough. When I'm done talking the prosecution
17 gets to talk again. I don't get another opportunity to talk
18 again. When you're listening to the prosecutor who stands up
19 after I'm done talking and starts making her rebuttal
20 arguments, I ask you to consider a few things. Some times
21 that I want you to keep in mind while you are listening to her
22 rebuttal argument, something that I want you to consider when
23 you're back in the jury deliberation room, why did Lisa lie so
24 many times? What is her motive in lying? What is she trying
25 to hide? How can you explain Gary Chambers' wallet and

1 identification being left at the trailer while at the same
2 time believing Lisa's story? How do you explain that no
3 police officer, detective, CSA personnel never found that
4 wallet?

5 I think the answers to these questions clearly show
6 that Gary Chambers is not guilty in this case. And with all
7 due respect, I strongly urge you, after you go back there and
8 deliberate, that you check the not guilty box on all of the
9 charges.

10 I know it's been a long week. On behalf of Gary
11 Chambers and myself, I thank you for your time, your
12 attention, and your service. Thank you, ladies and gentlemen.

13 THE COURT: Thank you, Mr. Yanez. Before we hear
14 from the State, you've been attentive for a long period of
15 time, I'm going to give you a 10-minute stretch and bathroom
16 break. All right?

17 So, ladies and gentlemen of the jury, you are
18 admonished during this 10-minute break, do not converse among
19 yourselves or with anyone else on any subject connected with
20 this trial. Do not read, watch, or listen to any report of or
21 commentary on the trial, or any person connected with the
22 trial by any medium of information including, without
23 limitation, newspapers, television, radio, or Internet. Do
24 not form or express any opinion on any subject connected with
25 the trial until the case is finally submitted to you. And

1 don't perform any research.

2 With that, please enjoy a 10-minute break and be
3 ready to go in 10 minutes.

4 (Jury recessed at 3:14 p.m.)

5 THE COURT: We're outside the presence of the jury.
6 Anything to put on the record?

7 MS. THOMSON: Your Honor, I would just note with
8 regard to the objection that counsel made as to Mr.
9 Schwartz's comment that the defendant did not stay at the
10 location, that he did not stay there and explain his version
11 of what had happened, his version of events, I would expect
12 that that objection was as to commenting on silence. That is
13 not commenting on silence. Commenting on silence is once
14 someone is arrested, their indication of their rights. The
15 fact that he did not stay and did not give his version of
16 events was not a violation.

17 MR. YANEZ: I was going to make a motion for a
18 mistrial, Judge. We have a case here where Mr. Chambers --

19 THE COURT: First of all, as to that comment, it
20 just was a little bit unclear to me in the context whether
21 that was referring to the silence at the time or the silence
22 now. The speed in which Mr. Schwartz made his remarks, I
23 wasn't entirely sure what he was referring to. Out of an
24 abundance of caution, that's why I went ahead and told the
25 jury to disregard that statement. Obviously, you're correct

1 on the statement of the law. If he's referring to silence at
2 the time, such as he didn't call 9-1-1, that's one thing. If
3 he intended to convey to the jury that we haven't heard from
4 him, that's an entirely different thing. So I understand your
5 accurate distinction. Let me hear from defense.

6 MR. YANEZ: I think the potential impact, Judge,
7 especially in a case where Mr. Chambers did not testify, is
8 that the jury can take it two ways, if not both. Number one,
9 that he refused to speak to the police at the time, which is a
10 violation of his Fifth Amendment right, just like it could be
11 a comment on his failure to testify here in court. Based on
12 that -- based on the fact that I think we had several jurors
13 when we were doing voir dire who had potential issues with Mr.
14 Chambers not testifying, I'm asking for a mistrial based on
15 that, Judge. You can't unring the bell. The jury has heard
16 it.

17 THE COURT: So, I think to properly resolve that I
18 would have to be convinced that the comment was intended to
19 convey to the jury that the defendant has remained silent here
20 at trial and that there's something improper in that. The
21 exact words used by Mr. Schwartz in connection with the
22 context in which he made those words is obviously important.
23 I think I need to -- I'm going to deny your motion but I'm
24 going to listen to JAVS and refresh my memory as to the
25 comments that were made and the context in which they were

1 made. All right?

2 MR. YANEZ: Thank you, Judge.

3 THE COURT: I think that even if there was some
4 ambiguity, I think that my admonition to the jury probably
5 cured any problem there. But let me go ahead and listen to
6 the context. Okay?

7 MR. YANEZ: Thank you, Judge.

8 THE COURT: Thank you.

9 MS. THOMSON: Thank you, Your Honor.

10 THE COURT: Brief recess.

11 (Court recessed at 3:18 p.m. until 3:29 p.m.)

12 THE COURT: Back on the record. State versus
13 Chambers, C292987. Let's bring the jury in.

14 (Jury reconvened at 3:31 p.m.)

15 THE COURT: Please be seated. Ms. Thomson, you may
16 now address the jury.

17 MS. THOMSON: Thank you, Your Honor.

18 STATE'S REBUTTAL CLOSING ARGUMENT

19 MS. THOMSON: I'll attempt to not be too repetitive,
20 but I want to address some of the things that were commented
21 on Mr. Yanez.

22 Let's start first with why did the State present you
23 all of this evidence? I stood up in opening and told you the
24 defendant was there. You have an instruction that says that
25 arguments, questions of counsel are not evidence. You also

1 have the instruction that says that we have the burden to
2 prove beyond a reasonable doubt what crimes were committed and
3 who committed those crimes. It doesn't mean that we can walk
4 in here and say well, it's pretty obvious that he's the one
5 who committed those crimes, so we won't prove it. We
6 presented you the evidence that proved that he was the person
7 who committed these crimes. And that is why the evidence was
8 presented.

9 The instruction on reasonable doubt. It tells you
10 that for doubt to be reasonable it must be actual, not mere
11 possibility or speculation. And must of what Mr. Yanez said
12 to you up here was, although not verbally prefaced with, but
13 was prefaced with speculate. Isn't it possible? For example,
14 lots of drug dealers have guns. But there's no evidence that
15 this drug dealer had a gun. There is no evidence anywhere in
16 that trailer of anything associated to firearms. No holsters,
17 no bullets, no guns. Speculation.

18 You're told in instruction number 57 you must use
19 your common sense. And that makes sense, particularly when we
20 tell you there's circumstantial evidence where you can come to
21 a conclusion without direct proof of it. It's common sense.
22 Throughout this case there's a whole lot of common sense.
23 Lisa's a drug dealer. Those signs? Come on. The response
24 the defendant gave. Common sense tells us that that is not
25 the response of someone who's just been attacked walking to

1 their car, telling the occupants of the car he shouldn't have
2 wrestled. That's not someone who's just suffered such a
3 highly provoking injury that they had to shoot a man in the
4 head.

5 Lisa screaming. We have Bridgett Graham saying I
6 heard her screaming, he's robbing me or he's trying to rob me,
7 and I don't remember the exact words. But we're talking about
8 moments after. She's not screaming I've been shot. She's not
9 screaming oh, my gosh, Gary, are you okay to the man who's
10 virtually dead on the floor. Are we to believe that she has
11 fabricated this story within the seconds between watching her
12 friend be shot in the head, being shot in the hand herself,
13 and the defendant leaving the trailer? Does it make sense?

14 You have no evidence of Mr. Bly running at the
15 defendant with a gun. I'd suggest to you that all the
16 evidence actually contradicts that. Let's use our common
17 sense. You've come into my home or my friend's home, I used
18 to live here, and I think you're doing something offensive, so
19 I'm going to pull out my gun. As the person holding the gun,
20 do I then rush you to chest bump you? The person with the gun
21 has the power. The robber who came into Lisa's trailer to
22 take the power, to take the money, like he told Cynthia to
23 come for the drugs.

24 There's no evidence that there's a disagreement over
25 how much would be paid. There's no evidence of self-defense.

1 We'll come back to self-defense a little bit later.

2 So, let's talk about the intoxication. Mr. Yanez
3 told you well, clearly, Lisa was on meth because she said
4 she'd used meth the day before when she went to the hospital.
5 We don't know what time. What we do know is at 10 p.m. on the
6 night she had some amphetamine in her system. We don't know
7 how much. But we know that there were not detectable levels
8 of methamphetamine in her system.

9 Mr. Yanez points to that little baggie in the
10 ashtray to say look, clearly. Except we do know that Mr. Bly
11 had methamphetamine in his system and that he'd stayed
12 overnight. So isn't it a reasonable conclusion that that
13 would be the methamphetamine baggie of Mr. Bly's? Or wait.
14 Hold on. There's a meth baggie in a drug house. Is that meth
15 baggie actually proof of anything?

16 Talking about this highly -- this passion that was
17 raised in him that he had to shoot Mr. Bly by Lisa who has
18 painkillers and sleeping pills in her system? Now granted,
19 maybe those were given to her at the hospital. We don't know.
20 But again, we don't know. Or Mr. Bly who has these high
21 levels of methamphetamine in his system. You heard the
22 defense expert testify. Methamphetamine released dopamine, it
23 releases serotonin, gives you this feeling of happiness, a
24 good feeling. And that actually supports why, although most
25 of us would probably question it, why someone would run at the

1 man with the gun. He's high. He has an overwhelming feeling
2 of safety, of positivity. And he's going to protect his
3 friend who's currently being robbed by the defendant. That
4 just makes him more likely to confront.

5 You had evidence from their doctor who testified
6 about toxicology that methamphetamine can cause aggression.
7 No evidence that this was the situation where levels would
8 result in that. No evidence that there was any aggression
9 from Mr. Bly, or even Lisa. In fact, you had Daniel Plumlee
10 who had been there literally seconds earlier and said
11 everything was fine, we were chatting, it was all good.

12 You're told that if there are two reasonable
13 interpretations you must find the defendant not guilty.
14 There's only one reasonable interpretation in this case. That
15 reasonable interpretation is that when the defendant said he
16 was going to rob Lisa, when the defendant said he was going to
17 hit a lick, commit a robbery, when the defendant went to
18 Lisa's house with his loaded firearm he intended to and he
19 tried to commit that robbery, that he shot Gary Bly in the
20 head and then he fled.

21 A whole lot of talk about credibility. Mr. Yanez
22 told you you cannot separate the truth from the lies.
23 Instruction number 54 tells you you can. You can separate the
24 truth from the lies, as long as what you're looking for is
25 corroborated by other evidence. Is there a doubt that Lisa

1 lied? Absolutely not. She is a drug dealer, she does meth.
2 Absolutely. But when we look at the statement she gave, the
3 questions that she answered, what did she consistently lie
4 about? It's the drugs. And why? Why would she lie about
5 that?

6 Detective Bunting told you yeah, there are
7 absolutely times when I'm [indiscernible] the victims and they
8 tell me something that's inculpatory and I pass that off and
9 charges can be filed. Is it reasonable that someone would try
10 to protect their own interest? Sure. Do we like it?
11 Absolutely not. But does that change the fact that other
12 things she said that are corroborated can be taken as truth?
13 It doesn't.

14 And I want to note that there's a difference between
15 a lie and a mistake. We all make mistakes. Consider, for
16 example, when she said the paramedics arrived, they took me to
17 the hospital, it was hours before the police arrived. Well,
18 we know that that's not true. Right? Because we know Officer
19 Brosnahan was the first person to arrive and that he and his
20 partner cleared the trailer so medical could come in. We know
21 that's standard procedure for the safety of the medical
22 technicians. Do we think that she liked about this or do we
23 think that she's in her own home, she just watched her best
24 friend be murdered in front of her -- I say best, we don't
25 know that that's true -- a friend be murdered in front of her,

1 then shot in the hand and now we're asking her to recount
2 details of that incident. Did she make a mistake or is that a
3 lie?

4 And that sort of expands out into a lot of the
5 details of what happened that day. When she's been shot in
6 the hand and had this incident happen in front of her, is it
7 unreasonable that she might get details wrong? It's not. But
8 you don't really have any specific details that are these huge
9 inconsistencies. She doesn't remember when exactly he took
10 the holster off the gun. It's not an element of the offense.
11 And there's a difference between facts and elements of the
12 offense. Now, all the elements of the offense are proven by
13 facts. But that doesn't mean the State has to prove every
14 fact. What color shorts was the defendant wearing? Not an
15 element of the offense. The distinction is there's a lot of
16 things going on. Drug dealing. It's not an element of any of
17 the offenses. We neither have to prove or disprove that she's
18 a drug dealer.

19 Talking about the wallet in the house. Well, that's
20 a really weird piece of evidence for her to plant, right?
21 Saying why CSAs didn't it, maybe they missed it. Who knows?
22 Speculation. But if she is planting it, what's the logic of
23 that? One, if she's planting it wouldn't he be the one to
24 call the police and say I've got this great evidence for you.
25 Two, she knows him, she's already told them exactly who it is

1 because remember, it's days after she's been released from the
2 hospital. She's already done a photo lineup. She's already
3 identified the person who did this. And there, where did she
4 get the defendant's wallet to plant it?

5 But more importantly, you have the fact that she
6 called Mr. Plumlee who called the police in front of her. If
7 she'd taken the money out of that wallet, wouldn't she just
8 throw it away? And if something untoward happened there and
9 this wallet is such a contradiction to this version of events
10 that she's given, again, CSAs don't know it's there. Just
11 throw it away. It doesn't make sense that she would turn it
12 in.

13 Defense tells you that the wallet being there
14 absolutely shows there must have been a disagreement over the
15 cost of the drugs and that Mr. Bly attacked the defendant.
16 Equally plausible, I submit, is that defendant wasn't seen
17 with a gun as he's walking in. It's in his pocket. That gun
18 has a holster on it. He walks in, pulls the gun out of his
19 pocket, the holster catches his wallet and he's too busy
20 robbing Lisa to realize it's fallen out onto the table. Or
21 maybe he's going over with the intent to rob her and he also
22 wants to get the drugs. So he comes in with the wallet like
23 hey, can I get however much, she goes to get the drugs so he
24 gets the money and the drugs and forgets the wallet in the
25 heat of shooting Gary Bly in the head. It's all reasonable

1 but none of it is material. There's no element about the
2 wallet in the trailer.

3 You heard about the witness who said as I saw him
4 coming out he was rattled, he looked surprised. He didn't go
5 over there thinking I am going to kill a man today. He went
6 over there believing that Lisa's going to be there by herself,
7 because she lives by herself now. Lisa tells you that when
8 the defendant came in Mr. Bly was in the back. It wasn't
9 until after the defendant had already demanded the money, you
10 know what this is about, that Bly came out. So yeah, he's
11 surprised. He's now outmanned and he's just shot someone. It
12 wasn't his plan when he walked through that door, but it was
13 what he ended up doing there.

14 The credibility of the investigation. I want to say
15 that that was sort of an argument. Not so much law
16 enforcement, not that they came in and lied to you, but their
17 investigation, that it was hampered by having talked to Lisa.
18 I'll submit to you that there was only one small part of this
19 investigation based around Lisa. And if you disregard what
20 Lisa told police, what Lisa told you, you still come to the
21 same conclusion. The defendant is guilty of first-degree
22 murder.

23 The lay witnesses. They all come from the same
24 trailer park with the exception of Lisa -- I'm sorry, Lacey,
25 Cynthia and Bridgett Graham. [indiscernible] Lacey, Bridgett

1 Graham, I think the motives or reasons they might say things,
2 reasons they would have to minimize are pretty obvious.
3 Cynthia Lacey, who is the fiancé at the time, who's not there
4 for the actual incident. Her car's involved, but he
5 recollection four years later, whether truthful or feigned of
6 not remembering, is it surprising that something that she
7 wasn't a part of actually, she doesn't have specific
8 recollections of four years later?

9 And Bridgett Graham who explained that her son's
10 mother -- I'm sorry, her son's father is the son of the
11 defendant's wife who she calls dad. It's reasonable why she
12 would minimize. But the other side of that is the statements
13 that they make, the inculpatory statements for the defendant,
14 what reason would they have to make these up? I would suggest
15 that those familiar relationships, same reason that they
16 weren't here. Reasons that they would not want to have to
17 come in and talk about what the defendant told them, what
18 ultimately the defendant did that day.

19 You're instructed that you are not here to determine
20 the guilt or innocence of anyone else. You don't have to
21 decide if Lisa was a drug dealer, if she's a good or bad
22 person. You're here to determine what the defendant did that
23 day, what his intent was as he walked through the threshold of
24 that home, determine if he killed Mr. Bly. Is it first-degree
25 murder or second-degree murder or if he acted in self-defense.

1 Self-defense doesn't apply to a killing when you've
2 gone in with the intent to rob. Because when he approaches
3 Lisa to rob her, Mr. Bly comes in, Mr. Bly has the right to
4 protect Lisa to the same extent that Lisa can protect herself.
5 I suppose I do actually agree this is a self-defense case,
6 because Lisa and Mr. Bly acted in self-defense against that
7 robbery. Not successfully, but they tried. For that reason,
8 self-defense doesn't work in a felony murder because the
9 defendant is trying to commit a robbery.

10 Mr. Yanez says well, he didn't take anything. True.
11 That's why it's an attempt robbery, not a robbery. And the
12 fact that he was interrupted by Mr. Bly, by the fact that he
13 was interrupted by having shot Mr. Bly, having shot Lisa,
14 realizing that time's probably running out and he has to get
15 out of there without rummaging through some things to take,
16 doesn't make it any less an intent to commit robbery when he
17 got there or an attempt robbery while he was there.

18 But if you don't believe that he went to go commit a
19 robbery, it's still not self-defense. Because there must be
20 an honest belief that a reasonable person in a similar
21 situation would hold. And there is no evidence, none, that he
22 was acting in self-defense. No evidence that a reasonable
23 person in a similar situation would have responded the way he
24 did. And certainly, the evidence supports the fact that he
25 brought the gun with him. And armed man against two unarmed

1 men in that situation does not get to shoot the two unarmed
2 men.

3 Defense tells you that a large part of this case,
4 the key, the key to this case, he told you the star witness
5 was Lisa. But there's so much that we know about what
6 happened that day that tells us that the defendant went to
7 commit a robbery, didn't go as he had planned, that he
8 murdered Gary Bly. That even if you take a minute and step
9 away, and we address this as if Lisa had died that day or a
10 day after. No statement had been taken. We don't have any
11 input from her. The evidence still shows that he went there
12 because he thought she was a bitch. Because he thought she
13 was the big drug dealer in the neighborhood and he wanted her
14 money and he wanted her drugs. He was going to come up. He
15 was going to hit a lick. What evidence tells us that his is
16 in fact what happened?

17 First, we only have two people in that trailer. We
18 know it's him. No one saw anyone else come in or go out
19 between the time that he entered and he left. Daniel Plumlee
20 was just inside. He can and did confirm for you that there
21 was no one else in the trailer other than Gary Bly and Lisa
22 Papoutsis. Where the defendant parked. You heard testimony
23 that ultimately the manager's truck was in front of Lisa's
24 trailer. But there's no reason to park down from Lisa's
25 trailer unless you're trying to hide your identity, just

1 trying to get away with something. We know that he did not
2 park in front of her trailer, that he parked away from it.
3 Parked facing the street for a quick getaway.

4 When you go through the evidence you'll see that
5 even in light most favorable to the defendant, common sense
6 tells us that he was in that trailer for 27 seconds before the
7 first shot rang out. When you look at the phone records you
8 see that the last phone call between the defendant's and
9 Lisa's phone occurred at 10:20:48. It was unanswered. But
10 reasonably, you don't call someone when you're already
11 standing in their living room. So if we assume he is just
12 getting to the doorway when that call is not answered, when
13 that call happens. The 9-1-1 call starts at 10:21:15, and you
14 can hear that there's already shots fired. Someone's been
15 shot. You can hear in that 9-1-1 call that someone, being
16 Daniel, is following the defendant out of the trailer park.
17 Twenty-seven seconds. That's what tells you what happened
18 inside that trailer.

19 We've addressed the evidence that the gun came from
20 the outside. In fact, Cynthia Lacey saw him with it a gun a
21 day or two before this incident, one that she described as
22 being in a black cloth holster. The fact that there's no
23 evidence that a gun existed inside that trailer absent the
24 defendant bringing it to the trailer. And you have the
25 evidence from the search of the defendant's daughter's home

1 where they find bullets and holsters and no gun. Showing he
2 at least has access to firearms. Whether that's the same
3 holster or not, it's a mighty coincidence, isn't it, that Ms.
4 Lacey describes a black cloth holster. Ultimately, Lisa
5 describes a black cloth holster and he has access to a black
6 cloth holster in the home of the girl that he was later with
7 when he was arrested that night.

8 His intent upon entry. I was going to do something
9 stupid, so I got rid of the gun. Something stupid, didn't
10 really get rid of the gun. And he's told you through Cynthia
11 and through Bridgett what his intent was when he went there.
12 And then he told you through Cynthia what his intent was when
13 he called her after and said I got into some shit. Not I was
14 attacked. Not oh, my gosh, you wouldn't believe what
15 happened. The fact that there were several shots fired. And
16 you heard testimony that there were two. You heard testimony
17 there were four. You heard testimony there were three.
18 Clearly, there were at least two. No evidence there were any
19 more than four. But what we also heard is that two came in
20 close proximity to each other and there was a break, and then
21 one, which is consistent with the evidence inside that
22 trailer.

23 The 9-1-1 caller immediately after, at least the
24 beginning of the shooting, said I heard three shots. I would
25 submit that that's the most likely given the proximity to the

1 actual occurrence. Defendant is seen leaving with the gun.
2 He's seen by three of the four people who see him leaving,
3 absent Bridgett Graham. I'll submit to you that the way he's
4 carrying that gun shows what he just did. Because he doesn't
5 put it in his pocket so no one knows he has a gun and he
6 doesn't keep it out, because he's trying to hide what he's
7 just done but he needs to be prepared in case anyone tries to
8 stop him, in case anyone tries to keep him from fleeing. Easy
9 access. Hand around the butt of the gun. Be able to get it
10 out and use it. He's already shot one person. The fact that
11 he walks to his car. Is this someone who's just been
12 attacked, who's had to protect his own life? Walks to his
13 car. I don't want to talk about what just happened. He had
14 to wrestle me.

15 And his behavior for the rest of that day. Most of
16 it was already talked about by Mr. Schwartz, but I'll add the
17 fact that he never again answered his phone that day. And we
18 know that he left it on the stairs of that office building.
19 These are not behaviors of someone where they have not just
20 done something awful. These are the behaviors of a man who
21 just went in to commit robbery, was surprised by a second
22 person in the house, shot that second person through the head,
23 shot the person he was trying to rob, and then had to flee.

24 At the conclusion of your deliberations, tell the
25 defendant you don't care what Lisa had to say, what he said

1 was enough and you believe him. He was there to hit a lick,
2 there to rob that bitch. And he did, or at least he tried.
3 And he committed first-degree murder in the process. I ask
4 you to find him guilty of all Counts. Thank you.

5 THE COURT: Thank you, Ms. Thomson. Ladies and
6 gentlemen of the jury, this matter is now submitted to you for
7 deliberations. I need to identify at this point in time the
8 alternate. As you know, we had 14 individuals sitting here.
9 We had one juror that was excused, so the first alternate was
10 put on the panel of 12. There's one remaining alternate.
11 That person in a moment will be excused to go home. But that
12 person who is the remaining alternate needs to stand available
13 in the event that we lose another juror. So that person who
14 is the remaining alternate must not discuss the case with
15 anybody, must not form any opinions, must not do any research
16 and must avoid reading, listening to, or doing any research
17 regarding the facts of this case.

18 That alternate is Carrie Lee. Ms. Lee, we
19 appreciate the time you've dedicated to this matter. I've
20 seen that you've taken very good notes. Your notes will be
21 left here with the Marshal. Nobody will look at your notes,
22 but you will be excused momentarily and you will remain on
23 call. Do you understand? At this point in time I will ask
24 the Court clerk to please swear in the officers who will take
25 charge of the jurors and the one alternate.

1 (Clerk administers oath to Officers)

2 THE COURT: Before I excuse the jurors. Counsel, my
3 intent is to order the jurors to remain and deliberate until
4 six, at which time they will then suspend their deliberations
5 and come back tomorrow at nine a.m. Is that acceptable?

6 MS. THOMSON: Yes, Your Honor.

7 MR. YANEZ: Yes, Your Honor.

8 THE COURT: All right. I don't want too much
9 overtime to be put into this, but I want to give a block of
10 time for the jurors to get started and do whatever they need
11 to do. All right. At six o'clock, do you guys agree that I
12 can have my Marshal dismiss the jurors with the standard
13 admonishment rather than bringing the jurors back into the
14 courtroom for the Court to give the admonishment?

15 MS. THOMSON: Yes, Your Honor.

16 MR. YANEZ: Yes, Judge.

17 THE COURT: All right. Then with that, Marshal and
18 Ms. Gettler [phonetic], you will take charge of the jurors and
19 the alternate and take them to the deliberation room to begin
20 deliberating. Marshal and Ms. Gettler, please give further
21 instructions to the alternate on what she needs to do. This
22 time you bring your notepads with you.

23 (Jury recessed at 4:00 p.m.)

24 THE COURT: All right. Please be seated everybody.
25 Is there anything else to discuss outside the presence of the

1 jury?

2 MR. YANEZ: Is the Court still considering my oral
3 motion, Judge?

4 THE COURT: Well, I denied your oral motion. But I
5 am going to, as soon as I have an opportunity to listen to
6 JAVS again and to see if there's any reason why I need to
7 reconsider.

8 MR. YANEZ: Okay. I was making sure there was a
9 decision on it. Thank you.

10 THE COURT: That there is a decision, the decision
11 is I'm denying it because preliminarily I think that in the
12 event that there was anything improper it was cured by the
13 Court's admonishment to the jury. But I am going to again
14 listen to the JAVS and see if there's any reason why I need to
15 change that.

16 MR. YANEZ: Thank you, Judge.

17 THE COURT: Just in the heat of the moment, out of
18 the abundance of caution, I want to make sure that there's at
19 least an admonishment just in the event that there was a
20 problem. So that's how I wanted to handle it. All right.
21 Now, make sure the Court clerk has your contact information in
22 the event that you don't stay until six.

23 MS. THOMSON: Yes, Your Honor.

24 MR. YANEZ: Yes.

25 THE COURT: Also, tomorrow they're going to come

1 back at nine. I'm going -- I have a civil calendar at nine,
2 so I'm just going to have the Marshal bring the jurors back to
3 deliberation and begin deliberating.

4 MS. THOMSON: Thank you, Your Honor. I will send
5 instructions on the ex-felon this evening.

6 THE COURT: Yes.

7 MR. YANEZ: Judge, one other thing I forgot. I do
8 have a copy of my PowerPoint. I would ask that the State
9 provide a printout of their PowerPoint so the record is
10 attached as a -- to the record.

11 THE COURT: As a Court exhibit?

12 MR. YANEZ: Not necessarily as an -- well, exhibit
13 to the record, not necessarily --

14 THE COURT: Exhibit to the record, right.

15 MR. YANEZ: Yes.

16 THE COURT: Any objection to that?

17 MS. THOMSON: No.

18 MR. SCHWARTZ: No, Your Honor.

19 THE COURT: All right. So the PowerPoints will be
20 exhibits to the record and they don't go back to the jury
21 room, of course. All right. Anything else?

22 MS. THOMSON: No, Your Honor.

23 THE COURT: All right. Then I'll talk to you guys
24 later. Court's adjourned.

25 (Court recessed at 4:03 p.m. until 5:35 p.m.)

1 (Outside the presence of the jury.)

2 THE COURT: So, back on the record. State of Nevada
3 versus Chambers, C292987. I've received notice that the jury
4 has two questions. Oftentimes I try to handle these by phone,
5 but NRS 175.451 does say that after the jury has retired for
6 deliberation, if there's any disagreement between them as to
7 any part of the testimony or if they desire to be informed at
8 any point of law arising in the cause, they must require the
9 officer to conduct them into court upon their being brought
10 into court. The information required shall be given in the
11 presence of or after notice to the district attorney and the
12 defendant or the defendant's counsel.

13 So upon calling the parties, Mr. Yanez exercised his
14 right to have this on the record in strict accordance with the
15 statute, so that's what we're going to do.

16 MS. THOMSON: Thank you, Your Honor.

17 THE COURT: All right. So I will bring the jury in,
18 but I'll give you guys a heads up on what the questions are.
19 Simple questions. I'm not sure how you want to respond.
20 Number one. Can we confirm the phone number of Gary Chambers.
21 And number two. Can we get access to previous testimonies?
22 I'm a little bit unsure what number two means. I don't know
23 if they mean testimony that was given in court already. I
24 don't think it's that because they probably wouldn't have used
25 the word previous. Maybe they're referring to the preliminary

1 hearing testimony. They already have some of it, so maybe
2 there's some other preliminary hearing testimony they're
3 seeking. I'm not sure. It's ambiguous, so we need to find
4 out from the foreperson what it is they're looking for and
5 then we can find out from you guys.

6 Just got another question. Can we have the jury
7 instructions? Why do they not have the jury instructions?
8 That bothers me. Did somebody take the jury instructions from
9 them?

10 THE CLERK: Did you give them copies?

11 THE COURT: Are you asking me? It's not my job,
12 that's the Court clerk's job. Do you know if anybody gave the
13 jurors the jury instructions? Were you the Court clerk on
14 duty when we allowed the jury to begin deliberations?

15 THE CLERK: Yes, I was.

16 THE COURT: Okay. So what happened to the --

17 THE CLERK: I --

18 THE COURT: Don't talk over me, please. Did you
19 have the original set of jury instructions over there at that
20 time?

21 THE CLERK: Yes.

22 THE COURT: All right. What did you do with them?

23 THE CLERK: I put them in the [inaudible] because I
24 thought they all had --

25 THE COURT: Jurors need the jury instructions. Will

1 you please make sure that that gets accomplished forthwith?

2 THE CLERK: Should I do it right now?

3 THE COURT: Well, we're on the record now so you
4 can't leave. All right. What do you guys want to do about
5 the phone number?

6 MS. THOMSON: I don't remember hearing if we had a
7 playback, readback instruction. I think that the appropriate
8 sort of answer would be if you desire playback of any
9 particular testimony you must reduce it to writing. Just
10 basically that instruction because they are permitted to have
11 -- I know a lot of courts will take it out.

12 THE COURT: You think that might -- the testimony
13 regarding the phone number is in a particular individual's
14 testimony?

15 MS. THOMSON: Yes.

16 THE COURT: Okay. Do you -- I've used that
17 instruction before on playbacks. Go get me, in my office, in
18 my -- the lateral file folder, the bottom drawer, there's a
19 folder on jury instructions. Bring that in. I'll pull out
20 the instruction used in another case.

21 MR. YANEZ: If I understand the three questions.
22 One of them was can we have the jury instructions. That's
23 being remedied right now. The other one is can we hear
24 playback of testimony. Is that accurate, paraphrasing?

25 MR. SCHWARTZ: Prior testimony.

1 MR. YANEZ: Prior testimony.

2 THE COURT: I'm not going to interpret the question.
3 I read it how it's written. You heard it the same as I have.

4 MR. YANEZ: Can you repeat it? I'm sorry, Judge,
5 one more time, the question that they asked.

6 THE COURT: Number one. Can we confirm the phone
7 number of Gary Chambers? Number two. Can we get access to
8 previous testimonies?

9 MR. YANEZ: Okay. I agree to give that instruction
10 that the State just recommended. That might address that
11 issue as to the prior testimonies. I know it's a little bit
12 vague on what they mean by that, but maybe that answers their
13 question.

14 MS. THOMSON: I think it also answers question
15 number one because --

16 THE COURT: I'm going to bring the jury in here and
17 read it to them.

18 MR. YANEZ: Right.

19 MS. THOMSON: But I think that instruction will
20 answer question number one also because it's can we confirm it
21 and the answer is tell us what you want us to play back.

22 THE COURT: So I'm going to do two things then. I'm
23 going to tell them we've got these questions. I'm going to
24 read them that instruction on playbacks. And then, I'm also
25 going to tell them that the Court is not at liberty to remind

1 them of what the evidence is. Or should I just leave it at
2 the playbacks?

3 MS. THOMSON: I would just leave it at the
4 playbacks.

5 THE COURT: Okay.

6 MR. YANEZ: I agree.

7 THE COURT: All right. That's what I'll do.

8 MS. THOMSON: Thank you.

9 MR. YANEZ: And, Judge, so the record's clear, is
10 each juror now going to have a jury instruction packet or will
11 it be one packet for them to look at?

12 THE COURT: I never do that. There's only one set
13 of jury instructions that goes back for the jurors.

14 MR. YANEZ: Okay.

15 THE COURT: That's how it's always done in Eighth
16 Judicial District except for some rogue judges. Some people
17 say I'm a rogue judge.

18 MR. YANEZ: That might be a compliment, Judge.

19 THE COURT: All right. Give me a second here.
20 Where did the Marshal go?

21 THE CLERK: [inaudible] jury.

22 THE COURT: All right. Tell him to bring the jury
23 in.

24 (Off-record colloquy)

25 I think I'm going to excuse them right after this,

1 tell them to come back at nine. It's already quarter to six.
2 All right?

3 MS. THOMSON: Thank you.

4 MR. YANEZ: Thank you, Judge.

5 THE COURT: By the way, for your information, it's
6 signed by Danielle Opperman. So that's obviously the
7 foreperson.

8 MS. THOMSON: Thank you.

9 THE COURT: Seat number 11.

10 (Jury reconvened at 5:44 p.m.)

11 THE COURT: Thank you. Please be seated everybody.
12 So welcome back, ladies and gentlemen of the jury. The rules
13 require that anytime there's a juror, written juror question
14 the Court must reconvene Court in accordance with NRS 175.451.
15 It took just some time for me to get everybody here. It's
16 something I need to technically follow, regardless of whether
17 the questions are simple or complex. Okay?

18 But first let me ask, since these appear to be
19 signed, these two questions by Danielle Opperman. Danielle,
20 Ms. Opperman, is that you, seat number 11?

21 THE FOREPERSON: Yes.

22 THE COURT: Are you the foreperson?

23 THE FOREPERSON: Yes, sir.

24 THE COURT: So you'll be the spokesperson here in
25 Court then. The second question we got or the second paper

1 with a question, can we have the jury instructions. Thank you
2 for doing that. It was apparently an oversight. Those
3 questions will be provided to you forthwith. All right?

4 The next was can we confirm the phone number of Gary
5 Chambers? And also a question was, can we get access to
6 previous testimonies. So to that, let me go ahead and read a
7 special instruction that relates to prior testimony given in
8 Court, in this proceeding, and here's how that instruction
9 reads. "If during your deliberation you should desire to be
10 further informed on any point of law or hear again portions of
11 the testimony, you must reduce your request to writing, signed
12 by the foreperson. The officer will then return you to Court
13 where the information sought will be given you in the presence
14 of and after notice to the district attorney and the defendant
15 and his counsel. Readbacks of testimony are time consuming
16 and are not encouraged unless you deem it a necessity. Should
17 you require a readback, you must carefully describe the
18 testimony to be read back so that the court reporter can
19 arrange her notes. Remember, the Court is not at liberty to
20 supplement the evidence." All right? Does that answer your
21 questions on how to proceed?

22 THE FOREPERSON: Yes.

23 THE COURT: All right. Any clarification needed by
24 counsel or anything more that counsel wants to ask the jury?

25 MS. THOMSON: No, Your Honor.

1 MR. YANEZ: No, Your Honor.

2 THE COURT: All right. That instruction I just
3 read, I will actually give that to the Court clerk to provide
4 to the jury with the official written instructions that I've
5 already read to the jury previously. All right? All right.
6 And I'm also going to sign or initial these two instructions
7 -- these two papers with the questions, and they will become
8 Court exhibits.

9 Given that it's 5:50, I was thinking of simply
10 admonishing you now, sending you home, and allowing you to
11 come back tomorrow at nine. Does that work for everybody?
12 I'm asking the foreperson, does that work?

13 THE FOREPERSON: Yes, sir.

14 THE COURT: All right. Very good. Let me go ahead
15 and do that. The Court thanks you for your diligence and
16 attentiveness in all these proceedings. You are admonished
17 that it is your duty not to converse among yourselves or with
18 anyone else on any subject connected with the trial. Do not
19 read, watch, or listen to any report of or commentary on the
20 trial or any person connected with the trial by any medium of
21 information including, without limitation, newspapers,
22 television, radio, or Internet. You're not to form or express
23 any opinion on any subject connected with the trial until the
24 case is finally submitted to you. It has been submitted to
25 you, you may have started to form some opinions. Just while

1 you're outside of the court, do not continue to evolve any
2 opinions or form any additional opinions that you haven't
3 already formed while in the jury deliberation room. Don't do
4 any research about the case, the facts of the case, subject
5 matter of the case, or the issues of the case.

6 Are the parties ready to allow the jurors to go home
7 for the evening, for their evening recess?

8 MS. THOMSON: Yes, Your Honor.

9 MR. YANEZ: Yes, Your Honor.

10 THE COURT: All right. Ladies and gentlemen, you
11 are excused for the night. Please be back here ready to be
12 let back in the deliberation room by the Marshal at nine a.m.
13 Thank you.

14 (Jury recessed at 5:49 p.m.)

15 THE COURT: We're going to call that new instruction
16 next in line, I think it's 61. Thank you, guys. Court is
17 adjourned. See you guys tomorrow.

18 (Court recessed for the evening at 5:50 p.m.)
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ACKNOWLEDGMENT:

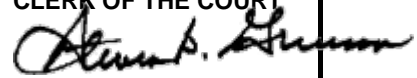
Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

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

KIMBERLY LAWSON
TRANSCRIBER

UNCERTIFIED ROUGH DRAFT

AA1194



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE

JURY TRIAL - DAY 7

WEDNESDAY, MARCH 1, 2017

APPEARANCES:

For the State:	MEGAN S. THOMSON, ESQ. Chief Deputy District Attorney BRYAN S. SCHWARTZ, ESQ. Deputy District Attorney
For the Defendant:	ABEL M. YANEZ, ESQ.

RECORDED BY DALYNE EASLEY, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

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AA1195

1 LAS VEGAS, NEVADA, WEDNESDAY, FEBRUARY 1, 207, 1:35 P.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 THE COURT: All right. State versus Chambers,
5 C292987. You can be seated for a moment. Thank you. I
6 understand the jury has a verdict. I haven't seen it yet.
7 Logistics. In the event that they come back with a finding of
8 guilt on first-degree murder, our next phase either way has to
9 be trying the Count Six, possession of a firearm by an
10 ex-felon. Has the State prepared any additional jury
11 instructions as to that Count?

12 MS. THOMSON: Yes, Your Honor. I emailed them to
13 you and -- actually, your law clerk, and counsel.

14 THE COURT: I didn't get those yet.

15 MS. THOMSON: Maybe I sent them to the wrong law
16 clerk. That's possible. But I just gave a copy to Mr. Yanez
17 to read this when we came back. He said he did not have an
18 objection. May I approach?

19 THE COURT: Yes.

20 MS. THOMSON: My suggestion is that what we do,
21 because there's so many of the same stock instructions, it
22 seems silly to read all of them again, that we incorporate by
23 reference and tell the jurors that all the prior
24 instructions --

25 THE COURT: They still have that set back there.

1 MS. THOMSON: Yes.

2 THE COURT: These are the additional instructions.

3 MS. THOMSON: Correct.

4 THE COURT: That's fine. We'll tell them there also
5 -- there might have to be a penalty phase. We don't know.
6 Should I mention anything about the penalty phase in
7 connection with them going back for this phase so that they're
8 clear that that's still something that they need to resolve
9 and that's something that's not associated with this middle
10 phase?

11 MS. THOMSON: I'd be inclined to say that it is a
12 separate phase, they are still not to consider punishment.
13 And as soon as I sat down, I'm thinking I might have forgotten
14 one instruction in there.

15 THE COURT: All right.

16 MS. THOMSON: I apologize.

17 THE COURT: I did go back and listen to JAVS about
18 the comment Mr. Schwartz made with reference to the defendant
19 remaining silent after he -- the scene of the crime. After
20 having listened to it, I listened to it three different times.
21 I think a reasonable person would understand the context was
22 in connection with him being silent right after the crime and
23 not being silent here at trial. Even though I sustained the
24 State's or sustained defendant's objection and cautioned the
25 jury, I was probably overly cautious in doing that. It

1 probably could have gone a different way with another judge.
2 That's all I need to say on that. All right?

3 Let's go ahead and bring the jury in now.

4 MS. THOMSON: And I did forget one instruction we'll
5 need to add to this packet before we can read it. That is
6 basically the instruction that says you received evidence of a
7 felony conviction, you're supposed to consider it only as to
8 an element, not as to the kind of person he is.

9 THE COURT: All right. And you'll get that to me.

10 MS. THOMSON: Yes.

11 THE COURT: All right. These are all the
12 instructions that I need to read to them then. What did you
13 just hand me? These are the instructions that you want me to
14 read.

15 MS. THOMSON: The packet you have there has --

16 THE COURT: You just handed me something.

17 MS. THOMSON: I think these may have been --

18 THE COURT: Who did that come from? Oh, that's from
19 her email. This is still missing the set then, or the
20 instruction.

21 MS. THOMSON: It's still missing that one, and that
22 one also still have the stocks in it because they're always,
23 when we pull up the template, it has the stocks. So that's
24 why I was putting together a streamlined version.

25 THE COURT: Okay. Do you want to take a couple

1 minutes to do that before we bring the jury in?

2 MR. YANEZ: I don't think -- assuming they come back
3 down that road, I don't think we're going to read them right
4 away, right? You're going to have to present some evidence.

5 MS. THOMSON: That's true.

6 THE COURT: We're talking about possession of
7 firearms by ex-felon charge. It's probably very little that
8 she needs to present. I don't want to take another break, I
9 want to get it done now.

10 MR. YANEZ: No, no, no. Right. I just thought
11 maybe you were just going to start reading it right away
12 before --

13 THE COURT: No. I assume she has like 10 minutes,
14 15 minutes of evidence.

15 MR. YANEZ: Right. I understand it's going to be
16 very brief, I just wanted to make sure we don't put the cart
17 before the horse.

18 THE COURT: I just want to keep this moving. So
19 let's do whatever you have to do.

20 MS. THOMSON: If the Court wants I can, while he's
21 doing that, we can take the verdict.

22 THE COURT: Okay. We'll take the verdict then.

23 MS. THOMSON: Sorry.

24 (Jury reconvened at 1:40 p.m.)

25 THE COURT: Thank you. Please be seated. So the

1 record will reflect the presence of the jury and the presence
2 of defense counsel and the Deputy District Attorney. We're
3 ready to proceed. Are we on the record?

4 THE RECORDER: On the record.

5 THE COURT: All right. So let me ask the jury: Has
6 the jury elected a foreperson?

7 THE FOREPERSON: Yes, sir.

8 THE COURT: All right. And is the foreperson
9 Danielle Opperman?

10 THE FOREPERSON: Yes, sir.

11 THE COURT: And you're in seat number 11. Madam
12 Foreperson, has the jury reached a verdict?

13 THE FOREPERSON: Yes, sir.

14 THE COURT: Will you please hand the verdict to my
15 Marshal and he will present it to me for review. All right.
16 I'll hand the verdict to the Court clerk who will read it.

17 THE CLERK: State of Nevada versus Gary Lamar
18 Chambers, Case Number C1329297, Department 2, Verdict.

19 We the jury in the case -- in the above-entitled
20 case find the defendant Gary Lamar Chambers as follows: Count
21 One, burglary while in possession of a firearm. Not guilty.

22 Count Two, murder with use of a deadly weapon.

23 Guilty of second-degree murder with use of a deadly weapon.

24 Count Three, attempt robbery with use of a deadly
25 weapon. Not guilty.