

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS ALEJANDRO MENENDEZ-
CORDERO,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal from a Judgment of Conviction in Case Number CR15-1674
The Second Judicial District Court of the State of Nevada
Honorable Connie J. Steinheimer, District Judge.

JOINT APPENDIX VOLUME FIVE

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7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE CONNIE STEINHEIMER DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)	
)	
12 Plaintiffs,)	
)	
13 vs.)	Case No. CR15-1674
)	
14 LUIS ALEJANDRO MENENDEZ)	Department 7
15 CORDERO,)	
)	
16 Defendant.)	

17
18 TRANSCRIPT OF PROCEEDINGS

19 TRIAL

20 October 6, 2017

21 11:00 a.m.

22 Reno, Nevada

23
24 Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

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RENO, NEVADA, October 6, 2017, 11:00 a.m.

--oOo--

THE COURT: Counsel stipulate to the presence of
the jury?

MS. KOSSOW: State would so stipulate.

MS. NORDVIG: Defense stipulates.

THE COURT: Good morning, ladies and gentlemen.
Everyone feeling all right?

THE JURY: Yes.

THE COURT: Good. This is the time we're going to
continue with more witnesses. I'm going to have the State
call their next witness.

MS. KOSSOW: Yes, your Honor. The State would
call Heather Kohles Hahn.

(One witness sworn at this time.)

THE COURT: You may proceed.

MS. KOSSOW: Thank you, your Honor.

HEATHER KOHLES HAHN

called as a witness and being duly sworn did testify as
follows:

DIRECT EXAMINATION

BY MS. KOSSOW:

Q. Ma'am, could you please state your full name and

1 spell your last for the record?

2 A. My name is Heather Kohles Hahn, H-a-h-n.

3 Q. Ma'am, I would like to take you back to November
4 of 2010. Where were you employed at that time?

5 A. I was employed at the Washoe County Sheriff's
6 Office Forensic Science Division.

7 Q. And what was your title there?

8 A. I was a forensic investigator.

9 Q. And how long had you worked for the Washoe County
10 Sheriff's Office?

11 A. At that time, I had worked for the sheriff's
12 office in a forensic capacity for approximately three and a
13 half years.

14 Q. Can you just describe briefly your job duties in
15 that position?

16 MR. VILORIA: Your Honor, I apologize for
17 interrupting. The witness appears to have documents in front
18 of her. I'd ask that the record reflect what that is, what
19 she's looking at while testifying.

20 THE COURT: You weren't looking at that to say how
21 long you've been at the office, were you?

22 THE WITNESS: I looked at the date to guesstimate
23 about the approximate time frame that I had been at the
24 sheriff's office.

1 THE COURT: What are you looking at?

2 THE WITNESS: I'm looking at a copy of the report
3 I submitted following my work.

4 THE COURT: Do you have a copy of that?

5 MR. VILORIA: I do have a copy of her report dated
6 November 20th, 2010.

7 MS. KOSSOW: What I would ask, judge, I did mark
8 her report for identification purposes as Exhibit 96. Maybe
9 I'll give that to the witness.

10 THE COURT: Okay.

11 BY MS. KOSSOW:

12 Q. I'll have her -- again, ma'am, if you need to
13 review your report for any reason. I'll ask you to close
14 that up. I'll hand you this report. If you need to refresh
15 your memory by looking at the report, I would ask you do that
16 subject to any objection by the defense. Just let us know,
17 A, if you're looking at, and B, what page you're looking at.

18 A. Of course.

19 Q. Can you go ahead and describe some of your job
20 duties in the position you described?

21 A. During my employment as a forensic investigator, I
22 was responsible for going out to crime scenes and assisting
23 and working with my own agency and other agencies in the
24 process of investigating crime scenes. And we were also

1 responsible for attending autopsies of deceased persons
2 involved with case investigations for documentation and
3 evidence collection purposes.

4 Q. All right. I want to ask you specifically about
5 November 20th of 2010. As part of your job duties, were you
6 called out to attend the autopsy of Kevin Melendez?

7 A. Yes, I was.

8 Q. And where did that autopsy occur?

9 A. That autopsy took place at the Washoe County
10 Medical Examiners Office.

11 Q. And do you recall who was the pathologist who
12 performed that autopsy?

13 A. I just briefly looked down at my report, but it
14 was Dr. Kubiczek.

15 Q. In addition to Dr. Kubiczek being present, were
16 there also technicians that assisted Dr. Kubiczek during the
17 autopsy?

18 A. Yes, there were.

19 Q. And, again, you sort of described in general
20 terms, but what was expected of you on that day?

21 A. The expectation is I would be there to help
22 document the condition of the deceased person, to collect any
23 evidence involved with the case that either was on
24 Mr. Melendez or in Mr. Melendez.

1 Q. And was there a detective present there as well?

2 A. Yes. If I may?

3 Q. Sure. If you can tell us what page you're looking
4 at when you find it.

5 A. It's on page one. And Sparks Police Detective
6 Fiore was also present.

7 Q. Are there protocols in place during a homicide
8 autopsy?

9 A. Yes, there are.

10 Q. There's protocols for your job as well?

11 A. If I may clarify? During an autopsy?

12 Q. During an autopsy, yes.

13 A. Yes, there are.

14 Q. And just in general, why are those protocols
15 instituted?

16 A. Those protocols are instituted, because as a
17 forensic investigator, I do not as they would say hold
18 control over a deceased person. That is the medical
19 examiner's jurisdiction. I'm just there to help with the
20 process and document, help document the process. And so we
21 have protocols of how we operate within that process.

22 Q. And you talked a little bit about collection of
23 evidence. That's one of your duties while you're there?

24 A. Yes, it is.

1 Q. And, again, is there, I don't want to say a
2 protocol, but something that you do every time you collect
3 evidence? Is there a process?

4 A. Yes. There would be operational protocols that
5 would happen during the autopsy. But then there's also my
6 personal operating process during an autopsy in order to keep
7 evidence and items documented and collected during an autopsy
8 in order.

9 Q. Did you also take photographs during the autopsy?

10 A. Yes, I did.

11 Q. And what's the purpose of taking those
12 photographs?

13 A. The purpose of taking those photographs is to
14 document the autopsy process in conjunction with the medical
15 examiner's examination during autopsy. Because our
16 photographs, we might have different purposes during the
17 investigation process for those photographs.

18 Q. Meaning you're there to document for the criminal
19 case. And did you talk about the medical examiner's office
20 also takes photographs?

21 A. Yes, they do.

22 Q. Did you in fact take photographs in Mr. Melendez's
23 case?

24 A. Yes, I did.

1 Q. Did you collect any evidence during the autopsy of
2 Mr. Melendez?

3 A. Yes, I did.

4 Q. I want to ask you about -- so going back to your
5 procedures, when you take a piece of evidence or provided a
6 piece of evidence, do you give it any type of identification
7 information?

8 A. Yes.

9 Q. Can you explain how you do that?

10 A. So when I receive a piece of evidence, it is
11 packaged accordingly and sealed with evidence tape and my
12 initials go across that seal. The packaging is given a
13 unique identifier or a Q number and a description of the
14 contents of the packaging is placed on the front of the
15 package to identify what is inside.

16 Q. And you said a Q number. What is that?

17 A. A Q number is a barcoded number beginning with a Q
18 and a series of digits after that is used as the unique
19 identifier for that individual piece of packaging that
20 contains the evidence.

21 Q. And are those Q numbers utilized by the Washoe
22 County Crime Lab in order to track evidence?

23 A. Yes, they are.

24 Q. I want to ask you about two pieces of evidence you

1 collected during Mr. Melendez's autopsy starting with Q
2 86529. Do you recall what that number is?

3 A. I'm referring to page two of my report. Q 85279.

4 Q. I'm sorry. Q 86529.

5 A. I apologize. Yes. Q 86529.

6 Q. What page are you on?

7 A. That is on page three of my report.

8 Q. What is that item?

9 A. The description given was one evidence tape sealed
10 manila envelope bearing the name Melendez, parenthesis, Tent,
11 Kevin, end quote, and labeled, quote, blood spot card, end
12 quote, received from the hand of Tech Beetle.

13 Q. First of all, tell me what is a blood spot card?

14 A. A blood spot card is a reference sample taken
15 during autopsy that assists in the DNA process.

16 Q. And you said received from the hand of Tech
17 Beetle. What does that mean?

18 A. That means that I was not the one that created the
19 blood spot card. Tech Beetle was the one that created the
20 blood spot card. And then I received it from her to enter it
21 into evidence up at Washoe County.

22 Q. I want to ask you about Q 86530. What item was
23 that?

24 A. Again, same page, page three of my report, Q 86530

1 is labeled or described as one evidence tape sealed manila
2 envelope bearing the name, quote, Melendez, parentheses,
3 Tent, Kevin, end quote, and labeled, quote, missile, end
4 quote, received from the hand of Tech Beetle.

5 Q. And, again, same question, when it says missile,
6 what did you mean when you wrote that?

7 A. That's indicative of what -- I should say missile
8 quote is what was written on the envelope that I received by
9 Tech Beetle. What that indicates to me is that it was the
10 projectile collected during autopsy.

11 MS. KOSSOW: Your Honor, may I approach the
12 witness with Exhibit 121 and the contents are 121 A, B, and
13 C.

14 THE COURT: Yes.

15 BY MS. KOSSOW:

16 Q. Ma'am, I'm going to ask you to look inside 121.
17 There are some envelopes and there's also a box. So let me
18 have you look at those envelopes first. And what I'm asking
19 you to look for out of those envelopes is the one that is
20 identified as containing Q 86530.

21 A. Am I okay to take the envelopes out of the
22 exterior?

23 Q. Yes. Did you find it?

24 A. I did.

1 Q. It was the one on top?

2 A. Yes.

3 Q. Is there any identifying markers on the outside of
4 that envelope that tells you that is Q 86530 and the piece of
5 evidence you were handed during the autopsy?

6 A. Yes. The barcode sticker bearing Q 86530 is
7 attached to the envelope. The relevant information about the
8 case, the date, the evidence description and my initials both
9 on the front and evidence tape seal of the envelope.

10 Q. Okay. I'll have you put that down. Do you see a
11 white box in that envelope as well?

12 A. Yes.

13 Q. And just so we're clear, when you collected the
14 item labeled missile during that autopsy, did you place it
15 directly into the manila envelope?

16 A. No, I did not.

17 Q. What would it have been placed in?

18 A. Oh, I'm sorry. I need to correct myself. I would
19 have placed it directly into the manila envelope.

20 Q. Okay. And did you find that white box?

21 A. I did.

22 Q. On the outside of that white box, is there any
23 writing to indicate that Q 86530 is contained within that
24 box?

1 A. Yes.

2 Q. And it indicates that there's other items in that
3 small box as well, right?

4 A. Yes.

5 Q. Other Q numbers?

6 A. Yes.

7 MS. KOSSOW: At this point, judge, I would ask the
8 Court to admit 121, which is the envelope that the witness
9 just testified to, as well as the white box containing the
10 other items inside of it.

11 THE COURT: We have an envelope that is marked
12 121, a white box marked 121 and some other things that marked
13 121 A, B and C?

14 MS. KOSSOW: Yes. Inside the white box are A, B
15 and C.

16 THE COURT: I see.

17 MS. KOSSOW: But I'm fine putting some further
18 markings on those.

19 THE COURT: I think we should mark the 121 just
20 the box to get a different, an added number.

21 MS. KOSSOW: Absolutely.

22 THE COURT: If you can give it to the clerk, she
23 can fix that for you. I think we can do it alpha, 121, the
24 next alpha.

1 THE CLERK: Your Honor, we have a 121 A, B and C.
2 So the box would be 121?

3 THE COURT: The envelope is 121.

4 THE CLERK: There's four envelopes, your Honor,
5 and there's a box. This is a little confusing.

6 MS. KOSSOW: I'm fine with marking the box as 121
7 D.

8 THE COURT: Because the big envelope is 121, is
9 that correct?

10 MR. VILORIA: At the exhibit marking, your Honor,
11 it was my understanding the entire group was marked 121 and
12 the individual projectiles were marked as A, B, C. Perhaps
13 if we mark this as 121, a following letter.

14 MS. KOSSOW: D.

15 THE COURT: Make the white box 121 D. The
16 envelope is 121. The white box is 121 D. Within 121 D, I
17 understand there's some more.

18 MS. KOSSOW: Yes.

19 BY MS. KOSSOW:

20 Q. So what I'll do is I'll ask you to open 121 D and
21 look and see if you can find Q 86 -- and I forgot my
22 number -- Q 86530.

23 A. Yes.

24 Q. Are you able to tell from that?

1 A. I can tell by the notations made on the packaging
2 that this is -- the piece packaging I pulled is Q 86530.

3 Q. Is there an exhibit marker on the one that you
4 believe that to be?

5 A. Yes. It's 121 C.

6 Q. And, again, you take this item of evidence and you
7 book it in. Where do you book it in?

8 A. I would book it into the Washoe County Sheriff's
9 Office evidence section.

10 Q. Are you aware based on your time with the
11 sheriff's office forensic division that usually further
12 testing occurs on items that you put into evidence?

13 A. Yes. There can be further testing requested on
14 items that I enter into evidence.

15 Q. Is it unusual to see it sort of repackaged in a
16 different way?

17 A. No, it's not unusual.

18 Q. So you can say that Exhibit 121 C is Q 86530, the
19 missile that you collected during Mr. Melendez's autopsy?

20 A. Based on the notations, yes.

21 MS. KOSSOW: Your Honor, the State would move to
22 admit, I believe I already did, but 121, 121 D, and then
23 inside of that 121 C.

24 THE COURT: Counsel, do you stipulate the

1 foundation has been laid?

2 MR. VILORIA: No objection, your Honor.

3 THE COURT: So we have 121, 121 C and D.

4 THE CLERK: 121, 121 D, your Honor, and 121 C. Is
5 that correct, counsel?

6 MS. KOSSOW: Yes, your Honor. I have no further
7 questions, your Honor.

8 THE WITNESS: May I return the items?

9 THE COURT: Why don't you hold on to them right
10 now for cross examination. Mr. Viloria.

11 CROSS EXAMINATION

12 BY MR. VILORIA:

13 Q. Good morning.

14 A. Good morning.

15 Q. Ms. Hahn?

16 A. Yes.

17 Q. Just want to backup a little bit about your
18 education and training and experience. Okay?

19 A. Uh-huh.

20 Q. On November 20th, 2010, you were employed as a
21 forensic investigator?

22 A. Yes, I was.

23 Q. And that is a role within the Forensic Science
24 Division of the Washoe County Crime Lab?

1 A. Yes.

2 Q. Are there distinctions between a forensic
3 investigator 1, 2 or 3?

4 A. There are only distinctions at the time between
5 forensic investigator 1 and a forensic investigator 2.

6 Q. Thank you. On or about November 20th, 2010, what
7 was your classification, so to speak? Were you a forensic
8 investigator 1 or 2?

9 A. I believe by November 2010, I was classified as a
10 2.

11 Q. What does it mean to be classified as a forensic
12 investigator 2?

13 A. It means that you have gone through all the
14 necessary training and evaluations in order to perform crime
15 scene work and other related work independently.

16 Q. Independently, you mean by yourself?

17 A. Yes.

18 Q. Other than your work as a forensic investigator,
19 and -- strike that. Are you currently employed as a forensic
20 investigator?

21 A. No, I am not.

22 Q. What do you do now?

23 A. I'm actually a recent graduate in a masters
24 program, so I am --

1 Q. Congratulations.

2 A. Thank you.

3 Q. Is it relating to the field of forensic science?

4 A. No, it is not.

5 MR. VILORIA: Court's indulgence.

6 THE COURT: Yes.

7 BY MR. VILORIA:

8 Q. Before November 20th, 2010, have you ever had any
9 experience with working within law enforcement?

10 A. Before 2010 and before my position at the
11 sheriff's office -- or within the forensic science division,
12 I worked for the Court Services Division of Washoe County.

13 Q. And that is a division that manages various
14 participants in the court process?

15 A. Yes.

16 Q. Okay. In your report, and you have it up there,
17 correct?

18 A. Yes.

19 Q. You indicate that you attended the autopsy of
20 Kevin Melendez, that's accurate?

21 A. Yes.

22 Q. Were any other forensic crime scene investigators
23 present with you?

24 A. Looking at page one of my report, not that I

1 indicated in my report.

2 Q. Do you have any independent recollection of any
3 other, I'm going to call them FIS, present with you during
4 the autopsy?

5 A. No. I don't have any recollection of that.

6 Q. Based on your testimony today, is it fair to say
7 that your chief function for this case was to photograph
8 evidence, correct?

9 A. One of my functions.

10 Q. One of them. What would you say were the other
11 chief functions you had during your participation in this
12 case?

13 A. My other chief function would be to collect any
14 items that were deemed evidence for the case.

15 Q. When you say collect, does that mean you
16 personally go and retrieve the item you believe is evidence?

17 A. In the case of an autopsy, it might either be
18 where a member of the medical examiners's staff is handing me
19 the item, or in the case of, for example, taking
20 fingerprints, I would do that myself.

21 Q. Okay. So let's talk about the State on direct
22 questioned you about control number Q 86530. Okay. And
23 that's encapsulated in the exhibits we just admitted. Do you
24 recall that?

1 A. Yes.

2 Q. So when you received this evidence -- strike that.
3 Who is Tech Beetle?

4 A. Technician Beetle would have been the individual
5 helping the pathologist conduct the autopsy.

6 Q. Do you have independent recollection of Tech
7 Beetle actually assisting the pathologist during the entire
8 process?

9 A. I don't have immediate recollection. Based on my
10 notations, then, I would -- my assumption would be that she
11 is there.

12 Q. I don't want you to assume. Okay. If you don't
13 recall, that's all you can say.

14 A. I don't recollect at this time.

15 Q. Would it be fair to say, then, do you recollect,
16 or, rather, would it be fair to say you do not recollect how
17 Tech Beetle gave you those items?

18 A. I would recollect that based on my notations.

19 Q. Okay.

20 A. I document the process along with what is being
21 given to me.

22 Q. Okay. So can you walk me through the process that
23 Technician Beetle went through when actually presenting you
24 the quote, unquote, missiles?

1 A. They would have been placed in a manila envelope
2 by her, evidence taped sealed by her. Then they would have
3 been handed to me as part the evidence that was collected
4 from Mr. Melendez.

5 I then take that envelope. I take it back to the
6 Washoe County Sheriff's Office where I place it in a larger
7 manila envelope with my case information, description, Q
8 number and indicating what the envelope states is in --
9 contained and also who I received it from in my description
10 and then place that into Washoe County evidence.

11 Q. It's your testimony today that that would have
12 been the process, but you don't actually recall that process
13 occurring?

14 A. Right now, memory wise, no, I don't recollect that
15 specific day doing that process. But based on my report and
16 my notations and my process as an investigator that I
17 routinely incorporated, that was my -- that would have been
18 my process that day.

19 Q. Did you ever handle, personally handle any of the
20 individual contents of the manila envelope?

21 A. No.

22 Q. For the record, I'm envisioning Technician Beetle
23 is handing you an already sealed envelope and then you take
24 the envelope, make notations and then transport it to the

1 evidence section?

2 A. Yes.

3 Q. So based on your independent knowledge, you did
4 not conduct any other forensic examinations, other than being
5 present, taking photography and making notations on the
6 evidence?

7 A. Yes.

8 MR. VILORIA: Court's indulgence.

9 THE COURT: Okay.

10 MR. VILORIA: Pass the witness, your Honor.

11 THE COURT: Anything further?

12 THE WITNESS: May I return the items to the
13 envelope?

14 MS. KOSSOW: Yes, go ahead.

15 THE COURT: Yes.

16 REDIRECT EXAMINATION

17 BY MS. KOSSOW:

18 Q. Thank you. Ma'am, how long did you work for the
19 forensic science division at the sheriff's office overall?

20 A. I worked for the forensic science division for
21 seven and a half years.

22 Q. How many autopsies do you think you attended in
23 that seven and a half years?

24 A. I honestly I couldn't count. I attended many.

1 Q. More than five?

2 A. Yes.

3 Q. More than 100?

4 A. Possibly.

5 Q. And do you write a report, that document that's in
6 front of you, do you write a report in every case?

7 A. Yes, we do.

8 Q. And why do you do that?

9 A. We want to officially document the actions that we
10 took, the documentation that we made and the evidence
11 collected at the autopsy to then be passed on to, if it's a
12 separate investigating agency and other agencies involved
13 with the case.

14 Q. And when do you write this report in relationship
15 to when you actually attend the autopsy?

16 A. Typically, it is done after the autopsy and after
17 the evidence has been booked into evidence. But there's no
18 specific time frame from when the autopsy occurs to when the
19 report is written.

20 Q. Would you agree it's semi close in time to when
21 you actually attended the autopsy?

22 A. Yes.

23 Q. We talked previously about you took photographs in
24 this case, right?

1 A. Yes.

2 Q. And is it -- just so we get a picture, you are
3 present for the entire process of the autopsy?

4 A. Correct.

5 Q. You are watching as the pathologist goes through
6 the routine of conducting the autopsy?

7 A. Correct.

8 Q. Did you review the photographs you took in this
9 case prior to today?

10 A. I did.

11 MS. KOSSOW: May I approach the witness, your
12 Honor, with Exhibit 54, 55, 56, 57, 58, 59, 60 and 61?

13 THE COURT: Yes.

14 BY MS. KOSSOW:

15 Q. Ma'am, I'm going to show you this series of
16 exhibits and go ahead and look at them to yourself. Do you
17 recognize that series of photographs?

18 A. Yes, I do.

19 Q. What do you recognize them to be in general?

20 A. They are photographs taken during Mr. Melendez's
21 autopsy identifying Mr. Melendez's face, defects located on
22 his back and the projectiles removed from Mr. Melendez.

23 MS. KOSSOW: Your Honor, I'd move for the
24 admission of Exhibits 54 through 61.

1 MR. VILORIA: No objection.

2 THE COURT: The foundation has been laid for 54
3 55, 56, 57, 58, 59, 60 and 61.

4 MS. KOSSOW: Thank you.

5 BY MS. KOSSOW:

6 Q. Contained in the photographs, ma'am, are there
7 pictures of the fragments of the projectiles or missiles that
8 were handed to you by Tech Beetle?

9 A. Yes.

10 Q. So you did see the fragments? You actually took
11 photographs of them?

12 A. Yes, I did.

13 Q. You saw them before they were packaged up and
14 provided to you?

15 A. Yes.

16 MS. KOSSOW: No further questions.

17 MR. VILORIA: Very briefly, your Honor.

18 THE COURT: Certainly.

19 RECROSS EXAMINATION

20 BY MR. VILORIA:

21 Q. Mrs. Hahn, what time did you arrive and attend the
22 autopsy on November 20th, 2010?

23 A. If I may, I'm going to refer to the first page of
24 my report.

1 Q. If that will refresh your recollection, please do
2 so.

3 A. The autopsy began at 10:30 a.m..

4 Q. That was on November 20th, 2010?

5 A. Correct.

6 Q. At what time did you author your forensic report?

7 A. Looking at page three, I signed and dated that my
8 report was complete on December 6th, 2010.

9 Q. Approximately two and a half weeks, correct?

10 A. Correct.

11 Q. And so when did the autopsy conclude, what time?

12 A. Looking on page one of my report, the time
13 completed on the autopsy was approximately 2:00 p.m. on the
14 20th of November 2010.

15 Q. And you recall being present during that entire
16 block of time from 10:30 a.m. to 2:00 p.m.?

17 A. Yes.

18 Q. No breaks?

19 A. Typically, no.

20 Q. The District Attorney asked you about taking
21 photographs of fragments. When you take a photograph of
22 evidence presumably taken out of a body, okay, do you ever
23 handle that evidence to set up the photograph?

24 A. It depends on the item. But in this particular

1 case, I would not have handled the projectile or the missile.

2 Q. Why not?

3 A. Because it's small and you don't want excess
4 handling for it to somehow become lost, anything like that.
5 So you want to handle the item as little as possible to keep
6 the integrity.

7 Q. That's fair. The fragments that you took photos
8 of, it's your testimony that you not one time handled any of
9 the fragments or the projectiles or any other physical
10 evidence that you took photographs of?

11 A. Not until they were in the envelope and handed to
12 me.

13 Q. So you handled them while they were contained
14 within the envelope?

15 A. Correct.

16 Q. One final question. After the autopsy concluded
17 at 2:00 p.m. and you received the envelope, where did you
18 take it?

19 A. I took it back to the Washoe County Forensic
20 Science Division.

21 Q. Did any other technician or forensic crime scene
22 investigator handle the envelope prior to you leaving the
23 autopsy location and going to the evidence section?

24 A. No.

1 MR. VILORIA: No further questions, your Honor.
2 THE COURT: Anything further?
3 MS. KOSSOW: No, your Honor.
4 THE COURT: Do you want to collect the exhibit,
5 Ms. Kossow?
6 MS. KOSSOW: Yes, your Honor.
7 THE COURT: Is this witness excused?
8 MS. KOSSOW: Yes, your Honor.
9 THE COURT: Ma'am, you are excused. Thank you.
10 You may call your next witness.
11 MS. KOSSOW: Thank you, your Honor. The State
12 calls Dr. Kubiczek.
13 (One witness sworn at this time.)
14 THE COURT: Thank you, please be seated. You may
15 proceed.
16 MS. KOSSOW: Thank you, your Honor.
17 PIOTR KUBICZEK
18 called as a witness and being duly sworn did testify as
19 follows:
20 DIRECT EXAMINATION
21 BY MS. KOSSOW:
22 Q. Sir, could you please state your full name and
23 spell your first and last for the record?
24 A. My name is Dr. Piotr Kubiczek, P-i-o-t-r,

1 Kubiczek, K-u-b-i-c-z-e-k.

2 Q. Thank you, doctor. What is your current
3 profession?

4 A. I'm right now Deputy Chief Medical Examiner in
5 Charleston, West Virginia, forensic pathologist.

6 Q. And can you describe what is a forensic
7 pathologist?

8 A. Maybe first I will describe who is pathologist.
9 Pathology in general is a medical science that deals with
10 different diseases. Then forensic pathology is a
11 subspecialty of that medical science. Forensic pathology
12 deals with diseases and also injuries and then applies
13 knowledge about those processes at the court of law.

14 Q. Can you describe for the jurors your educational
15 background that have allowed you to hold the position as
16 forensic pathologist?

17 A. First, I graduated from medical school. It was
18 Medical University of Warsaw, Poland. Then I studied four
19 years -- I'm sorry -- five years in pathology residency at
20 Ball Memorial Hospital, Muncie, M-u-n-c-i-e, Indiana. Then I
21 studied forensic pathology at my forensic fellowship in
22 Dayton, Ohio. It was called the Montgomery County Coroner's
23 Office in Dayton, Ohio. Then I qualified and passed my
24 anatomic pathology boards and then forensic pathology boards.

1 Q. And can you tell me a little bit about your work
2 experience? You described where you're currently working.
3 But prior to your current job, where were you employed?

4 A. Prior to working in West Virginia, I worked
5 actually in Clark County, Las Vegas. I worked at coroner's
6 office, coroner, Medical Examiners Office in Clark County,
7 Las Vegas.

8 Prior to that, I worked about eight years here at
9 Washoe County Office of the Chief Medical Examiner and
10 Coroner in Reno, Nevada.

11 Prior to that, I worked at Clark County Office of
12 Coroner and Medical Examiner, three years. Then prior to
13 that, I worked Dayton, Ohio, as a deputy coroner during my
14 forensic fellowship.

15 Q. In all of those positions, you were a forensic
16 pathologist?

17 A. Yes.

18 Q. Can you describe what your duties in general were
19 when you worked at the Washoe County Medical Examiner's
20 Office?

21 A. I was an assistant medical examiner and my duties
22 included performing postmortem examination to determine cause
23 and manner of death.

24 Q. And, Dr. Kubiczek, could you estimate for the

1 jurors, what's the number of autopsies you've performed in
2 your career?

3 A. Right now, it's about 4,000 autopsies.

4 Q. Have you testified as an expert in the field of
5 forensic pathology prior to today?

6 A. Yes.

7 Q. And how many times have you testified as an expert
8 in the forensic pathology field?

9 A. More than 100 times.

10 Q. And in each of those cases, did you render an
11 opinion as to cause and manner of death?

12 A. Yes.

13 Q. Can you tell us a little bit about what is a
14 postmortem examination?

15 A. Postmortem examination is a type of examination of
16 the body to determine cause and manner of death. We have two
17 basic types of postmortem examination. One is just external
18 examination where we look at the surface of the body to
19 determine if there's a presence of some natural disease or
20 injuries. And then we review medical records to determine
21 cause and manner of death.

22 The ultimate postmortem examination is autopsy,
23 which consists of external examination where we again look at
24 the body surface to determine presence or absence of natural

1 diseases or injuries. And then after opening the body
2 cavities, we look at organs and tissues also to determine
3 presence or absence of natural diseases or injuries. All
4 those examinations, again, help us to determine cause and
5 manner of death.

6 Q. Can you describe what those terms mean, cause and
7 manner of death?

8 A. Cause of death is basically lesion or a tumor or
9 an injury that causes death. This is the cause of death. It
10 could be natural, it could be accident, it could be homicide,
11 suicide. And then this is considered manner of death.

12 Manner of death, it is administrative, actually,
13 category that helps us to determine if -- how a person died.
14 That's manner of death. So we have natural, accident,
15 suicide, homicide, and then we have undetermined manner of
16 death where we don't know really how the person died.

17 Q. And what goes into making that determination?

18 A. Basically, we base the determinant manner of death
19 on police investigation.

20 Q. And couple that with your findings regarding the
21 postmortem examination?

22 A. Yes.

23 THE COURT: Counsel, will you approach, please?

24 (Discussion at the bench.)

1 THE COURT: Ladies and gentlemen of the jury,
2 something has come up that we are going to take a short
3 recess now. It isn't the attorney's fault. It's something
4 we have to handle within the court. So I'm not sure how long
5 it will be. We'll be back with the doctor very soon.

6 But remember during this recess that it is your
7 duty not to discuss the case amongst yourselves or with
8 anyone else, members of your family, friends, coworkers or
9 people involved in the trial, any matter concerning this
10 case.

11 In addition, you may not make any independent
12 investigation into this case. You may not listen to, read,
13 view any news media accounts or any other accounts regarding
14 the case. You may not form or express any opinion about the
15 ultimate outcome of this matter. Should any person attempt
16 to influence you with respect to the case, you must report
17 back to the bailiff immediately.

18 And remember that when I say you can't talk about
19 the case, it includes all of those Internet and electronic
20 methods of communication. Please go into the jury room at
21 this time. Court's in recess.

22 --oOo--
23
24

1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on October 6, 2017, at the hour of 11:00
8 a.m., and took verbatim stenotype notes of the proceedings
9 had upon the trial in the matter of THE STATE OF NEVADA,
10 Plaintiff, vs. LUIS ALEJANDRO MENENDEZ CORDERO, Defendant,
11 Case No. CR15-1674, and thereafter, by means of
12 computer-aided transcription, transcribed them into
13 typewriting as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 34, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 19th day of February 2018.

21

22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207

24

1 4185

2 JUDITH ANN SCHONLAU

3 CCR #18

4 75 COURT STREET

5 RENO, NEVADA

COPY

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

8 IN AND FOR THE COUNTY OF WASHOE

9 BEFORE THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

10 -o0o-

11 THE STATE OF NEVADA,)

12 Plaintiff,)

13 vs.)

CASE NO. CR15-1674

) DEPARTMENT NO. 4

14 LUIS ALEJANDRO)

15 MENENDEZ-CORDERO,)

16 Defendant.)

17 TRANSCRIPT OF PROCEEDINGS

18 TRIAL

19 FRIDAY, OCTOBER 6, 2017, 1:30 P.M.

20 Reno, Nevada

21
22 Reported By: JUDITH ANN SCHONLAU, CCR #18
23 NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
24 Computer-aided Transcription

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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: KELLY KOSSOW, ESQ.

 ZELALEM BOGALE, ESQ.

 DEPUTY DISTRICT ATTORNEY

 75 S. SIERRA STREET

 RENO, NEVADA

FOR THE DEFENDANT: OFFICE OF THE PUBLIC DEFENDER

 BY: LINDA NORVIG, ESQ.

 RICHARD VILORIA, ESQ.

 DEPUTY PUBLIC DEFENDER

 350 S. CENTER STREET

 RENO, NEVADA

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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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PIOTR KUBICZEK	4	20		
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<u>EXHIBITS:</u>	<u>MARKED FOR IDENTIFICATION</u>	<u>ADMITTED INTO EVIDENCE</u>
62		17
63		17
64		17

1 RENO, NEVADA; FRIDAY, OCTOBER 6, 2017; 1:30 P.M.

2 -oOo-

3

4 THE COURT: Counsel, the jury has had their lunch
5 and they are ready to come back. Is there anything we need to
6 put on the record before we continue with the testimony we
7 were in the middle of?

8 MS. KOSSOW: Nothing from the State Your, Honor.

9 MS. NORDVIG: Nothing, Your Honor.

10 THE COURT: We'll go ahead and bring the jury in and
11 get the witness. You can retake the stand.

12 Counsel, will you stipulate to the presence of the
13 jury?

14 MS. KOSSOW: State would so stipulate.

15 MS. NORVIG: Defense so stipulates.

16 THE COURT: Thank you. Please be seated. Counsel
17 for the State, you may continue with your examination.

18 MS. KOSSOW: Thank you, Your Honor.

19

20 DIRECT EXAMINATION OF DR. KUBICZEK CONTINUED

21 BY MS. KOSSOW:

22 Q Doctor, I think we left off we were just getting
23 done explaining manner and cause of death. So let's move on
24 to your work in this case.

1 On November 20 of 2010 at approximately 10:45 a.m., did you
2 perform an autopsy on Kevin Melendez?

3 A Yes.

4 Q That was the Washoe County Medical Examiner case
5 2614A; is that correct?

6 A Yes.

7 MS. KOSSOW: Your Honor, may I approach with the
8 Exhibits 125 and 126 which have been marked for identification
9 only?

10 THE COURT: Yes.

11 BY MS. KOSSOW:

12 Q Doctor Kubiczek, if you need to refer to your
13 reports in this case, they are in front of you. I would just
14 ask that you tell us if you are going to refer to either
15 exhibit and what page you are referring to.

16 A Okay.

17 Q Subject to any defense objection, of course.
18 Speaking of the autopsy of Mr. Melendez, who was present
19 during that autopsy?

20 A During the autopsy, detective Fiore from Sparks
21 Police Department was present. Also Ms. Heather Kohles was
22 also present. She was working for FIS at that time.

23 Q In addition to those two individuals, do you also
24 have technicians that assist you during the autopsy?

1 A Yes.

2 Q Did Mr. Melendez arrive in a sealed body bag?

3 A Yes.

4 Q Do you know what age Mr. Melendez was?

5 A He was a 19 year old male.

6 Q And at the conclusion of your post mortem
7 examination, do you write a report that documents your
8 findings?

9 A Yes.

10 Q And is that called the autopsy protocol?

11 A Yes, it is.

12 Q Is that what I provided you in Exhibits 125 and 126?

13 A Yes.

14 Q We learned from Ms. Hahn or Kohles earlier that
15 photographs are taken during the autopsy; is that true?

16 A Yes.

17 Q Why are photographs important for you in regards to
18 an autopsy?

19 A All the findings important for the case are
20 documented by taking photographs. Those include evidence of
21 injuries, evidence of natural diseases. So all the,
22 especially homicide cases, have an extensive number of
23 photographs taken.

24 Q Do the photographs also document any evidence taken

1 from the body?

2 A Yes.

3 Q I can't recall if I asked you or not before the
4 break, but is there a specific homicide protocol when you are
5 doing an autopsy?

6 A Yes, there is specific protocol for homicides.

7 Q Does that have to do with the collection of evidence
8 and preservation of chain of custody?

9 A Yes.

10 Q Would it assist you, Dr. Kubiczek to go through the
11 photographs of Mr. Melendez' autopsy in order to better
12 explain to the jurors the evidence of injury you saw on him?

13 A Yes.

14 Q I want to start with which has previously been
15 admitted as Exhibit 54. Can you tell us what we are looking at
16 in Exhibit 54?

17 A Yes. This is a photograph of decedent's face. This
18 is called identification photograph. So we can see decedent's
19 face. And then at the base of his neck there is a ruler with
20 our case number which was 10-2614 in this particular case.

21 Q This is Mr. Melendez?

22 A Yes.

23 Q We notice something is in Mr. Melendez' mouth. What
24 would that be?

1 A Yeah, intratracheal tube present in decedent's
2 mouth. It is part of evidence of medical intervention.

3 Q So this is -- strike that. I will move on to
4 Exhibit 55. Can you describe for the jurors the injuries that
5 you first noted on Mr. Melendez?

6 A Yes. Here we can see two defects on decedent's back.
7 Those are entrance gunshot wounds. First on the upper aspect,
8 upper right aspect of the back you can see entrance wound
9 here, and then you can see another entrance wound which is on
10 the posterior or the back aspect of the right shoulder right
11 next to decedent's right armpit. So those two defects are
12 entrance gunshot wounds.

13 Q So let's start with the first one that you circled,
14 the one closer up to his neck. Can you tell me about that
15 injury?

16 A Yes. This entrance gunshot wound initiates the wound
17 pathway, the pathway traveled by the bullet through the
18 decedent's body. So the wound pathway was from decedent's
19 back, surface of the back, the soft tissues of the back, and
20 then the bullet entered the neck on the right side, then
21 perforated vertebral column, cervical vertebral column with
22 the neck and C-3 level. That is the third vertebra. So it is
23 upper aspect of the neck. It perforated the C-3 vertebra and
24 then entered the mouth through the floor of the mouth, hit the

1 teeth on the right aspect of the lower jaw causing some of
2 those teeth to fracture and fallout. Then it stopped inside
3 decedent's mouth.

4 Q Dr. Kubiczek, could I ask you how do you determine
5 that wound pathway?

6 A Basically, I dissect the wound pathway. I go through
7 the tissues where the bullet was traveling. We know that is
8 the wound pathway, because there is bleeding in those tissues.
9 So you can dissect this area, because you can see exactly
10 where the bullet was going through, because there is extensive
11 bleeding in this area. So this is how we determine how the
12 bullet travelled through the body.

13 Q And did that bullet stay intact?

14 A No. This bullet actually fell apart into five
15 smaller fragments.

16 Q Let me show you Exhibit 56. What are we looking at
17 in Exhibit 56?

18 A Exhibit 56 shows a fragment of the bullet that, in
19 this particular case, this fragment was recovered from the
20 left aspect of the neck.

21 Q Is that where you were talking about when you were
22 talking about the bullet sort of fragmenting as it went along?

23 A Yes.

24 Q This is a fragment that you recovered from the body

1 of Mr. Melendez?

2 A Yes.

3 Q I want to show you Exhibit 57. Is it upside down?
4 Sorry. What are we looking at in Exhibit 57?

5 A Here in this exhibit we are looking at the
6 appearance of the damaged teeth on the right aspect of
7 decedent's lower jaw. So on the bottom, we can see here
8 deflected lower lip just to better visualize those injuries
9 caused by the bullet. Then you can see places where there
10 were some teeth.

11 Q Again, that goes back to the pathway which the
12 bullet took through Mr. Melendez' body?

13 A Yes.

14 Q Showing you Exhibit 58, what are we looking at in
15 Exhibit 58?

16 A That is the small fragment of the bullet that we
17 recovered from decedent's mouth.

18 Q And so the exhibit that we just looked at previously
19 had a picture of his mouth, and this is a fragment that was
20 recovered from that same area?

21 A Yes.

22 Q Let me show you Exhibit 59. What are we looking at
23 in Exhibit 59?

24 A Here we can see two fragments of the bullet that we

1 recovered from right aspect of the neck.

2 Q Let me show you Exhibit 60. Again, still staying
3 with the wound pathway, do you recognize what is depicted in
4 Exhibit 60?

5 A Yes.

6 Q What is that?

7 A That is a fragment of the bullet that was present
8 within the spinal canal at the C-3 vertebra level.

9 Q This wound pathway, again, emanates from that first
10 entrance wound that you discussed?

11 A Yes.

12 Q Then finally Exhibit 61. Sorry. I am sorry. Let me
13 ask you about associated injuries first. Does that wound
14 pathway cause some type of other injuries to Mr. Melendez?

15 A Yes. The wounds, I mean the wound pathway perforated
16 the soft tissues of the back, of course, and the neck and the
17 floor of the mouth. Also it transected the spinal column,
18 spinal cord at C-3 level. As we saw, one of the bullet
19 fragments stopped there at C-3 vertebra.

20 Q I want to take you back to Exhibit 55 and ask you
21 about the second entrance wound that you earlier discussed.
22 Wait. Before I move on, can we go back to the first what do
23 you actually call this type of injury?

24 A Well, those are entrance gunshot wounds. In this

1 case, indeterminate range of fire.

2 Q Can you explain a little bit what you mean when you
3 say that?

4 A All right. I can estimate ranges of fire in case of
5 gunshot wounds based on appearance of those, especially
6 entrance gunshot wounds. Basically, I look at the skin
7 surface, and I look for the presence or absence of soot,
8 gunpowder particles, gunpowder stippling. Gunpowder stippling
9 is basically very small abrasions caused by unburned
10 gunpowder. When we fire a gun, it is not only the bullet
11 coming out of the the barrel, but then you have also other
12 things like soot. Particles are coming out and fire are
13 coming out from the barrel of the gun. And depending on how
14 far the gun is away from the skin surface, you can see some
15 changes on the skin surface. And based on those changes on
16 the skin surface, some presence or absence of gunpowder
17 stippling or those little abrasions caused by unburned
18 gunpowder, we can determine the range of fire, estimate the
19 range of fire. And, basically, you have contact range where
20 the gun barrel is touching the skin surface. Then you have
21 intermediate range where you have presence of gunpowder
22 stippling on the skin surface. In case of handguns, it is
23 about two to three feet away, within two to three feet away
24 from the skin surface, and two to three feet you have distant

1 range for gunshot, gunshot wound.

2 Q In the case of Mr. Melendez were you able to tell a
3 range on either of his entrance wounds?

4 A No. Because when he was fired -- when he was shot,
5 sorry, he had clothing present and sometimes clothing stops
6 gunpowder particles hitting skin surface. So in those cases
7 where there is clothing involved, I call those ranges
8 indeterminate because only on the inspection of clothes may we
9 determine the true range of fire. And, of course, true range
10 of fire may be determined through test firing of the gun, and
11 usually how it is done, if there is a question about range to
12 fire. My findings regards to range are basically
13 approximations.

14 Q So let's talk about that second gunshot wound, the
15 one you referred to sort of next to Mr. Melendez' right
16 armpit. Can you describe that wound for the jurors?

17 A Yes. The wound pathway perforates, again, the soft
18 tissues of the back, and then goes into the right aspect of
19 the neck. And, actually, the bullet stopped on the right
20 aspect of the cervical vertebra number five. So the second
21 bullet entered the neck. It entered the lower part of the
22 neck. The first bullet entered the upper part of the neck and
23 then all the way to the mouth. The second bullet from the
24 other gunshot wound comes from the posterior aspect of the

1 right shoulder, entered the right neck and the bullet stopped
2 at the vertebral column at the C-5 level.

3 Q Did you recover any projectile related to that
4 gunshot wound?

5 A Yes.

6 Q Where did you recover that projectile?

7 A I recovered it sitting right next to the vertebral
8 column at C-5.

9 Q Let me show you what has been admitted as Exhibit
10 61. Do you recognize what is contained in 61?

11 A Yes.

12 Q What is that?

13 A That is the bullet that I found at C-5 level,
14 perivertebral region. It didn't actually enter the vertebral
15 column. It was stopped at the end of the vertebra.

16 Q Based totally on your post mortem examination and
17 overall investigation into Mr. Melendez' cause of death, did
18 you arrive at an opinion?

19 A Yes.

20 Q What was that opinion?

21 A I determined that decedent's cause of death is
22 multiple blunt force -- I mean multiple gunshot wounds. And
23 manner of death, how he died, was homicide.

24 Q I want to move on to November 22nd of 2010. Did you

1 perform an autopsy at approximately 9:00 a.m. on an individual
2 by the name of Moises Vasquez?

3 A Yes.

4 Q Was that medical examiner case 10-2617A?

5 A Yes.

6 Q Again, could you tell me who was present during the
7 autopsy?

8 A During the autopsy, detective Fiore from Sparks
9 Police Department was present and also FIS technician Marci
10 Margritier was present during the autopsy.

11 Q Ms. Margritier was from FIS?

12 A Yes.

13 Q Did you have a technician assisting you as well at
14 this autopsy?

15 A Yes.

16 Q Again, did Mr. Vasquez arrive in a sealed body bag?

17 A Yes.

18 Q And what was the age of Mr. Vasquez?

19 A His age was 21.

20 Q Same question, did you, at the end of your post
21 mortem examination and investigation, did you memorialize your
22 findings in a report. Yes.

23 Q And that was autopsy protocol?

24 A Yes.

1 Q In front of you is Exhibit 126.

2 A Yes.

3 Q Was Mr. Vasquez' autopsy also memorialized using
4 photographs?

5 A Yes.

6 Q For those same reasons you previously discussed?

7 A Yes.

8 MS. KOSSOW: Your Honor, may I approach the witness
9 with Exhibits 62, 63 and 64?

10 THE COURT: You may.

11 BY MS. KOSSOW:

12 Q Doctor, I'd ask you to look at those three
13 photographs. Do you recognize who is depicted in those
14 photographs?

15 A Yes.

16 Q Who is it?

17 A Mr. Moises Vasquez.

18 Q Do these three photographs accurately reflect what
19 you saw as far as injuries on Mr. Vasquez on November 22,
20 2010?

21 A Yes.

22 MS. KOSSOW: Your Honor, I move for admission of
23 Exhibits 62, 63, 64.

24 THE COURT: Counsel.

1 MS. NORDVIG: No objection.

2 THE COURT: 62, 63 and 64 are admitted. The
3 foundation has been established. You may proceed.

4 (Exhibits 62, 63 and 64 admitted in evidence.)

5 MS. KOSSOW: Thank you.

6 BY MS. KOSSOW:

7 Q Again, Dr. Kubiczek, I will inquire into
8 Mr. Vasquez' injuries. I will use the photographs. I will
9 show you Exhibit 62. What are we looking at in Exhibit 62?

10 A This is again identification photograph presenting
11 decedent's face. There is also a ruler with the case number
12 6170. The decedent's right cheek you can see tissue defect.
13 This is an entrance gunshot wound.

14 Q Again, we see some material in Mr. Vasquez' mouth.
15 What is that?

16 A Yes, we can see intratracheal tube in his mouth.

17 Q Let me show you Exhibit 63. What are we looking at
18 in Exhibit 63?

19 A This is close up photograph of the entrance wound on
20 the decedent's right cheek. You can see there is no gunpowder
21 stippling present on the skin surface. That indicates this is
22 a distant range of gunshot wound. It means in case of handguns
23 it is about farther than two to three feet away from the skin
24 surface of the position.

1 Q Could you talk a little bit about the wound pathway
2 related to this single gunshot wound?

3 A Yes. The wound pathway perforated the soft tissues
4 of right cheek, went through bone then base of the skull then
5 right vertebral hemisphere. Right cerebral hemisphere. And
6 then the bullet got embedded in back of decedent's head in
7 occipital bone. And the trajectory was, how the bullet moved
8 inside the body, was from decedent's front to back, right to
9 left and downward.

10 Q Did you recover any type of projectile fragments
11 from Mr. Vasquez?

12 A Yes.

13 Q Where did you recover it from?

14 A I recovered it from back of decedent's head from the
15 occipital bone.

16 Q Showing you Exhibit 64. What are we looking at in
17 Exhibit 64?

18 A That is the irregular metallic projectile I
19 recovered from decedent's back of his head.

20 Q Dr. Kubiczek, were any of the fragments recovered
21 from either Mr. Melendez or Mr. Vasquez in a perfect bullet
22 shape?

23 A No.

24 Q Meaning they had either fragmented or torn apart at

1 some point?

2 A Yes.

3 Q What caused them to do that, do you know?

4 A I mean, I am not --

5 MS. NORDVIG: I am going to object.

6 THE WITNESS: -- expert.

7 MS. NORDVIG: Outside the scope of his expertise.

8 THE COURT: I think he answered that already, so you
9 can move on.

10 BY MS. KOSSOW:

11 Q Can you talk about the associated injuries to
12 Mr. Vasquez based on that single gunshot wound under his eye?

13 A Would you repeat the question?

14 Q Could you talk about any associated injuries that
15 Mr. Vasquez suffered based on that gunshot wound underneath
16 his eye?

17 A Yes. There was hemorrhage or bleeding inside the
18 soft tissues of the right cheek, and the brain tissue was
19 lacerated or torn apart and fragmented. There was bleeding
20 inside the brain and outside of the brain.

21 Q Based on the totality of your post mortem
22 examination and investigation, did you form an opinion as to
23 the cause of death as to Mr. Vasquez?

24 A Yes.

1 Q What was that?

2 A His cause of death is penetrating gunshot wound of
3 the right cheek. Manner of death is homicide.

4 MS. NORDVIG: Thank you. I have no further
5 questions.

6 THE COURT: Cross-examination.

7

8 CROSS-EXAMINATION

9 BY MS. NORDVIG:

10 Q Good afternoon, Dr. Kubiczek. Welcome back.

11 A Thank you.

12 Q As part of the investigation into the cause of death
13 for Mr. Melendez, were there toxicology tests done?

14 MS. KOSSOW: Objection.

15 THE COURT: Sustained.

16 MS. NORDVIG: I am not asking what they were. I am
17 just asking if they were done.

18 THE COURT: I don't think it is relevant. I think
19 there is a prior ruling on that.

20 MS. NORDVIG: Thank you. No questions.

21 THE COURT: Anything further?

22 MS. KOSSOW: Not from the State, Your Honor.

23 THE COURT: She said no questions. May this witness
24 step down?

1 MS. KOSSOW: Yes from the State, Your Honor.

2 THE COURT: You may step.

3 THE WITNESS: Thank you.

4 THE COURT: You're excused.

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 THE COURT: I think that might be one of your

8 exhibits.

9 MS. KOSSOW: Yes. I will take those back.

10 THE COURT: Ladies and gentlemen of the jury, it is

11 Friday afternoon, and it is not Friday the 13th, but it has

12 not been a very steady day for all of you, and I want to

13 apologize for that. I expected we would be hearing testimony

14 the remainder of today, however, we have had some sad news

15 that is really making it very difficult. As you can see, we

16 don't have the regular court reporter. We don't have our

17 regular court clerk. And that is because this is Judge

18 Flanagan's chambers and his courtroom. I think you understand,

19 we told you he's been very ill. He has been in the hospital.

20 We do not expect that he will recover, so you will be hearing

21 on the news I think later today that we have lost Judge

22 Flanagan. So it is a very sad day for all of us in the court.

23 And I think it is best that we recess today for the remainder

24 of the day.

1 Now when Judge Flanagan asked me to come in on
2 Monday, we thought it was just going to be that day, because
3 he had the cold or the flu. And then when I came back on
4 Wednesday, we thought maybe it would just be Wednesday, but
5 now it will be the remainder of the trial.

6 On Monday you may be moved to another courtroom. I
7 have to talk to the deputies who have been handling your care,
8 but we probably will put you into a courtroom that I am a
9 little more familiar with. Its my own courtroom, and it has
10 my own chair and so I am not quite so much a fish out of
11 water, because, as you know, you were called for two weeks. I
12 am hopeful we can still finish this trial next week, but it
13 may go into the following week a little bit. I don't think
14 very much if it does at all. So talking to counsel, even with
15 this delay and the delay we anticipate we'll have being dark
16 next Thursday, we still think we'll be able to get the case
17 finished by Friday. If not Friday, then the following Monday.
18 So if any of you have any significant issues, that would be
19 Monday the the 16th, let the bailiff know please so that I
20 know that as I work with the schedule next week.

21 We appreciate your patience with us. This is
22 something that no one anticipated. The attorneys didn't
23 anticipate it and, of course, the Court didn't either. It has
24 nothing do with your case or this trial. It happened to work

1 out this way.

2 So we are going to let you go for the day and come
3 back, you will come back the same way you have been. You will
4 check in with the people taking care of you just as you have
5 been. But don't be surprised if they take you to a different
6 floor on Monday morning.

7 Do any of you have any questions you would like me
8 to answer at this time? All right. So as you leave today for
9 the weekend, I will give you your admonition and that is to be
10 reminded that it is your duty not to discuss among yourselves
11 or with anyone else including members of your family, friends
12 co-workers or people involved in the trial any matter having
13 to do with this case. This includes discussing the case or
14 anything to do with it, the parties or attorneys verbally in
15 person, by phone, in writing or on the Internet, through any
16 Internet features such as Internet chat rooms, blogs, bulletin
17 boards, Facebook, Twitter, e-mails, text messages, websites or
18 any other electronic method of communicating.

19 It is your further duty not to form or express any
20 opinion regarding the guilt or innocence of the defendant
21 until the case has been finally submitted to you for decision.

22 You are not to read, look at, view, or listen to any
23 news media accounts or any other accounts or commentary
24 including any online information about the trial or anyone or

1 thing associated with it. You will be required to decide on
2 questions of fact in this case from the evidence received in
3 this trial and not from any other source.

4 Do not make any independent investigation into or
5 about the case or the subject matter of the case. This means
6 for example that you must not do any research such as
7 consulting dictionaries, searching the Internet or using other
8 reference materials, visit the scene or conduct any
9 experiments.

10 Should any person attempt to discuss the case with
11 you or in any manner attempt to communicate with you or
12 influence you with respect to it, you must advise the bailiff
13 immediately who in turn will advise me.

14 Have a nice weekend and I will see you on Monday.
15 You may step out. It will be 9:00 o'clock Monday morning.

16 (Whereupon the jury left the courtroom.)

17 THE COURT: Counsel, do you have anything for the
18 court before we recess for the weekend?

19 MS. KOSSOW: Nothing from the state, Your Honor.

20 MS. NORVIG: Nothing from the defense.

21 THE COURT: Look for us on the fourth floor Monday.
22 Thank you. Court's in recess.

23 (Whereupon, the proceedings were concluded.)

24 --oOo--

1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)
4

5 I, Judith Ann Schonlau, Official Reporter of the Second
6 Judicial District Court of the State of Nevada, in and for the
7 County of Washoe, DO HEREBY CERTIFY:

8 That as such reporter I was present in Department
9 No. 4 of the above-entitled court on Friday, October 6, 2017,
10 at the hour of 1:30 p.m. of said day and that I then and there
11 took verbatim stenotype notes of the proceedings had in the
12 matter of THE STATE OF NEVADA vs. LUIS-ALEJANDRO
13 MENENDEZ-CORDERO, Case Number CR15-1674.

14 That the foregoing transcript, consisting of pages
15 numbered 1-25 inclusive, is a full, true and correct
16 transcription of my said stenotypy notes, so taken as
17 aforesaid, and is a full, true and correct statement of the
18 proceedings had and testimony given upon the trial of the
19 above-entitled action to the best of my knowledge, skill and
20 ability.

21 DATED: At Reno, Nevada this 15th day of February, 2018.
22
23

24 /s/ Judith Ann Schonlau
JUDITH ANN SCHONLAU CSR #18

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 16th day of August 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Jennifer P. Noble, Chief Appellate Deputy
Washoe County District Attorney's Office

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

Luis Alejandro Menendez-Cordero (#1190081
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301

John Reese Petty
Washoe County Public Defender's Office