

1 MS. NORDVIG: I would offer the entire packet
2 Exhibit 142 at this time.

3 MS. KOSSOW: State has no objection.

4 THE COURT: Exhibit 142 is admitted.

5 (Exhibit 142 admitted in evidence.)

6 MS. NORDVIG: Thank you. May I approach?

7 THE COURT: You may.

8
9 STACI MOFFATT

10 called as a witness, having been first duly sworn,.

11 took the witness stand and testified as follows:

12
13 DIRECT EXAMINATION

14 BY MS. NORDVIG:

15 Q Ms. Moffatt, good afternoon. How are you employed?

16 A Mitigation Specialist for the Washoe County Public
17 Defender's Office.

18 Q Can you speak into your microphone, please?

19 A I am the Mitigation Specialist for Washoe County
20 Public Defender's Office.

21 Q Thank you. And as a part of your job, have you been
22 assigned to the case of the State of Nevada versus Luis
23 Alejandro Menendez-Cordero, CR15-1674?

24 A Yes, I have.

1 Q And you have been -- Has part of your assignment
2 been to contact family members of Mr. Menendez-Cordero?

3 A Yes.

4 Q Were you able to do that?

5 A Yes.

6 Q And those family members that you contacted, where
7 did you locate them?

8 A They were contacted by telephone and electronically
9 in California and El Salvador.

10 Q And you have been in the courtroom listening to some
11 of the testimony; correct?

12 A Yes.

13 Q And the witnesses that you have heard have all been
14 located in Petaluma, California?

15 A Yes.

16 Q Did you receive a series of letters from other
17 individuals also in California and in El Salvador?

18 A Yes, I did.

19 Q And do you recall who those letters are from?

20 A From Mr. Cordero's mom, stepmom in California, from
21 an uncle in California. An aunt in California and in El
22 Salvador. Half brother, half sister and mother.

23 Q And do you know the name of his half brother, half
24 sister and mother?

1 A His half brother is Nelson Aguilar Cordero. His
2 half sister is Joselin Aguilar Cordero. His mother is Matilda
3 Cordero.

4 Q The people who have not testified prior to you
5 taking the stand this afternoon, did you receive letters from
6 them or e-mails, do you remember?

7 A I have scanned in letters and also e-mails.

8 Q Okay. And do you recall the people who were not
9 present by telephone, do you recall their name?

10 A His family in El Salvador I just named.

11 Q As well as California?

12 A In California his uncle Oscar. His aunt and his
13 stepmom, Juana Menendez.

14 MS. NORDVIG: May I approach?

15 THE COURT: You may.

16 BY MS. NORDVIG:

17 Q I am showing you what has been marked and admitted
18 as Exhibit 142. Do you recognize those?

19 A Yes, I do.

20 Q How do recognize that?

21 A These are the letters that I collected from the
22 various family members.

23 Q And can you find the letter from Juana Menendez?

24 A Yes.

1 MS. NORDVIG: And with the Court's permission, could
2 Ms. Moffatt read that into the record, please?

3 MS. KOSSOW: Judge I would object. The State is not
4 opposed to the introduction of these letters. It would be
5 cumulative to read it into the record and then offer it as
6 well especially since the person is not here.

7 MS. NORDVIG: We publish exhibits all the time. I
8 could put it on the E.L.M.O. machine and have the jurors read
9 it to themselves if the Court would prefer.

10 THE COURT: I will allow the letters to be read.

11 MS. NORDVIG: Thank you. I appreciate that. Would
12 the Court like all of the letters read?

13 THE COURT: Not the ones we have already heard.

14 MS. NORDVIG: No, no. The remaining letters.

15 THE COURT: It is up to you.

16 MS. NORDVIG: We will be asking for that at this
17 time.

18 BY MS. NORDVIG:

19 Q Can you start with Juana's letter first?

20 A The letter is dated October 5, 2017. Addressed: To
21 Whom it May Concern. I am Luis' stepmother. I knew of Luis
22 since he was about two years old before I married his father.
23 I met him in person in 2001 when we all went to El Salvador.
24 We wouldn't go that often because of all the violence there.

1 But that time he spent a few days with us. He was loving and
2 caring with his brother and sister, very protective of them.

3 We tried to get him to come live with us. It took
4 longer than we wanted, first because his mother opposed to it,
5 and because the immigration process was long. It was not until
6 2009 that he came to live us. By then he had been influenced
7 by the gangs and by friends that he grew up with. But even
8 then here at home he was a good person. He was respectful to
9 me and helpful. I remember coming home from work and he had
10 done all the dishes and was sweeping the floor. I had not
11 asked him to, and he didn't have to, but he did. He likes to
12 cook and willing to help those who need it. We wanted him to
13 go to school. He was doing okay, getting used to living with
14 us. He was working with his dad, a part time job in
15 construction.

16 By then, some of his past friends had come to
17 California. I guess he had no contact with them and we were
18 hoping it would stay like that until one day that Luis' cousin
19 took him to a nearby amusement park and by coincidence his
20 past friends were there too. Since they started to call him
21 and they pulled him back into their way of living. This broke
22 our hearts.

23 I know that inside he's a good person a good father
24 to his son. He's always asking for him and has asked us to

1 take care of his baby. I ask you to consider this. Luis is
2 still alive and he still has a chance to change his ways. This
3 is something that he was forced into because of the way he was
4 raised and where he was raised. Please consider that. Thank
5 you.

6 Q Did you also receive a letter from Nelson Alexander
7 Aguilar Cordero?

8 A Yes, I did.

9 Q What is your understanding of the relationship
10 between Nelson Cordero and Mr. Luis Alejandro Menendez-
11 Cordero?

12 A Nelson is Luis' younger half brother. He lives in
13 El Salvador.

14 MS. NORDVIG: Your Honor, may the witness read the
15 letter?

16 THE COURT: Yes.

17 MS. NORDVIG: Thank you.

18 THE WITNESS: My name is Nelson Alexander Aguilar
19 Cordero. I am Luis Alejandro Menendez' brother. During the
20 time that we lived together, he was always taking care of me.
21 Many times he was like a father to me even though I had a
22 father who never had any interest on us.

23 We grew up in a very poor house. We were four
24 children. The third one, Luis Alejandro, was always a good

1 influence for me. He defended me several times. Adriana, who
2 is the oldest sister, was not close to us. Even now as a grown
3 up she acts the same way. She doesn't talk to us at all. I
4 think she has her reasons.

5 I remember that many times we were hungry. We
6 didn't have anything to eat. Luis was 14 years old. I was ten.
7 Luis always found a way to give us something to eat. He made
8 rice with salt or he gave us old bread. Sometimes we picked
9 mangos from the tree to eat. I always wanted to be with him,
10 but since I was younger, he didn't let me be with him all the
11 time. Now I understand the reasons. Luis worked with my
12 grandmother filling up water containers. I remember my
13 grandmother paid him three to five dollars per day.

14 I know what my biological father did for me cannot
15 compare to what Luis Alejandro did for me. There were times
16 when I didn't have shoes to wear. He bought me a pair with
17 his earnings. He bought me a pair of shoes called Bolitos. He
18 paid three dollars. I felt very happy because this didn't
19 happen often to have new clothing.

20 When I think about all of this, I realized we
21 suffered a lot and he suffered more than us because he had to
22 take care of us and put up with my mother's beatings.

23 We never received presents, and Luis never had a
24 loving mother. Then he joined a group of young guys who also

1 lived in the streets of Santa Ana. With them he learned to
2 smoke. One day he returned home and confessed to my mother he
3 was a gang member. My mother yelled at him and the beatings
4 continued. He ran away from my house by getting up on the roof
5 to avoid the beatings.

6 This is how Luis Alejandro started his life. There
7 was no one to teach him right from wrong or better himself.

8 The next episodes were when the authorities from El
9 Salvador started chasing him. They arrested him and hit him.
10 This happened many times. I remember one time when he was
11 arrested in one store along with other young guys who used to
12 hang out with him. The policeman hit him on the head with a
13 rifle. It seemed funny to them to hit him like that in front
14 of my mother and myself. They made him get on his knees.
15 They stepped on his legs to hurt him. All I could think then
16 was to take my mother away from there so she didn't have to
17 see her son suffering like that.

18 The police in El Salvador don't know about human
19 rights. If you get arrested for something, they hit you and
20 yell at you.

21 Another time I witnessed when he was arrested by the
22 police, they smashed his face against a wall burning his body
23 with hot keys. There were enumerable occasions when I
24 witnessed this kind of abuse.

1 Then everything seemed to be calmed. Luis met a
2 woman with whom he had a child here in El Salvador. People
3 judge you for what they see not for how you really are.

4 When his son was born, you could see Luis'
5 motivation and enthusiasm to be a better person and to have a
6 good life. He demonstrated he could defend his family and do
7 things in life. He helped many people despite the idea people
8 have about El Salvadorean gang members.

9 Many times I didn't have anything to eat. Luis
10 helped me and other people. When he helped me and others he
11 didn't do it just using dirty money but money he earned by
12 raising dogs and selling their pups.

13 I don't judge anybody. We are all human beings and
14 make a lot of mistakes. Later in life we pay for our
15 mistakes. But I also realize the good things Luis did in
16 life.

17 I am a 22 year old man. Luis never taught bad
18 things, never pushed me to be a gang member. Sometimes in
19 life we make mistakes. Sometimes it is too late to change
20 parts of our lives. I just hope that God has mercy on you.

21 Luis, if you read this, you know how capable you
22 are. Don't follow your impulses and stay calm. I know it is
23 hard to not to be able to see your son. Your son is the best
24 thing for you. Be patient. God has something for you.

1 If you use logic, you could influence many young
2 boys who could be in danger. Your testimony is not even half
3 of what you went through, and this could save many others. I
4 only ask you to be patient. I know it is hard to understand
5 it.

6 May the grace of God be with you. He knows what is
7 best for you, and don't make a mistake by not believing in
8 him. When you least expect it, God will surprise you. You
9 will see that everything is going to be behind you and
10 something good will come up for you.

11 Do you remember that song El Alfarer? Apply it to
12 your life. I love you my brother. For me you are an example.
13 You don't judge a book by its cover. Thanks to you I have a
14 lot of experience for the good things that you taught me.
15 Take care of yourself. I love you.

16 Years went by. We were in our house listening to
17 the arguments from our father as well as listening to my
18 mother who was screaming and yelling at us. I witnessed when
19 my mother used to hit Luis and him, Luis, trying to escape
20 from the beatings. This happened too many times until one day
21 my mother kicked Luis out of my house. Then he was living in
22 the streets without having anything to eat, having a place to
23 bathe or to change clothes. I even remember when he was
24 sleeping by a tree.

1 When I think about our childhood, I realize we had
2 suffered a lot and Luis Alejandro suffered the most because he
3 had the hardest job to take care of us and to put up with my
4 mother's beatings. We never had presents, and Luis never had
5 a hug or loving word from my mother. The environment in which
6 Luis grew up contributed to his decisions. He started to
7 smoke and drink with a group of young guys. When he returned
8 home, he was not the same anymore. He will leave home and
9 came back late. Then he confessed to my mother he was a gang
10 member. My mother yelled at him and beat him again. Luis ran
11 away by getting to the roof of my house to escape the beatings
12 from my mother. Luis didn't have a person in my house to
13 encourage to live a good life.

14 After this, we started having problems with the
15 authorities from El Salvador. The policemen abusing from
16 their power arrested and hit Luis. I remember one time he was
17 arrested in a store along with other young kids.

18 BY MS. NORDVIG:

19 Q The last two, three paragraphs appear to be a repeat
20 from earlier in the letter; is that correct?

21 A That is correct.

22 Q But that is how it came to us?

23 A Exactly.

24 Q Have you had an opportunity to be in communication

1 with Nelson Cordero since Friday's jury verdict came in?

2 A Yes.

3 Q Did he ask you not to read this letter?

4 A No, he did not.

5 Q Is he interested in the proceedings that we are
6 going through today?

7 A Yes, he is.

8 Q Did he ask you anything about those?

9 A He asked me to call him tonight and let the family
10 know what the outcome is.

11 Q Were you also in contact with Joselin Aquilar
12 Cordero?

13 A Yes, I was.

14 Q And do you know what relationship she is to Luis
15 Alejandro Menendez?

16 A She's Luis' half sister and the youngest in the
17 family.

18 Q Have you received a letter from her?

19 A Yes, I have.

20 MS. NORDVIG: Your Honor, would the court allow
21 reading that letter now?

22 THE COURT: Yes.

23 BY MS. NORDVIG:

24 Q Go ahead.

1 A My name is Joselin Aguilar Cordero. I am Luis
2 Alejandro's sister. I want to relate some part of Luis
3 Alejandro Menendez as a brother. He was always with us. He
4 used to take care of us when my mother went to work or to
5 drink. I am the youngest of four, and he always took care of
6 me.

7 Luis Alejandro always looked for food to feed us
8 when we didn't have anything to eat. He made us rice with
9 salt so we could have something. He slept with me, always
10 laid awake waiting for my mother's return home. When she came
11 back she yelled and hit Luis. He made sure we were locked in
12 a room.

13 He always assumed the role of a father as my father
14 was never with us. My mother came home drunk and there was
15 Luis to protect us. I don't know when things changed. I only
16 know my mother kicked Luis out of the house. Then I saw him
17 in the streets. He looked very dirty and always wearing the
18 same clothes. It broke my heart to see my brother like that,
19 but I was too young. I couldn't do anything for him.

20 Then I heard he became a gang member. I didn't
21 understand what that was. Later on I witnessed the way the
22 policemen yelling and hitting him.

23 I witnessed how the policemen beat him. They also
24 threatened me when I went to see when he was detained. It was

1 not pleasant to see how they were beating him.

2 As a brother, he's excellent. He always protected
3 me. I always saw good things in him. He has a good heart. In
4 every colony we lived, he was loved by the neighbors. I
5 remember he didn't have a good childhood or a good adolescence
6 but his priority was to take care of us. I say again he has a
7 good heart. I know God has a purpose for him. I know God is
8 disciplining him.

9 My father used to give him good advice, but because
10 of the bad influences, now he's paying the consequences. I
11 just hope to see my brother again and tell him how much I love
12 him and let him know how thankful I am for the way he
13 protected us. We love you, Luis Alejandro. God knows what
14 he's doing.

15 Q And the original of that letter is in Spanish; is
16 that correct?

17 A Yes, it is.

18 Q Did you also have communication from Luis' aunt in
19 El Salvador?

20 A An aunt in California.

21 Q I am sorry. Did that letter come in Spanish
22 originally?

23 A Yes, it did.

24 Q Is it dated October 5, 2017?

1 A Yes.

2 MS. NORDVIG: Your Honor, may she read the letter
3 into the record?

4 THE COURT: Yes.

5 BY MS. NORDVIG:

6 Q I would note you are reading the translation,
7 correct?

8 A Yes. I am Luis Alejandro's aunt and practically
9 know him since he was born. I didn't have the opportunity to
10 be close to him. I know he was a good child, nice and happy
11 like a child should be. Even though his childhood wasn't easy
12 because he lived with his mother, step siblings and his
13 stepfather who used to hit him and punish him. Luis Alejandro
14 used to work with his grandmother and uncle. His job was
15 helping in the kitchen. His grandmother and uncle used to
16 sell food in the market. He used to wash dishes and clean up
17 the kitchen. He learned to cook and he enjoyed.

18 Luis Alejandro didn't have an easy childhood same as
19 many children in El Salvador. My family told me sometimes he
20 didn't have food to eat. His older sister will ask for food
21 to my aunt to feed Alejandro. I can attest that Luis Alejandro
22 is an excellent loving father to his son. He's patient and
23 loving to him. He's a good father, and there are not many
24 father's like him. It is very hard for him to be away from his

1 son.

2 As my nephew, he was always very respectful and had
3 a good attitude towards us. I am extremely hurt knowing what's
4 happening in his life, and pray to God to take care of him,
5 help him to get ahead in life and be better every day.

6 Q Were you also in contact with his uncle named Oscar?

7 A Yes, I was.

8 Q Did you receive a letter from Oscar dated October 5,
9 2017?

10 A Yes.

11 MS. NORDVIG: Your Honor, may the witness read that
12 letter as well?

13 THE COURT: Yes.

14 MS. NORDVIG: Thank you?

15 BY MS. NORDVIG:

16 Q Please read the letter.

17 A To whom it may concern: I am the uncle of Luis
18 Alejandro. I met him since he was a baby during my trips to
19 El Salvador. Since then, I started to love him as if he were
20 my own son. I saw him grow up. I remember that since he was a
21 little boy he was very loving, humble and very loved by
22 everyone. I wanted to bring him to this country when he was
23 younger but because he was not a U.S. resident, it was not
24 possible. Unfortunately, he grew up in an unsafe environment

1 starting with his mother. His mother had an alcohol use
2 problem for many years. His maternal uncle who lived at close
3 proximity had the same problem. For that reason Luis seeked
4 comfort in my uncle's house. He was and is loved at that home.
5 They were able to give him love and affection the whole time
6 he lived in El Salvador. Unfortunately, because he did not
7 grow up with the love of his father he looked for that
8 attention and affection in other people. Those people led him
9 down the wrong path as an adolescent. When my brother, his
10 father, was able to legally bring him to this country, he had
11 been groomed by a gang. The family tried to help him leave
12 these bad influences, however, the gang members looked for him
13 and found him wherever he was. I know that he has a big heart
14 and loves us very much just as we love him. I know that he
15 has changed a lot, possibly because he now has a son who he
16 loves with all of his soul. As an uncle, I love him and always
17 will. I will try to help him and his son in anything that is
18 possible. God willing, Luis will have the best possible result
19 from this situation so that one day he can be with his son and
20 with the rest of family.

21 Luis and I have always not only been uncle and
22 nephew, but good friends as well. He has always been very
23 respectful with me, my wife and grown children all of whom
24 love him very much. It makes me sad that when I call his son's

1 mother to check in on Jaden, the baby calls me dad thinking I
2 am Luis. That makes me wish they could be together. My family
3 and I will be waiting for him always, and we'll be ready to
4 give him more love and affection and be able to help him
5 emotionally. Sincerely Oscar, Luis Alejandro's uncle.

6 Q Have you also had contact with
7 Mr. Menendez-Cordero's mother in El Salvador?

8 A Yes, I have.

9 Q What is her name?

10 A Her name is Matilde Delfina Cordero.

11 Q Was she able to send a letter?

12 A Yes, she was.

13 Q Do you have that letter in front of you?

14 A Yes, I do.

15 MS. NORDVIG: Your Honor, may the witness read that
16 letter?

17 THE COURT: Yes.

18 BY MS. NORDVIG:

19 Q Go ahead and read it.

20 A My name is Matilde Delfina Cordero. I am the mother
21 of Luis Alejandro Menendez-Cordero, and the reason for this
22 letter is to narrate a little of the life of Luis Alejandro
23 about how his childhood was. To begin with, I was an
24 alcoholic. I am conscious of the bad way I treated my son

1 because of my alcohol problem. I used to yell and hit Luis
2 Alejandro. I didn't think about the damage I was causing him.
3 I even kicked him out of my house once due to my alcohol
4 issues. I hurt him a lot with my behavior, and I got him away
5 from me and didn't realize in what moment he changed.

6 I remember when I kicked him out of the my house and
7 for a few days I didn't know anything about him. When I saw
8 him back, he had already pierced his ears and he was hanging
9 out with a group of young kids, and he had a cigarette in his
10 hand.

11 In one occasion when I came home the fire fighters
12 were already there and Luis had pulled his newborn sister
13 Joselin out of her crib along with his one year old brother,
14 Nelson. There was a second fire in my house. We didn't have
15 electricity or water. This happened when I will sell bread,
16 cooked chicken and beef. I was tired of working. I counted
17 the money I earned and placed it on a wood table. Our only
18 light was a candle. We went to sleep because Luis and I were
19 tired. It was Alejandro who woke me when he realized about the
20 fire, and he almost got burned. We were able to turn off the
21 fire.

22 When Alejandro was an adolescent, we witnessed the
23 death of a person. The only thing we did was to throw
24 ourselves on the ground. This event left a big scar on our

1 lives. In many occasions we were victims of abuse perpetrated
2 by the police. In other two occasions the police point a gun
3 at my head. When they were detaining Luis, they hit him very
4 hard. They verbally abused him. There was a time we couldn't
5 go out because of the threats from the police. In one occasion
6 I wanted to defend my son. They didn't hit him but they pushed
7 me and I fell on the ground.

8 When I realized Luis was a gang member, our life
9 changed from that very moment. The police will not leave us
10 alone. Every time I go to buy my groceries, the police will
11 stop me and told me that they are going to kill Luis. This
12 happens every day here in El Salvador. Their harassment
13 hadn't stopped just for being Luis' mom.

14 Now days I live with my mother because my husband,
15 the father of my young children, died of a heart attack. We
16 got kicked out of the house, and I live with my mother. The
17 only hope is to see my son again, to hug him and apologize
18 with him for all of the damage that I caused him.

19 I love you Luis Alejandro.

20 MS. NORDVIG: May I approach?

21 THE COURT: You may.

22 BY MS. NORDVIG:

23 Q During your contact with the family members who have
24 written letters, did they also send photographs?

1 A Yes, they did.

2 MS. NORDVIG: May I approach?

3 THE COURT: You may.

4 MS. NORDVIG: Court's indulgence. I have to get my
5 technical advisor.

6 BY MS. NORDVIG:

7 Q I am showing you what has been previously marked as
8 Exhibit 143. Do you recognize this photograph?

9 A Yes, I do.

10 Q And do you know what it represents?

11 A The photograph is the market in Santa Ana El
12 Salvador, the town where Luis grew up, and part of his family
13 still lives. It is the store the family shopped at. And the
14 woman in the pink apron near the umbrella is actually the wife
15 of a friend of Luis'.

16 Q At some point did his mother work here as well?

17 A She would sell outside of the store.

18 Q Where the blue umbrella is near the lady in the pink
19 apron?

20 A Yes.

21 Q Where did you get this picture?

22 A That is a picture that I found on a Facebook page
23 online from the family.

24 MS. NORDVIG: Your Honor, defense moves for

1 admission of 143.

2 THE COURT: Okay, but usually you get it admitted
3 before you show the jury. Why don't you just approach with
4 the packet of pictures and just have the witness look at the
5 rest of the pictures. Have her just look at them and lay
6 foundation all at one time.

7 MS. NORDVIG: Thank you, Your Honor. My apologies.

8 THE COURT: That's okay.

9 BY MS. NORDVIG:

10 Q I am providing you with Exhibits 144 through 1 --
11 Court's indulgence?

12 THE COURT: She can tell us. Ma'am, what exhibits
13 do you have there?

14 THE WITNESS: I have 144 through 175.

15 THE COURT: Without any blanks?

16 BY MS. NORDVIG:

17 Q If you could look at each exhibit individually
18 beginning with 144?

19 A Describe them?

20 THE COURT: Counsel approach, please. Grab the
21 pictures and approach.

22 The whole stack is there any objection for
23 admission?

24 MS. NORDVIG: The ones, those have been pulled out.

1 THE COURT: There is disagreement.

2 MS. NORDVIG: I have a faxed set if the Court needs.

3 THE COURT: We are going to need to take a break.

4 MS. NORDVIG: Those are all we had.

5 MS. KOSSOW: No, I didn't.

6 MS. NORDVIG: I am sorry, Marci, do you have them?
7 We kept the ones that were pulled out.

8 THE COURT: Marci didn't pull them out. I didn't
9 pull them out. She'll find them.

10 MS. NORDVIG: Those are the ones, I am sorry. We
11 just had difficulty. I do have a complete set so I have the
12 originals from this set. If they aren't found, we can provide
13 the Court with another set for the ones that have vanished.

14 THE COURT: Okay. I think these are all there.

15 MS. KOSSOW: We should put the numbers on the
16 record, right, because there are some missing.

17 MS. NORDVIG: If I may approach?

18 THE COURT: You may. We are going to look at them
19 for a few minutes.

20 BY MS. NORDVIG:

21 Q Can you look through that packet and see if you
22 recognize what that consists of?

23 A So the family pictures.

24 Q Do you just recognize them?

1 A Yes.

2 Q Okay. And can you flip the top page over and
3 identify it by its exhibit number?

4 A 144.

5 Q And how do you recognize the photograph 144?

6 A It is a picture of a street in Santa Ana, El
7 Salvador. It is a street where Mr. Cordero's stepfather runs
8 a shop.

9 THE COURT: Ma'am did you pull all these pictures,
10 put this whole packet together?

11 THE WITNESS: Yes, I did.

12 THE COURT: Would you look at each number and tell
13 me if that is one you put together for purposes of today's
14 hearing?

15 THE WITNESS: 144 I did. 145 I did. 146, yes. 147,
16 yes. 148, yes. 149, yes. 150, yes. 151, yes. 152, yes.
17 153, yes. 154, yes. 155, yes. 156, yes. 157, yes. 158, yes.
18 159, yes. 160, yes. 161, yes. 162, yes. 163, yes. 165,
19 yes. 169, yes. 170, yes. 171, yes. And 175 yes.

20 THE COURT: Okay you put them together for purposes
21 of today's hearing?

22 THE WITNESS: Yes, I did.

23 THE COURT: You are offering those?

24 MS. NORDVIG: Yes, Your Honor, we are.

1 THE COURT: I think in a previous hearing I
2 indicated I would admit them. Anything further, Ms. Kossow?

3 MS. KOSSOW: No, Your Honor. I would state for the
4 record the State does object to 143, 144, 145 and 163 as
5 previously stated in that pretrial hearing.

6 THE COURT: The record will so reflect. Those are
7 admitted. Ms. Kossow, you may approach, not Ms. Kossow, Ms.
8 Nordvig to get exhibits.

9 MS. NORDVIG: Thank you Your Honor.

10 (Exhibits 143 through 175 admitted in evidence.)

11 THE COURT: I think if you want her to identify them
12 you may do so.

13 BY MS. NORDVIG:

14 Q Beginning with number 144?

15 A Yes.

16 Q Do you recognize that?

17 A Yes, I do.

18 Q What does that portray?

19 A That is a street in Santa Ana, El Salvador where
20 Mr. Cordero's father-in-law has a shop.

21 Q Okay. 145, do you recognize that?

22 A Yes.

23 Q What is it?

24 A That is a picture of Santa Ana, El Salvador. The

1 street name is unknown but it is in the town where Luis grew
2 up.

3 Q And 146, do you recognize that?

4 A Yes.

5 Q How do you recognize that?

6 A That is a picture of Mr. Cordero when he was
7 approximately six to seven months old.

8 Q How did you get that?

9 A That was sent by one of his family members. The
10 picture was taken in El Salvador at his mom's.

11 Q 147, do you recognize that?

12 A Yes.

13 Q Who is pictured in this photograph?

14 A The baby is Mr. Cordero, and the man is his paternal
15 great grandfather.

16 Q Just to make sure the record is clear, when you say
17 Mr. Cordero, you are referring to Luis, correct?

18 A Yes.

19 Q And did you also receive this from a family member?

20 A Yes.

21 Q 148, do you recognize the people in that or do you
22 know who the people in that photograph are?

23 A Yes, I do.

24 Q Who are they?

1 A The baby is Luis Cordero, and the man is the same
2 man from the prior picture, his paternal great grandfather.

3 Q That was also sent to you by family members?

4 A Yes, it was.

5 Q 149, can you identify the person in that photograph?

6 A That is Luis Cordero when he was approximately seven
7 to eight months old.

8 Q Was that sent to you by family members?

9 A Yes, it was.

10 Q 150. Do you know the identity of that in that
11 photograph?

12 A Yes, I do.

13 Q Who is it?

14 A That is Luis Cordero at his third birthday.

15 Q Who sent you that?

16 A I believe that came from his sister, Gabriela.

17 Q 151, the same question, who is identified in that
18 photo?

19 A That is Luis Cordero approximately five years old in
20 El Salvador.

21 Q Did you receive that from a family member as well?

22 A Yes, I did.

23 Q Number 152. Do you recognize the photographs in
24 this? There are multiple photographs, correct?

1 A Yes, there are.

2 Q Who are they?

3 A They are all of Luis Cordero.

4 Q Do you know when they were taken?

5 A The family believes these are his kindergarten
6 school pictures.

7 Q Did you receive those from family members?

8 A Yes, I did.

9 Q Do you recall who?

10 A I believe those also came from his sister, Gabriela.

11 Q 153 do you know the identity of the people in this
12 photograph?

13 A Yes, I do.

14 Q Who are they?

15 A The oldest girl to the left of the screen is Luis'
16 sister Adriana in El Salvador. Luis is the young child in the
17 front with the striped shirt.

18 Q This one?

19 A The baby is his younger brother, Nelson and the man
20 holding him is Luis' step grandfather.

21 Q Was that sent to you by family members as well?

22 A Yes, it was.

23 Q Do you recall who?

24 A That was sent by his brother Nelson.

1 Q Number 154, can you identify the people in this
2 photograph?

3 A The young boy in the front is Luis Cordero.

4 Q You can point I think. This one?

5 A Yes. The woman standing behind him in the blue shirt
6 is his mother, Matilde. The woman in the middle is his
7 grandmother. The woman to the right is an aunt, and the other
8 children are cousins.

9 Q Was this sent by family members as well?

10 A It was sent by his mom.

11 Q And 155, can you identify the people in that
12 photograph?

13 A The adults are his grandmother and her husband, his
14 step grandfather. The little girl is his older sister
15 Adriana, and he's the child to the far right.

16 A Over here?

17 A Yes.

18 Q Was that sent by a family member?

19 A It was sent by Nelson.

20 Q 156, can you identify the people in that?

21 A Yes. That is Luis Alejandro in the front in the
22 striped shirt. His brother, Nelson, and the man holding him
23 is his step grandfather.

24 Q That was sent by who?

1 A By Nelson.

2 Q 157, the same question, can you identify these
3 people?

4 A The woman standing in the back is his mom. The
5 child in the stripes is again Luis Cordero. The baby on the
6 table is his brother, Nelson. The little girl standing is his
7 older sister, Adriana, and that is his grandmother to the far
8 right.

9 Q When you said the child in the stripes?

10 A I am sorry. Yes, that child.

11 Q This child with the stripes?

12 A Nelson is the baby.

13 Q Who is also wearing stripes, correct?

14 A Yes.

15 Q How did we receive that?

16 A That also came from his brother, Nelson.

17 Q 158, can you identify the people in that picture?

18 A That is a picture of Luis Cordero and his older
19 sister, Adriana.

20 Q And who sent those?

21 A That was sent by his brother, Nelson.

22 Q 159, can you identify any of the people in this
23 photograph?

24 A The older man standing in the back --

1 Q This one?

2 A Yes -- that is an uncle. The boy just in front of

3 him in the blue shirt, that is Luis. And the girl right behind

4 him, that is Adriana. And the others are cousins.

5 Q Who sent this picture?

6 A That also came from Nelson.

7 Q 160, can you identify the people in that photograph?

8 A Luis is to the far right in the yellow shirt. The

9 other two boys are his cousins.

10 Q Who sent that photo to us?

11 A This was sent by his sister, Gabriela.

12 Q 161, can you identify those people?

13 A The woman in the center is his grandmother. The

14 woman to the right is his mother. Luis is the boy in the back

15 on the left.

16 Q Right here?

17 A Yes. And those are his cousins in the front.

18 Q Who sent this picture?

19 A That was sent by his brother Nelson.

20 Q 162, can you identify any of the people in this

21 photograph?

22 A The boy in the tank top in the center.

23 Q This one?

24 A Yes. That is Luis Cordero. The woman right behind

1 him in the white shirt is his grandmother, and the one behind
2 her is his mother.

3 Q With the sunglasses on the top of her head?

4 A Yes. The rest of the individuals are aunts, uncles
5 and cousins.

6 Q Who sent this?

7 A That was sent by Nelson.

8 Q Number 163, do you recognize that photograph?

9 A Yes.

10 Q How do you recognize it?

11 A This is a picture of an open market in Santa Ana, El
12 Salvador.

13 Q Is it the market where his mother works?

14 A It is a market she used to sell things in.

15 Q Who sent this?

16 A That I found online and Nelson confirmed it.

17 Q Number 165. Do you recognize this?

18 A Yes, I do.

19 Q How do you recognize it?

20 A That is a picture of Luis Cordero.

21 Q Do you know if this was previously admitted at the
22 trial?

23 A Yes, it was.

24 Q Do you recall what number?

1 A I do not.

2 Q That is fine. Has it been altered as far as it being
3 cropped?

4 A Yes, it was.

5 Q Did you do that?

6 A Yes, I did.

7 Q Okay. And can you identify the tattoos in the middle
8 of his chest?

9 A There are baby footprints tattooed on his chest.
10 Over his heart are the footprints of Jaden. On the other side
11 of his chest are of Nicole.

12 Q Are there other tattoos indicating the identity of
13 the footprints?

14 A Yes, there are.

15 Q Where are they located?

16 A The names are above the footprints and dates
17 underneath the footprints.

18 Q What are the dates, if you know? What do they
19 represent?

20 A The birth dates.

21 Q I know they are kind of hard to read?

22 A Yes, they are.

23 Q Those are the birth dates of his children, correct?

24 A Yes.

1 Q And 169, can you identify the people in this
2 photograph?

3 A Luis Cordero is to the left.

4 Q This one?

5 A Yes. His cousin Claudia is the woman in the middle.

6 Q This one?

7 A Yes. She's holding Luis' son, Jaden.

8 Q In the red shirt?

9 A Yes. And the other one is Rebecca, the mother of
10 his child, Jaden.

11 Q Who sent this?

12 A That was sent by Claudia.

13 Q Number 170, can you identify the people in this
14 photograph?

15 A Luis Cordero is to the right.

16 Q In the white cap?

17 A In the white cap, yes. His son Jaden is the baby in
18 the front and the woman is his father's uncle's wife.

19 Q So she's a great aunt?

20 A Yes.

21 Q Who sent this?

22 A That was sent by Claudia.

23 Q 171?

24 A Yes.

1 Q Who is pictured in this photograph?

2 A That is Luis Cordero holding his son Jaden. The
3 woman in the lower left is Rebecca, the mother of Jaden.

4 Q Who sent this photograph?

5 A Also Claudia.

6 Q And 175, can you identify the people in this
7 photograph?

8 A That is Luis Cordero holding his son Jaden.

9 Q And who sent this photograph?

10 A His sister, Gabriela.

11 MS. NORDVIG: Thank you very much. Nothing further.

12 THE COURT: Cross-examination.

13 MS. KOSSOW: May I see the exhibits when you are
14 done?

15

16 CROSS-EXAMINATION

17 BY MS. KOSSOW:

18 Q Ma'am, showing you Exhibit 143, have you ever been
19 to El Salvador?

20 A No, I have not.

21 Q So you didn't take this picture?

22 A No.

23 Q In fact, you found it on the Internet; is that what
24 you said?

1 A Yes.

2 Q Do you have any idea when this picture was taken?

3 A No, I don't.

4 Q Showing you Exhibit 144. When was this picture
5 taken?

6 A I don't know.

7 Q Again, this picture was taken off of the Internet
8 when searching El Salvador; is that fair?

9 A That was on a family's Facebook being in El
10 Salvador.

11 Q It is also off the Internet. You can search El
12 Salvador and this picture comes up?

13 A Probably.

14 Q We have no idea when this was taken?

15 A No.

16 Q Exhibit 145, do you know when this photograph was
17 taken?

18 A No, I don't.

19 Q Again, you found this picture online or on the
20 Internet?

21 A Yes.

22 MS. NORDVIG: Your Honor, I am going to object.
23 These have already been admitted.

24 THE COURT: She can talk about the weight to be

1 given to the evidence. You may ask your questions on
2 cross-examination.

3 Overruled.

4 BY MS. KOSSOW:

5 Q Showing you 169. You pointed out individuals in
6 this photograph. Can you tell us who they are again?

7 A Luis Cordero to the left. His cousin Claudia. His
8 son Jaden. Rebecca, the mother of his son.

9 Q I think you got a letter from Claudia. Is that the
10 woman who gave you the letter?

11 A Yes, she did.

12 Q Rebecca, the wife, excuse me, the mother of his
13 child, did she submit a letter as well?

14 A No, she did not.

15 Q Showing you Exhibit 175. Do you know when this
16 photograph was taken?

17 A No, I don't.

18 Q No idea what year or time frame?

19 A No.

20 Q Do you know if it was after he committed the
21 murders?

22 A I don't know.

23 Q The letters that you read from the stand, did you
24 interview those people?

1 A Some of them, yes.

2 Q Did you ask them to put their thoughts about the
3 defendant in a letter?

4 A Yes, I did.

5 Q Did you specifically ask about his childhood?

6 A Yes.

7 Q That is why they addressed the childhood in the
8 letter?

9 A Yes.

10 Q Did you specifically ask them to address any
11 thoughts they had on him being convicted of murder?

12 A I did not.

13 MS. KOSOW: Thank you. I have nothing further.

14

15 REDIRECT EXAMINATION

16 BY MS. NORDVIG:

17 Q Why didn't you ask them to address their thoughts on
18 him being convicted of murder?

19 A He was not convicted at the time I had contact or
20 when they wrote the letters.

21 Q Do you recall when Jaden was born, what year?

22 A I don't know his birth date.

23 Q Do you know approximately how old he is now?

24 A I believe he's three years old right now.

1 Q 2017?

2 A Yes.

3 Q So that would have him born in approximately 2015?

4 A If he's three now, '14, somewhere in that range,
5 yes.

6 Q Is that after the murders in this case occurred?

7 A Yes.

8 MS. NORDVIG: Nothing further.

9 THE COURT: Anything further?

10 MS. KOSSOW: No, Your Honor.

11 THE COURT: You may step down. Thank you.

12 (Witness excused.)

13 THE COURT: Ms. Nordvig.

14 MS. NORDVIG: That concludes the evidence, Your
15 Honor.

16 THE COURT: All right. Ladies and gentlemen of the
17 jury, I think this is a good time for you to take your
18 afternoon recess. During this break, do not discuss the case
19 among yourself or allow anyone to speak of the case to you.

20 Do not form or express any opinion about the
21 ultimate outcome of the matter. Do not allow anyone to
22 attempt to influence you or speak of it to you. Should any
23 person attempt to do so, report it to the bailiff.

24 Do not make any independent investigation or inquiry

1 into the facts and circumstances surrounding this case.

2 Do not look at, view or review any news media or
3 other account regarding the case or the people involved in the
4 case.

5 Go ahead and go into the jury room for a few
6 minutes.

7 (Whereupon the jury left the courtroom.)

8 THE COURT: Counsel, I understand that you have
9 other evidence to present. Does your client now wish to make
10 a statement now in allocution?

11 MS. NORDVIG: He would like to make a statement in
12 allocution.

13 THE COURT: I think, given the victims being the next
14 witnesses he should do it next.

15 MS. NORDVIG: That's fine.

16 THE COURT: And you discussed it with him?

17 MS. NORDVIG: Yes, Your Honor. We had some time at
18 the noon break to discuss it.

19 THE COURT: So he understands that he can only talk
20 about remorse, apology, chagrin, plans of the future?

21 THE DEFENDANT: Yes.

22 M. NORDVIG: He's indicating he does understand that.
23 We did go through that.

24 THE COURT: Then we'll take a 15 minute recess.

1 Court's in recess.

2 (Short recess taken.)

3 THE COURT: Do you have something for outside of the
4 presence of the jury?

5 MS. KOSSOW: I actually have one question, if I might
6 address the family members of the victims by their first name
7 and last initial. Is it possible do that?

8 THE COURT: Any objection?

9 MS. NORDVIG: No objection.

10 MS. KOSSOW: Thank you. That was it.

11 THE COURT: So we are going to bring the jury in and
12 the defendant will make his statement, and we'll move to the
13 victim witnesses.

14 Will you stipulate to the presence of the jury?

15 MS. KOSSOW: State would so stipulate.

16 MS. NORDVIG: Defense stipulates.

17 THE COURT: Thank you. Please be seated.

18 MS. Nordvig.

19 MS. NORDVIG: Thank you, Your Honor. Your Honor, I
20 believe Mr. Menendez-Cordero would like to allocute at this
21 time.

22 THE COURT: Okay, sir, you may proceed.

23 THE DEFENDANT: First of all I want to ask
24 forgiveness to God. I want to ask forgiveness from the

1 victims' families. I know that two people are no longer with
2 us and maybe they would have had a good and just life. I want
3 to apologize to the community. It might not be an excuse, but
4 I come from a country that is filled with repression and
5 violence. I know that with these words, the people that are
6 not here anymore are not going to come back. But from the
7 bottom of my heart, I want to ask forgiveness, and I hope that
8 they are with God.

9 I want to thank the jury for the verdict they have
10 reached. I want to thank the Judge for guiding this trial
11 with rectitude. And I also want to say that I'm paying a high
12 price for this, because now my son is without a father and he
13 will grow up without a father.

14 I hope you can forgive me and maybe grant me a
15 second opportunity. That is all.

16 THE COURT: Okay. Thank you. You may be seated.

17 The State may proceed.

18 MS. KOSSOW: Thank you, Your Honor. The State would
19 first call Tereso V.

20 THE CLERK: Please raise your right hand.

21 THE WITNESS: Yes, I swear to tell all the truth.

22 THE CLERK: Please be seated at the witness stand.

23 THE COURT: You may proceed.

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TERESO V.

called as a witness, having been first duly sworn,
took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MS. KOSSOW:

Q Thank you, Your Honor. Sir, will you please state
and spell your first name and your last initial?

A The second last name?

Q Just the first letter of your last name?

A Okay. My name is Tereso T-E-R-E-S-O.

THE INTERPRETER: Your Honor, the interpreter
requests before interpreting that answer, I do not believe the
witness understood correctly and has given his full name.

THE COURT: Okay. Then the interpreter can tell us
the first initial of the last name.

THE INTERPRETER: The first name was T-E-R-E-S-O.
The first letter of the last name was V.

BY MS. KOSSOW:

Q Sir, do you know Moises Vasquez?

A Yes. He was my son.

Q And how old was Mr. Vasquez when he died?

A He had turned 21 years old.

Q Can you tell me a little about the makeup of your

1 family?

2 A Okay. I don't live with them, but I was always with
3 them helping them. And I always worked hard to give them a
4 better life. And when I would speak with him, he would tell me
5 that he was going to understand, that he wouldn't do anything
6 bad. And two days before this happened, I told him, listen to
7 your mother, because I love you very much. And I gave him a
8 hug and a kiss. And he told me, yes, yes I will listen to my
9 mom. I also love you very much.

10 Q How many brothers and sisters did Moises Vasquez
11 have?

12 A He has four sisters and three more brothers.

13 Q And in the line of brothers and sisters, where was
14 he?

15 A Number seven.

16 Q I want to ask you, obviously Mr. Vasquez' death
17 affected you and your family?

18 A Very much.

19 Q Would you tell us how that affected you and your
20 family?

21 A We were unable to overcome it, because the very hard
22 blows that life deals you. And I would tell his mom that to
23 pray to God for him and for herself, and I was praying for all
24 of us so we could come out of this problem. Because as he

1 says, he came from a poor family. I came from a poor family,
2 too. Sometimes I didn't have shoes. Sometimes I slept out in
3 the fields. And that was no reason for me to look for
4 something bad against society, because I had to fight to get
5 ahead. And I came to the United States in 1977, and I have
6 worked. I earned very little, but I have worked and thank
7 goodness I brought all my children and also their mother with
8 them. And I feel very proud to have been able to bring them
9 all together.

10 I have also made very big mistakes as a human being.
11 But in my hand, I have never had a weapon. And I don't think
12 it is fair to take away somebody's life who was very young.

13 I forgive him because he's also young, but what he
14 did is unjustifiable.

15 Q And, Mr. Tereso, what would you like to see the
16 punishment be for Mr. Cordero for the crime committed against
17 your son?

18 A I think the maximum should be, because it wasn't
19 just one life. It was many lives that he hurt. And the little
20 children, the little children that remain behind of the two
21 people whose lives he took.

22 MS. KOSSOW: Thank you. I have nothing further.

23 THE COURT: Cross-examination.

24 MS. NORDVIG: I don't have anything. Thank you,

1 Your Honor.

2 THE COURT: Thank you, sir, you may step down.

3 MS. NORDVIG: Objection, Your Honor.

4 THE COURT: Do you want to find out? Do you want to
5 approach? Go ahead and have a seat for a minute.

6 MS. KOSSOW: May I inquire, Your Honor?

7 THE COURT: Yes.

8 BY MS. KOSSOW:

9 Q Sir, did you want to say anything else before you
10 step down?

11 A I wanted to thank everybody from the bottom of my
12 heart, the members of the jury, the Judge, you and all who
13 have worked on this trial for carrying out justice. Thank you
14 very much with all my heart.

15 MS. KOSSOW: Thank you, sir.

16 THE COURT: Did you have anything you wanted to ask
17 now?

18 MS. NORDVIG: No.

19 THE COURT: You may step down.

20 THE WITNESS: Okay. Thank you.

21 (Witness excused.)

22 THE COURT: Call your next witness.

23 MS. KOSSOW: State would call Gloria V. Stand right
24 here and face the clerk.

1 THE CLERK: Please raise your right hand.

2 THE WITNESS: Yes.

3 THE CLERK: Thank you. Please be seated at the
4 witness stand.

5
6 GLORIA S.

7 Called as a witness, having been first duly sworn,
8 took the witness stand and testified as follows:

9
10 DIRECT EXAMINATION

11 BY MS. KOSSOW:

12 Q Ma'am, could you please state your first name and
13 your last initial of your last name?

14 A I am Gloria Sanchez. S.

15 Q Ma'am, are you related to Moises -- Were you related
16 to Moises Vasquez?

17 A Oh yes, I had a very nice relationship with him.

18 Q What was your relationship to him?

19 A Very nice one.

20 Q Were you his mother?

21 A Yes.

22 Q Tell me, do you recall the day that you found out
23 that Mr. Vasquez was murdered?

24 A Yes. It was a Friday. It was about to dawn and be

1 Saturday.

2 Q Tell me how that news impacted you and your family?

3 A It impacted us very much. Much fear. Much stress
4 from not knowing what to do.

5 Q Tell me how you --

6 A And still even now it is as if it just happened
7 yesterday. And I don't know why this boy did what he did. God
8 is the one who is going to judge him. We can't. We forgive
9 him, because if he didn't know what he did at that moment,
10 he's the one who is going to judge him not us.

11 Q How has the death of Mr. Vasquez impacted your other
12 children?

13 A Very much. Very much. Because when this happened,
14 they were all going to school with children. We have many
15 children. Many children were going to school who are his
16 nieces and nephews and also a son, the youngest in my family.
17 They were all going to school. And when they were going to
18 school right there, the police officers who were there, they
19 would search them or would tell them something so they would
20 do something. And one of my daughters --

21 MS. NORDVIG: I object, Your Honor. This is outside
22 the scope of what is allowed by statute.

23 MS. KOSSOW: I will redirect her, Your Honor.

24 THE COURT: Okay.

1 BY MS. KOSSOW:

2 Q Ma'am, my question was, the death of Mr. Vasquez,
3 did it affect his sisters and his brothers?

4 A Very, very much it affected them.

5 Q Tell me how it has affected them in their every day
6 lives?

7 A Very much because they all remember him. They all
8 remember him. My son got really ill. We had to take him to
9 rehabilitation. And then he got better. He's well now. He's
10 working right now. He has two jobs. And he got better. Very
11 much, my son.

12 Q Tell me, ma'am, with you please tell me the words
13 that you want to say to the jury in regards to how you have
14 dealt with the death of your son?

15 THE INTERPRETER: May the interpreter ask she repeat
16 one word I did not hear?

17 THE WITNESS: I still have not gotten over it because
18 I still remember him very much, still think of him very much.
19 And I still have a very huge wound right here. In the same way
20 he talks about his son, we are also suffering very much. And
21 whatever is given to him, God is the one who is going to
22 forgive him and we also forgive him.

23 I thank you very much to all of you who are
24 accompanying us here. And thank you to everyone, everyone

1 everyone who is here. Thank you very much. Okay?

2 MS. KOSSOW: Thank you, ma'am. I have no further
3 questions.

4 THE COURT: Do you have any questions?

5 MS. NORDVIG: No questions.

6 THE COURT: Thank you, ma'am. You may step down.

7 (Witness excused.)

8 THE COURT: Call your next witness.

9 MS. KOSSOW: Thank you, Your Honor. State would call
10 Claudia M.

11

12 CLAUDIA L.

13 called as a witness, having been first duly sworn,
14 took the witness stand and testified as follows:

15

16 DIRECT EXAMINATION

17 BY MS. KOSSOW:

18 Q Ma'am, will you please state your first name and
19 spell it and just your last initial?

20 A Claudia, C-L-A-I-D-I-A. Last name initial L.

21 Q M?

22 A L.

23 Q L. Ma'am did you know Moises Vasquez?

24 A Yes. He is the father of my daughter.

1 Q How old are you, ma'am?

2 A I am going to be 28 in a couple of weeks.

3 Q How old is your daughter?

4 A She's ten.

5 MS. NORDVIG: I am sorry, could she repeat that?

6 THE WITNESS: She's ten.

7 MS. NORDVIG: Thank you.

8 MS. KOSSOW: Your Honor, may I approach with exhibits

9 136, 137, 138?

10 THE COURT: Yes.

11 BY MS. KOSSOW:

12 Q Ma'am, I am going to ask you to look at these three

13 photographs and ask if you recognize what is shown in those

14 three photographs?

15 A Moises and our daughter.

16 Q Do they fairly show Moises and your daughter over a

17 certain time period?

18 A Yes.

19 MS. KOSSOW: Your Honor, I move to admit Exhibits

20 136, 137 and 18

21 MS. NORDVIG: No objection.

22 THE COURT: Exhibits 136, 137 and 138 are admitted.

23 (Exhibits 136, 137 and 138 admitted in evidence.)

24 ///

1 BY MS. KOSSOW:

2 Q I am showing to you Exhibit 138 first. Who is shown
3 in that picture?

4 A Moises and our daughter the day I went into labor.

5 Q The day she was born?

6 A Yes.

7 Q Show you Exhibit 137. Who is shown in the picture,
8 137?

9 A Moises and our daughter.

10 Q About how old is your daughter here?

11 A She was about two and a half or two.

12 Q Do you remember what time frame this was?

13 A This was probably like a year before he was killed.

14 Q And this is Exhibit 136. Do you recognize who is
15 shown there?

16 A Yes, that is Moises and our daughter.

17 Q What time period is this?

18 A It was around the same time. I'd say like a year
19 before he was killed.

20 Q How long overall were you either friends or in a
21 relationship with Mr. Vasquez?

22 A We met when I was 13, then we became boyfriend and
23 girlfriend when I was 14. So middle school and high school
24 sweethearts.

1 Q Can you tell us, Claudia, how the murder of Moises
2 has affected you as well as your daughter?

3 A It was really hard. My daughter was with her dad all
4 the time. She was a big daddy's girl. When he was gone, she
5 would be so mad. She'd wait by the window waiting for her
6 daddy coming for her. When she would see somebody else drive
7 his car, she would cry because that was her daddy's car. She
8 was with him every day. I worked a lot, so he was always, he
9 always had her. He was a great father. She still has a picture
10 of him in her room.

11 Q Does she ask about him? Do you tell her about him?

12 A She always asked about him in the beginning when he
13 was killed. She was really mad. She felt like her daddy left
14 her. I told her he didn't have a choice. And she didn't
15 understand for a while. She wouldn't let me let her go visit
16 him, she wouldn't want to up until I moved on, had my four
17 year old then she was ready to go see him. But she always
18 asked. It was a long time till he was brought in. So she
19 would always ask me, mommy aren't the guys supposed to bring
20 the bad guy? Where is the bad guy that killed my daddy? She
21 always asked. I told her about the court. Now she said
22 finally. She always tells me finally. She was kind of mad at
23 me because she wanted to come. I told her it is no place for
24 a ten year old.

1 Q How has it affected you, personally?

2 A That was someone I grew up with. He was my best
3 friend. And when he was gone I started drinking a lot. It was
4 easier just to work and go out and get drunk and forget. I
5 would be drunk three days out of the week. It is a real long
6 time to get in a better place. It was hard. And then his
7 daughter looks just like him. Sometimes I would get home, I
8 would be happy and sad because I had a part of him, you know,
9 but he wasn't there anymore.

10 Q You are working now?

11 A Yes.

12 Q Do you work a lot?

13 A Not as much, no.

14 Q But have you been able to move on with your life?

15 A Yes. I am just about to graduate school, and I'm
16 working already for my career. And I am very much in my
17 daughter's life. She, you know, is very active. She does good
18 in school. She does sports. She's a very happy kid now.

19 Q Do you have an opinion as to the punishment that
20 this defendant should receive for the murder of Moises
21 Vasquez?

22 A Whatever they feel like they need to give him the
23 most, because no matter what, Moises isn't coming back. He's
24 gone.

1 Q Have you sat here through the entire trial?

2 A I have tried.

3 Q As much as you could?

4 A Yes.

5 Q Were you here last Friday when the verdict came
6 down?

7 A Yes.

8 Q When the jury left, did you see the defendant
9 leaving the courtroom?

10 A He walked right by us, and he smiled or smirked. I
11 don't know what kind of smile you would call that.

12 Q He did that to you or in your direction?

13 A Yeah. It was in front of me and another person from
14 down there.

15 Q How did you take that when he did that to you?

16 A It was a lot of emotion came, anger. I wanted, I am
17 not going to lie, I wanted to do something, but what is it
18 going to do? It is not going to do anything to heal me. I just
19 started to cry, because I never thought I'd see the person
20 that killed my daughter's dad, you know. How do you act like
21 that just inches away from your face?

22 MS. KOSSOW: Thank you. I have nothing further.

23 THE COURT: Any questions?

24 MS. NORDVIG: Yes.

1 CROSS-EXAMINATION

2 BY MS. NORDVIG:

3 Q Did you say anything to Mr. Menendez-Cordero on
4 Friday?

5 A Yeah.

6 Q What did you say?

7 A I said he was the B word.

8 Q I'm sorry?

9 A I said what was the B word.

10 Q What B word was that?

11 A You want me to say it?

12 Q Yes, I do.

13 A Bitch.

14 MS. NORDVIG: Thank you. Nothing further.

15
16 REDIRECT EXAMINATION

17 BY MS. KOSSOW:

18 Q Claudia, was that after he smiled and smirked at
19 you?

20 A Yes.

21 MS. KOSSOW: I have nothing further.

22 THE COURT: Anything further?

23 MS. NORDVIG: Nothing. Thank you.

24 THE COURT: Thank you. You may step down.

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(Witness Excused.)

MS. KOSSOW: Your Honor, the State would call Gloria
Q.

THE CLERK: Please raise right hand. Thank you please
seated at the witness stand.

GLORIA Q

called as a witness, having been first duly sworn,
took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MS. KOSSOW:

Q Ma'am, could you please state your first name and
spell it, then just your last initial of your last name?

A My name is Gloria, G-L-O-R-I-A. And the first letter
of my last name is Q.

Q Ma'am, first of all, how old are you?

A I am 28.

Q And did you know or have a relationship to
Kevin Melendez?

A Yes, I did.

Q Tell us what that relationship was?

A We have a kid together, a daughter.

Q How long did you know him overall?

1 A Three years.

2 Q Three years?

3 A Yes.

4 Q How old is your daughter now?

5 A She just turned 9 on Friday.

6 MS. KOSSOW: Your Honor, may I approach with Exhibit
7 140?

8 HE COURT: You may.

9 BY MS. KOSSOW:

10 Q Ma'am, I am going to show you what has been marked
11 Exhibit 140. Do you recognize who is shown there?

12 A Yes.

13 Q Who is it?

14 A That is a picture of me, Kevin and our daughter.

15 Q What time frame is this, do you remember?

16 A It was the last picture we ever took together. It
17 was a month before he got killed.

18 MS. KOSSOW: Move for admission of Exhibit 140.

19 THE COURT: Any objection?

20 MS. NORDVIG: No objection.

21 THE COURT: 140 is admitted.

22 (Exhibit 140 admitted in evidence.)

23 BY MS. KOSSOW:

24 Q Showing it up on the screen. You said this was

1 about a month, the last picture you took together?

2 A Yes.

3 MS. NORDVIG: Your Honor, may we approach? I am
4 going to object to this witness.

5 THE COURT: Okay. Can you hear me?

6 MS. NORDVIG: Pursuant to 176.015 she doesn't
7 qualify as a witness.

8 THE COURT: Why?

9 MS. NORDVIG: Because she's not a spouse. She's not
10 related to him. Mother's of children don't qualify.

11 THE COURT: I don't know if that's true. She's a
12 domestic partner.

13 MS. NORDVIG: We don't know if they were.

14 THE COURT: Well that picture, you didn't object.

15 MS. NORDVIG: I know. I didn't get it out just as
16 she was doing it.

17 THE COURT: Well, I am going to overrule the
18 objection now. I think she can testify. I think she certainly
19 had a close relationship with him. She would be classified as
20 a person who can testify. You think she's excluded under 176?

21 MS. NORDVIG: That statute does not include even
22 domestic partners.

23 MS. KOSSOW: It talks about --

24 THE COURT: It is not exhaustive. I am going to

1 overrule the objection.

2 MS. NORDVIG: Thank you.

3 THE COURT: Objection overruled.

4 BY MS. KOSSOW:

5 Q Ma'am, you said this is a picture of the family
6 together?

7 A Yes.

8 Q I think you said it was about a month before he was
9 killed?

10 A Yes.

11 Q Can you tell me how the death of Mr. Melendez, how
12 it has affected, first of-all let's talk about your daughter.
13 How has it affected her?

14 A It has affected her a lot because she did ask till
15 this day about her dad. And she does remember some parts. I
16 know she was very young when she lost her dad, but she does
17 remember some things.

18 Q Did you have to explain to her what happened?

19 A Yes, we did.

20 Q And how has the death of Mr. Melendez affected you?

21 A It is -- It did affect me really bad. I was
22 drinking a lot and even -- I just didn't have it together. I
23 was lost for a while.

24 Q Do you like to speak in public?

1 A No.

2 Q Okay?

3 A I am like shaking right now.

4 Q You're nervous?

5 A Yes.

6 Q And do you have an opinion as to what punishment you
7 want to see this defendant suffer for the murder of
8 Kevin Melendez?

9 A It's not up to me. For me it would be life, but it
10 is up to the jury. I hope they decide on what is best.

11 MS. KOSSOW: Thank you, ma'am. I have nothing
12 further.

13 MS. NORDVIG: Nothing. Thank you.

14 THE COURT: You may step down. You are excused.

15 (Witness excused.)

16 THE COURT: Call your next witness.

17 MS. KOSSOW: Thank you, Judge. The State would call
18 Anna.

19 THE CLERK: Thank you. Please be seated at the
20 witness stand.

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CELIA M.

called as a witness, having been first duly sworn,
took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MS. KOSSOW:

Q Ma'am could you state your first name and state your
last initial?

A Celia M. C-E-L-I-A. M.

Q Do you go by Anna?

A Yes, ma'am.

Q How old are you Anna?

A 32.

Q And were you related to Mr. Melendez in some way?

A Yes, ma'am, I was.

Q What was your relationship to him?

A I was his oldest sister.

Q And how many people in your family altogether?

A I am sorry. Five.

Q Was that you, your mom and dad and siblings?

A I am sorry. Five siblings and my mother and my
father.

Q Where was Kevin in the scheme of things as far as
brothers and sisters?

1 A My brother was a third child.

2 Q And is your mom here today?

3 A Yes, ma'am, she is.

4 Q And have you and your family sat in during the
5 trial?

6 A Yes, ma'am, we have.

7 Q Can you tell me, going back to 2010 when you first
8 learned of Mr. Melendez' murder, killing, how did that affect
9 you and your family?

10 A It was horrific. It was tragic. Tragic.

11 Q How old was Kevin when he died?

12 A He was 19 years old, going to be 20. He was my best
13 friend. He was younger, but he was bigger. Very smart and
14 bright. Always had a great smile. As you saw in the picture,
15 he had a perfect smile. He lighted up the room.

16 Q I want to show you some more photographs.

17 A I am sorry.

18 MS. KOSSOW: Your Honor, may I approach the witness
19 with Exhibits 139 and 141?

20 THE COURT: You may.

21 BY MS. KOSSOW:

22 Q Ma'am, let's start with Exhibit 139. Do you
23 recognize that photograph?

24 A I do.

1 Q What is that?

2 A That is a family picture at my cousin's wedding.

3 Q And that includes Mr. Melendez?

4 A Yes, ma'am, it does.

5 Q I am going to show you Exhibit 141. What does that
6 show?

7 A That is a family picture of us including my brother
8 at my daughter's birthday party at a park.

9 Q And, obviously, do you remember the time frame of
10 the wedding photo 139?

11 A That must have been a couple of years before his
12 death.

13 Q What about 141?

14 A That was two months or a month before his death.

15 MS. KOSSOW: Your Honor, I move for admission of 139
16 and 141.

17 MS. NORDVIG: No objection.

18 THE COURT: Exhibit 139 and 141 are admitted.

19 (Exhibit 139 and 141 admitted in evidence.)

20 BY MS. KOSSOW:

21 Q Show you 139 first. Can you tell us first of all
22 where is Mr. Melendez in this photograph?

23 A He's the second gentleman with the bow, wearing the
24 green bowtie.

1 Q Who are the other members in the photograph?

2 A The one to his corner is his cousin, Brenda. She
3 was one of the bride's maids in the purple dress. The man in
4 the center is our father Cesar Melendez. The man behind him
5 is cousin Billy. He was the one getting married. The one on
6 the corner is my sister, Yesenia.

7 Q Let me show you Exhibit 141 previously described. Do
8 you remember why was this photograph was taken? Do you recall
9 the occasion?

10 A We were celebrating my two little girls' birthday
11 party at a park. This was two months before he passed away.
12 That is him in the corner with the black coat. The center is
13 my cousin, his wife Brooke and myself.

14 Q I know you began to talk about how his death has
15 affected you and your family. Can you talk a little about
16 your mom? How has it affected your mom?

17 A It has been really hard to recover from this. We
18 are going to seven years. My mother has suffered a lot. We
19 grew up very religious, so for my mother we believe in God. We
20 believe in justice. And it has been very hard to recover from
21 this. I don't know if we'll ever recover. We have to visit
22 my brother and speak to him at the cemetery.

23 Q What about the process of taking -- the process of
24 knowing when the defendant was not here, when he was in

1 El Salvador?

2 A We thought we were never going to get justice. We
3 wanted to know why this happened to my little brother.

4 Q Again, you said you sat through the trial?

5 A Yes, ma'am.

6 Q Do you feel you have gotten some answers throughout
7 the trial?

8 A Yes. I would like to know why he did what he did.
9 We'll never know why, but I am thankful for the justice we are
10 having here today.

11 Q Do you have an opinion or does your family have an
12 opinion as to what you would like to see happen to
13 Mr. Menendez-Cordero for the killing of your brother?

14 A Yes, ma'am, I do.

15 Q What is that?

16 A This is a very sad day, but he has taken two lives
17 that will never recover, and my niece and my nephew will never
18 see their father again. So I would recommend the max, life
19 without parole.

20 MS. KOSSOW: Thank you. I have nothing further.

21 THE COURT: Cross-examination?

22 MS. NORDVIG: Nothing. Thank you.

23 THE COURT: Okay, ma'am. Thank you. You may step
24 down.

1 (Witness excused.).

2 MS. KOSSOW: Your Honor, with that, the State has no
3 further witnesses.

4 THE COURT: Ladies and gentlemen of the jury, we
5 have come to the stage of the proceedings I must review the
6 law with the attorneys. This won't take very long, but it
7 will take a few minutes, so I am going to ask that you go into
8 the jury room and wit. It will just be a short recess.

9 During this break, do not discuss the case amongst
10 yourself or with anyone else. Do not form or express any
11 opinion about the ultimate outcome of this case, and do not
12 ~~allow~~ anyone to speak of the case to you or influence you in
13 any manner. Should anyone make such an attempt, report it to
14 the bailiff. Go into the jury room for a few minutes. Thank
15 you.

16 (Whereupon the jury left the courtroom.)

17 THE COURT: Please be seated. Counsel we settled
18 Instructions on the record on Friday, but I want to make sure
19 there has been no changes in what we have. I have 1 through
20 10. Have you all received the packet? Any objection to the
21 Instructions I intend to give, Ms. Kossow?

22 MS. KOSSOW: No, Your Honor.

23 THE COURT: Mr. Viloria, any objection to 1 through
24 10 as I intend to give them?

1 MR. VILORIA: No, Your Honor. Thank you.

2 THE COURT: Any additional Instructions you would
3 request, Ms. Kossow?

4 MS. KOSSOW: No, Your Honor.

5 MR. VILORIA: None from the defense.

6 THE COURT: Okay. So the record will reflect the
7 Instructions are settled 1 through 10. You both want me to
8 read them before closings?

9 MS. KOSSOW: Yes, Your Honor.

10 MS. NORDVIG: Yes.

11 THE COURT: Are you ready to go into closing now?

12 MS. KOSSOW: Yes, Your Honor.

13 MS. NORDVIG: Yes, Your Honor.

14 THE COURT: Okay. You have had an opportunity to
15 review the forms of verdict that have been prepared. Any
16 objection to the forms of verdict?

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

18 MR. VILORIA: Nothing from the defense, Your Honor.

19 THE COURT: Those will be provided to the jury. In
20 addition, I think counsel in your opening statement you were
21 indicating you wanted all the evidence that they had at the
22 guilt phase to have during the penalty phase?

23 MS. KOSSOW: Yes, Your Honor.

24 THE COURT: Because we have a different clerk, I do

1 want you to look at that evidence as it goes in, and she's
2 familiar with the evidence, but I just want you to be sure to
3 check it very carefully as she goes over it both you and the
4 defense.

5 It is my understanding that, let's make a record
6 with regard to what has been admitted additionally this
7 afternoon.

8 THE CLERK: This afternoon Exhibits 136 through 141
9 have been admitted. 142, 143 through 145 have been admitted.
10 146 through 162 have also been admitted. 163 has been
11 admitted. 165 has been admitted. 169 through 171 have been
12 admitted and 175.

13 THE COURT: Everyone in agreement with that?

14 MS. KOSSOW: Yes, Your Honor.

15 MS. NORDVIG: Yes, the defense is.

16 THE COURT: We'll bring the jury in. I think we are
17 going to do the same closing arguments the same way we do at
18 the guilt phase. State will have an opening closing, then the
19 defense, then the State will conclude their argument. Go
20 ahead and bring the jury back.

21 Counsel, will you stipulate to the presence of the
22 jury?

23 MS. KOSSOW: State would so stipulate.

24 MS. NORDVIG: Defense stipulates, Your Honor.

1 THE COURT: Ladies and gentlemen of the jury, I have
2 been eating cough drops all afternoon. I was hopeful I would
3 not start coughing like I did before. Counsel stipulate to
4 the presence of the jury?

5 MS. KOSSOW: State would so stipulate.

6 MS. NORDVIG: Yes, Your Honor.

7 THE COURT: Thank you. We have now come to the stage
8 in the proceedings when I will read the law to you that
9 applies to this particular phase of the case.

10 (Whereupon the Instructions were ready by the Court.)

11 THE COURT: Counsel, will you stipulate the
12 Instructions have been read in open court?

13 MS. KOSSOW: State will, Your Honor.

14 THE COURT: Defense?

15 MS. NORDVIG: Defense will, Your Honor.

16 THE COURT: Thank you. State may proceed with your
17 opening closing argument at this time.

18 MS. KOSSOW: Thank you, Your Honor. Ladies and
19 gentlemen, you have heard, I started my opening in telling you
20 those three choices that you have in this case, and the Judge
21 has just reiterated those to you. I want to talk about a few
22 things. I am not going to rehash all the evidence in the
23 case, because I know you remember all of that. But what you
24 didn't hear during the trial is about these two men who were

1 killed. You didn't get to really hear any information about
2 them other than they went to a party, they were playing cards
3 at a table and next thing you know they were both shot, Kevin
4 Melendez twice in the back, and Moises Vasquez once to his
5 face. That is really all you got to hear about them. Well,
6 this part of penalty is to allow the victims family to talk to
7 you and tell you how this crime has affected them, and that
8 goes into your decision as to what sentence to give this
9 defendant.

10 And you heard both men actually had children, very
11 young children at the time. And you heard from both those
12 children's mothers as to how this crime has affected not only
13 them as being the parent but also their young daughters. And
14 this is what you saw during the trial as opposed to what you
15 heard about today. These are real people, real people. Kevin
16 Melendez and Moises Vasquez, how they also have families that
17 love them and their lives today going on without them.

18 Same thing for Kevin Melendez. You heard from
19 Gloria, the mother of their daughter. This is the last
20 picture they ever took together. You can see his daughter
21 there and how happy he appears in the photograph. And his
22 family. He had siblings and a mom. And you heard that
23 expressed through his sister Anna as to how much this crime
24 has affected their family, their brother, 19 years old died

1 before he even had a chance to live.

2 This is what you saw during the trial.

3 Kevin Melendez is not the person you heard about described
4 today.

5 I want to talk a little bit about the facts of this
6 case, about what you heard about the defendant through the
7 trial as well as what you've seen here in the penalty stage.
8 Really, starting with that left-hand corner, these are all
9 exhibits in the trial. You see him back in 2010 prior to the
10 murder happening. He took a photograph again showing those
11 tattoos on his stomach, on his shoulders, his allegiance to
12 MS. And then you have the one in the middle which is where,
13 after the murder, he goes to SA 1290 who is again
14 memorializing the murder of Kevin Melendez and Moises Vasquez
15 on his head and taking photographs of it after the murder.

16 And then you had the very top picture is a still
17 photo from his interview. Remember very carefully his
18 attitude and demeanor during that interview. That will tell
19 you a lot about who this defendant really is. And that was in
20 2015.

21 And then finally the lower picture we talked about
22 is the exhibit from the I-web phone call that he made to El
23 Salvador in August of 2017. Think about what you were told
24 that he was talking about, the transcript of what he was

1 talking about in August of 2017. And that is the complete
2 picture of this defendant. And that's who the State wants you
3 to think about when you are deciding what penalty is
4 appropriate in this case.

5 Obviously, we have the death of two men. Each of
6 them is an individual count and you'll decide that sentence as
7 to each count.

8 The State certainly believes at this time the only
9 viable sentence in this case, again, based on the underlying
10 conduct that you heard about for two weeks, is the life
11 without the possibility of parole. There is no other just
12 sentence in this case for the two men who were killed.

13 And remember this case, as Mr. Tereso said, it
14 didn't just affect the victims' family, it affected everybody
15 involved including the witnesses who came and testified before
16 you. If you remember Terrell Wagner had problems even
17 testifying in the beginning. Seventeen years old having to
18 see these two men shot and killed right in front of him and
19 that goes for Ms. Yost. That goes for Yesinia Rios-Quintero
20 who you didn't hear from but you can imagine the effect it had
21 on them and any future family they have. So when Tereso told
22 you the far reaching of this crime is not limited, although it
23 is very wide to Mr. Melendez and Mr. Vasquez' family who you
24 heard from today, it is much further than that. And I think

1 you saw that in the testimony of witnesses in this case.

2 And, based on the underlying violence, again
3 remember how we talked about the decision he made back on
4 November 20th of 2010, that he was at that party for such a
5 small limited time and in that time whatever happened that you
6 found him guilty of, he decided to make that decision to kill
7 both of these young men, and he did that and that is the
8 decision he's going to answer for today from you.

9 And, again, the State asks you to sentence him to
10 the only viable sentence in the State's eyes which is the life
11 without possibility of parole as to each count of murder in
12 the first degree. Thank you.

13 THE COURT: Defense.

14 MS. NORDVIG: Good afternoon. May it please the
15 Court. The State suggests you only have one viable option,
16 however, the legislature has determined you have three. The
17 Judge has just read you the Instructions in this case.
18 Instruction number 5 and Instruction number 6 you are given
19 your options. As the State wants you to believe life without
20 the possibility of parole is the only one that results in a
21 just penalty. However, we will suggest that it is not. There
22 are two other options, life with the possibility of parole
23 with eligibility for parole beginning when a minimum of 20
24 years has been served; or a term of fifty years with

1 eligibility for parole beginning when a minimum of 20 years
2 has been served. We understand that this case is not a case
3 where the minimum should apply. However, over the last four or
4 five hours you have heard testimony from many, many people,
5 some present in the courtroom, some unable to be here and
6 allowed to testify by telephone. Some that couldn't be here
7 and sent letters and photographs. It is all testimony and
8 evidence in this case. It doesn't stop on Friday. It continues
9 today.

10 You heard testimony from several people affected by
11 what happened almost seven years ago. I am not going to
12 rehash it all with you. I know you paid attention. And just
13 like during the trial, you didn't hear about Mr. Melendez and
14 Mr. Vasquez, their children, their families. You didn't hear
15 about Mr. Menendez-Cordero's child, children and families and
16 you had the opportunity to do that today. You had the
17 opportunity to see a little bit of how he grew up, to see a
18 little of what influenced him, the environment he grew up in.
19 You had the opportunity to hear why he left his own home and
20 how he ended up in a gang. You know he has a loving family
21 just as the other young men did.

22 You heard about a mother who apologized to her son
23 because she wasn't the mother she could or should have been in
24 her eyes. You heard from a father who left his son and didn't

1 even know him till 2009. You heard Luis has two children as
2 well. One he has contact with. And you've seen pictures of
3 him. The other one, unfortunately, he does not have contact
4 with but he still loves her. You heard about the violence that
5 he grew up in and the beatings he had.

6 As I said earlier, whatever you decide today will
7 not bring those young men back. It is your job to decide what
8 a just sentence is. Ms. Kossow would like you to believe that
9 there is only one, but remember the Instructions say that what
10 we say is just argument, it is not evidence.

11 We ask that you consider all of the factors that you
12 have heard today, all of the evidence you have heard today.
13 Go back and read the letters. Go back and look at the photos,
14 all of them. Consider everything that you have heard. And
15 remember that there are three choices. We are not going to ask
16 for the minimum. We don't think that that would be right. We
17 are going to ask that you sentence Mr. Menendez-Cordero to a
18 sentence of life with the possibility of parole with
19 eligibility beginning after 20 years on each count. As the
20 Instruction says and I believe it is number 6, the last
21 sentence is the Pardons Board cannot commute a prison term of
22 life without the possibility of parole to a sentence allowing
23 parole. But you, as members of this jury, can give not only
24 Mr. Menendez-Cordero but his family a small glimmer of hope by

1 giving him the opportunity at some point, whether it is when
2 he's 46, 66, 73 at some point give his son the hope that he
3 will be able to hug his father.

4 As he told you, he grew up without his father. And
5 as you heard, he watched another man abuse his mother. Now his
6 son will have to grow up without his father. The cycle is
7 repeating itself. He's worried for his son, and he's sorry his
8 family has to pay for his decision.

9 We just ask that you give them all a tiny glimmer of
10 hope to see each other again. Thank you very much for your
11 attention.

12 THE COURT: Ms. Kossow, you may conclude your
13 argument.

14 MS. KOSSOW: Thank you. Ladies and gentlemen,
15 Mr. Menendez=Cordero in that picture is there because he
16 murdered two people and then he fled. In his mind he said I'm
17 not going to stay here and take responsibility for what I did
18 so he flees, right? He goes to El Salvador. He's able to have
19 a baby while he's there. He talks to his family members. As
20 you heard from some of them today, he's talking to them while
21 he's in El Salvador hiding from the murder of these young men.
22 His life continued on. The family members that you heard from,
23 I was asking them questions, did you know he was affiliated
24 with MS-13? Did you know he made these threats? Not to

1 embarrass them but to show that his family members don't
2 really know the person that he is. And I think that is
3 evident by what they knew about this case which was very
4 little. So ask yourself if they know the true defendant that
5 sits over there. Do they know what you heard from the
6 beginning of this case, going to a party, getting
7 disrespected, going to the car, getting the gun. All of these
8 actions? Do his family members know that? It didn't sound
9 like it from the phone calls and what they told you today. You
10 know his intent on that night was to kill all the people that
11 the bullets he had in the gun. You heard that several times
12 from the State. You heard it from SA 1290. Remember that
13 when you go back there to decide the penalty in this case.
14 Remember those underlying facts, and the State believes that
15 he deserves to spend every day of the rest of his life in
16 prison for what he did to this family, what he did to the
17 witnesses in this case, and that is what we ask you to do.

18 THE COURT: Ladies and gentlemen of the jury, we
19 have come to the stage in the proceedings when you are going
20 to begin your deliberations again. Again, it is 12 people that
21 will deliberate, so our alternate jurors 25 and 49 will not be
22 with the jury in this initial deliberations. However, if
23 someone becomes incapacitated or is unable to continue on, you
24 will be substituted onto the jury and the jury will begin

1 deliberating anew. So you must follow the admonition I have
2 given at all breaks.

3 You may not discuss the case among yourselves or
4 with anyone else.

5 You may not form any opinion about the ultimate
6 outcome of this case. You may not allow anyone to discuss the
7 case with you or attempt to influence you with regard to it in
8 any manner.

9 You may not make any independent investigation or
10 inquiry into any of the facts and circumstances surrounding
11 the case or conduct any experiments or do any visits to any
12 locations.

13 In addition, you may not listen to, read or view any
14 news media accounts regarding this case or any other accounts
15 regarding the case or the people involved in the case or the
16 subject matter of the case.

17 Do you promise to follow that admonition?

18 JUROR 25: Yes.

19 THE COURT: You have to answer out loud.

20 JUROR 49: Yes.

21 THE COURT: So we are going to swear the deputies to
22 take charge of the jury and alternates. The alternates will
23 be taken to a separate location and kept separate and apart
24 from the jury. Please swear them.

1 (Whereupon the bailiffs were sworn by the clerk.)

2 THE COURT: The alternates will please gather your
3 belongings in the jury room. Please go with one of the
4 bailiffs. I don't know which one.

5 Ladies and gentlemen of the jury, you will have your
6 notes with you in the jury room. You will not have your cell
7 phones but there will be someone here to answer the phone if
8 any of your family members are looking for you. And you will
9 get the evidence that has been admitted in this case both at
10 this stage of the proceedings and in the guilt phase, and you
11 will receive the Instructions that I have given you.

12 We'll let you step into the jury room at this time
13 and begin your deliberations. We will be subject to your
14 call. Juror 14, the Foreperson, you are in charge from this
15 point. Thank you.

16 (Whereupon the jury left the courtroom.)

17 THE COURT: Please be seated. The clerk will go over
18 the evidence with you and do that while we are waiting and
19 then we will be in recess subject to the jury's call unless
20 you have something for the Court.

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

22 MS. NORDVIG: Your Honor we just have one, actually a
23 couple of things. One may be discussed now I think. Earlier
24 in the trial even before jury selection, we asked that the

1 regular jury pool questionnaires as well as the anonymous
2 version that we got be put, filed into the record. And I
3 believe Judge Flanagan determined it would be filed under
4 seal. I looked over the weekend, and I have not seen those
5 done yet. I just want to make sure that will be happening.

6 THE COURT: It will be, but it is his court clerk
7 that has those and we have not seen or heard from her in the
8 last week or so. We are waiting. We'll make sure those do get
9 filed in.

10 MS. NORDVIG: I understand. There has been several
11 people charged with being court clerk in this case so I am
12 just making a record to make sure that gets done.

13 THE COURT: I am aware of that order from the Judge.
14 I will make sure that it is followed through with.

15 MS. NORDVIG: Thank you. At an appropriate time we
16 would ask to discuss one of the pretrial orders regarding
17 communication with the defendant's ability to do that.

18 THE COURT: Okay. I did have a chance to look at
19 176.015, and I think a relative of a child of the deceased can
20 testify so the mother of the child of the deceased is an
21 appropriate witness. I did get a chance to look that up.

22 We'll be in recess subject to the jury's call.
23 Court's in recess.

24 THE COURT: Deputy, have you heard from the jury?

1 THE DEPUTY: Yes, we have Your Honor. We have a
2 verdict.

3 THE COURT: Please bring the jury in. Please be
4 seated. Ladies and gentlemen of the jury, the clerk will call
5 the roll of the jurors. Please answer here or present.

6 THE CLERK: Number 27.

7 JUROR 27: Here.

8 THE CLERK: Number 75.

9 JUROR 75: Here.

10 THE CLERK: Number 73.

11 JUROR 73: Here.

12 THE CLERK: Number 32.

13 JUROR 32: Here.

14 THE CLERK: Number 36.

15 JUROR 36: Here.

16 THE CLERK: Number 24.

17 JUROR 24: Here.

18 THE CLERK: Number 14.

19 JUROR 14: Here.

20 THE CLERK: Number 43.

21 JUROR 43: Here.

22 THE CLERK: Number 7.

23 JUROR 7: Here.

24 THE CLERK: Number 91.

1 JURYR 91: Here.

2 THE CLERK: Number 34.

3 JURYR 34: Here.

4 THE CLERK: Number 105.

5 JUROR 105: Here.

6 THE COURT: Number 14, has the jury reached a
7 verdict?

8 JUROR 14: Yes, ma'am.

9 THE COURT: Would you hand the verdict to the
10 bailiff who will in turn hand it to me.

11 The defendant will please rise. The clerk will now
12 read the verdict of the jury.

13 THE CLERK: In the Second Judicial District Court of
14 the State of Nevada in and for the County of Washoe, the State
15 of Nevada, Plaintiff versus Luis Alejandro Menendez-Cordero,
16 Case No. CR15-1674 Department 7.

17 Life without the possibility of parole. We the jury
18 in the above-entitled action having found the defendant, Luis
19 Alejandro Menendez-Cordero guilty of murder in the first
20 degree with the use of a deadly weapon, as to Count I, set the
21 penalty to be imposed at life without the possibility of
22 parole in the Nevada State Prison.

23 Dated the 16th day of October 2017 number 14
24 Foreperson.

1 Life without the possibility of parole. We the jury
2 in the above entitled action, having found the defendant, Luis
3 Alejandro Menendez-Cordero guilty of murder in the first
4 degree with the use of a deadly weapon, as to Count II set the
5 penalty to be imposed at life without the possibility of
6 parole in the Nevada State Prison.

7 Dated this 16th day of October 2017, number 14
8 Foreperson.

9 THE COURT: You may be seated. Is this your verdict
10 say you one say you all?

11 THE JURY: Yes.

12 THE COURT: Does anyone wish the jury polled?

13 MS. KOSSOW: State does not, Your Honor.

14 MS. NORDVIG: Defense would, Your Honor.

15 THE COURT: Ladies and gentlemen, the clerk will ask
16 you a question. Answer the question for yourselves.

17 THE CLERK: Number 27 are you these your verdicts as
18 read?

19 JUROR 27: Yes.

20 THE CLERK: Number 75, are these your verdicts as
21 read?

22 JURYR 75: Yes.

23 THE CLERK: Number 73, are these your verdicts as
24 read?

1 JUROR 73: Yes.

2 THE CLERK: Number 32, are these your verdicts as
3 read?

4 JUROR 32: Yes.

5 THE CLERK: Number 36, are these your verdicts as
6 read?

7 NUMBER 36: Yes.

8 THE CLERK: Number 24, are these your verdicts as
9 read?

10 JUROR 24: Yes.

11 THE CLERK: Number 14, are these your verdicts as
12 read?

13 JUROR 14: Yes.

14 THE CLERK: Number 43, are these your verdicts as
15 read?

16 NUMBER 43: Yes.

17 THE CLERK: Number 7, are these your verdicts as
18 read?

19 NUMBER 7: Yes.

20 THE CLERK: Number 91, are these your verdicts as
21 read?

22 NUMBER 91: Yes.

23 THE CLERK: Number 34, are these your verdicts as
24 read?

1 NUMBER 34: Yes.

2 THE CLERK: Number 105, are these your verdicts as
3 read?

4 NUMBER 105: Yes.

5 THE COURT: The clerk will record the verdicts of
6 the jury in the minutes of the Court.

7 Ladies and gentlemen of the the jury this concludes
8 your jury service. I know it is been a very unusual case. You
9 have dealt with two different judges, three court clerks and
10 over two weeks of trial. So I have to tell you how important
11 that your service has been to this case and to our community.
12 I appreciate your service. The whole Second Judicial District
13 Court appreciates your service and understands the special
14 unique process that you have had to go through in these last
15 few weeks. So thank you very much for being a part of it.

16 Now your information on yourself has not been
17 released. So if you want to talk to somebody about your
18 service, that is your choice, but you are not obligated to
19 talk about your service with anyone. So it is up to you
20 whether or not you want to discuss whether or not you have
21 been on this case and what your service was like.

22 In a few weeks the Comptroller of the County will be
23 sending you your fees that you receive as a juror, and then if
24 you have any questions or do not get your statutory fees,

1 please feel free to call me or the deputy. You have our phone
2 numbers, and I am happy to discuss the case with you.

3 I may visit with you for a few minutes before we let
4 you leave tonight. But as time goes on, you may think of
5 something or have a question or be concerned about the trial
6 or the process. Do not be afraid to call. Just call chambers
7 and I will get back to you, and I am happy to discuss the case
8 with you. As I told you in the beginning, at best jury service
9 is an inconvenience and for some of you it is a hardship. It
10 is even more difficult with this kind of a case. So I know
11 that you have worked hard, that you may have questions later
12 and want to talk to someone. So please feel free to call.

13 What is going to happen now is, it is my
14 responsibility to determine what kind of a penalty should be
15 imposed for the use of a deadly weapon. In addition, I have
16 to decide whether or not these penalties will run concurrent
17 or consecutive to one another. The law permits the Court to
18 make that decision. And I have asked that I have a
19 pre-sentence investigation prepared by the Division of Parole
20 and Probation. This investigation assists the defendant when
21 he goes to the prison system. It helps with them knowing more
22 about him, and they will have mitigation and aggravation
23 involved in the case. Both sides will be in that report, and
24 I will receive that report and set a date for the sentencing

1 for the remainder of the defendant's case. At that point, the
2 case will be resolved as far as the Second Judicial District
3 Court is concerned.

4 If you want to attend the sentencing, you're welcome
5 to do so, or if you just want to call and find out what
6 happens, you are certainly welcome to do that. I don't know if
7 the clerk has a date yet.

8 THE CLERK: I do not.

9 THE COURT: She doesn't have the date yet. We'll
10 know later, so you can call later this week and you will be
11 given the date.

12 Our alternates, ~~I want to~~ especially thank you. You
13 know, in a two week trial, you heard all the sniffing and the
14 sneezing. It is very unusual that we had everyone stay so
15 healthy and you weren't call upon to be part of the jury. But
16 we couldn't have proceeded without having you here and
17 available. If we don't have alternates and there is an absence
18 to the jury, we have to start all over from the beginning, so
19 a mistrial is declared and we have to start all over. So you
20 have been very important. I know it feels a little like being
21 a bride's maid, and it is difficult, but I have to commend you
22 for following the admonition. Again, you may talk about your
23 service with anyone you desire, but you are not required to
24 talk about your service.

1 I am going to ask when I send you into the jury
2 room, I am going to ask you go in the jury room with them,
3 then you all will be in released in a little bit by the
4 bailiff. Thank you for your service. Thank you, ladies and
5 gentlemen. You may step into the jury room at this time.

6 (Whereupon the jury left the courtroom.)

7 THE COURT: Counsel, do you have anything for the
8 Court at this time?

9 MS. KOSOW: No, Your Honor, nothing from the State.

10 THE COURT: I know you had something, counsel. We
11 have to come up with a sentencing date anyway.

12 MS. NORDVIG: That's ~~correct~~. We would like to
13 revisit the pretrial order regarding Mr. Menendez-Cordero's
14 ability to contact his family at least.

15 THE COURT: The audience please be seated.

16 MS. NORDVIG: Since that is part of the Court's
17 pretrial ruling from I believe the hearing on October 2nd,
18 prior, either that or the 29th, the emergency hearing
19 September 29th. Obviously he would like to talk to his mother
20 and his brother and his sister and his father.

21 Ms. Kossow: Judge, we have no objection to him
22 speaking to his family members.

23 THE COURT: Only his family members? Are you still
24 asking for the rest of that?

1 MS. KOSSOW: So the basis for that order was so
2 witnesses would not be intimidated, safety not be at risk. So
3 I can't think of a situation right now where that would be the
4 basis since we are going to get a sentencing date. So I
5 honestly can't think of anything to support that order.

6 THE COURT: Okay. The order said until further order
7 of the court.

8 MS. NORDVIG: That's correct. That was for all
9 communication, I-web, telephone and written I believe.

10 THE COURT: Okay. Well, based upon your request
11 today and the State's understanding there is no basis to
12 continue with that order, ~~it was entered by~~ Judge Flanagan,
13 but I think because of the change in circumstances I can at
14 this time lift the order, so I will do that. Counsel get a
15 written order to me after showing it to counsel for the State,
16 the proposed written order.

17 MS. NORDVIG: And, Your Honor, regarding the
18 discovery order, not letting him have any paperwork. I don't
19 anticipate providing him with the discovery for the trial
20 purposes, but we may have to provide him with his pre-sentence
21 investigation report, things like that. Is that all right
22 with the Court?

23 THE COURT: I would prefer that you don't copy
24 anything. You certainly have to go over the pre-sentence

1 report with him carefully to determine if there are any
2 corrections. But at this stage of the process, I don't think
3 you should copy anything. We can have an actual hearing on
4 that. So I don't want to lift whatever that order was until
5 we can have another hearing.

6 MS. NORDVIG: Thank you.

7 THE COURT: But you obviously can go over all of it.

8 MS. NORDVIG: Of course. That was included in the
9 order from Judge Flanagan, we could discuss things. I can
10 take things up and show him. I just cannot leave anything
11 with him.

12 THE COURT: I am sure I will be advising him of his
13 rights with regard to the appeal, and I am sure that is going
14 to change. He can certainly have legal mail as we move
15 forward. But I would like to have more of an opportunity to
16 hear the concerns, if any, from the State before I lift that
17 order.

18 MS. NORDVIG: Thank you.

19 THE COURT: Marci? The clerk wants to know,
20 apparently she discussed with you the pre-sentence report
21 could be prepared quicker if you waive receiving it three
22 weeks prior to the sentencing date. Do you want to wave that
23 or do you want to just go the regular course?

24 MS. NORDVIG: Your Honor, my concern is everyone's

1 calendar. I am not available for a certain period of time, so
2 I have a feeling we'll go the full length anyway. At this
3 point, we will not waive.

4 THE COURT: Okay. Do you need a special setting?

5 MS. KOSSOW: Probably, Your Honor, just to be safe.

6 THE COURT: Okay.

7 THE CLERK: How does November 1st work? I'm sorry.
8 I do mean December 1st, December 1st at 10:00 o'clock.

9 MS. NORDVIG: I am out of the office from November
10 the 23rd through December 5th.

11 THE CLERK: December 19th at 1:30.

12 Ms. Kossow: That is fine with the State.

13 MS. NORDVIG: That is fine with us. Thank you.

14 THE COURT: Okay. That will be the sentencing date.
15 We'll see the defendant back at that time. Anything further?

16 Ms. Kossow: No, thank you, Your Honor.

17 MS. NORDVIG: No thank you.

18 THE COURT: All right. Court's in recess.

19 (Whereupon, the proceedings were concluded.)

20 --o0o--

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

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

7 That as such reporter I was present in Department
8 No. 4 of the above-entitled court on Monday, October 16, 2017,
9 at the hour of 10:00 a.m. of said day and that I then and
10 there took verbatim stenotype notes of the proceedings had in
11 the matter of THE STATE OF NEVADA vs. LUIS ALEJANDRO
12 MENENDEZ-CORDERO, Case Number CR15-1674.

13 That the foregoing transcript, consisting of pages
14 numbered 1-191 inclusive, is a full, true and correct
15 transcription of my said stenotypy notes, so taken as
16 aforesaid, and is a full, true and correct statement of the
17 proceedings had and testimony given upon the trial of the
18 above-entitled action to the best of my knowledge, skill and
19 ability.

20 DATED: At Reno, Nevada this 15thst day of February, 2018.

21
22 /s/ Judith Ann Schonlau
23 JUDITH ANN SCHONLAU CSR #18
24

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

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 TEN

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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.)

14 LUIS ALEJANDRO)
15 MENENDEZ-CORDERO,)

16 Defendant.)

CASE NO. CR15-1674
DEPARTMENT NO. 4

17 TRANSCRIPT OF PROCEEDINGS

18 PENALTY PHASE

19 MONDAY, OCTOBER 16, 2017, 10:00 A.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 ANN KOSSOW, ESQ.

 ZELALEM, BOGALE, ESQ.

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 RENO, NEVADA

FOR THE DEFENDANT: OFFICE OF THE PUBLIC DEFENDER

 BY: LINDA NORDVIG, ESQ.

 RICHARD VILORIA, ESQ.

 DEPUTY PUBLIC DEFENDERS

 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>
STACI MOFFATT	9	10		
STEPHANIE SHUMAN	22			
STACI MOFFATT	26			
CLAUDIA MENENDEZ	54	60		
RICARDO MENENDEZ	64	68	70	
OSCAR ARTURO MENENDEZ	72	82	84	
GABRIELA MENENDEZ	87	93	97	
STACI MOFFATT	99	133	136	
TERESO V.	141			
GLOARIA S.	145			
CLAUDIA L.	148	154	154	
GLORIA Q.	155			
CELIA M.	160			

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<u>EXHIBITS:</u>	<u>MARKED FOR IDENTIFICATION</u>	<u>ADMITTED INTO EVIDENCE</u>
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142		99
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1 RENO, NEVADA; MONDAY, OCTOBER 16, 2017; 10:00 A.M.

2 -oOo-

3
4 THE CLERK: Exhibits 136 through 175 marked.

5 THE COURT: Counsel, this is the time set for the
6 penalty hearing, and the clerk tells me that there is a little
7 bit of disagreement about the evidence that will be presented.

8 MS. KOSSOW: That's true, Your Honor.

9 THE COURT: Want to talk to me about it?

10 MS. KOSSOW: Your Honor, the defense did provide
11 photographs that I believe wasn't admitted. The State has
12 objections to some of those photographs.

13 THE COURT: Okay. How are you going to admit the
14 photographs, Ms. Nordvig?

15 MS. NORDVIG: Good morning, Your Honor.

16 THE COURT: Good morning.

17 MS NORDVIG: As we discussed at a bench conference on
18 Friday I believe it was, Mr. Menendez-Cordero's family lives
19 in El Salvador. The ones that live in the United States live
20 in the Santa Rosa-Petaluma area. Unfortunately, they are still
21 under an evacuation warning. They are loaded up and ready to
22 go, but they were not able to be here today. So I'm hoping to
23 call our investigator that did all of the mitigation work in
24 this case, Staci Moffatt. She's seated behind me. She has

1 spent or had e-mail contact with all of the people who wrote
2 letters and sent photographs and, hopefully, the Court will
3 allow her to testify and lay a foundation.

4 THE COURT: Well, I don't understand why his family
5 isn't here. I understand that they had a possible evacuation.
6 They were all loaded up. I don't understand why they didn't
7 just come for the sentencing.

8 MS. NORDVIG: They decided they could not leave their
9 homes the way the conditions are currently. That was the last
10 word we had from them yesterday between 12:00 and 1:00 p.m.

11 THE COURT: Who is this?

12 MS. NORDVIG: His father, his stepmother, sister and
13 cousin and her family.

14 THE COURT: You intended to call them as witnesses?

15 MS. NORDVIG: Yes.

16 THE COURT: This is troubling to me.

17 MS. NORDVIG: Well, Your Honor, I believe NRS 175.552
18 specifically subsection 3 allows for hearsay testimony at
19 sentencing of this nature to present mitigation evidence. We
20 think that is very important for not only the jury to hear but
21 the Court to hear.

22 THE COURT: I'm not concerned about the fact that it
23 is going to be hearsay. I am concerned about the defendant's
24 right to put on a mitigation case, and he has people that are

1 three hours away from here that aren't going to be here and
2 the excuse is the fire which I know is a significant event,
3 but I don't have enough right now to know whether or not
4 they're voluntarily choosing not to come or they truly can't
5 come. And that is really a very important piece as we move
6 forward. I want those witnesses here, because I think that is
7 the strongest mitigation evidence that could be presented. So
8 I need a better record from that why they are not here.

9 MS. NORDVIG: All I can tell you is what they told
10 us, that they are concerned about their homes. They are
11 concerned about everything that is happening due to the
12 catastrophic fires that are ~~burning~~ very close to them. I
13 can't give a mile or a feet or yards, but they have been on
14 evacuation warnings of various degrees for several days now
15 and they have just told us that they will not be here because
16 they can't and that is what they said.

17 THE COURT: Exactly where do they live?

18 MS. NORDVIG: Your Honor, it is my understanding
19 that they live between Petaluma and Santa Rosa.

20 THE COURT: Have you confirmed that they couldn't
21 come if they wanted to?

22 MS. NORDVIG: I'm not sure it is a physical
23 impossibility, but they do not feel like they can leave their
24 homes. I know that communications are not consistent as far as

1 phone calls and e-mails because of infrastructure damage to
2 that region. I know that some of the roads are not passable
3 because of the need for emergency vehicles to have access.
4 Whether it is physically possible for them to get here, I
5 would imagine it probably is, but I don't know what that
6 process would be, if they would have to go to San Francisco
7 and fly up. I can't answer that question.

8 THE COURT: When was the last communication you had
9 with his father?

10 MS. NORDVIG: Yesterday between 12:00 and 1:00
11 approximately, Sunday. So it would be Sunday October 15th
12 between 12:00 and 1:00 p.m.

13 THE COURT: Okay. When was it you personally had
14 spoken to him?

15 MS. NORDVIG: I have never spoken with him
16 personally. I just e-mailed my investigator. Staci is the
17 one that spoke with him yesterday.

18 THE COURT: Would you tell the jury it is going to
19 be a little while, please? Call your investigator. I want a
20 record.

21 MS. NORDVIG: Ms. Moffatt.

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STACI MOFFATT

called as a witness, having been first duly sworn,
took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MS. NORDVIG:

Q Could you please state your name and spell your
first and last name for the court reporter?

A Stays Moffatt. S-T-A-C-I. M-O-F-F-A-T-T.

Q How are you employed?

A Mitigation Specialist with the Washoe County Public
Defender's Office.

Q Were you assigned to work on the case of State of
Nevada v. Luis Alejandro Menendez-Cordero, CR15-1673?

A Yes, I was.

Q During the course of your investigation, have you
been able to speak with members of Mr. Menendez-Cordero's
family?

A Several family members, yes.

Q Is his father one of those people?

A Yes, he is.

Q Does his father live in the northern, north Bay
California area somewhere between Santa Rosa and Petaluma?

A Yes.

1 Q When was the last time you spoke with him?

2 A Yesterday afternoon.

3 Q Did he indicate his ability to be present today?

4 A Yes.

5 Q How did he do that?

6 A He said that he would not be coming due to the fires
7 and the evacuation warnings. They were packing their home and
8 he was not comfortable leaving.

9 Q Did he give you any other indication when he might
10 be available to be present in court?

11 A No, he did not.

12 Q Prior to yesterday, did you speak with him about
13 coming to court?

14 A Several times.

15 Q Did he indicate that he was willing to come?

16 A No, he has not.

17 THE COURT: Any questions from the State?

18 MS. KOSSOW: Yes, Your Honor.

19

20 CROSS-EXAMINATION

21 BY MS. KOSSOW:

22 Q I want to make sure I understand the last. How many
23 times have you spoken with-- What is his name?

24 A His name is Ricardo Menendez.

1 Q How many times have you spoken with him?

2 A Approximately five.

3 Q Five times?

4 A Yes.

5 Q How many times have you spoken to him about the
6 actual sentencing in this case?

7 A About four.

8 Q In any of those four conversations -- Let's back up.
9 What is the time period of those four conversations?

10 A Over the last two weeks.

11 Q Last two weeks?

12 A Yes.

13 Q In any of those four conversations within the last
14 two weeks, did he express that he was going to attend the
15 sentencing to support his son?

16 A When we came to the point of preparing to bring the
17 family here, the fires had started, and at that point he had
18 been saying that he could not come because of the fires.

19 Q When was that?

20 A When were those conversations?

21 Q Yes?

22 A Over the last few days.

23 Q Did you have any conversations with him or any of
24 the other family members that live in the north Bay or near

1 Petaluma in regards to attending the sentencing prior to the
2 start of the fires?

3 A Yes.

4 Q Did they tell you that they intended to show up at
5 the sentencing and speak in mitigation of him?

6 A Other family members, yes.

7 Q Who was that?

8 A His sister, Gabriela and some cousins.

9 Q Who were the cousins?

10 A Claudia and Arturo.

11 Q Did each of those three individuals write letters on
12 behalf of Mr. Menendez-Cordero?

13 A Yes, they did.

14 Q His father did as well?

15 A Yes.

16 Q So have you talked to Gabriela about showing up for
17 today?

18 A Yes, I have.

19 Q What was her response?

20 A She also wasn't able to, she lives in the same area,
21 due to the fires and conditions of the road.

22 Q What about Claudia?

23 A She lives in the same area and the same concerns for
24 the fire.

1 Q What about Arturo?

2 A The same. They live in the same area and conditions
3 of the fires.

4 Q Do they all live in the same residence?

5 A No, just in the same general area.

6 Q Three of them including the father, Ricardo, all
7 live in separate houses in the same area?

8 A Yes.

9 Q They all said that they would come but they were
10 unable to be here based on the fires?

11 A Yes.

12 MS. KOSSOW: I have no other questions, Your Honor.

13 THE COURT: Did the father say he would come? I
14 thought you said he never said he would come.

15 THE WITNESS: By the time we started talking about
16 planning to actually come here, the fires had begun, so at
17 that point he was not able or willing to come because of the
18 fires.

19 THE COURT: Did he ever say he would come?

20 THE WITNESS: He was cooperative and writing the
21 letters. We hadn't asked him to make the travel yet. By the
22 time we asked him about making the trip to come here, he was
23 not able to.

24 THE COURT: When you communicated with him

1 originally knowing what was going to happen in this case and
2 the potential for a penalty hearing, did you not tell people
3 they were having to come testify last week?

4 THE WITNESS: We had talked about the possibility of
5 it, yes.

6 THE COURT: And how early in your development of the
7 mitigation in this case did you tell them was a possibility
8 they would be here?

9 THE WITNESS: Our first contact.

10 THE COURT: When was that?

11 THE WITNESS: About two and a half weeks ago.

12 THE COURT: Your very first contact was two and a
13 half weeks ago?

14 THE WITNESS: Yes.

15 THE COURT: Why was that?

16 THE WITNESS: Because the family, we didn't have a
17 lot of contact information to reach out to them yet.

18 THE COURT: How did you get contact information?

19 THE WITNESS: From the client, from Luis.

20 THE COURT: So he didn't give it to you until two
21 and a half weeks ago?

22 THE WITNESS: I did not have contact information for
23 several relatives until two and a half weeks ago.

24 MS. NORDVIG: Your Honor, I have had contact with

1 his sister, Gabriela consistently over the period that I have
2 represented, I have been assigned to the case which I believe
3 was the end of January, beginning of February of this year. So
4 I have been in contact with her and other cousins. Claudia,
5 the cousin, I have had a couple of phone calls with her, but
6 most of my contact has been through Gabriela. She speaks
7 fluent English and has been kind of a liaison with the family.

8 THE COURT: Have you spoken to Gabriela about
9 today's hearing?

10 MS. NORDVIG: I have not recently. I have spoken,
11 the last time I spoke to her about the possibility of
12 testifying at a sentencing hearing was approximately the end
13 of August, beginning of September, I believe.

14 THE COURT: Any other questions that you would have
15 based on my questions for the witness?

16 MS. KOSSOW: No, Your Honor.

17 THE COURT: Do you have any other questions?

18 MS. NORDVIG: No. Thank you.

19 THE COURT: Thank you, ma'am. You may step down.

20 (Witness excused.)

21 MS. KOSSOW: I would like to make a record, Judge.
22 Again the police interviewed the defendant's father during the
23 course of the investigation, and that police report, Petaluma
24 report has been released in discovery for a long time. It

1 contained the name of his father, a cellphone contact and his
2 address as well as one of the cousins. They also interviewed
3 him as well during the course of the investigation, so that
4 information has been provided to defense a long time ago.

5 THE COURT: That is suppose to help my decision for
6 today, Ms. Kossow?

7 MS. KOSSOW: No. When they say they didn't have
8 contact information for the family, that is absolutely not
9 true.

10 THE COURT: Which makes it a little worse believe it
11 or not.

12 MS. KOSSOW: I agree.

13 MS. NORDVIG: And, Your Honor, although Ms. Moffatt
14 was not assigned to this case until recently, I have had
15 contact with, as I said Gabriela and Claudia. They are the
16 ones that have become the family contact. And we discussed
17 the possibilities in early August-ish when we knew the case
18 was going to proceed to trial and when we knew if we needed
19 them would they be willing. They have all been cooperative.

20 THE COURT: But they are not today.

21 MS. NORDVIG: Well, I can't say they are not
22 cooperative, but they don't feel that they are able to be
23 here.

24 THE COURT: Counsel approach.

1 MS. NORDVIG: Your Honor, I sent an e-mail yesterday
2 to Jenny.

3 THE COURT: Did you get an e-mail saying she didn't
4 have a witness? She wasn't here yesterday. She didn't-- That
5 was by way of telling me she didn't have any witnesses?

6 MS. NORDVIG: I couldn't e-mail you.

7 THE COURT: No. Switching clerks was not my idea.
8 Now we don't have Jenny, so she obviously didn't understand,
9 didn't talk to me. So --

10 MS. KOSSOW: I didn't know what the e-mail meant
11 either. When you say we have one witness I don't know if it
12 means family members.

13 THE COURT: They probably didn't know either. What
14 I was concerned about was whether or not we needed to call off
15 the jury to get them here. Do you want some time to figure out
16 if this is a decision?

17 MS. KOSSOW: I would like to contact these people.
18 In 2009 when they interviewed him, he didn't know anything
19 about his son, didn't have any information. When you read the
20 letter, it is the same sort of thing. I don't want --

21 MS. NORDVIG: That's not true. He applied in 2009
22 so of course he knows things about him.

23 THE COURT: That doesn't mean he was talking. This
24 is the deal with regard to what we have got now I would

1 suspect that within ten years this case will be back for
2 sentencing because of ineffective assistance of counsel. Now
3 if we make a better record, figure out they really aren't in
4 harm's way, they really could come, there is no -- right now I
5 don't even have the request for a continuance. I mean that is
6 a problem. We don't care, with the jury sitting in the jury
7 room now, we are ready to go, we don't care about that. And I
8 think we have got to give them contact information. You have
9 got a right to check with them, see if they are going to come,
10 check with law enforcement, find out if they really are --
11 certainly they have a situation where homes are in danger --
12 if they're willing to come. If they don't want to come, that
13 is another story. So I just don't think, if the reason they
14 are not here such as the fire --

15 MS. NORDVIG: May I request a brief recess to
16 discuss with my client what his options may be at this point?

17 THE COURT: The State has a right.

18 MS. NORDVIG: Yes, they do. I understand that. We
19 talked about it. But as the unusual situation in this case, I
20 am not getting whether, she can't answer whether she's not
21 getting reception. I don't know.

22 THE COURT: What we can do is I think we should
23 recess. You guys can look at this stuff. You will be awfully
24 busy. That might be the request.

1 MS. NORDVIG: I am not sure I want to drive down and
2 start looking for the location in Petaluma, to be perfectly
3 honest.

4 THE COURT: Well, it is definitely a bad situation.

5 MS. NORDVIG: There was a fire that broke out
6 between the two main fires which would be closest to them. As
7 far as I understand where they live, the information I could
8 find last night on the Internet.

9 THE COURT: Let's take a recess. I will have the
10 bailiff tell the jury it will be a while. We'll keep them
11 here. Depending, we may continue the case for a day or two
12 for them to get here. We are supposed to do the sentencing
13 soon, but it is a couple of days, so you all need to talk.
14 You talk, tell them I don't think we are going to go today. I
15 think we need a better record. If we do go today, I think
16 choosing not to come which they have that right, then we have
17 a record.

18 MS. NORDVIG: I can't tell you whether it is a
19 choice or they feel it is a necessity. Whether that is a
20 choice and necessity would be within their --

21 THE COURT: Right.

22 MS. KOSSOW: I can have law enforcement call them
23 right now.

24 THE COURT: You will provide the contact

1 information?

2 MS. NORDVIG: Gabriela's is back at my office. I
3 will run back and get it for you.

4 THE COURT: We'll be back here in an hour, do you
5 think? Hour and a half?

6 MS. KOSSOW: Hour is fine. The victims' family is
7 here.

8 THE COURT: It didn't work out. We have all been
9 here. We could have done this a little sooner. These things
10 happen.

11 MS. NORDVIG: It has been one of those trials.

12 THE COURT: Okay. What I am going to do now is,
13 based on the bench conference about how we are going to
14 continue, at this point I am going to recess for approximately
15 one hour, let the defense talk and provide some more
16 information to the State. The State is going to do some more
17 investigation. In the interim, we are going to leave the jury
18 here. I don't know what we'll do later. It is best just to
19 keep them here, tell them there is a little bit of a delay,
20 that we will let them know in a little bit. It will be at
21 least an hour. We'll be in recess for one hour. Court's in
22 recess.

23 (Whereupon the court recessed.)

24 THE COURT: Ms. Nordvig.

1 MS. NORDVIG: Thank you, Your Honor. Your Honor,
2 during the break we were able to speak with
3 Mr. Menendez-Cordero briefly as well as go back to the office
4 and make a couple of phone calls. We were unable to connect
5 with Claudia personally, but we have an e-mail from her at
6 approximately 10:50 this morning saying, this is between
7 Claudia and Ms. Moffatt, where it says an aunt has been
8 evacuated. The route they would take to come goes through
9 Fairfield. There are current evacuations there now. She says
10 getting here would be dependent on the fires. I don't know if,
11 the question of once the fires are under control would she
12 come has been asked, but we do have another call into her
13 where we will discuss that.

14 I also was able to speak with Mr. Menendez-Cordero's
15 father who has some concerns other than fire related where
16 he's concerned about coming up here. It would appear that a
17 telephonic testimony would be possible. We have also spoken
18 with Mr. Menendez-Cordero's sister who, during the first phone
19 call indicated that things were bad down there. She doesn't
20 know if she can come up. She doesn't know if she wants to
21 come up. She bursted into tears. We told her we would call
22 her back in ten minutes. She indicated that she doesn't know
23 if she can leave there right now but would be willing to
24 testify by telephone. That is as far as we got in the hour we

1 had. My request will be to continue the sentencing until
2 approximately 1:00, 1:30 tomorrow afternoon. We'll even see if
3 we can get flights or set up telephonic issues if the Court is
4 willing to do that and if the State has no objection.

5 I briefly spoke with Ms. Kossow about five minutes
6 ago indicating all of these things and maybe we can get
7 together this afternoon and sort things out.

8 THE COURT: Okay. Ms. Kossow.

9 MS. KOSSOW: Judge, I would ask to put my
10 investigator on the stand to elicit testimony in regards to
11 these witnesses.

12 THE COURT: Yes.

13 MS. KOSSOW: State would call Stephanie Shuman.

14 THE COURT: You may proceed.

15 MS. KOSSOW: Thank you, Your Honor.

16
17 STEPHANIE SHUMAN

18 called as a witness, having been first duly sworn,
19 took the witness stand and testified as follows:

20
21 DIRECT EXAMINATION

22 BY MS. KOSSOW:

23 Q Ma'am, would you please state your full name and
24 spell your last for the record?

1 A Stephanie Shuman, S-H-U-M-A-N.

2 Q What is your current title within the District
3 Attorney's Office?

4 A I am the supervising investigator with the District
5 Attorney's Office.

6 Q Have you been assigned to the case of Luis Alejandro
7 Menendez-Cordero?

8 A Yes, I have.

9 Q Were you asked just today to attempt to speak with
10 Claudia and Ricardo Menendez. Oscar and Gabriela?

11 A Yes.

12 Q Were you able to contact any of those individuals?

13 A I spoke to all of them by telephone.

14 Q Let's start with Ricardo Menendez, the defendant's
15 father. Did you speak with him?

16 A Yes, I did.

17 Q And can you tell us about the contents of that
18 conversation?

19 A Yes. I explained to Mr. Menendez that I was calling
20 on behalf of the State, and that I was calling to address
21 whether or not he was planning to appear in court.
22 Mr. Menendez indicated to me that he was struggling because of
23 the fires that have hit the Petaluma-Santa Rosa area. He said
24 he had taken work off all last week and did not believe he

1 could take any more time off work. I asked if this was
2 continued to another day. He said he didn't think he could
3 because he could not continue to miss work. I asked if he
4 prepared a letter. He said he did. He said he had some
5 concerns about exposing his family and had safety concerns
6 about coming.

7 Q Next did you speak with Gabriela?

8 A Yes I did.

9 Q Is it your understanding that is the defendant's
10 sister?

11 A Yes.

12 Q First of all, did she indicate to you she had just
13 returned from some area?

14 A She indicated to me she had just returned from
15 Seattle.

16 Q Did you ask whether or not she could appear at the
17 sentencing of Mr. Menendez-Cordero?

18 A She also indicated she had some of the same concerns
19 as Mr. Menendez, the fires in the Petaluma-Santa Rosa area.
20 She was concerned about traveling. She indicated the Petaluma
21 police department told her she needed to have bags packed and
22 ready to go. She indicated she prepared a letter. She wasn't
23 sure if she would be able to come at a later time. She also
24 indicated she had safety concerns about coming.

1 Q Did she indicate one way or the other whether she
2 would appear and speak at the sentencing of this defendant?

3 A She did not say.

4 Q What about Claudia, were you to speak to Claudia?

5 A Yes, I did speak to Claudia.

6 Q What did Claudia say in regards to appearing?

7 A She indicated she's a single mom to a one year old
8 and she would not be appearing.

9 Q What about Oscar?

10 A I did.

11 Q What was his response?

12 A Oscar indicated that he was planning to appear but
13 that he had concerns about the fires in the area and he did
14 not feel it was safe to leave. He said their entire family
15 was feeling the pressure of the fires, and he was not
16 comfortable leaving the area. He indicated if it was
17 continued to another time he would do his best to appear.

18 Q Did he waffle one way or the other whether he would
19 appear or not?

20 A He also indicated at the end of the conversation he
21 had concerns about coming due to safety.

22 MS. KOSSOW: That is all I have.

23 THE COURT: Do you have any questions?

24 MS. NORDVIG: No, thank you.

1 THE COURT: You may step down.

2 (Witness excused.)

3 MS. NORDVIG: Your Honor, if I could recall Staci
4 Moffatt, please.

5 THE COURT: Okay.

6 THE COURT: Ma'am, you are still under oath. Just
7 go ahead and take the stand.

8

9 STACI MOFFATT

10 Called as a witness, having been previously sworn,
11 took the witness stand and testified as follows:

12

13 DIRECT EXAMINATION

14 BY MS. NORDVIG:

15 Q During the break were you able to make telephone
16 contact with Claudia?

17 A Yes, I was.

18 Q And was that -- Approximately when was that?

19 A About 15 minutes ago.

20 Q Did you ask her if she would be able to appear in
21 court?

22 A Yes, I did.

23 Q Did she indicate one way or another whether she
24 would or would not?

1 A She indicated the struggles with the fire still as
2 to continuing. She has a one-year old. It would be difficult
3 for her to come and leave her child.

4 Q Is she willing to come up at a later time to
5 testify?

6 A She said no due to the child.

7 MS. NORDVIG: Thank you.

8 THE COURT: Okay. Anything further?

9 MS. KOSSOW: No, Your Honor.

10 THE COURT: You may step down.

11 (Witness excused.)

12 THE COURT: Okay. Ms. Kossow, I think there is a
13 request to continue until 1:30 tomorrow.

14 MS. KOSSOW: State would be opposed to a
15 continuance. Again, we have the victims' family members are
16 here present ready to proceed. I understand the issues with
17 the witnesses, but, again, I think based on the conversations,
18 not one of them said absolutely I would be there 100 percent
19 regardless of the fires. And it is important to note they
20 have all written letters that will be exhibits. State is not
21 opposed to the admission of those letters. Based on that, we
22 are not willing to agree to continue the matter. We'll submit
23 that to the Court.

24 THE COURT: What about the suggestion they appear

1 telephonically?

2 MS. KOSSOW: If that is how we can get this done, I
3 don't have an objection to that process.

4 THE COURT: That would at least allow them to
5 identify their letter. I'm not sure about the connectivity,
6 but given the fact your investigator has spoken to them all,
7 we wouldn't have an issue whether the person on the phone is
8 the same person.

9 MS. KOSSOW: Yes.

10 THE COURT: So we would be okay that way.

11 THE COURT: Do these people speak English?

12 MS. KOSSOW: Which people?

13 MS. NORDVIG: All the ones that we have mentioned in
14 the last 15 minutes of this hearing speak English.

15 THE COURT: We don't need interpreters?

16 MS. NORDVIG: Not for Ricardo, Gabriela, Claudia or
17 Oscar.

18 THE COURT: Okay. I'm not sure what the concern
19 about safety is, but without going into a lot of the
20 investigation as to what that is all about, I think it makes
21 sense for to us allow them to appear telephonically given the
22 nature of the fires. So I am going to allow them to appear
23 telephonically which means they still have to be available
24 today. We are not going to do it tomorrow. They are

1 available now. You have talked to them in the last 15
2 minutes. We can get them back on the phone and appear so that
3 can happen.

4 With regard to the order of witnesses, normally in a
5 penalty hearing we normally have opening statements, State
6 calls witnesses, the defense calls witnesses, the defendant
7 has a right of allocution, then we do closings, read the
8 Instructions to the jury. I am not sure what you all
9 anticipated and if that is the plan you thought would happen.
10 Then we can go forward. If you want to be heard with a
11 different format, we can do that, too.

12 MS. KOSSOW: My only concern, I was hoping per the
13 statute the victims' families would be allowed to testify last
14 in time pursuant to 176.015.

15 THE COURT: Are you talking about after you do your
16 closing argument?

17 MS. KOSSOW: No, Your Honor. Obviously prior to
18 that happening.

19 THE COURT: Well, we can have the defense go first
20 and you go last.

21 MS. KOSSOW: Yes.

22 THE COURT: Do you have any objection to that?

23 MS. NORDVIG: What time would the Court be
24 considering beginning the process after lunch this afternoon?

1 THE COURT: I have a jury in the jury room. I am
2 going to have you do your opening statement now, then they're
3 going to eat their lunch then we will put on your witnesses.

4 MS. NORDVIG: Okay. I'm not sure if we can get them
5 back on the phone. We didn't tell them anything about being
6 available for a telephonic today. We'll do our best, but, you
7 know, we kind of need some kind of time scope for them
8 especially if they are concerned.

9 THE COURT: Well I think it will be fine. You just
10 tell them we need them available between 1:00 and 1:45 today
11 on the phone. If they need to appear sooner than 1:00 and do
12 it over the lunch hour, please let us know. The jury is
13 waiting in the jury room with us. They are very flexible.
14 They are at our call. If somebody has to appear in the next
15 ten minutes or 15 minutes via telephone, we can make that
16 work.

17 MS. NORDVIG: Thank you, Your Honor. I was asking
18 for a little bit more definite time.

19 THE COURT: The best would be between 1:00 and 1:45
20 or so. But you can send your Mitigation Specialist out right
21 now to see what she can do. I need to know right away if I
22 have to have the jury eat only half their lunch. But you are
23 ready to do your openings now.

24 MS. NORDVIG: I am.

1 MS. KOSSOW: State wants to lodge an objection to
2 some of the photographs the defense has proposed.

3 THE COURT: Why don't we -- The jury's lunch, is it
4 due to arrive at noon?

5 THE DEPUTY: Around 12:15 or 12:30.

6 THE COURT: Let's talk about those exhibits at this
7 time. They are marked 143 through 175.

8 MS. KOSSOW: Judge, the State's general objections
9 are to two categories of photos. Starting with 143, there are
10 photographs in here that are of, just appear to be of El
11 Salvador in general. In fact over the break I looked at the
12 photographs. They are taken from the Internet. They appear
13 on the Internet especially 143, I believe, 144 as well. Of
14 course, I don't have them marked with the numbers, but, again,
15 just the general photographs of a market, of a street with
16 traffic on them, the State's going to object to those. And
17 then again toward the back, again I don't have them marked, I
18 apologize, Your Honor, there are photographs of what appear to
19 be of a jail in El Salvador, prisoners in a jail again which
20 appear to be taken off the Internet. And then there is some
21 specific photographs.

22 THE COURT: I have 163. 143, 144, 145 are street
23 scenes. 163 is a market scene. 164 is a market scene. 166
24 appears to be a prisoner jail. 167, 168 are of people. 172 of

1 the defendant in custodial status. And 173 and 174.

2 MS. KOSSOW: The last two photographs I have marked
3 are detective Woodard along with the defendant again in
4 custodial status and boarding a plane with detective Woodard
5 as well.

6 THE COURT: There is one picture after that, so
7 there is 174 is coming out of the jail cell of the defendant.
8 Apparently they pulled that picture, Judge. That is not there
9 anymore.

10 THE COURT: The last picture is.

11 MS. KOSSOW: The order they sent to me is not how
12 they are marked.

13 THE COURT: You want to come back to these?

14 MS. NORDVIG: It is only the last two pictures that
15 have changed.

16 MS. KOSSOW: Anything showing the defendant's
17 custodial status in El Salvador, any general overall scenes of
18 El Salvador State would be objecting to.

19 THE COURT: The basis of your objection?

20 MS. KOSSOW: First is relevance as far as the overall
21 general El Salvador picture. Some of them are taken off the
22 Internet. First is relevance. As far as the custodial
23 pictures, also relevance. They are highly prejudicial.

24 THE COURT: Okay. Counsel.

1 MS. NORDVIG: Thank you, Your Honor. Your Honor,
2 regarding any of the photographs the State is objecting to,
3 yes some of them were taken off the Internet. However, some
4 of them are pictures of the market Mr. Menendez-Cordero's
5 mother worked at and he worked at, specifically number 143.
6 The subsequent to that is where he grew up, the street, number
7 163.

8 THE COURT: Was that 145?

9 MS. NORDVIG: 144 and 145 is where he grew up, how
10 he got to and from where his mother worked, his home in the
11 neighborhood so to speak. 163 -- Court's indulgence -- I
12 believe is the next market scene. It is the market where his
13 mother works. And specifically the one, I believe it is 164,
14 that is a man who was killed in the market that
15 Mr. Menendez-Cordero was present to see.

16 THE COURT: How do you know that?

17 MS. NORDVIG: He told me.

18 THE COURT: Off the Internet? This picture is off
19 the Internet?

20 MS. NORDVIG: This picture is off the Internet.

21 THE COURT: When was it taken?

22 MS. NORDVIG: I don't know. He identified the papaya
23 stand as one his mother used to be working at, and he
24 recollected a killing in the market. That is the first time

1 he saw a man killed.

2 THE COURT: Is your client going to testify?

3 MS. NORDVIG: He will allocute. He will not testify.
4 Shall I continue?

5 THE COURT: Go ahead.

6 MS. NORDVIG: Number 166 is the prison where he was
7 kept.

8 THE COURT: What is the relevance of that?

9 MS. NORDVIG: It shows the conditions he was kept
10 under prior to coming to the United States.

11 THE COURT: What is the relevance?

12 MS. NORDVIG: I think it is highly relevant. It
13 goes to not only what he will be saying in his allocution, but
14 also bolsters the testimony, the testimony the jury heard from
15 agent Freestone regarding the conditions in El Salvador. 167,
16 excuse me, I'm not sure if it is 167 or 168, the smaller one.

17 THE COURT: Yes, it 167.

18 MS. NORDVIG: That is called a gang cage where
19 Mr. Menendez-Cordero was kept. He knows some of the people in
20 these photos. He was kept with them.

21 THE COURT: I understand that, but I don't
22 understand the relevance to the sentencing by this jury. The
23 timing is after the murder, correct?

24 MS. NORDVIG: Correct.

1 THE COURT: As to the relevance of his custodial
2 status in El Salvador is escaping me since there is no
3 possibility for this jury to sentence him to custody in El
4 Salvador.

5 MS. NORDVIG: Correct. However the statement that
6 he made to I believe it is now Sgt. Chavez was taken five
7 years later after he was kept in this prison. It would
8 indicate or it would influence his testimony as to how he was
9 treated there as opposed to what he might expect here. Whether
10 or not --

11 THE COURT: That may go to an argument for
12 voluntariness, but we can't litigate that nor can he at this
13 point.

14 MS. NORDVIG: Thank you, Your Honor.

15 THE COURT: 166, 167, 168 will not be shown to the
16 jury as not being relevant. Go ahead.

17 MS. NORDVIG: Your Honor, I would still ask they be
18 made part of record.

19 THE COURT: They will be made part of record.

20 MS. NORDVIG: I believe the other, the last three --
21 Court's indulgence.

22 THE COURT: So we have 172, 173 and 174 that the
23 State is objecting to. 172 has a black hooded person with an
24 Uzi with the defendant.

1 MS. NORDVIG: That's correct.

2 THE COURT: 173 appears to be an interior shot with
3 officers with automatic guns and the defendant, and 174 is
4 officer Woodard. It does appear to be at an airport.

5 MS. NORDVIG: That's correct. These are his
6 extradition photos. We suggest those are relevant to these
7 proceedings to bolster the testimony not only of officer
8 Freestone excuse me, Special Agent Freestone but the testimony
9 through Sgt. Chavez and the interview that
10 Mr. Menendez-Cordero did when he got back to the United
11 States. I think those define the parameters of that and show
12 the various situations that Mr. Menendez found himself in.

13 THE COURT: What is the relevance to the sentencing?

14 MS. NORDVIG: Goes to his state of mind, Your Honor,
15 at the time and how he felt.

16 THE COURT: The State of mind at the time the
17 murders were committed?

18 MS. NORDVIG: No. No. At the time that he made his
19 statement to police in this country and the conditions just
20 prior to that.

21 THE COURT: That may be an argument with regard to
22 voluntariness which you never raised.

23 MS. NORDVIG: No, I did not.

24 THE COURT: So it doesn't go to relevance for

1 sentencing. I am very concerned 172 being highly prejudicial,
2 somebody in a hood caring an Uzi. And I don't see the
3 relevance of 173. It doesn't really show anything.

4 MS. NORDVIG: I am sorry prejudicial to whom, my
5 client?

6 THE COURT: I think to your client, because we have
7 got a jury now. I think this is very, very serious and highly
8 inflammatory. We have got a jury that is an anonymous jury.
9 They are called by numbers, and we are now going to show him
10 with the people who held him in El Salvador being afraid to
11 show their face? I think that is highly prejudicial and very,
12 very concerning to me. And it is not relevant. So add
13 non-relevance and highly prejudicial, I don't think it is
14 appropriate.

15 MS. NORDVIG: Unfortunately that is life in El
16 Salvador.

17 THE COURT: Well that may be, but life in El
18 Salvador unless it relates to something he was experiencing
19 prior to the murder is not relevant. He's not going to El
20 Salvador.

21 MS. NORDVIG: Thank you.

22 THE COURT: 173 I don't see any relevance for. I
23 don't have a problem with 174 if you want to show your client
24 in custody, although we certainly have made every effort to

1 show that he is not in custody.

2 MS. NORDVIG: Your Honor, we'll defer to the Court's
3 decision.

4 THE COURT: Well since we are not going to tell the
5 jury he's in custody, we really made every effort, he's in
6 street clothes, not restrained in any manner in any of these
7 proceedings, I think it makes more sense to leave it that way.

8 MS. NORDVIG: I would note for the record, Your
9 Honor, the interview with Sgt. Chavez he was in custody. That
10 is immediately after these pictures occurred as well as the
11 I-web sections that the State showed for Special Agent
12 Freestone he was in custody at that time?

13 THE COURT: I am trying to remember what those
14 looked like.

15 MS. NORDVIG: It shows him from approximately mid
16 chest level up. It shows --

17 THE COURT: It doesn't show any restraints?

18 MS. NORDVIG: I would have to check. It shows, I
19 don't want to stay custodial, but a very vague background,
20 tile floor. I believe there is a little bit of carpet and
21 kind of a cinder block painted wall if I remember. And I
22 believe that the testimony indicated that the call originated
23 from the Washoe County Jail and went somewhere else.

24 THE COURT: I think you might be right there.

1 MS. NORDVIG: I am trying to be as correct as I can
2 remember.

3 THE COURT: I don't remember. Ms. Kossow.

4 MS. KOSSOW: For the record, it did not show him in
5 any type of restraint. It showed from the neck basically up.
6 He had a V neck shirt on. That is all it showed. There was
7 testimony either that I-web or the call came from the Washoe
8 County Jail. But I would note for 174, too, for the same
9 reason, my copy, I printed out a black and white copy, there
10 appears to be a black hooded person in that photograph as well
11 standing behind the defendant.

12 MS. NORDVIG: I am sorry, which number?

13 MS. KOSSOW: The very last photograph which I
14 thought was 174.

15 THE COURT: The one with officer Woodard?

16 MS. KOSSOW: Yes.

17 THE COURT: I just don't know the relevance of it.

18 MS. KOSSOW: Exactly.

19 THE COURT: May have been relevant at an another
20 time for another issue, but for sentencing, I just don't see
21 the relevance. The only question based upon your
22 representation that the photographs are identified even though
23 they came off the Internet, that is the neighborhood he was
24 raised in, I will allow those.

1 MS. NORDVIG: 143, 144 and 145?

2 THE COURT: Correct.

3 MS. KOSSOW: And again I know you are considering
4 making a ruling as to 164 which I believe is a person laying
5 in the picture with shoes on. Not only would the State object
6 to relevance but also lack of foundation.

7 THE COURT: Okay. So based on the lack of
8 foundation for 164, I am going to exclude it. I don't know
9 what defendant's statement in allocution is going to be so it
10 could be relevant that he saw someone murdered, but this
11 particular photograph is not necessarily the person he saw or
12 what his testimony will be. We don't even know when it was
13 taken, the photograph.

14 MS. NORDVIG: Thank you, Your Honor.

15 THE COURT: 164 is excluded. Assuming all the others
16 establish to be him and his family, I don't have any problem
17 with them.

18 THE COURT: 163 based upon your representation that
19 is his neighborhood, it can be identified as his neighborhood
20 while he was was there, I am going to allow it.

21 So were going to bring the jury in, and I am going
22 to have the clerk called the roll. This has been over a
23 weekend now, that will include the alternates, and I will
24 confirm with the Foreperson that the jury has followed my

1 admonition while they have been in the jury room, then we'll
2 do openings at which time I will excuse them into the jury
3 room to eat their lunch and then we'll start back with the
4 defense case at 1:00 o'clock.

5 Now before we do all of this, I do want to advise
6 the defendant of what the right of allocution is. I would
7 like to do that now and if he has any questions, he can
8 discuss that with you.

9 MS. NORDVIG: I have one question prior to the Court
10 doing that regarding 163 and allowing for identification,
11 since we are doing telephonic testimony from the family, is
12 the Court willing to allow my investigator to identify those
13 as things she has discussed with the family prior?

14 THE COURT: Yes.

15 MS. NORDVIG: Thank you. Sir, please stand. I want
16 to advise you officially of what your right of allocution is.
17 You have the right to make a statement. It is known as the
18 right of allocation. It is subject to my supervision. If you
19 go beyond what is permissible, I must take corrective action.
20 Corrective action could be a comment by the Court. I would
21 say something to the jury, or I could allow the prosecutor to
22 make a comment to the jury, or I could possibly reopen the
23 case and allow the prosecutor to impeach you with witnesses.
24 Or, depending on what you do, you could submit yourself to

1 cross-examination by the prosecutor. That means you will be
2 giving up your right against self-incrimination if you say
3 something that is beyond the rules with regard to your right
4 to make a statement in allocation. So your statement in
5 allocution is one of mitigation. It my about your remorse,
6 apology, chagrin or plans and hopes for the future. It is not
7 an opportunity for you to tell the jury that you are innocent
8 or rebut any of the facts in evidence or deny your guilt. We
9 are past that stage. So you can discuss that right with your
10 attorneys so that you are clear about what you are going to
11 say and how you are going to say it. I want to make sure you
12 understand before you give some right up by not being
13 completely clear. Did you understand what I told you?

14 THE DEFENDANT: Yes.

15 THE COURT: Okay. Then after we take our lunch
16 break, if you have anymore questions you can discuss it with
17 your attorney. We'll bring the jury in at this time.

18 Please be seated. Good morning ladies and gentlemen
19 of the jury, I guess I didn't make morning. I guess it is
20 afternoon so good afternoon, ladies and gentlemen of the jury.
21 I hope you had a comfortable weekend. I am going to have the
22 clerk call the roll of the jury. Please answer here or
23 present when your number is called.

24 THE CLERK: 27.

1 JUROR 27: Here.
2 THE CLERK: 75.
3 JUROR 75: Here.
4 THE CLERK: Number 73.
5 JUROR 73: Here.
6 THE CLERK: Number 32.
7 JUROR 32: Here.
8 THE CLERK: Number 36.
9 JUROR 36: Here.
10 THE CLERK: Number 24.
11 JUROR 24: Here.
12 THE CLERK: Number 14.
13 JUROR 14: Here.
14 THE CLERK: Number 43.
15 JUROR 43: Here.
16 THE CLERK: Number 7.
17 JUROR 7: Here.
18 THE CLERK: Number 91.
19 JUROR 91: Here.
20 THE CLERK: Number 34.
21 JUROR 34: Here.
22 THE CLERK: Number 105.
23 JUROR 105: Here.
24 THE CLERK: Number 25.

1 JUROR 25: Here.

2 HE CLERK: Number 49.

3 JUROR 49: Here.

4 THE COURT: Number 14, as our Foreperson of the
5 jury, has there been any discussion this morning in violation
6 of my order?

7 JUROR 14: No, ma'am.

8 THE COURT: Thank you. We appreciate your service.
9 We will begin the penalty phase of the trial today. The first
10 thing that is going to happen is the attorneys can make
11 opening statements, and then by then I think your lunch will
12 be here. We'll recess, you will have your lunch, then we'll
13 begin hearing testimony this afternoon. Ms. Kossow.

14 MS. KOSSOW: Thank you, Your Honor. Ladies and
15 gentlemen, your duty will be in the penalty phase to determine
16 the appropriate penalty for two counts of first degree murder
17 based on your verdict on Friday. The possibilities for the
18 penalty of first degree murder are up on the screen. The
19 first is life without the possibility of parole.

20 The second is life with the possibility of parole
21 with eligibility of parole beginning when a minimum of 20
22 years has been served.

23 The final option is a term of fifty years with
24 eligibility of parole beginning when a minimum of 20 years has

1 been served. Those are your only three options for the
2 sentence on both Count I and Count II. You are going to
3 determine that sentence individually as to each count. What
4 the State is going to ask during this penalty phase is that
5 you remember the facts of this case as it was presented to you
6 during the guilt phase. All of those exhibits and evidence
7 can be considered by determining this penalty. The State is
8 also going to ask you to consider the emotional impact this
9 crime has had on the families of the victims in this case, and
10 you will hear from them how this crime has impacted them and
11 their family. And, lastly, the the State is going to ask you
12 to think about the defendant's character. His character
13 presented in the underlying case and what he has shown to you
14 up until this case went to trial which includes the flight and
15 the threats that you heard about. So it is going to be the
16 same evidence that you heard during the guilt phase, and the
17 State will ask you to put that evidence together, and the
18 State is asking for that number one penalty, life without
19 possibility of parole as to Count I and as to Count II as
20 well. Thank you.

21 THE COURT: Thank you. Ms. Nordvig.

22 MS. NORDVIG: Thank you, Your Honor. Good afternoon
23 ladies and gentlemen. In response, my statement will be
24 relatively short, because Ms. Kossow covered most of it. Both

1 sides will be asking that you consider which penalty you feel
2 is most appropriate. I would point out that the three
3 penalties that you were shown on the Power Point earlier are
4 correct, life without possibility of parole; life with the
5 possibility of parole with eligibility of parole beginning
6 after a minimum of 20 years has been served; and a third
7 possibility of a term of fifty years with eligibility for
8 parole beginning when a minimum of 20 years has been served.
9 It states eligibility for parole. It is not guaranteed
10 parole. There is no guarantee he will ever be paroled if you
11 give him the opportunity to do so. Ms. Kossow asked that you
12 remember the facts. You will be presented with more evidence
13 than the facts that you heard at the trial. Some of that will
14 come through letters. Some will come through pictures of
15 things that you haven't seen yet. We would ask that you keep
16 an open mind to the end of the presentation and then consider
17 everything that you have heard.

18 Ms. Kossow also brought up the emotional impact on
19 the families. We know that whatever decision you make will not
20 bring those boys back. However, your job is to determine a
21 just resolution and sentence for this case. We ask that you
22 not only consider the victims' families but the family of
23 Mr. Menendez-Cordero who will be presenting evidence to you
24 throughout this hearing.. the State wants you to consider

1 character evidence of the underlying case and the flight and
2 the threats that you heard about earlier. We would ask that
3 you consider the man he has become today, and you will hear
4 about those through family letters, the people who have been
5 closest to him recently. And if Mr. Menendez-Cordero decides
6 to make a statement to you, that you listen to it carefully.
7 Thank you. Your Honor may we approach briefly?

8 THE COURT: Certainly.

9 MS. NORDVIG: We just heard by text through our
10 investigator Claudia will be available right at 1:00 o'clock.
11 She has to go to work right after that. If the Court can take
12 her at that time, we would appreciate it. If we break, bring
13 her in and break again that is fine. I haven't heard about
14 anybody else.

15 THE COURT: Anybody else?

16 MS. NORDVIG: I am trying. I don't know, because I
17 have been sitting here and talking.

18 THE COURT: Thank you.

19 Ladies and gentlemen, I am now going to let you go
20 into the jury room. Our first witness will be available at
21 1:00 p.m. so I will probably be bringing you into the
22 courtroom right at that time. And so you will be with the
23 bailiffs until then. Thank you. Please go into the jury
24 room. Remember the admonishment I have given you at all the

1 other breaks. You may not discuss this case among yourselves
2 or with anyone else. You may not allow anyone to attempt to
3 influence you with regard to it.

4 You may not make any independent investigation or
5 inquiry into any of the circumstances surrounding this case.
6 You may not conduct any experiments or do any personal
7 research. Do not listen to, view or read any news media
8 account or any other account or commentary about the case or
9 the people involved. Go into the jury at this time. Thank
10 you.

11 (Whereupon the jury left the courtroom.)

12 THE COURT: Please be seated. Before we all leave, I
13 want to ask you a few questions about Exhibit 142 that was
14 marked as a complete packet.

15 MS. NORDVIG: That is the letters, Your Honor.

16 THE COURT: Yes. You have that?

17 MS. KOSSOW: Yes.

18 THE COURT: The first letter in time is from the
19 father of Luis. The second is from Luis' stepmother. The next
20 is Nelson Alexander Aguilar Cordero, the defendant's brother.
21 And then that is three pages I think. Then there is a letter
22 in Spanish. I think the three pages is a translation of the
23 Spanish version.

24 MS. NORDVIG: That's correct, Your Honor.

1 THE COURT: Okay. And then Joselin Aguilar Cordero
2 the defendant's sister. I don't think that is the sister we
3 have been talking about; is that correct?

4 MS. NORDVIG: No. The sister we have been talking
5 about today is Gabriela.

6 THE COURT: There is the one page letter. It is
7 translated from Spanish which was right behind it; is that
8 correct?

9 MS. NORDVIG: Correct.

10 THE COURT: And then there is a letter that says: I
11 am Luis Alejandro's sister. Is that Claudia?

12 MS. NORDVIG: Court's indulgence. Yes I believe it
13 is. Did you say Claudia or Gabriela?

14 THE COURT: Gabriela. I said Claudia but it is
15 Gabriela.

16 MS. NORDVIG: Yes. The letter begins: I am Luis
17 Alejandro's sister is written by Gabriela.

18 THE COURT: Okay. There is a letter that is one page
19 long in Spanish.

20 MS. NORDVIG: That's correct.

21 THE COURT: Is that the aunt which is behind it?

22 MS. NORDVIG: Yes.

23 THE COURT: Let's change that so we at least have
24 some consistency in the order. So the letter that says it is

1 a letter from Luis Alejandro's aunt dated 10-5-17 is a
2 translation of the Spanish Yo soy tia de Luis Alejandro.

3 MS. NORDVIG: Si. Yes. Sorry.

4 THE COURT: Our Spanish is probably about the same,
5 very bad. So then would we have: I am uncle of Luis
6 Alejandro signed Oscar?

7 MS. NORDVIG: That's correct. That is only in
8 English.

9 THE COURT: Yes. Then I also have: My name is
10 Oscar Arturo Menendez. I am the first cousin.

11 MS. NORDVIG: That's correct. We have been
12 referring to him as Arturo because that is the name he goes
13 by.

14 THE COURT: And then there is Luis Alejandro is my
15 first cousin from Claudia.

16 MS. NORDVIG: That's correct.

17 THE COURT: Also only English.

18 MS. NORDVIG: Correct.

19 THE COURT: And then Matilde Delfina Cordero. Is
20 there a Spanish version?

21 MS. NORDVIG: The Spanish version is directly behind
22 that larger font. For the record, that is
23 Mr. Menendez-Cordero's mother who resides in El Salvador.

24 THE COURT: Okay. Now has the State reviewed the

1 content of the letters? Is there anything that we have to
2 deal with with the content?

3 MS. KOSSOW: No, Your Honor.

4 THE COURT: Okay.

5 MS. KOSSOW: I mean I have reviewed them and there
6 is nothing.

7 THE COURT: I took it that way, that dealing with
8 the content. At 1:00 o'clock, what do you need from us to
9 make these telephone calls happen so somebody can hear them?

10 MS. NORDVIG: I'm not sure to be perfectly honest. I
11 guess a speaker phone.

12 THE COURT: The clerk thinks it might be easier if
13 the Court originates the phone calls rather than the phone
14 call coming to another number and being transferred in here,
15 so you will have to have the numbers ready and the clerk will
16 dial one. When one person is off the line, we'll dial the
17 next number. Hopefully they're ready to answer the phone and
18 testify. The witnesses will be sworn even though we can't see
19 it, and then there is very little we can do. It is hard for
20 them to hear. You do have speakers on your desks. The main
21 speaker will be here by my microphone or wherever we put it,
22 so I think the jury will be able to hear. But an objection,
23 sometimes is very hard to stop the person speaking, so if you
24 really have a problem, say objection then just keep saying

1 objection until the person takes a breath, because they won't
2 hear the objection, okay? It is a little awkward, but it will
3 work. So we'll see you back here. I would like you to be
4 back here, you know, about five minutes to 1:00 so we can
5 actually get the first witness on the phone and have them
6 holding when we bring the jury in, swear them and all that.
7 Unless you think we should have all of them between quarter to
8 1:00 and 1:00.

9 MS. NORDVIG: Your Honor, if I might, I do have an
10 e-mail from our investigator. She has made contact with
11 Claudia, Oscar, Ricardo and Arturo and they will all be
12 available. Obviously, we would like to take Claudia first
13 because of her time limitation, but they have all indicated
14 they will be available by telephone between 1:00 and 1:45.
15 We'll set those up. We are still trying to reach Gabriela
16 again. We'll keep trying.

17 THE COURT: Make sure you give the clerk the phone
18 numbers and the order you want them called in.

19 MS. NORDVIG: I will just forward this e-mail to her
20 or write them down. I will write them down for her.

21 THE COURT: She's fine as long as it is in the order
22 whichever way to do it. Okay. We'll be in recess until five
23 minutes to 1:00. Court's in recess.

24 (Whereupon the Court took a recess.)

1 THE COURT: Thank you. Please be seated. The clerk
2 tells me that we have a witness on the phone. Ma'am, would
3 you state your name, please?

4 THE WITNESS: Claudia Menendez.

5 THE COURT: Repeat, please. Repeat your name.

6 THE WITNESS: Claudia Menendez.

7 THE COURT: Thank you. Ms. Menendez, you are going
8 to be testifying in front of the jury in a few minutes. If
9 one of the lawyers wants you to stop speaking, they are going
10 to say objection so just stop speaking if you hear that word,
11 okay?

12 THE WITNESS: Okay.

13 THE COURT: Thank you. Please bring the jury in.
14 Counsel, will you stipulate to the presence of the jury?

15 MS. KOSSOW: State would so stipulate.

16 Defense stipulates, Your Honor.

17 THE COURT: Thank you. Please be seated. Ladies and
18 gentlemen of the jury you have heard the opening statements of
19 counsel. You are now going to begin to hear testimony.
20 Ms. Nordvig, call your first witness.

21 MS. NORDVIG: Thank you, Your Honor. The defense
22 would call Claudia Menendez. I believe she's here
23 telephonically.

24 THE COURT: Ms. Menendez, please stand, raise your

1 right hand and be sworn.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: You may proceed

4
5 CLAUDIA MENENDEZ

6 called as a witness, having been first duly sworn,
7 took the witness stand and testified as follows:

8
9 THE COURT: Ma'am, you are going to be asked some
10 questions now. We'll start with Ms. Nordvig.

11
12 DIRECT EXAMINATION

13 BY MS. NORDVIG:

14 Q Thank you, Your Honor. Ms. Menendez, can you hear
15 me?

16 A Yes, I can.

17 Q Could you please state your full name and spell your
18 both your first and last name for the Court Reporter?

19 A My is Claudia Menendez. C-L-A-U-D-I-A.
20 M-E-N-D-E-N-E-Z.

21 Q Do you know a person by the name of Luis Alejandro
22 Menendez-Cordero?

23 A Yes, I do.

24 Q How do you know him?

1 A He's my first cousin.

2 Q Are you familiar with the circumstances that have
3 brought you to call us today?

4 A Yes.

5 Q And you're testifying for the defense during a
6 penalty phase. Do you understand that?

7 A Yes.

8 Q And have you been in contact with my office
9 regarding letters to present on behalf of
10 Mr. Menendez-Cordero?

11 A Yes.

12 Q And you sent a letter; is that correct?

13 A Correct.

14 Q Do you have a copy of that letter with you?

15 A I do.

16 MS. NORDVIG: Your Honor, I would note for the
17 record that this is included in Exhibit 142 I believe.

18 THE COURT: Okay.

19 BY MS. NORDVIG:

20 Q Ms. Menendez. Could you read your letter aloud?

21 A Yes. The letter is dated October 5, 2017:

22 To whom it may concern: Luis Alejandro is my first
23 cousin. From the day he was born, I remember being told I was
24 going to have a new baby cousin in El Salvador. I was a child

1 myself being seven years old. From the time he was a baby, we
2 received pictures of a beautiful blond baby boy. I could not
3 wait to hold him and play with him. When the opportunity came
4 to meet him, I was a teenager. He was six years old. Again,
5 the love and connection was instant. Luis Alejandro was a
6 lively, fun little boy. Soccer was his passion. He showed me
7 what a great player he was by demonstrating some complicated
8 maneuvers as he tripped over the ball. He was loved. He's
9 still loved.

10 When Luis Alejandro legally came to the United
11 States, we picked up where we left off quickly. He was a shy
12 young man at first, but his sense of humor was undeniable. We
13 were all happy he was finally going to be able to be close to
14 us. We talked a lot. I took the role of older sister in a
15 way. I gave him as much of advice as I could regarding girls,
16 his siblings, father, co-workers, etcetera. I listened to him
17 about the difficulties he faced growing up in a poor country,
18 not having his father and the complicated relationship with
19 his stepfather among other serious things. During the short
20 time he lived nextdoor to me, I spent a lot of time laughing
21 at his jokes, his ideas and funny stories. We were forced to
22 spend a lot of time together. When we decided to visit family
23 in Arkansas, the long drive gave us more time to bond.

24 Everything, all of a sudden things went downhill. He

1 did not feel the love and affection from the person he was
2 seeking it the most from, his father. He began to make bad
3 choices and moved away. He did things that he regrets, and is
4 accused of doing the unthinkable and unimaginable. As a
5 person who studied in the social work field, what Luis
6 Alejandro is being accused of is unacceptable. However, I
7 know he is a product of his environment, experience and lack
8 of. This does not excuse nor justify what he has done.

9 Though it took me a long time, I chose to forgive
10 Luis Alejandro. A few years ago I traveled to El Salvador
11 again. At this point he had fled the U.S. and was living with
12 his new family. I had not seen him nor talked to him in a
13 while. I was nervous. I had seen his mugshot with his face
14 tattooed, but seeing him as a little boy was more important.
15 I walked through the doors of his mother-in-law's house, and
16 we both walked right in each others arms and hugged and cried
17 in silence. From that moment he was my little cousin again.
18 Out of respect for us, he had covered his tattoos. It was then
19 that I met his son, Jaden. It was like seeing Luis Alejandro
20 as a baby. I was able to observe him being a great father.
21 He was loving, caring, affectionate. It gave me great joy to
22 see him happy with his family.

23 When Luis Alejandro was brought back to Nevada, we
24 had the opportunity to talk to him by phone. Soon after we

1 were able to video chat, and we took the opportunity to make
2 sure that he was okay. I appreciate the time to be able to
3 talk to him and see him. At first he would not show his face.
4 He did not want us to see his tattoos, again, out of respect.
5 After a few chats, he was able to show himself. Every
6 opportunity he has he asks about how we are doing and ends
7 every one with a "God bless you."

8 When Luis Alejandro found out I was pregnant, he was
9 genuinely happy. He sent me his blessings and could not wait
10 to meet her, even if through a screen. Last Christmas his son
11 came to visit us. He was very grateful and appreciative that
12 the family was able to meet his son and spend time with him.
13 Through our chats, he has stated that now he's a father, he
14 now understands his own father, and even though he has a
15 different style, he now knows that some of the things he did
16 were were for his own good. Luis Alejandro loves, adores his
17 son. He wants a different life for him. He wants him to be
18 close to his family and have opportunities he did not as a
19 child. Now that I have a daughter, he constantly asks me
20 about her and is able to see her through video. He sends her
21 postcards he draws himself as well as to his son and the rest
22 of the family.

23 No matter what the outcome is, Luis Alejandro
24 continues to be loved by me and the family, and he will

1 continue to have our support. Sincerely, Claudia Menendez.

2 First cousin of Luis Alejandro

3 Q You are not present in the courtroom. You are
4 testifying by telephone, correct?

5 A Correct.

6 Q Where are you located? What city are you located in
7 today?

8 A In Petaluma, California.

9 Q And are you testifying telephonically in part
10 because of the fires in California?

11 A Yes.

12 Q Is there anything else you would like to add?

13 A Just, I want everyone to understand that this is a
14 situation where for ourselves we don't exactly know all of the
15 details. Like I said, as a person coming from a social
16 justice perspective, I understand there has to be
17 consequences, but I believe everyone sees the history and
18 everything behind what has molded Luis Alejandro to become
19 what he has become, and I understand that. He really wants
20 something different. I truly believe in my heart that he is
21 regretful of being involved in everything he was involved in.
22 And I just hope to be in communication and know what the
23 ending will be.

24 MS. NORDVIG: Thank you. The State will have an

1 opportunity to ask you questions if they desire.

2 THE COURT: Cross-examination?

3 MS. KOSSOW: Thank you, Your Honor.

4

5 CROSS-EXAMINATION

6 BY MS. KOSSOW:

7 Q Ma'am, in your letter you read you said that the
8 things that he's accused of are unthinkable and unimaginable;
9 is that what you wrote?

10 A Yes.

11 Q You know he's no longer accused of these things.
12 He's been found guilty of two counts of first degree murder.
13 Do you know that?

14 A Yes.

15 Q And does that change your opinion
16 of Mr. Menendez-Cordero?

17 A No, it does not.

18 Q And did you know Mr. Menendez-Cordero is an MS-13
19 gang member?

20 A Did I know him as a member?

21 Q Yes?

22 A When -- The last time I knew about that was when he
23 already fled.

24 Q Once he had fled to El Salvador, you became aware he

1 was associated with MS-13?

2 A Yes.

3 Q And prior to that, you had no knowledge of his
4 affiliation with MS-13?

5 A No.

6 Q And when you saw him in El Salvador, he was already
7 a fugitive; is that right?

8 A Right.

9 Q So you knew that he was a fugitive from two counts
10 of first degree murder?

11 A Yes.

12 Q And did you know or were you aware during the course
13 of this case in August of 2017 he made threats to kill a
14 witness' family member?

15 MS. NORDVIG: Objection. How is that relevant to
16 this person's testimony?

17 THE COURT: I don't know. Are you looking at bias?

18 MS. KOSSOW: Yes, I am. I want to know how much
19 knowledge she has of this defendant. She got to talk about
20 the charges in her letter. I think I should be able to
21 cross-examine.

22 THE COURT: I will allow that question.

23 MS. NORDVIG: I am sorry. I object. The threats and
24 flight are not charges. They are considered as evidence but

1 they are not charges.

2 THE COURT: Okay. But I think the witness -- The
3 State has a right to explore the basis of her recommendation
4 and her statement.

5 BY MS. KOSSOW:

6 Q Ma'am, did you hear my question?

7 A Yes, I heard your question, and no, I did not know
8 that.

9 Q If he in fact did that, would that change your
10 opinion of him?

11 A If he -- if he did that?

12 Q Yes?

13 A I wouldn't be able to tell you, because at this
14 point I'm not -- I don't know if it is true or not, so it
15 would only be an assumption.

16 Q If it was proven that it was true, that the words
17 came from his mouth, would that change your opinion about his
18 character?

19 A I really don't know.

20 MS. KOSSOW: Thank you. I have nothing further.

21 THE COURT: Okay. May this witness be excused?

22 MS. NORDVIG: Yes. Thank you.

23 THE COURT: Ma'am, we are going to hang up now.

24 Thank you.

1 THE WITNESS: Okay. Thank you.

2 (Witness excused.)

3 THE CLERK: That was the number for Oscar.

4 THE COURT: Do you want us to call the next one?

5 MS. NORDVIG: If we could call Ricardo and go back
6 to Oscar possibly.

7 THE CLERK: This is Ricardo.

8 THE WITNESS: This is me.

9 THE COURT: Hi Ricardo. This is Marci. I am Judge
10 Steinheimer's court clerk up in Reno. We are on the record
11 and you are present via telephone in front of the jury and
12 with the attorneys present. And Ms. Nordvig will call you as
13 a witness now.

14 THE WITNESS: Okay.

15 THE COURT: The full name of the witness, please?

16 THE WITNESS: Ricardo Menendez.

17 THE COURT: Thank you. Sir, please stand and be
18 sworn.

19 THE CLERK: Please raise your right hand.

20 THE WITNESS: I am.

21 THE CLERK: Thank you.

22 THE WITNESS: I do. I do.

23 THE CLERK: Thank you.

24 THE COURT: Okay. Sir, this is the Judge speaking.

1 If you hear someone say objection, you must stop speaking
2 until I rule on it. Do you understand?

3 THE WITNESS: Okay.

4 THE COURT: Now Ms. Nordvig will ask you a question.

5
6 RICARDO MENENDEZ

7 called as a witness, having been first duly sworn,
8 took the witness stand and testified as follows:

9
10 DIRECT EXAMINATION

11 BY MS. NORDVIG:

12 Q Good afternoon. Would you please state your full
13 name name and spell both your first and last name for the
14 Court Reporter?

15 A Ricardo Menendez.

16 Q Could you spell your first and last name, please?

17 A First name R-I-C-A-R-D-O. Last name M-E-N-E-N-D-E-Z.

18 Q Thank you, Mr. Menendez. Do you know Luis Alejandro
19 Menendez-Cordero?

20 A Yes, I do.

21 Q How do you know him?

22 A He's my son.

23 Q Are you aware that he is currently in Reno, Nevada
24 in a trial?

1 A I am.

2 Q And do you know the charges of that trial?

3 A Not exactly. I'm not full aware of them.

4 Q Do you know we are in the penalty stage of a trial
5 where the jury has found him guilty of two counts of murder in
6 the first degree?

7 A I know he was in court. I didn't know exactly what
8 was going on.

9 Q Okay. So do you understand now?

10 A I do.

11 Q And you wrote a letter that you sent to my
12 investigator, correct?

13 A I did.

14 Q Do you have a copy of that letter?

15 A Not with me.

16 Q Do you recall the content of that letter?

17 A I said I feel powerless because ever since he was a
18 baby, he grow up without guidance, my guidance.

19 Q Okay. Does what you remember writing in that letter
20 still apply now that you know he has been convicted in court?

21 A It does.

22 MS. NORDVIG: Your Honor, may I read his letter into
23 the record?

24 MS. KOSSOW: I have no objection, Your Honor.

1 THE COURT: Okay. You may do so. You want him to
2 listen and tell you if that is the letter?

3 MS. NORDVIG: I'm sorry?

4 THE COURT: You want the witness to listen and tell
5 you if that is the letter?

6 MS. NORDVIG: Yes.

7 THE COURT: You may do so.

8 MS. NORDVIG: It is part of Exhibit 142. It is the
9 first letter.

10 BY MS. NORDVIG:

11 Q Mr. Menendez, if this is not your letter, please
12 tell me.

13 A Okay.

14 Q To Whom It May Concern. I am the father of of Luis.
15 I am saddened and worried about my son's current state. Like
16 any father, I want what is best for my son. Now, I feel
17 powerless, because I can do so little for him, even from the
18 time of his birth.

19 I have tried my best to give my son a good
20 upbringing but circumstances have made this difficult. My son
21 did not have a preferable childhood. Firstly, I was unable to
22 be there for him when he was growing up. He also grew up in
23 El Salvador, a country filled with violence even to this day.
24 Violence surrounding one is a great influence on any child.

1 Because of circumstances beyond my control, Luis had to grow
2 up without a father figure to guide him. I was unable to give
3 him my loving care as his father.

4 The odds have been against my son from the
5 beginning, however I believe that if given the opportunity and
6 the right guidance, he could become an outstanding citizen
7 especially now that he, himself, is a father. I have spoken
8 with him about this, and he has told me that he wishes he
9 could change things. He's a good man at heart.

10 Given this information about his past and the
11 circumstances surrounding his childhood, I ask you, beg you,
12 plead with you to take this into consideration when judging
13 him. Please give him a chance to be there with his child not
14 like me who was unable to be there for Luis, my son. Help
15 break this vicious cycle in my family.

16 Thank you for you attention.

17 Was that the letter you wrote, sir?

18 A Yes, ma'am.

19 Q Based upon your finding out today that he has been
20 convicted of two murders, do you still stand by this letter?

21 A I do.

22 Q Do you understand that the minimum possible penalty
23 he could get is 20 years in the Nevada Department of
24 Corrections?

1 A I understand that, ma'am.

2 Q He will not be with his son for at least 20 years?

3 A I understand that.

4 Q And that does not change your opinion?

5 A I wish it was different.

6 Q Does that change anything in your letter?

7 A No, it doesn't.

8 MS. NORDVIG: Thank you. Would you please hold on
9 for the State.

10 THE WITNESS: Yes.

11 THE COURT: The prosecutor may now ask you
12 questions.

13

14 CROSS-EXAMINATION

15 BY MS. KOSSOW:

16 Q Mr. Menendez, how long have lived in the United
17 States?

18 A I don't remember exactly. I think around 36 years.

19 Q Thirty-six years?

20 A Yes, ma'am.

21 Q And at one point you actually brought Luis
22 Menendez-Cordero to the United States; is that true?

23 A That's true.

24 Q Do you recall when that was, what year?

1 A I think it was -- Oh, boy. I don't remember exactly
2 the date.

3 Q Not the exact date. Do you remember it being around
4 2009?

5 A Yeah. Yes, it was 2009.

6 Q Did you bring him here to get him out of El Salvador
7 and to give him a new chance?

8 A I did.

9 Q And did he live with you when he came here?

10 A Yeah, he did.

11 Q Did you know, prior to him coming, that he was
12 affiliated with the MS-13 gang?

13 A I did not.

14 Q Did you know once he came to America?

15 A Not after a year or so.

16 Q I am sorry, I couldn't understand you?

17 A Probably after a year or so.

18 Q After a year or so you knew he had this affiliation?

19 A Yeah.

20 Q Okay. And in 2010, in December 2010 did detectives
21 from the Petaluma Police Department come and speak to you
22 about your son?

23 A They did.

24 Q And do you remember telling them that you believed

1 in justice?

2 A I did.

3 Q And do you remember telling them how you believe he
4 should be held accountable for his actions?

5 A I think not just him, anybody does somehow they're
6 responsible for it.

7 Q Including your own son?

8 A Including my own son. Including me.

9 MS. KOSSOW: Thank you. I have nothing further.

10 THE COURT: May this witness be excused?

11 MS. NORDVIG: If I might briefly.

12 THE COURT: Yes.

13

14 REDIRECT EXAMINATION

15 BY MS. NORDVIG:

16 Q Mr. Menendez, you are testifying on telephone from
17 what city?

18 A Right now in Santa Rosa.

19 Q That is in California, correct?

20 A Yes, ma'am.

21 Q Does anything about your son's affiliation with
22 MS-13 change the content of your letter?

23 A No, ma'am.

24 MS. NORDVIG: Thank you. Nothing further.

1 THE COURT: May this witness be excused?

2 MS. NORDVIG: Yes.

3 THE COURT: Okay, sir. Thank you. We'll hang up on

4 the phone call now.

5 THE WITNESS: Okay.

6 (Witness Excused.)

7 THE CLERK: Ms. Nordvig, would you like me to go

8 back to Oscar or move on to Arturo?

9 MS. NORDVIG: I would leave it to the Court's

10 discretion. Oscar is fine.

11 THE CLERK: Is this Arturo?

12 THE WITNESS: This is Arturo.

13 THE CLERK: This is Marci, Judge Steinheimer's court

14 clerk up in Reno.

15 THE WITNESS: How you doing?

16 THE CLERK: We are currently in court on the record

17 with the jury present and counsel present. You will be

18 testifying in this matter and Ms. Nordvig will call you as a

19 witness.

20 THE WITNESS: Okay.

21 THE COURT: Go ahead, call the witness, then I will

22 have him sworn.

23 MS. NORDVIG: The defense would call Oscar Arturo

24 Menendez.

1 THE COURT: Sir, please stand, raise your right hand
2 and be sworn. Are you ready?

3 THE WITNESS: Yes, I am ready.

4 THE CLERK: Thank you.

5 THE COURT: Okay, sir. This is the Judge speaking.

6 THE WITNESS: How you doing?

7 THE COURT: I am fine. You are going to be asked
8 some questions by Mr. Menendez' attorney, then you will be
9 asked some questions from the State's attorney. If anyone
10 wants to interrupt you, they're going to say objection. If
11 you hear that word, you must stop speaking.

12 THE WITNESS: Okay.

13 THE COURT: Go ahead, counsel.

14

15 OSCAR ARTURO MENENDEZ

16 called as a witness, having been first duly sworn,
17 took the witness stand and testified as follows:

18

19 DIRECT EXAMINATION

20 BY MS. NORDVIG:

21 Q Mr. Menendez, would you state your full name and
22 spell both your first and last name?

23 A I am sorry, can you repeat that? You are breaking
24 up.

1 Q Would you please state your full name and spell your
2 last name for the Court Reporter?

3 A Sure. My name is Oscar Arturo Menendez.
4 M-E-N-E-N-D-E-Z.

5 Q You are testifying by telephone today, correct?

6 A Yes, ma'am.

7 Q What city are you currently located in?

8 A Petaluma.

9 Q California?

10 A Yes, ma'am.

11 Q Thank you. Do you know a Luis Alejandro
12 Menendez-Gordero?

13 A Yes, I do.

14 Q How do you know him?

15 A He's my cousin.

16 Q I am sorry, could you repeat that?

17 A He's my cousin.

18 Q Thank you. Were you contacted by an investigator
19 from my office?

20 A Yes, I was.

21 Q Did you speak with her?

22 A I did.

23 Q And did you participate in an interview with her?

24 A An interview?

1 Q Yes?

2 A No. All she asked me to do was write a letter.

3 Q Did you write a letter?

4 A Yes, I did.

5 Q Do you have that in front of you today?

6 A You know what, I thought I did. I believed I had

7 taken it from my personal e-mail, but it is from my work

8 e-mail. At the moment, I don't have access to it because I am

9 not at work due to the fires here in California. I don't have

10 that in front of me.

11 Q All right. If you could speak just a little slower.

12 We have an interpreter in court please?

13 A No problem.

14 Q Thank you. Do you recall when you wrote that

15 letter?

16 A I wrote it I believe, I want to say eleven days ago.

17 Q Okay. October 4th, 2017?

18 A Sounds about right.

19 Q Okay. Do you know that Luis has been in trial in Reno

20 for the last couple of weeks?

21 A I do.

22 Q And do you know the nature of that case?

23 A From what I was told, he's in trial for suspicion of

24 murder I believe.

1 Q Okay. Do you know that the jury has come back with
2 conviction on two counts of murder?

3 A I did not.

4 Q Based upon that information, would anything in the
5 letter you wrote on October 4th not be accurate?

6 A No. Everything is accurate in that letter.

7 Q So what you wrote then is still true now?

8 A Yes, ma'am.

9 Q And you do not have a copy of that letter with you?

10 A I do not.

11 MS. NORDVIG: Your Honor, may I have the Court's
12 permission to read that letter?

13 THE COURT: Any objection?

14 MS. KOSSOW: No, Your Honor.

15 THE COURT: Okay, sir, the letter is going to be
16 read to you and then you are going to be asked if that is your
17 letter, okay?

18 THE WITNESS: No problem.

19 MS. NORDVIG: Thank you.

20 BY MS. NORDVIG:

21 Q Written on October 4, 2017 addressed: To Whom it
22 May Concern: My name is Oscar Arthur Menendez. I am the first
23 cousin of Luis Alejandro-Cordero. I first met Luis when he
24 was a child when he was, he was a child. I, myself, was no

1 older than eight years old, maybe younger. There wasn't much
2 to the kid, small in stature, small belly and blond bowl cut
3 hair raised in the streets of El Salvador always hanging out
4 at my uncle Arturo's house. My aunts treated him as if he was
5 their own child. We would play soccer in the middle of the
6 corridors of my uncle's complex. He was an innocent kid, not
7 really knowing what world he lived in, only knowing El
8 Salvador. His world was El Salvador. As much as I enjoyed
9 spending time with my little cousin whom I had just met that
10 short trip. That trip was just, I said short. Years go by and
11 I have no more communication, with just the rumors that I hear
12 circulating from family up to our doorstep.

13 Next I hear he was hanging out with a local gang
14 from his neighborhood. As much as my family and I didn't
15 approve, I thought to myself can I blame him? Luis grew up in
16 an area where not many people would survive. And those who do
17 survive do what they must to stay alive and keep their loved
18 ones safe.

19 His biological father wasn't really around. He
20 focused on his family here in the states. His mother was there
21 but not really. And as much as my father wanted to help, my
22 uncle's pride came into the equation, stating that his son was
23 his responsibility. But we never really saw results.

24 Throughout the years as you can imagine, Luis grew

1 resentment towards my uncle and possibly even us. Once again,
2 Luis was in survival mode and he did what he needed to in
3 order to eat and provide for his immediate family.

4 By age 13 as my understanding goes Luis joined one
5 of the most notorious gangs in the world, MS-13. How did they
6 convince him? Well what they saw was a young man who doesn't
7 take bad lip from anyone, willing to put in work when he must.
8 They used his vulnerability not having a father around to
9 their advantage, because that's what they do. They recruit by
10 means of psychology, giving you what you want even if it is a
11 family to look after you and have your back not just
12 financially but physically in a world where you can get killed
13 simply by looking at someone the wrong way and really have no
14 repercussions. From what I see, Luis saw family, the family
15 he really didn't have, brothers who were willing to do things
16 for each other without second thought or even asking
17 questions.

18 By age 18, Luis came to the states. He was going to
19 give it a shot here and see what the big fuss was about being
20 in the big bad United States as he would say. I can't tell you
21 I formed a bond with him as soon as he was here. We didn't
22 even say a word to each other for about a month or two until I
23 started to talk to him about soccer and we both clicked as if
24 we were friends since kids. I saw a sense of innocents and

1 vulnerability to the kid, new world, new surroundings and new
2 laws. Living with my uncle was stressful for him. My uncle
3 is a strict man, a religious man and wanted Luis to follow in
4 his footsteps not taking into consideration you can't just use
5 forceful power against someone, especially when you haven't
6 been in their lives. As you can imagine, this was tension in
7 the point where he couldn't be left alone with his younger
8 siblings. With that happening, he felt his own father had no
9 trust in him when he had given him no reason not to trust him.
10 All he wanted was to get to know the siblings he didn't grow
11 up with, the siblings that got a better life while he was left
12 in the gutter. This was how he felt. He never blamed his
13 brother and sister. He never spoke bad about them. All he
14 wanted was to get to know them. He wanted to be a big brother
15 to them. The tension in the house grew bigger and bigger. He
16 would spend most of his days hanging out with me and my
17 immediate family, growing a bond with my mother and my sister
18 and myself. But the biggest bond he had was with my father.
19 My father, he never saw Luis as a broken child or troubled
20 youth. He saw him as he saw all of us as human beings, as
21 people he loved and did anything and everything within his
22 power to make us happy. My dad would joke with him as he would
23 joke with me and he would share advice with him as he would me
24 and Luis would open up to us because of that. We treated him

1 as a man not as a child. More importantly we treated him as
2 the family that he is.

3 I got to spend the most time with Luis. He started
4 to work with my dad and I painting apartments. We would have
5 conversations about his life in El Salvador, about what he
6 wanted to accomplish in the states. We would joke around like
7 siblings. And we'd get mad at each other too, but at the end
8 of the day, we both realized we are family and family moves
9 forward.

10 One day Luis walks into our home with watery eyes
11 with a heavy presence as if something was lingering over him.
12 I stepped outside with him. We went for a walk, and he
13 explained to me something my uncle said one day when friends
14 were over at their house which was my family is only my wife
15 and two kids leaving Luis excluded. I can only imagine how
16 that felt. That week he moved in with my grandmother which
17 was another woman with a strong character similar to my uncle,
18 but they made it work. He did his chores, went to work, paid
19 his rent, got a cellphone and started communication with his
20 friends back home. I can't tell what happened along the way,
21 but next thing we knew he moved. He left his job with my dad
22 and I and came to us and said thank you for what we had given
23 and went along his way. We tried to stay in contact as much
24 as we could, but deep inside I knew he was back in the web of

1 his gang. The next thing I heard he was wanted on suspicion
2 of murder. Two local detectives came to my home, questioned
3 my mother and I. Hearing the detective talk about him and
4 explaining what he was being accused of brought a heavy weight
5 on my heart. I am sure most of my immediate family felt this
6 way. I can tell my mother's heart was heavy. My sister had
7 this look of disappointment and guilt in a sense. I knew all
8 she wanted to do was give him a hug and maybe yell at him for
9 being stupid. As far as me, I was angry at myself. I truly
10 feel like I failed him. We saw each other as brothers and I
11 took it for granted. I was sad for his accusations, thinking
12 if he was still here, if I had taken more time to hang out
13 with him maybe he wouldn't be in the predicament he's in.

14 Luis is a man with a big heart and bottled up anger.
15 I am not trying to make any excuses for him. I just wanted to
16 share what I saw in the brief time he was with us. Every man
17 is responsible for their decisions and actions, but we must
18 take in consideration there is always a story behind these
19 decisions.

20 Luis had a beautiful son, Jaden who now in this
21 twisted world is growing up without a father but a loving
22 mother and full support of my family and me. All I see when I
23 see Jaden is Luis, that short kid with a small belly and blond
24 bowl cut haircut. It weighs heavily on my heart knowing he

1 won't get to fully know his father, but maybe learn from his
2 father's mistakes. We are all human. We all have emotions,
3 some more than others. Some can deal with it, some can't.
4 Once again, not making any excuses. I just thought you might
5 want to know a fragment of his story.

6 Oscar Arturo Menendez.

7 Sir, is that a correct reading of your letter?

8 A That sounds pretty accurate, yes.

9 Q You wrote this letter a couple of weeks ago?

10 A Yes, I did.

11 Q As a result of finding out the jury's verdict in
12 your cousin's case, is any of this letter no longer accurate?

13 A Not at all.

14 Q Is there anything else you wanted to say today?

15 A Not really. Everything is pretty much explained in
16 the letter. Once again, I don't try to make any excuse for
17 him. I just want to know what is going to happen.

18 MS. NORDVIG: Thank you. State will now have an
19 opportunity to ask you questions.

20 THE WITNESS: No problem.

21 THE COURT: Ms. Kossow.

22 MS. KOSSOW: Thank you, Your Honor.

23 ///

24 ///

1 CROSS-EXAMINATION

2 BY MS. KOSSOW:

3 Q Sir, you talked about talking to detectives in 2010.
4 Do you remember that?

5 A Yes. Yes, I do.

6 Q Do you remember them asking you whether he had made
7 contact with you after he committed these crimes?

8 A I do not.

9 Q Do you remember telling them that he actually called
10 you around Christmastime of 2010?

11 A I do not remember.

12 Q Do you remember him calling you around Christmastime
13 of 2010?

14 MS. NORDVIG: Objection. Asked and answered.

15 THE WITNESS: No.

16 THE COURT: Overruled. He said he didn't remember
17 telling the detective. The second question did he remember a
18 phone call, sir, I think you answered it, but you did with yes
19 or no. Would you say yes or no, please?

20 THE WITNESS: No.

21 BY MS. KOSSOW:

22 Q You don't remember him calling you?

23 A I do not.

24 Q You knew that he was a fugitive from the two counts

1 of murder after it occurred?

2 A After the detectives came to us, yes.

3 Q And had you talked to him since the detectives came
4 to talk to you and you found out about the murders up until he
5 was extradited back to the United States?

6 A The last contact I had with him I believe was once
7 we found out that he was caught.

8 Q By the El Salvadorean police?

9 A From what I remember, yes.

10 Q Okay. You said in your letter that, you said he was
11 a man with a big heart and bottled up anger. Do you remember
12 that?

13 A I do.

14 Q And you said, I believe you said that you do believe
15 that he should suffer consequences for what he has been
16 convicted of?

17 A I am sorry, can you repeat the question? You were
18 breaking up.

19 Q Do you believe he should suffer consequences for the
20 crimes, two counts of first degree murder that he has been
21 convicted of?

22 A I believe he should get more of a psychological
23 evaluation.

24 Q That is what you think his punishment should be?

1 A I mean there is, like I said, there is more to
2 everything that he has done than meets the eye.

3 Q So for killing two people at a party, two young men,
4 you are saying that you believe he should get a psychological
5 evaluation?

6 A I do.

7 MS. KOSSOW: Thank you. I have nothing further.

8 MS. NORDVIG: Briefly, Your Honor.

9 THE COURT: Okay.

10

11 REDIRECT EXAMINATION

12 BY MS. NORDVIG:

13 Q Mr. Menendez, do you understand that he will be
14 sentenced to a period of incarceration in the Nevada
15 Department of Corrections for a minimum of 20 years for each
16 count that he has been convicted of?

17 A I understand.

18 Q And do you understand that that is a mandatory
19 sentence, that no matter what happens in the rest of the
20 hearing today, that is the minimum he will serve?

21 A I understand.

22 Q And as a punishment, do you think that is
23 appropriate?

24 A Like I said, if the crime was committed and he's

1 already there, I mean honestly I can't tell you yes and I
2 can't tell you no.

3 Q Do you think he should face some kind of punishment
4 for the actions he's been convicted of?

5 A Once again, like I said, every man is responsible
6 for their actions.

7 MS. NORDVIG: Nothing further. Thank you.

8 THE COURT: Anything further, Ms. Kossow?

9 MS. KOSSOW: No, Your Honor.

10 THE COURT: Sir, you are excused. Thank you.

11 THE WITNESS: No problem.

12 (Witness Excused.)

13 THE CLERK: Ms. Nordvig, I am going to move on to
14 Gabriela.

15 MS. NORDVIG: Yes, thank you.

16 THE WITNESS: Hello.

17 THE CLERK: Gabriela, this is Marci from Judge
18 Steinheimer's office up in Reno.

19 THE WITNESS: Hi.

20 THE CLERK: I want you to know we are on the record
21 in court with the jury present and the attorneys present and
22 Ms. Nordvig will be calling you as a witness.

23 THE WITNESS: Okay. Thank you.

24 MS. NORDVIG: Thank you, Your Honor. The defense

1 would call Gabriela Menendez.

2 THE COURT: Ma'am --

3 THE INTERPRETER: The interpreter would like to
4 request a moment to change batteries in the defendant's
5 receiver.

6 THE COURT: Okay. We'll go ahead and translate in
7 the old fashion way. Go head and whisper to the defendant.

8 THE COURT: Ma'am, were you called by your correct
9 name on the telephone? The person on the telephone, would you
10 state your name, please?

11 THE WITNESS: Gabriela Menendez.

12 THE COURT: Okay. Ma'am you are testifying
13 telephonically. In a moment you will be sworn. If one of the
14 attorneys has an objection to your testimony, they will say
15 objection and you must stop speaking until I rule on it. Do
16 you understand?

17 THE WITNESS: I understand.

18 THE COURT: Please stand, raise your right hand and
19 be sworn.

20 THE CLERK: Ma'am, are you raising your right hand?

21 THE WITNESS: I am.

22 THE CLERK: Thank you.

23 THE COURT: Ms. Nordvig.

24 MS. NORDVIG: Thank you, Your Honor.

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GABRIELA MENENDEZ

called as a witness, having been first duly sworn,
took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MS. NORDVIG:

Q Ms. Menendez, would you please state your full name
and spell both your first name and your last name for the
Court Reporter?

A My name is Gabriela Menendez. First name
G-A-B-R-I-E-L-A. My last name is spelled M-E-N-D-E-N-E-Z.

Q You are testifying by telephone today, correct?

A That is correct.

Q And what city and state are you located in
currently?

A I am currently located in Petaluma, California.

Q Thank you. Do you know a person by the name of Luis
Alejandro Menendez-Cordero?

A Yes.

Q How do you know him?

A He's my brother.

Q And are you aware that he has been in trial in Reno,
Nevada accused of two counts of murder?

A Yes.

1 Q Are you aware that a jury has found him guilty of
2 those two counts of murder?

3 A Yes.

4 Q Did you write a -- Were you contacted by an
5 investigator from my office?

6 A Yes.

7 Q And have you been in touch with people from my
8 office during the pendency of your brother's case?

9 A I have.

10 Q And did you write a letter and send it to us?

11 A Yes, I did.

12 Q Do you recall when you sent it?

13 A I believe it was last Sunday. Not the one that just
14 passed, but the one before.

15 Q So approximately eight days ago?

16 A Approximately.

17 Q And that was before he was formally convicted,
18 correct?

19 A That is correct.

20 Q Based upon his convictions -- Strike that. Do you
21 have a copy of your letter in front of you?

22 A I do.

23 Q And based upon the fact that he has now been
24 convicted, does anything in the letter that you sent to us, is

1 any of that not true anymore?

2 A It is all true.

3 Q Okay. You said you had a copy in front of you?

4 A That's correct.

5 MS. NORDVIG: With the Court's permission, could she
6 read her letter into the record?

7 THE COURT: Yes. You have no objection?

8 MS. KOSSOW: No objection.

9 BY MS. NORDVIG:

10 Q Ms. Menendez, could you read your letter into the
11 record by telephone, please?

12 A It states: To Whom it May Concern: I am Luis
13 Alejandro's sister. My brother and I never really grew up
14 together or had a chance to really know each other during our
15 childhood. Nevertheless, I always felt like he was a part of
16 my life. And I think more importantly I always felt loved by
17 him.

18 Luis and I never had an opportunity to have a close
19 relationship during our childhood, but I knew he was always
20 thinking of me. When family members would visit El Salvador,
21 I would always receive a letter from him. They were kind,
22 thoughtful and loving. They usually came with drawings which
23 he still sends me to this day. I will always remember these
24 letters because they helped me feel connected to my big

1 brother. To this day, I wish I had had more communication
2 with him then.

3 I did not get to meet my brother until I was eight
4 years old when we visited El Salvador. During our visit, I
5 recall one instance with my cousins were teasing me. I didn't
6 know how to speak up or respond, and it turned out I didn't
7 have to. Luis stood up for me by telling them they needed to
8 stop. I think the reason I remember this is because that was
9 the moment I first really felt like I was his sister and that
10 he cared.

11 After that, our communication was always spotty. I
12 don't really remember much until he immigrated to the U.S. It
13 was a little awkward at first. We didn't know each other that
14 much. We couldn't find much in common. He spent more time
15 with his uncle and his family than us. That hurt a little,
16 but I understood. He had never spent much time with us before
17 and he wasn't used to having the rules that were in place at
18 home. I could see how that could be frustrating. I could
19 also see how he felt out of place with us.

20 Eventually he moved out. I was sad that he was
21 because I felt like he would slowly disappear from my life
22 again. That wasn't the case. It was the complete opposite.
23 He still tried to talk to me. He even would give me money to
24 buy a card for my prepaid phone so that I would be able to

1 call and text him. He wanted to be part of my life. He
2 didn't want to lose me like I didn't want to lose him.

3 As I am sure you are aware, we lost contact again
4 for a while when he went back to El Salvador. It was hard on
5 everyone. We all cared about him. When we did get
6 communication again, it was when he was going to have a baby.
7 He was so excited and happy. I could see how much he loved
8 his soon to be born child and his partner. He loves his
9 family.

10 I've always appreciated how much he loved his
11 family, and the fact he wanted us to have a relationship. I
12 even see it to this day. He sends me post cards, e-mails and
13 phone calls. I feel bad because I don't communicate with him
14 as often as I should instead of the other way around. I feel
15 like we have a closer relationship now. He worries about me.
16 He always tells me to be safe and careful. He also gives me
17 advice when I need it. He tries to stay up to date with my
18 life and always asks about it.

19 I also had an opportunity to know my nephew more
20 than I ever expected I would. It is because my brother
21 allowed it to be that way. I know he's grateful that we are
22 always conscious of my nephew's wellbeing, because Luis likes
23 when we talk to my nephew, when we give him updates, and talk
24 about how much my nephew has grown and learned. Whenever we

1 bring up my nephew, I see a spark in my brother's eyes. I
2 know that his situation isn't easy, and that he must not feel
3 happy overall. But my nephew gives him the greatest
4 happiness, and my brother has never done anything to question
5 how much love he feels for his son.

6 Q I cannot attest to what my brother's neighborhood
7 was like. I can only imagine the struggle he went through
8 without our dad and us. My dad has always been part of my
9 life. I can't imagine what kind of void I would feel if I was
10 separated from him, if I felt distant emotionally, or if I
11 felt I wasn't part of his life. I am sure Luis felt all of
12 these things. The situation being what it was, it would be
13 expected. I also know that his home life wasn't the best, and
14 from my understanding was taking care of his other siblings.
15 As a child and even now in my early adulthood, I will always
16 admire that my brother had these extraordinary circumstances,
17 was strong and took care of his family.

18 I know my brother may not have made the wisest
19 decisions, but I cannot emphasize enough how deeply he loves
20 us and how deeply we love him. I know if he had the
21 opportunity he could turn things around, show everyone the
22 good person he really is. Thank you for your attention.

23 Q Thank you. Ms. Menendez, are you aware your brother
24 is a member of a gang called MS-13?

1 A I am.

2 Q Does that change your feelings towards your brother?

3 A No.

4 Q Why not?

5 A Because I think he had a rough childhood. I think
6 he didn't know what he should do. And I know him to be my
7 loving and caring brother.

8 MS. NORDVIG: Thank you. Nothing further. The State
9 will have an opportunity now.

10 THE COURT: Ms. Kossow.

11

12 CROSS-EXAMINATION

13 BY MS. KOSSOW:

14 Q Ma'am, do you know what your brother stands
15 convicted of?

16 A Yes.

17 Q What is that?

18 A Two murders.

19 Q He killed two young men, do you understand that?

20 A Can you repeat that?

21 Q I said he killed two young men. Do you understand
22 that?

23 A Yes.

24 Q And you did not know your brother growing up; is

1 that fair?

2 A Yes.

3 Q Did you know that he entered a gang at age 13?

4 A I did not.

5 Q And you only became associated with him when he
6 moved to the United States; is that fair?

7 A Yes.

8 Q And you talked about getting to know him at that
9 time, right?

10 A Right.

11 Q At one point he moved away from your house?

12 A Correct.

13 Q Because he didn't like your father's, Ricardo
14 Menendez' rules in the house; is that fair?

15 A Can you repeat that?

16 A He moved out of your house which your father is
17 Ricardo Menendez; is that right.

18 A That is correct.

19 Q Because he didn't like the rules that Mr. Menendez
20 had around the house?

21 A I wouldn't say that. Like I think he was unused to
22 it.

23 Q I am sorry, what did you say?

24 A I wouldn't say that he did not like the rules. I

1 think he wasn't used to them.

2 Q He wasn't used to them, but he moved out of the
3 house; is that correct?

4 A He did move out of the house.

5 Q And then you talked about in your letter that as of
6 right now you have good contact with him?

7 A Yes.

8 Q So since he's been in jail for these murders, that
9 is when you started having this contact with him on a regular
10 basis?

11 MS. NORDVIG: Objection.

12 THE COURT: What is your objection?

13 THE WITNESS: May we approach?

14 THE COURT: Yes.

15 MS. NORDVIG: Ms. Kossow just made direct inference
16 to his custody status as of now.

17 THE COURT: Since he's in jail.

18 MS. KOSSOW: She's talked to him all this time.
19 They are having complete communication. That is completely
20 unfair.

21 THE COURT: I don't think it is that big of a deal
22 but maybe phrase your question since he's been in Reno.

23 MR. NORDVIG: Motion to strike the last question.

24 THE COURT: Motion is granted. Sustained.

1 MS. NORDVIG: Motion to strike, Your Honor.

2 THE COURT: I granted it.

3 MS. NORDVIG: Thank you.

4 BY MS. NORDVIG:

5 Q Ma'am, the communication that you have had with your
6 brother on a regular basis has been since he's come to Reno;
7 is that fair?

8 A That is fair.

9 Q And your last statement in your letter you said if
10 he had the opportunity he could turn things around; is that
11 what you said?

12 A That is what I said.

13 Q And show everyone what a good person he is?

14 A Yes.

15 Q And, ma'am, do you know as of August 30, 2017, your
16 brother, Mr. Menendez-Cordero, threatened to hurt a member of
17 one of the witness' in the case family?

18 A I was not aware.

19 Q Does that change your opinion as to whether you
20 think he's a good person now or not?

21 A I couldn't give a definitive answer. I don't know
22 what he said.

23 Q Okay. If he said from his mouth that he threatened
24 to kill a witness in this case, a witness' family member.

1 MS. NORDVIG: Objection.

2 THE COURT: I am going to sustain the objection. It
3 is hard to quantify exactly what that was, and I think the
4 witness has answered she doesn't really know whether or not
5 she can change her mind.

6 Ma'am is it you don't believe your brother made a
7 threat; is that what you are saying?

8 THE WITNESS: I don't know.

9 THE COURT: Okay. Ms. Kossow do you want to rephrase
10 your question?

11 MS. KOSSOW: Sure.

12 BY MS. KOSSOW:

13 Q Ma'am, if it was shown that he did make a threat to
14 a witness in the case, would that change your opinion as to
15 whether he's a good person?

16 A At this time, I really, I couldn't, I could not give
17 a definitive answer.

18 MS. KOSSOW: Thank you. I have nothing further.

19 THE COURT: Anything further?

20

21 REDIRECT EXAMINATION

22 BY MS. NORDVIG:

23 Q Ms. Menendez, with what the prosecution has asked
24 you, is anything different in the letter that you submitted to

1 my investigator?

2 A No.

3 MS. NORDVIG: Nothing further. Thank you.

4 THE COURT: May this witness be excused?

5 MS. NORDVIG: Yes. Thank you.

6 THE COURT: Ms. Kossow?

7 MS. KOSSOW: Yes, Your Honor.

8 THE COURT: Ma'am you may be excused. Thank you.

9 THE WITNESS: Thank you.

10 (Witness excused.)

11 THE CLERK: Ms. Nordvig, would you like me to try
12 Oscar again?

13 MS. NORDVIG: We tried him twice, correct?

14 THE CLERK: That's correct.

15 MS. NORDVIG: I don't believe the State is objecting
16 to the packet of letters which his is included in, so I don't
17 think we need to call him again. We can just submit his
18 letter.

19 THE COURT: Okay. Any other witnesses?

20 MS. NORDVIG: Your Honor, the only witness I have is
21 Staci Moffatt from our office.

22 THE COURT: Okay. Counsel, which of the letters that
23 have not been moved into the record are you offering those
24 letters?