

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAVAR ERIS KETCHUM,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

Electronically Filed
Oct 29 2018 01:48 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 75097

RESPONDENT'S APPENDIX
Volume 1

NICHOLAS M. WOOLDRIDGE, ESQ
Nevada Bar #008732
Wooldridge Law Ltd.
400 South 7th Street, Suite 400
Las Vegas, Nevada 89101
(702) 330-4645

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

ADAM PAUL LAXALT
Nevada Attorney General
Nevada Bar # 012426
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Counsel for Appellant

Counsel for Respondent

INDEX

<u>Document</u>	<u>Page No.</u>
District Court Minutes of 05/19/17 (All Pending Motions)	RA II 361-362
District Court Minutes of 10/17/17 (All Pending Motions)	RA II 451
District Court Minutes of 02/17/17 (Argument: Petition for Writ of Habeas Corpus).....	RA II 481-482
Motion for New Trial, filed 06/02/17	RA II 363-420
Notice of Motion and Motion in Limine Reference Prior Acts of the Victim, filed 05/09/17	RA II 348-353
Petition for Writ of Habeas Corpus and Motion to Dismiss, filed 12/30/16	RA II 452-463
Recorder's Transcripts of 05/23/17 (Jury Trial-Day 2), filed 07/10/17	RA I 1-99
Recorder's Transcripts of 05/24/17 (Jury Trial-Day 3), filed 07/10/17	RA I 100-241
Recorder's Transcripts of 05/25/17 (Jury Trial-Day 42), filed 07/10/17	RA II 242-347
Recorder's Transcripts of 05/26/17 (Jury Trial-Day 5), filed 04/26/18	RA III 483-531
Reply Memorandum of Law in Response to State of Nevada's Return to Petitioner's Petition for Writ of Habeas Corpus and Motion to Dismiss, filed 01/19/17.....	RA II 476-480
Reply Memorandum to State of Nevada's Opposition to Defendant's Motion for New Trial, filed 09/27/17.....	RA II 434-442
Return to Writ of Habeas Corpus, filed 01/04/17	RA II 464-475
State's Opposition to Defendant's Motion for New Trial, filed 09/05/17	RA II 421-433
Supplemental to Defendant's Motion for New Trial, filed 09/28/17	RA II 443-450
Supplement to State's Motion in Limine Reference Prior Acts of the Victim, filed 05/18/17	RA II 354-360

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 29th day of October, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM PAUL LAXALT
Nevada Attorney General

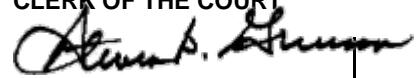
NICHOLAS M. WOOLDRIDGE, ESQ.
Counsel for Appellant

JOHN T. NIMAN
Deputy District Attorney

/s/ J. Garcia

Employee, Clark County
District Attorney's Office

JTN/Andrea Orwoll/jg



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-16-319714-1
	.	CASE NO. C-16-319714-3
Plaintiff,	.	
	.	DEPT. NO. XVII
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
JAVAR ERIS KETCHUM,	.	
and RODERICK VINCENT,	.	
	.	
Defendants.	.	
.	

BEFORE THE HONORABLE KATHY HARDCASTLE
SENIOR DISTRICT COURT JUDGE

JURY TRIAL - DAY 2

**PARTIAL TRANSCRIPT
(EXCLUDES JURY VOIR DIRE AND OPENING STATEMENTS)**

TUESDAY, MAY 23, 2017

APPEARANCES:

FOR THE STATE:	JOHN L. GIORDANI, III., ESQ. STEVEN ROSE, ESQ. <i>Deputy District Attorneys</i>
FOR DEFENDANT KETCHUM:	NICHOLAS M. WOOLDRIDGE, ESQ.
FOR DEFENDANT VINCENT:	CARL E. ARNOLD, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

RA 000001

INDEX

WITNESSES

STATE'S WITNESSES:

DESHAWN BYRD

Direct examination by Mr. Giordani 8
 Cross-examination by Mr. Wooldridge 17

OFFICER BRENNAN CHILDERS

Direct examination by Mr. Giordani 20
 Cross-examination by Mr. Wooldridge 27

OFFICER JACQULYN TORRES

Direct examination by Mr. Rose 29
 Cross-examination by Mr. Wooldridge 36
 Cross-examination by Mr. Arnold 37

JENNIFER REINER

Direct examination by Mr. Rose 40
 Cross-examination by Mr. Wooldridge 57
 Redirect examination Mr. Rose 59

DR. JENNIFER CORNEAL

Direct examination by Mr. Giordani 61
 Cross-examination by Mr. Wooldridge 70

JOSEPH SZUKIEWICZ

Direct examination by Mr. Rose 74
 Cross-examination by Mr. Wooldridge 94
 Cross-examination by Mr. Arnold 96

* * * * *

EXHIBITS

DESCRIPTION

ADMITTED

STATE'S EXHIBITS:

Exhibits 1 through 127. 76
 Exhibits 116 through 121. 64
 Exhibit 131.. . . . 77
 Exhibits 141 through 151. 46

1 LAS VEGAS, NEVADA, TUESDAY, MAY 23, 2017, 1:35 P.M.

2 (Prior proceedings not transcribed)

3 (Inside the presence of the jury)

4 THE COURT: All right. You may be seated. Back on
5 the record. We're back in the presence of the jury and
6 members of the panel are present, counsel for both sides are
7 present, defendants are present. State, you may make your
8 opening statement.

9 (Opening Statements not transcribed)

10 THE COURT: We're going to take a short recess,
11 about ten minutes. So if the jury will step out, please.

12 THE MARSHAL: Rise for the jurors.

13 (Outside the presence of the jury)

14 THE COURT: All right. Outside the presence of the
15 jury. Counsel, you may make your record.

16 MR. GIORDANI: Your Honor, there's been extensive
17 pretrial litigation regarding the victim's history. The
18 defense attempted to elicit specific acts committed by the
19 victim in order to show he was violent. That is obviously
20 precluded by law unless for some reason the State opens the
21 door to that evidence.

22 We litigated this on Friday in front of Judge
23 Villani. He made a -- I don't know how he could be more
24 specific that anything with regard to the victim's prior
25 robberies is not admissible. The only thing the defense can

1 do when he presents his witnesses, which we understand he was
2 going to, is ask them do you know who Zeke Davis is? In your
3 opinion, is he violent?

4 He was specifically ordered when I asked the judge
5 to make this record so Your Honor would be aware of it, that
6 he could go no further. What the defense just did is grounds
7 for a mistrial and completely violates the Court's order. I
8 mean, at this point, I hate to waste the Court's time and
9 jury selection for a day-and-a-half, but that's ridiculous.
10 There is no coming -- there's no unringing that bell.

11 I don't know if the Court has the minutes at this
12 point, but I believe I printed them out and I can pull them
13 up from Friday. I don't know what else to say to that.

14 THE COURT: All right, thank you.

15 MR. WOOLDRIDGE: Sure, Your Honor.

16 THE COURT: Counsel.

17 MR. WOOLDRIDGE: First of all, Ezekiel Davis, I
18 didn't refer to prior booed acts. What I referred to was his
19 reputation, right? And his reputation is that he does have a
20 reputation for sticking people up at gunpoint. At the
21 appropriate time, if I'm really going to get into those prior
22 bad acts, which I don't want to forecast my entire defense to
23 the State, but if Mr. Ketchum takes the stand and says
24 something, well, then that's all going to come in.

25 But right now I referred to reputation. And he

1 does have a reputation for sticking people up at the
2 gunpoint.

3 MR. ROSE: And Judge, here's the issue with this,
4 is you can't simply get around the prohibition on bringing in
5 specific acts of the victim unless they're known to the
6 defendant by simply saying, well, he was a reputation for
7 doing these specific acts.

8 What the case law says is a reputation for
9 violence. And what Judge Villani's ruling, specific ruling
10 on Friday was, is that you could ask about if the person had
11 a reputation or an opinion that Mr. Davis was violent. He
12 was told specifically that he could not go farther than that.
13 He could not get into any of these specific acts.

14 And with regard to the argument that's been made
15 more than once in front of Judge Villani that, you know, he
16 doesn't have to forecast everything, Petrocelli applies to
17 everybody. 48.045 applies to everybody. And in fact,
18 Mitchell v. State indicated that -- it involved a scenario
19 where the Court, in fact, held a Petrocelli hearing prior to
20 the defense in that case bringing in other bad acts of one of
21 the witnesses.

22 This is not something that you can simply get
23 around by saying well, I don't want to show you that
24 beforehand. If we're going to have some kind of proof that
25 the defendant knew about these specific acts, I think we

1 should have that hearing beforehand, before it's brought up
2 here, which is why we filed the motion in limine. We filed
3 the motion in limine specific to address this particular
4 issue where it comes up in opening when it shouldn't, and
5 then you simply unring that bell.

6 This is exactly why we had this issue litigated on
7 Friday before the trial started.

8 THE COURT: All right. Reputation evidence with
9 the character of the victim in this type of case is
10 admissible, if you have the proper witnesses. And in order
11 for it to constitute self-defense, your client's going to
12 have to testify he knew or --

13 MR. WOOLDRIDGE: I understand that.

14 THE COURT: -- somebody's going to have to provide
15 evidence that he knew what the reputation was.

16 MR. WOOLDRIDGE: That's correct.

17 THE COURT: Specific evidence as to the specific
18 bad acts or proving the bad acts is not admissible. You're
19 not going to be able to put the victim on trial to prove that
20 he had prior convictions or had prior incidences of robbing
21 people. It's what his reputation and character was.

22 So you're stuck with witnesses who can testify they
23 were aware of his reputation. You can have a reputation of
24 being violent, even if you're not.

25 MR. WOOLDRIDGE: Sure.

1 THE COURT: It's what people around him knew of his
2 reputation, maybe stories he's read or someone else read,
3 that have no basis in truth, but that's his reputation. So
4 he's going to be allowed to put on that evidence. Be careful
5 how you argue it on opening statements, though.

6 MR. WOOLDRIDGE: Okay.

7 MR. GIORDANI: And I would just add for -- seek the
8 Court for clarification. There's a difference between a
9 reputation for violence and getting into specific acts of
10 robbery, which I believe he just did, unless I misheard.

11 THE COURT: That's where I'm cautioning him.

12 MR. WOOLDRIDGE: Okay.

13 THE COURT: All right? So be careful what you
14 state in opening statement if you don't have the evidence to
15 support it, and no, you will not be able to prove specific
16 prior bad acts, only reputation and character.

17 MR. WOOLDRIDGE: At this stage, you're correct,
18 Your Honor.

19 THE COURT: All right, thank you.

20 MR. GIORDANI: And can we move to strike that
21 portion of what defense counsel said?

22 THE COURT: I think it would just emphasize it in
23 the minds of the jury at this point so let's just go from
24 there. All right.

25 THE MARSHAL: Rise for the jurors.

1 (In the presence of the jury)

2 THE MARSHAL: The panel's present, Your Honor.

3 THE COURT: All right. Please be seated. Back in
4 the presence of the jury. All members of the panel are
5 present, counsel's present, defendants are present. You may
6 continue --

7 MR. WOOLDRIDGE: Thank you.

8 THE COURT: -- with your opening statement.

9 (Opening statements resume; not transcribed herein)

10 THE COURT: Mr. Arnold?

11 MR. ARNOLD: We'll reserve for now, Your Honor.

12 THE COURT: All right, thank you. State, you may
13 call your first witness.

14 MR. GIORDANI: State will call Deshawn Byrd.

15 DESHAWN BYRD, STATE'S WITNESS, SWORN

16 THE CLERK: Please state and spell your name for
17 the court's record.

18 THE WITNESS: Deshawn Byrd, D-e-s-h-a-w-n, B-y-r-d.

19 THE CLERK: You may be seated.

20 MR. GIORDANI: May I, Your Honor?

21 THE COURT: You may.

22 MR. GIORDANI: Thank you.

23 DIRECT EXAMINATION

24 BY MR. GIORDANI:

25 Q Mr. Byrd, do you know a person by the name of

1 Ezekiel Davis?

2 A Yes.

3 Q How long have you known Ezekiel?

4 A Over ten years.

5 Q Were you there on the morning that he was shot and
6 killed?

7 A Yes.

8 Q I wanted to talk to you about that evening and ask
9 you some very specific questions. Where exactly did this
10 occur?

11 A At Top Notch clothing store.

12 Q And so it's a clothing store?

13 A Yeah.

14 Q Is there also a club or a music area related?

15 A Yeah.

16 Q Describe that, generally, what goes on at that club
17 or music area.

18 A Basically, just they sell clothes and they had a
19 little gathering that night, I guess. That's basically -- I
20 don't -- I mean, I just go there just to chill, you know, cut
21 hair.

22 Q On that particular morning, it was September 25th,
23 2016, if I'm correct. Does that sound right?

24 A Right.

25 Q On that particular evening, can you estimate how

1 many people were at the club or the store?

2 A Over ten.

3 Q So there --

4 A What I believe --

5 Q -- was a good amount of people there?

6 A Yeah.

7 Q Was there music?

8 A Yeah.

9 Q And when, if you can remember, did you arrive
10 there?

11 A Probably about 11:00, 12:00 o'clock, around that
12 time.

13 Q So -- okay. 11:00 at night to about midnight?

14 A Yeah.

15 Q When you arrive there, did you arrived with anyone?

16 A Yeah, I did.

17 Q Okay. Was that person Ezekiel Davis?

18 A No.

19 Q Did Ezekiel arrive before you or after you?

20 A After me.

21 Q Do you know when he arrived?

22 A Around 3:00 o'clock.

23 Q Up until that point, had you been hanging out there
24 partying, listening to music, et cetera?

25 A Yeah.

1 Q Were you drinking?

2 A Yeah.

3 Q Were you smoking?

4 A Yeah.

5 Q And when I say smoking, I'm talking about
6 marijuana?

7 A Yeah.

8 Q Okay. When Ezekiel arrived, do you know if he
9 arrived with anyone?

10 A No, he didn't.

11 Q So he arrived alone?

12 A Yeah.

13 Q Was this Ezekiel, did you see what he actually came
14 in?

15 A Yeah, because I was outside.

16 Q All right.

17 A We were all -- all out front talking.

18 Q Okay.

19 A And then he just pulled up.

20 Q Okay. When he pulled up, was he in a vehicle?

21 A Yes.

22 Q And do you know make or model or anything like
23 that?

24 A I think it was a black Charger.

25 Q Okay. Like a Dodge Charger?

1 A Yeah.

2 Q Was it a nice vehicle?

3 A Yeah.

4 Q When he, Ezekiel, arrives, did you have any
5 interaction with him?

6 A Yes.

7 Q And what was that interaction?

8 A He just asked me what was going on up in there?
9 And I was like, oh, it's cool. Everybody's chilling,
10 listening to music, just kicking back. And he was like, all
11 right, well, let's go in there, and I told him to come on,
12 let's go.

13 Q When you had --

14 A Walked in there with him.

15 Q -- this initial interaction with him, did you
16 notice anything out of the ordinary about him?

17 A No. I could tell that he had been drinking.
18 That's about it.

19 Q Okay. Did you notice any big dilated pupils or
20 anything --

21 A No.

22 Q -- extreme?

23 A No.

24 Q Okay.

25 A I wasn't looking for that.

1 Q Fair enough. Was your interaction a positive one?

2 A Yeah.

3 Q Okay.

4 A Definitely.

5 Q I mean, he's your friend, right?

6 A Yeah.

7 Q So after this interaction, does he or do both of
8 you go inside? What happens next?

9 A We went inside, and everybody just basically
10 started talking to everybody, you know, just interacting with
11 others.

12 Q Were there girls there?

13 A Yeah.

14 Q Any girls dancing?

15 A Yeah.

16 Q Okay. Did there -- at any point in the night once
17 Zeke entered the club, did you see him act crazy, erratic or
18 anything like that?

19 A He was just dancing --

20 Q Okay.

21 A -- for the most part.

22 Q Did he seem like he was having a good time?

23 A Oh, yeah, definitely.

24 Q Did you ever observe him bobbing his head to the
25 music?

1 A Um-h'm.

2 Q At some point in the evening, did it -- or in the
3 morning, I guess -- we're into the morning hours now, right?

4 A Right.

5 Q At some point in the morning, did you decide you
6 were going to wrap it up and go home?

7 A Yeah.

8 Q Was Zeke still there when you did that?

9 A Yes, he was.

10 Q Okay. Did you have an interaction with him at that
11 point?

12 A Yes, I did.

13 Q And describe that for the ladies and gentlemen of
14 the jury.

15 A Basically, just I went up to him, asked him was he
16 okay? I grabbed him, I hugged him two times. And I asked
17 him is he sure he's okay because I'm about to leave. And you
18 know, when you got friends at a party, you want to make sure
19 they okay to drive or if they settled down from whatever they
20 was -- they were on, i. If they need any help home or
21 whatever. So I offered, you know, did he need my help with
22 anything. And he said no, he was fine.

23 So I went to the bathroom, and then when I went to
24 the bathroom, this happened within five minutes. Not even
25 five minutes, probably. He was out of the door, and I came

1 out of the bathroom, and I see people running in the hallway.

2 Q All right, let me stop you. I'm going to get to
3 that in a moment.

4 A Okay.

5 Q That interaction you just described with Ezekiel,
6 is that the last interaction you had with him before he was
7 shot?

8 A Yes.

9 Q During that interaction, was his demeanor positive
10 or still the same way he was earlier or was it different?

11 A He -- he was having fun. He had calmed down. You
12 could tell he had calmed down a lot. He was just having fun
13 for the most part. I didn't --

14 Q All right. We're getting around 6:00 a.m.; is that
15 about right?

16 A Probably like 5:00 something.

17 Q Okay.

18 A Yeah.

19 Q So when you had this interaction, I think you
20 described you hugged him?

21 A Yeah.

22 Q Is that right?

23 A Yeah.

24 Q When you hugged him, did you feel anything at all
25 that would indicate to you he had a weapon on him of any

1 kind?

2 A No.

3 Q When you hugged him and went to the bathroom, did
4 he stay where he was or do you know --

5 A No, he did --

6 Q -- (inaudible)?

7 A -- stay where he was.

8 Q Okay. Was he still dancing or doing whatever?

9 A No. By that time, we were all standing around.

10 Q Standing around?

11 A Yeah.

12 Q Okay. So you described, you go to the bathroom and
13 then you come out?

14 A Go to the bathroom, come out, see the people
15 running in the hallway. I run to the front door. I see a
16 car skirt off and then I see my boy laying on the ground.

17 Q Your boy being Ezekiel?

18 A Yeah.

19 Q What did you do when you saw him laying on the
20 ground?

21 A I ran over to him, grabbed him, tried to wake him
22 up. He was unconscious. And finally, when I got him to wake
23 up, he couldn't talk to me. I just kept trying to wake him
24 up, and I called the police.

25 Q Have you up until today's date heard any 911 calls

1 that were potentially made on that night?

2 A No. I -- I was the only one that called, from what
3 I know of.

4 Q Okay. So you had an actual interaction with a
5 dispatcher or somebody?

6 A Yes.

7 Q All right.

8 MR. GIORDANI: Court's brief indulgence. Thank you
9 very much, sir. And I have no further questions. I'll pass
10 the witness.

11 THE COURT: Thank you. Counsel.

12 MR. WOOLDRIDGE: Sure.

13 CROSS-EXAMINATION

14 BY MR. WOOLDRIDGE:

15 Q Mr. Byrd, do you have any prior felony convictions?

16 A I do.

17 Q What do you got?

18 A Burglary.

19 Q Anything else?

20 A Nothing I got convicted of.

21 Q You don't have a conviction for attempt possession
22 of stolen property as a felony in 2010?

23 A That's -- that's the burglary.

24 Q And a burglary in 2013?

25 A They all the same thing.

1 Q One in 2010 and one in 2013, you're saying they're
2 two separate cases?

3 A No, I didn't get convicted for no felony in 2010.

4 Q You indicated you had known Zeke for approximately,
5 ten years?

6 A Yeah.

7 Q Do you remember speaking to police about this case?

8 A Yes, I do.

9 Q Remember telling police that you grew up with him?

10 A Yep.

11 Q He's like a brother to you?

12 A Yes, I do.

13 Q I want to -- do you remember telling police that
14 what you observed when you observed Zeke that night that he
15 was super hyper?

16 A Probably.

17 Q Remember telling police that he was super hyper
18 that night?

19 A I don't recall, but I probably did say it. It was
20 a lot going on.

21 Q Do you want to see your transcript of your --

22 A I don't care to see it.

23 Q Let me just show you since you're not sure. Maybe
24 it will refresh your recollection.

25 MR. WOOLDRIDGE: Bear with me, Your Honor.

1 BY MR. WOOLDRIDGE:

2 Q Okay. I'm going to hand you --

3 THE COURT: Counsel, will you show opposing
4 counsel, please?

5 MR. WOOLDRIDGE: Of course.

6 THE COURT: Thank you.

7 BY MR. WOOLDRIDGE:

8 Q Just take a look at this document. That area.
9 Don't read it out loud or anything. And then just set it
10 down when you're done reading. (Witness reading). Are you
11 done?

12 A Yeah.

13 Q Okay. Does that refresh your recollection?

14 A Um-h'm.

15 Q Remember telling police that he was super hyper
16 that night?

17 A Um-h'm.

18 Q Yes?

19 THE COURT: Okay, sir, I'm sorry, I need "yes" or
20 "no's".

21 THE WITNESS: Yes.

22 THE COURT: Okay, thank you.

23 BY MR. WOOLDRIDGE:

24 Q Sir, he was super hyper that night, and I think you
25 also told the police that one of the things that there was

1 something telling you to ask him, are you okay? Are you
2 straight, right? Isn't that what you told the police?

3 A Yes.

4 MR. WOOLDRIDGE: No further questions.

5 THE COURT: Mr. Arnold?

6 MR. ARNOLD: No questions for this witness, Your
7 Honor.

8 THE COURT: Thank you. Any further questions?

9 MR. GIORDANI: No, Your Honor. Thank you.

10 THE COURT: All right. Mr. Byrd, thank you. You
11 may step down. You're excused.

12 THE WITNESS: All right.

13 THE COURT: You may call your next witness.

14 MR. ROSE: State would call Officer Torres.

15 OFFICER BRENNAN CHILDERS, STATE'S WITNESS, SWORN

16 THE CLERK: You may be seated. Please state and
17 spell your name for the record.

18 THE WITNESS: Officer Brennan Childers,
19 B-r-e-n-n-a-n, C-h-i-l-d-e-r-s.

20 DIRECT EXAMINATION

21 BY MR. GIORDANI:

22 Q Good afternoon, sir.

23 A Good afternoon.

24 Q How are you employed?

25 A I'm a patrol officer with the Las Vegas

1 Metropolitan Police Department.

2 Q How long have you been with Metro?

3 A Since February 2014.

4 Q And that whole time as a patrol officer?

5 A Patrol officer since August 2014, after the police
6 academy.

7 Q And what are some of the basic duties of a patrol
8 officer?

9 A Responding to calls for service, proactive stops
10 patrol -- car stops, people stops, investigative follow-up,
11 things of that nature.

12 Q And so were you working with Metro on September
13 25th, 2016?

14 A Yes.

15 Q And in the early hours of that morning -- actually,
16 let me ask you this first, what shift do you work?

17 A Graveyard.

18 Q And what hours is that?

19 A 10:00 p.m. to 8:00 a.m.

20 Q Now, in the early morning hours of September 25th,
21 2016, did you have reason to respond 4230 South Decatur?

22 A Yes.

23 Q And is that particular place located here in Clark
24 County, Nevada?

25 A Yes.

1 Q In fact, do you have any reason within your line of
2 work to go outside of Clark County, Nevada when you're on
3 patrol?

4 A No.

5 Q What brought you to 4230 South Decatur?

6 A I was working in -- my area command is enterprise
7 area command. We received a call for service reference
8 somebody who had been shot. The call originally, I believe,
9 came out just at the corner of Flamingo and Decatur. I
10 wasn't too far away. I believe, I was at Tropicana and
11 Decatur at the time. And I rode north on Decatur, looked
12 around for the scene, which was initially hard to find in
13 that intersection. But I eventually found it at southeast
14 corner of Flamingo and Decatur.

15 Q And when you arrived at the scene, can you describe
16 for the ladies and gentlemen of the jury what it was that you
17 first saw when you got there?

18 A What I first saw was a crowd gathering around in
19 front of a strip of businesses in the southeast corner, one
20 of them being a clothing store. And there was maybe nine or
21 ten people. When I pulled into the parking lot heading south
22 into the parking lot, there was one black male laying on the
23 ground, and another black male giving him chest compressions,
24 CPR. There was a white female and who seemed to have known
25 the person on the ground because she was approaching me.

1 Also, my partner, Officer Torres, we arrived on
2 scene about the same time, and there was a crowd gathering
3 around and slowly dispersing, I should say, as we were
4 approaching.

5 Q Okay. I'll want to stop you right there. We're
6 going to go through some of the things you've just mentioned.
7 You said that there was a black adult lying on the ground; is
8 that correct?

9 A Yes.

10 Q Was there anything distinctive about this
11 particular individual?

12 A He -- his pants weren't on. It looked like they
13 had been ripped off. There was a lot of various personal
14 items on the ground. He was laying on his back near a parked
15 white vehicle, sedan vehicle.

16 Q Now, with this particular individual, you said his
17 pants were off and there were some items around him on the
18 ground. Was this the person who was receiving CPR or chest
19 compressions?

20 A Yes.

21 Q And at that point in time, could you observe any
22 visible injuries to him?

23 A Well, this being a 415A call, assault battery with
24 a gun call, I looked for signs of a gunshot wound. There was
25 not blood, but some type of fluid coming from on his stomach.

1 There was a small wound on his, I believe, maybe upper -- I'm
2 not too sure -- I believe upper stomach, and so recognized
3 that.

4 Q Now, was it your primary responsibility to deal
5 with this particular individual on the ground or were you
6 trying to do something else at the time?

7 A I was more concerned with the possibility that
8 there might be someone with a gun walking around because the
9 time lapse between the call being broadcasted and us arriving
10 is relatively short. So because there was somebody already
11 administering first aid and because my partner was already --
12 Officer Torres was already communicating with people at the
13 scene, I was only at the scene for maybe two minutes before a
14 sergeant arrived and had pointed out and requested me to go
15 talk to two other people who were walking away. They were
16 headed northbound through the parking lot.

17 Q Okay. Now, you said that one of your main concerns
18 was that somebody might be on scene with a gun; is that
19 correct?

20 A Yes.

21 Q Did you ever find anybody on scene with a gun?

22 A No.

23 Q Did you ever -- other than, obviously, you know,
24 the firearms that Metro has, did you see any other guns at
25 the scene?

1 A No, I did not.

2 Q So let me ask you this, you said that it is the
3 concern for the people with the gun, you were kind of focused
4 on everybody else at the scene; is that correct?

5 A Yes.

6 Q Beyond your initial observations of the individual
7 lying on the ground, did you have any other contact with that
8 person?

9 A With the person on the ground?

10 Q Correct.

11 A No.

12 Q When you arrived, could you tell if that person was
13 alive or dead?

14 A I remember thinking that they were still conscious.

15 Q And are you a medical doctor?

16 A No.

17 Q Do you have any medical training?

18 A No.

19 Q So are you trained in kind of determining if a
20 person is dead?

21 A No.

22 Q So what did you see that made you think that he was
23 still conscious at that point?

24 A I believe, his eyes were still open, and I couldn't
25 -- as far as words that he may or may not -- I don't know if

1 he was speaking. It was close eight months ago, but I
2 remember his eyes still being open. That's pretty distinct.

3 Q So after you go, you're talking to some of the
4 other people who were at the scene, what was the remainder of
5 your involvement with this particular crime scene?

6 A I was maybe a hundred yards north, communicating
7 with those two other people that were stopped, a Hispanic
8 male and I believe a Hispanic female. Because when the cops
9 show up and two people start walking away, maybe it's a good
10 time to talk to them. And just pretty much gathering their
11 personal -- you know, their name and their recollection of
12 what happened or why they're in the area, which I did do, for
13 maybe 40, 45 minutes before a detective came over. I
14 believe, a detective came over and spoke to them. And then I
15 went back to the scene to help keep crime scene preservation,
16 and I debriefed my partner, who was then going to brief
17 homicide detectives upon their arrival.

18 Q At some point, did you end up leaving the scene?

19 A Yes.

20 Q Now, you've mentioned your partner Officer Torres a
21 couple of times. Do the two of you ride in the same car?

22 A No.

23 Q Okay. So although, she was your partner that
24 morning, you two are not necessarily in the same car
25 together?

1 A No, she's -- she was, at the time, I believe, on
2 another squad. We have two squads that work in the area.
3 She was on the other squad. We don't have assigned partners
4 like some departments might where you're always with the same
5 person. But generally, you're never going to go on a call
6 without someone. So they'd be your partner for that time.

7 Q So when you left the scene, was she still present?

8 A Yes.

9 Q She didn't leave with you?

10 A No, by the time I left the scene, there were
11 several officers there.

12 Q Okay.

13 MR. ROSE: I have no further questions at this
14 point in time, Your Honor.

15 THE COURT: All right. Counsel.

16 MR. WOOLDRIDGE: Sure.

17 CROSS-EXAMINATION

18 BY MR. WOOLDRIDGE:

19 Q Officer Lopez?

20 A Childers.

21 Q Childers, sorry.

22 A Yeah.

23 Q You didn't see the shooting?

24 A No.

25 Q And you did not witness anything that led up to the

1 shooting?

2 A No.

3 Q You indicated there were some wounds on the
4 stomach?

5 A I believe so.

6 Q There were two wounds, you said?

7 A I believe, there was one, and then it's sort of
8 difficult because after the fact, you know, it was -- in my
9 job you hear follow-up on the case at the time --

10 Q Yeah.

11 A -- I only saw the one wound. That's all I saw at
12 the time.

13 Q But did you testify that you saw two?

14 A I believe I only said one. You mean just now? I
15 said one.

16 Q During --

17 A Yes.

18 Q -- direct examination did --

19 A I saw a wound on the stomach.

20 Q -- you -- you saw two wounds? You saw two wounds
21 on the stomach? Isn't that what you testified to on direct?

22

23 A I saw one wound.

24 Q Okay.

25 MR. WOOLDRIDGE: No further questions.

1 THE COURT: All right. Mr. Arnold.

2 MR. ARNOLD: No questions for this witness, Your
3 Honor.

4 THE COURT: You may step down. You may be excused.
5 You may call your next witness.

6 MR. ROSE: The State would call Officer Torres.

7 OFFICER JACQULYN TORRES, STATE'S WITNESS, SWORN

8 THE CLERK: Please be seated. Please state and
9 spell your name for the record.

10 THE WITNESS: Jacquelyn Torres, J-a-c-q-u-l-y-n,
11 T-o-r-r-e-s. P number 15237.

12 MR. ROSE: May I proceed, Your Honor?

13 THE COURT: You may.

14 MR. ROSE: Thank you.

15 DIRECT EXAMINATION

16 BY MR. GIORDANI:

17 Q Good afternoon, ma'am.

18 A Good afternoon.

19 Q How are you employed?

20 A I'm a police officer with Las Vegas Metropolitan
21 Police Department.

22 Q And how long have you been with Metro?

23 A Two years.

24 Q And are you a detective or a patrol officer?

25 What's your job title?

1 A Patrol.

2 Q Were you working with Metro on September 25th,
3 2016?

4 A Yes.

5 Q And what area command were you working?

6 A Enterprise area command.

7 Q Now, I'm not as familiar with the area commands.
8 Could you just very briefly kind of tell us what that
9 encompasses?

10 A It's the southwest side of town. It's from
11 Flamingo all the way south and then from the 15 all the way
12 west.

13 Q So is -- does any part of Enterprise go outside of
14 Clark County, Nevada?

15 A No.

16 Q Now, what shift do you work?

17 A Graveyard.

18 Q And what hours is that?

19 A 10:00 p.m. to 8:00 a.m.

20 Q In the early morning hours of September 25th, 2016,
21 do you have reason to respond to 4230 South Decatur?

22 A Yes.

23 Q And what brought you to that particular location?

24 A We had multiple calls to the 911 stating that there
25 was gunshots heard in the area.

1 Q And when you got to particular call, what did you
2 do?

3 A I got assigned to the call, turned on my lights,
4 siren and started going toward the direction of where they
5 said the shots were coming from just to try to locate where
6 it was.

7 Q Okay. And did you ultimately find the particular
8 scene?

9 A Yes.

10 Q And could you describe for us what kind of scene
11 that was.

12 A We got flagged down at the address that you just
13 listed. It's on the east side of -- I'm sorry, Decatur and
14 it's -- we drove a little past it because we couldn't find
15 anybody. We got flagged down. So, I turned in and then it
16 just looked like a small shopping center, like a business
17 complex with small businesses in there.

18 Q And what kind of businesses are we talking about?

19 A I wasn't sure at the time. They just looked like
20 small offices that were leased out for whatever reason.

21 Q Okay. And when you pulled into that particular
22 business, are you in the front of the business or the back?

23 A The front.

24 Q And are you in the parking lot?

25 A Yes.

1 Q Could you describe the parking lot for us? Is it
2 empty? Are there people there? And what's happening when
3 you first arrive?

4 A When I arrived, I arrived heading south in the
5 parking lot and the building that everybody was in front of
6 was the furthest one on the -- in the complex. It was on the
7 corner. And there was a few cars in the parking lot, but
8 there was people in the parking lot. There was a man on the
9 floor that needed help and then there was a couple people
10 standing around his body.

11 Q Okay. And then you said there was a man on the
12 floor who needed help. Could you describe for us in a little
13 bit more detail what you mean by that?

14 A It appeared that he was shot. He was laying there.
15 It was a black male adult. Another man was giving him CPR.
16 There was a girl standing above him. There wasn't blood
17 around him, but he didn't have any pants on. He just had
18 like boxers on and a T-shirt, and he was -- I couldn't tell
19 if he was dead or alive.

20 Q Okay. Let me ask you this. You said that he
21 didn't have any pants on. Was there anybody else there who,
22 for lack of a better term, was pantless?

23 A No.

24 Q Was there anybody else there who was in a similar
25 state of undress?

1 A No.

2 Q Did you see pants not on any particular individual
3 elsewhere in the parking lot?

4 A I can't remember.

5 Q Was your attention primarily focused on --

6 A Yes.

7 Q -- the person you saw bleeding?

8 A Yes.

9 Q And you said that you saw somebody performing CPR
10 on him?

11 A Yes.

12 Q Now, what, if anything, did you do when you saw
13 this individual with an apparent gunshot wound receiving CPR?

14 A We called for medical. Got on the radio, called
15 for medical to expedite. We were just trying to get some
16 kind of identification, if anybody knew who he was, and then
17 I knelt down and gave him -- starting giving him chest
18 compressions until medical got there.

19 Q So you, in fact, took over on the CPR?

20 A Yes.

21 Q Now, do you remember other than the fact that he
22 was not wearing any pants and you say you saw what looked
23 like a gunshot wound, do you remember where that gunshot
24 wound was?

25 A I saw one on his stomach.

1 Q Okay. From your recollection, do you remember
2 seeing any other major injuries on him?

3 A No.

4 Q And you said that he wasn't wearing any pants. He
5 was wearing boxers and some kind of shirt; is that correct?

6 A Yes.

7 Q Do you remember seeing any jewelry on him?

8 A I don't recall.

9 Q And if you remember, I mean, this was eight months
10 ago; is that fair?

11 A Yes.

12 Q Have you been on other calls since then?

13 A Yes.

14 Q Okay. More than a few?

15 A Yes.

16 Q Okay. If you remember, do you remember if there
17 were any other -- any belongings that were on the pavement?

18 A I know that there was other clothing articles
19 around the parking lot.

20 Q And by clothing articles, you mean shoes, things
21 like that?

22 A I believe so.

23 Q Now, you said there was some -- some other cars in
24 the parking lot. Do you remember testifying to that?

25 A I'm sorry?

1 Q Do you remember stating earlier there were other
2 cars in the parking lot?

3 A Yes.

4 Q And are these civilian cars, not police cars?

5 A Yes.

6 Q Did you have any particular interaction with those
7 cars?

8 A Not immediately.

9 Q Did you allow anybody to hop into those cars and
10 drive away?

11 A No.

12 Q After you -- or sorry. So you said you called
13 medical out. Did medical respond at some point?

14 A Yes.

15 Q And were you present when they responded?

16 A Yes.

17 Q Can you tell us what happened after medical
18 arrived?

19 A After medical arrived, they took over with the
20 victim. We started trying to secure the scene more, get more
21 officers there, which were already en route. Just take the
22 scene off the people that were there, try and get any
23 statements from them, and then they put me to do paperwork in
24 my car that needed to be done by detectives got there.

25 Q Okay. So after medical arrives, did the victim

1 that you saw on the pavement, did he stay at the scene much
2 longer?

3 A No.

4 Q Do you know where he was taken?

5 A I -- I don't recall.

6 Q Okay. But do you remember him being taken from the
7 scene?

8 A Yes.

9 Q And you said that you kind of taped off the area
10 and then you went and did some paperwork in the car?

11 A Yes.

12 Q After you completed that paperwork, did you have
13 any other role in this particular scene?

14 A Not that I recall.

15 Q Okay.

16 MR. ROSE: Court's brief indulgence. State has no
17 further questions at this point in time, Your Honor.

18 THE COURT: All right. Thank you. Counsel.

19 MR. WOOLDRIDGE: Sure.

20 CROSS-EXAMINATION

21 BY MR. WOOLDRIDGE:

22 Q Officer Lopez, right?

23 A Torres.

24 Q Gosh. What am I doing? Sorry about that. Okay,
25 Officer Torres, did you see the shooting?

1 A No, sir.

2 Q So you have no idea what led up to that shooting,
3 do you?

4 A No.

5 MR. WOOLDRIDGE: No further questions.

6 THE COURT: Thank you. Mr. Arnold.

7 MR. ARNOLD: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. ARNOLD:

10 Q Ma'am, you said something in regards to no one
11 could hop in the cars and drive away. Do you recall that
12 testimony?

13 A Yes.

14 Q Did you tell people that they couldn't drive their
15 cars away?

16 A We asked people to stay there so we could talk to
17 them and get them identified.

18 Q You asked people to stay there, but again, did you
19 tell them that they could not get into their cars and drive
20 away?

21 A They were told not to leave the scene once they --
22 once the scene was taped in.

23 Q Okay. That was my next question. Was the parking
24 lot taped so no cars could leave? Was the parking lot where
25 the cars were taped off, you know, with the yellow tape, was

1 that something that happened at the scene?

2 A We taped off the scene.

3 Q Okay. Did you specifically tape off the scene?

4 A No.

5 Q Do you know when the scene was taped off?

6 A Within a minute or two of us getting there.

7 Q Okay. And people were told -- did you tell those
8 people not to leave the scene?

9 A I told somebody at one point not to leave.

10 Q Were there any attempts by anybody to leave the
11 scene in their vehicles?

12 A In their vehicles, not that I can recall.

13 Q You said that eventually, the victim, Mr. Davis,
14 was taken from the scene, his body was. Do you know if he
15 was dead or alive at the time that he was taken?

16 A I'm not medical or coroner. I --

17 Q So --

18 A I don't know if at that time he was pronounced.

19 Q So you don't know if he was dead or alive, right?

20 A No.

21 Q Do you know if he was dead or alive at the time
22 that you were doing CPR? Did you feel a pulse?

23 A I didn't. I didn't believe he was alive.

24 MR. ARNOLD: I have no further questions. Thank
25 you, Your Honor.

1 THE COURT: Thank you. Any further questions?

2 MR. ROSE: Not by the State, Your Honor.

3 MR. WOOLDRIDGE: None.

4 THE COURT: Thank you, Officer. You may step down.
5 You may be excused.

6 MR. ROSE: Your Honor, the State would call CSA
7 Reiner.

8 THE COURT: All right.

9 MR. GIORDANI: Your Honor, I believe, the witness
10 may have run to the restroom. The CSA's not outside. Is it
11 a good time for a break now or --

12 THE COURT: We can take a break.

13 MR. GIORDANI: Okay.

14 THE COURT: All right. Why don't we take about a
15 15-minute recess. Just remind the jury not to discuss the
16 case, not to form or express any opinions, not to do any
17 research or read any articles, commentary or anything about
18 the case or anyone connected to it. I'll see you back here
19 at 5 after 3:00.

20 THE MARSHAL: Rise for the jurors.

21 (Outside the presence of the jury)

22 THE COURT: All right. Outside the presence much
23 the jury. Anything we need to make record on?

24 MR. GIORDANI: Not on behalf of the State.

25 THE COURT: All right. I'll see you at 5 minutes

1 after 3:00 then.

2 (Court recessed at 2:52 p.m. until 3:12 p.m.)

3 (In the presence of the jury)

4 THE MARSHAL: Court would come to order.

5 Department 17 is back in session.

6 THE COURT: You may be seated. Back on record.

7 Back in the presence of the jury panel. All members of the
8 panel are present, counsel's present, defendants are present.

9 You may call your next witness.

10 MR. ROSE: Thank you, Your Honor. The State would
11 call CSA Reiner.

12 JENNIFER REINER, STATE'S WITNESS, SWORN

13 THE CLERK: You may be seated. Please state and
14 spell your name for the court's record.

15 THE WITNESS: Jennifer Reiner, J-e-n-n-i-f-e-r,
16 R-e-i-n-e-r.

17 MR. ROSE: May I proceed, Your Honor?

18 THE COURT: You may.

19 DIRECT EXAMINATION

20 BY MR. ROSE:

21 Q Good afternoon, ma'am. How are you employed?

22 A As a crime scene analyst with the Las Vegas
23 Metropolitan Police Department.

24 Q And how long have you been with Metro?

25 A I've been with Metro approximately 13-and-a-half

1 years, and I've been in the crime scene unit about eight-and-
2 a-half of those years.

3 Q Now, you said that you're a crime scene analyst.
4 Did you have any special education or training or experience
5 which allows you to be a CSA?

6 A Yes, I have a bachelor's of science degree in
7 criminal justice. I've also completed ten weeks crime scene
8 analyst academy and 12 weeks of field training with the Las
9 Vegas Metropolitan Police Department. And I've also
10 completed over 800 hours in training related to crime scene
11 investigation. And we receive training annually.

12 Q And all that training, is that through Metro,
13 outside agencies or some mixture of both?

14 A Both.

15 Q Okay. Now, you said that you've been a CSA for,
16 what, eight-and-a-half years, did you say?

17 A Yes.

18 Q Okay. Have you ever seen the show CSI?

19 A Yes.

20 Q Do you like the show?

21 A Yeah.

22 Q Well, let me ask you this. How accurate is CSI,
23 the show, compared to what you do?

24 A Not very.

25 MR. WOOLDRIDGE: Objection. Relevancy, Your Honor.

1 THE COURT: Overruled. You may proceed you. You
2 may answer.

3 THE WITNESS: Not very accurate.

4 BY MR. ROSE:

5 Q And what makes you say that? Kind of what -- if
6 there were just a few kind of glaring differences between
7 that and real life?

8 A Well, one, we don't necessarily solve a crime
9 within an hour. When we fingerprint process, it's actually a
10 whole process. We have a whole latent print detail, so we'll
11 process on scene, we'll submit the prints and it has to go
12 over to the latent detail. Same thing with any sort of type
13 of evidence that might have maybe some sort of biological
14 material on it. We actually have a DNA forensic lab that
15 will do the analysis on those items.

16 Q Now, you mentioned you have a fingerprint detail
17 and a biological detail. What are some of your
18 responsibilities as a CSA? Do you specialize in any
19 particular area?

20 A Just in general as far as crime scene
21 investigations, packaging, making sure all the evidence is
22 packaged correctly before it gets over to those sections.

23 Q So are you usually in the field or in the lab?

24 A The field.

25 Q Or some of both?

1 A Oh, well, a mixture of both. Mostly in the field,
2 but in order to finish the evidence then we'll need to be
3 back at the lab.

4 Q Okay. So were you working as a CSA with Metro on
5 September 25th, 2016?

6 A Yes.

7 Q And at that point in time, do you have reason to
8 respond to UMC trauma?

9 A Yes.

10 Q And what was it that brought you to UMC trauma?

11 A There was a death investigation.

12 Q And when you got there, could you describe for us
13 what you saw and what you did?

14 A When I got there, I met with the detective. It was
15 actually a homicide detective. And then we waited for the
16 coroner investigator to arrive. So once the coroner
17 investigator arrived, we were able to take a look at the
18 decedent inside the -- it's called negative pressure
19 isolation room at UMC. It's actually a room kind of set off
20 to the side for deceased individuals.

21 Q And are they -- you said it's a negative pressure
22 room. What is that, do you know?

23 A I don't actually. I just know it's a separate room
24 for deceased individuals. It's a very quiet kind of secluded
25 area.

1 Q Okay. So in your experience, the only time that
2 particular room is used is when you have a decedent in the
3 room?

4 A Yes.

5 Q And what was your role when you arrived at UMC
6 trauma and went into this room set aside from decedents?

7 A To photograph the decedent and collect any possible
8 evidence that may be present.

9 Q And you said that you from a photographed the
10 decedent. Was that with your cell phone or a camera, you
11 know, how did you do that?

12 A A Department issued camera.

13 Q And you mentioned that you had, you know, field
14 training, 800 hours, I think you said.

15 A Um-h'm.

16 Q Does that include training in photography?

17 A Yes.

18 Q And when you finished with your photography, what
19 did you do with the photos themselves?

20 A The photos we actually put into an envelope and
21 then we take it back to our lab section, we log it, drop it,
22 and somebody from the photo lab will come over, grab the card
23 and download it on to a system.

24 MR. ROSE: May I approach the witness, Your Honor?

25

1 THE COURT: You may.

2 BY MR. ROSE:

3 Q Ma'am, I'm going to show you a number much
4 documents. Without saying what they are, can you take a look
5 through those and just tell me whether or not you recognize
6 those documents.

7 A Yes, I do.

8 Q And again, without saying exactly what they are,
9 how is it that you're able to recognize these?

10 A Because these are the photos that I took when I
11 arrived at UMC.

12 Q So you actually took those photos?

13 A Yes.

14 Q And do these photos fairly and accurately represent
15 what you saw when you arrived at UMC?

16 A Yes.

17 MR. ROSE: Your Honor, at this point in time, the
18 State would move for admission of State's Proposed Exhibits
19 141, 142, 143, 144, 145, 146 -- I just want to make sure I'm
20 not forgetting anything -- 147, 148, 149, 150 and 151.

21 THE COURT: Any objection?

22 MR. WOOLDRIDGE: So 141 through 151?

23 MR. ROSE: Correct.

24 MR. WOOLDRIDGE: Okay. No -- I don't have any
25 objection.

1 MR. ARNOLD: No objection, Your Honor.

2 THE COURT: They will be admitted.

3 (State's Exhibits 141 through 151 admitted)

4 MR. ROSE: May I publish, Your Honor?

5 THE COURT: You may.

6 BY MR. ROSE:

7 Q CSA Reiner, I first want to show you what's been
8 now admitted as State's Exhibit 141. Do you see what we're
9 looking at in this particular picture?

10 A Yes. This is a photo of the decedent.

11 Q And so would this be the individual that you saw
12 there on September 25th, 2016 at UMC trauma?

13 A Yes.

14 Q And was this how you found the decedent when you
15 arrived?

16 A No. He was actually covered with like a blue
17 cover.

18 Q And do you remember who it was who removed that
19 blue cover?

20 A The coroner investigator.

21 Q And was that in order to allow you to take
22 photographs and examine the body?

23 A Yes.

24 Q Now, do you see anything of significance to you in
25 this particular photo?

1 A Yes, I do.

2 Q Now, have you ever seen Monday night football?

3 A Yes.

4 Q Are you a football fan? Have you seen where they
5 kind of draw on the screen and you can see it at home?

6 A Yes.

7 Q Well, you can actually do that on this screen as
8 well. So if you wouldn't mind just kind of using your finger
9 to trace whatever it is that you saw of significance to you.
10 (Witness complying). And could you tell us what it is in
11 that particular area that was of significance to you.

12 A There's actually injury to the left abdomen area.

13 Q Is that the area that you were trying to circle?

14 A Yes.

15 Q Okay. Sometimes the machines aren't quite as
16 precise as we would like. Was this the only picture that you
17 took of the decedent at that point in time?

18 A No.

19 Q I'm going to show you what's been admitted as
20 State's Exhibit 142. Can you tell us what it is that we're
21 looking at in this particular photo.

22 A An injury to the right cheek.

23 Q And in this particular photo, can you see any other
24 injuries, do you remember?

25 A Oh, yes. There's a injury behind the right ear.

1 Q Is that why you took this particular photo?

2 A Yes.

3 Q And briefly, can you tell in this particular photo
4 whether or not he has any earrings in?

5 A It does not appear that he is wearing an earring.

6 Q Okay. Showing you Exhibit 143. Do you remember
7 taking this particular photograph?

8 A Yes.

9 Q Is this of that same individual?

10 A Yes.

11 Q And in this particular photo, can you see the wound
12 that we saw previously to the right side of the face?

13 A No.

14 Q Can you see any visible injuries in this particular
15 photograph?

16 A No.

17 Q Now, do you see a earring in this particular
18 photograph?

19 A Yes.

20 Q Showing you 144. You recognize this photograph?

21 A Yes.

22 Q And is there anything in here that is of particular
23 significance to you?

24 A A little bit closer photo of the injury to the
25 abdomen.

1 Q Now, would you agree with me that there are two
2 visible injuries in this particular photo?

3 A Yes. The left side of his chest has sutures.

4 Q Okay. And if wouldn't you mind, and this might be
5 obvious, but if you wouldn't mind just kind of circling the
6 area that you're talking about with the sutures. (Witness
7 complying).

8 Now, are you a medical doctor?

9 A No.

10 Q Have you had the opportunity through your training
11 and experience with Metro as a CSA to view other decedents.

12 A Yes.

13 Q And have you ever seen what you would describe as
14 medical intervention before?

15 A Yes.

16 Q Just based on, you know, what you've seen in the
17 past and what you're looking at here, does this appear to at
18 least be consistent with medical intervention?

19 A Yes.

20 Q So what, if anything, in this particular photograph
21 primarily drew your attention?

22 A The injury to the abdomen.

23 Q That would be the lower injury towards the bottom
24 of the picture that we're looking at?

25 A Yes.

1 Q Would that be the injury that you documented in
2 145?

3 A Yes.

4 Q And looking at that particular injury, have you had
5 the opportunity to see gunshot wounds before?

6 A Yes.

7 Q Have you had the opportunity to photograph gunshot
8 wounds before?

9 A Yes.

10 Q And again, just without saying, you know, whether
11 or not it actually is, does this appear to be at least
12 consistent with a gunshot wound?

13 A Yes, it does.

14 Q What did you do when you saw the decedent on the
15 table and you saw this particular wound?

16 A I documented it as-is and then I took a photo of it
17 with a scale.

18 Q And what's the purpose of taking it with a scale?

19 A To get an approximate size.

20 Q And is that what we're looking at in Exhibit 146?

21 A Yes.

22 Q Is that the same wound that we saw in 145, just
23 this time, as the scale?

24 A Yes.

25 Q Now, we saw a number of photographs of Mr. Davis's

1 chest. Did you take photographs of any other parts of his
2 body?

3 A Yes.

4 Q And do you remember what parts of the body you took
5 photographs of?

6 A He also had an injury on the right side of the
7 torso and again, the right cheek and behind the right ear.

8 Q And were your photographs limited to the torso and
9 head?

10 A No.

11 Q What is it that you're looking for what you're
12 decided to document various parts of a decedent's body?

13 A Again, if there's any sort of injuries present on
14 the individual. Depending on the scene and the information I
15 get from the detectives, whether we need to collect any
16 certain other evidence, transient evidence.

17 Q Are there times that you would take a picture of
18 something that does not show an injury?

19 A Yes.

20 Q And why would you do that?

21 A Again, just the whole documentation of the
22 individual.

23 Q Showing Exhibit 147. Can you tell us what it is
24 we're looking at in this particular photograph?

25 A That is the decedent's left hand.

1 Q And what was your purpose in taking this particular
2 photograph, if you remember?

3 A Just overall condition of the hand.

4 Q So were there any knowable injuries that drew you
5 to the hand?

6 A No.

7 Q And in fact, looking at this, can you point out for
8 us any visual injuries that you can see on his hand?

9 A No.

10 Q Showing you 148, can you tell us what that appears
11 to be?

12 A The left hand.

13 Q And similarly, can you point out for us any visual
14 injuries that you noted in this particular photograph?

15 A No.

16 Q Now, showing you 149, can you tell us what we're
17 looking at here?

18 A That is the right hand.

19 Q Still of Mr. Davis?

20 A Yes.

21 Q Now, do you see anything in this particular picture
22 which stands out to you?

23 A There was no injuries visible, however, there was
24 blood on the hand.

25 Q Now, you said that there were no injuries visible,

1 but there was blood. How can you tell that there were no
2 injuries there?

3 A From the examination that -- the coroner
4 investigator.

5 Q Okay. So there's blood that you noted on the hand,
6 but no actual injuries?

7 A Correct.

8 Q Is that unique -- is that a unique circumstance in
9 your line of work?

10 A No.

11 Q In fact, have you seen other individuals with --
12 who have gunshot wounds who have blood on their hands but no
13 injuries to the hands themselves?

14 A Yes.

15 Q So did that shock you when you saw that?

16 A No.

17 Q Looking at Exhibit 150. Do you recognize this
18 particular photograph?

19 A That would be the top of the right hand.

20 Q Still of Mr. Davis?

21 A Yes.

22 Q The same hand where we saw the blood but no
23 injuries?

24 A Yes.

25 Q Now, looking at this, would you agree with me that

1 this is kind of the back of the hand with the knuckles
2 visible?

3 A Yes.

4 Q Can you tell me, do you see any injuries in this
5 particular photograph?

6 A No.

7 Q Do you see, perhaps, some apparent blood at the top
8 of the hand with no injuries?

9 A Yes.

10 Q And Exhibit 151. Do you recognize this photograph?

11 A Yes. It's a photograph of the decedent's driver's
12 license.

13 Q And did you take this photograph as well?

14 A Yes.

15 Q Where did you find the decedent's driver's license?

16 A I do not recall. Typically, the coroner
17 investigator --

18 MR. WOOLDRIDGE: Objection.

19 THE WITNESS: -- when they arrive --

20 MR. WOOLDRIDGE: As to speculation, Your Honor.

21 THE COURT: Sustained.

22 BY MR. ROSE:

23 Q CSA Reiner, do you remember writing a report in
24 this particular case?

25 A Yes.

1 Q And in that report, did you document anything that
2 you found or recovered from the decedent?

3 A Yes.

4 Q Would looking at that particular report refresh
5 your recollection as to where you may have found this
6 particular item?

7 A Possibly.

8 MR. ROSE: May I approach the witness, Your Honor?

9 THE COURT: You may.

10 BY MR. ROSE:

11 Q CSA Reiner, do you recognize this particular
12 document?

13 A Yes, I do.

14 Q And what do you recognize that particular document
15 to be?

16 A That is the report that I did after the scene.

17 Q Okay. So you actually authored this particular
18 report?

19 A Yes.

20 Q And would you document what you recovered and where
21 you recovered those items from in your report?

22 A If I recovered it, yes.

23 Q Okay. Would you mind taking a look at that
24 particular report, just to yourself, don't read it out loud,
25 and then whenever you're done with that, let me know if it

1 refreshes your recollection as to where that particular item
2 was found. (Witness complying).

3 My apologies. Looking over that document, does
4 that refresh your recollection as to where this particular
5 item was found?

6 A No.

7 Q If -- now, CSA Reiner, do you have a driver's
8 license?

9 A Yes.

10 Q Where do you keep your driver's license?

11 A In my wallet.

12 Q Do you remember recovering a wallet in this
13 particular -- from this particular scene?

14 A No, did I not recover the wallet.

15 MR. ROSE: I have no further questions at this
16 point in time, Your Honor.

17 THE COURT: All right, thank you.

18 MR. WOOLDRIDGE: Give me a moment, Your Honor.

19 THE COURT: Counsel, any questions?

20 MR. WOOLDRIDGE: Yeah. Just give me just a few
21 moments.

22 THE COURT: Okay.

23 MR. WOOLDRIDGE: Thank you.

24 //

25 //

1 CROSS-EXAMINATION

2 BY MR. WOOLDRIDGE:

3 Q CSA Reiner -- Reiner or Reiner?

4 A Reiner.

5 Q Okay. Sorry, apologize. Don't mean to butcher
6 your name. You didn't see the shooting?

7 A No.

8 Q And you have no personal knowledge as to what led
9 to the shooting?

10 A Correct.

11 Q The bullet that you took a picture of, the diameter
12 of the bullet or the way that the wound shows on the stomach,
13 that's indicative that it was a close range shooting,
14 correct?

15 MR. ROSE: Your Honor, I would object to this as
16 being outside any expertise that she has.

17 MR. WOOLDRIDGE: If she doesn't have the expertise,
18 that's fine.

19 BY MR. WOOLDRIDGE:

20 Q Do you not have the expertise to answer that?

21 A No.

22 THE COURT: All right, thank you.

23 BY MR. WOOLDRIDGE:

24 Q This No. 149, this you took a photo of?

25 A Yes.

1 Q Exhibit 149?

2 A Yes.

3 Q Do you know the significance of that is? That
4 tattoo on the wrist?

5 A No, I do not.

6 Q You have no training in tattoos?

7 A No.

8 Q Okay.

9 MR. WOOLDRIDGE: No further questions, Your Honor.

10 THE COURT: Okay, thank you. Any questions,
11 Mr. Arnold?

12 MR. ARNOLD: No questions for this witness, Your
13 Honor.

14 THE COURT: Thank you. Any further questions from
15 the State?

16 MR. ROSE: Not from the State, Your Honor.

17 THE COURT: All right. We have a question from a
18 juror. I'm assuming it's a question, sir?

19 JUROR NO. 4: Yes.

20 THE COURT: All right. You've written it down?
21 And your name and juror number's on it?

22 JUROR NO. I put Juror 4. Do you want my name, too,
23 also?

24 THE COURT: Yes, also put your name on it, please.
25 All right. Counsel approach.

1 (Off-record bench conference)

2 THE COURT: Counsel?

3 (Off-record bench conference)

4 THE COURT: Mr. Jenny (sic), I've reviewed your
5 question. It goes beyond the factual -- it's not really
6 intended to clarify the facts that have already been brought
7 out. It goes beyond the scope so I'm not going to be asking
8 your question.

9 Ms. Hunt, as to your question, the attorney's going
10 to ask a few more questions that may clarify things for you
11 and the rest of the jury. All right.

12 MR. ROSE: Thank you, Your Honor.

13 THE COURT: Counsel.

14 REDIRECT EXAMINATION

15 BY MR. ROSE:

16 Q CSA Reiner, the -- did you collect evidence and
17 impound evidence in this particular case?

18 A Yes, I did.

19 Q And where did you collect that particular evidence
20 from?

21 A Be it was the decedent's boxer briefs, and they
22 were underneath his buttocks.

23 Q And --

24 THE COURT: Was that at the hospital or at the
25 scene?

1 THE WITNESS: At the hospital.

2 BY MR. ROSE:

3 Q Now, the room where he was at that point in time,
4 do you know was that the room where the autopsy was, in fact,
5 performed?

6 A No.

7 Q Were you present for the autopsy itself?

8 A No.

9 Q So the evidence that you collected was that only
10 from the room at UMC trauma, not from the screen and not from
11 a later autopsy?

12 A Correct.

13 MR. ROSE: I have no further questions at this
14 point in time, Your Honor.

15 THE COURT: Thank you. Counsel any further
16 questions?

17 MR. WOOLDRIDGE: I'll pass this witness, Your
18 Honor.

19 THE COURT: All right, thank you.

20 MR. ARNOLD: Nothing further.

21 THE COURT: All right. The witness may be excused?

22 MR. ROSE: Yes, Your Honor.

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

24 THE WITNESS: Thank you.

25 THE COURT: You may call your next witness.

1 MR. GIORDANI: Dr. Corneal.

2 DR. JENNIFER CORNEAL, STATE'S WITNESS, SWORN

3 THE CLERK: Please be seated. Please state and
4 spell your name for the court's record.

5 THE WITNESS: Jennifer Corneal.

6 THE COURT: And spell your last name, please.

7 THE WITNESS: C-o-r-n-e-a-l.

8 MR. GIORDANI: May I?

9 THE COURT: You may.

10 MR. GIORDANI: Thank you.

11 DIRECT EXAMINATION

12 BY MR. GIORDANI:

13 Q What do you do for a living, room?

14 A I'm a medical examiner.

15 Q With?

16 A With the Clark County Coroner's Office.

17 Q How long have you been with the Clark County
18 Coroner's Office?

19 A Since July 2015.

20 Q Since July of last -- 2015, how many times have you
21 testified in the Eighth Judicial District Court, if you know?

22 A In this court?

23 Q Yes.

24 A Over 20.

25 Q Based upon your job title as a medical examiner, I

1 would presume that you had some kind of education in order to
2 obtain that position?

3 A I do.

4 Q Can you describe that education?

5 A I'm a doctor. I completed medical school. I then
6 completed residency in pathology and I'm a board certified
7 anatomic pathologist. After that I completed a fellowship in
8 forensic pathology and I'm a board certified forensic
9 pathologist.

10 Q Do you do ongoing or since you came to the Clark
11 County Coroner's Office, did you receive any training or
12 anything of that nature?

13 A No, I've been working full time.

14 Q Okay. So you came in as a full-time, and since
15 2015, you've been doing autopsies?

16 A Yes.

17 Q What is an autopsy?

18 A An autopsy consists of an external examination of a
19 dead body. So I look at them, document hair color, length,
20 eye color, injuries, scars and then an internal examination,
21 which is where you open the body up and look at the organs,
22 looking for natural disease, any injuries to determine cause
23 and manner of death.

24 Q Did you perform an autopsy on a person by the name
25 of Ezekiel Davis on September 26th of last year?

1 A I did.

2 Q And describe when and where that was conducted.

3 A That was conducted at the office of the Clark
4 County coroner that morning --

5 Q Okay.

6 A -- on the 26th.

7 Q Who was present during the autopsy?

8 A Detectives from Las Vegas Police Department, myself
9 and my technician.

10 Q Okay. You described earlier a little bit an
11 external examination and then an internal examination; is
12 that accurate?

13 A Yes.

14 Q I want you to go through your external examination
15 and any findings related thereto as it relates to Ezekiel
16 Davis.

17 A On his external examination there was a gunshot
18 wound of the left side of his abdomen. He also had some
19 other injuries, including a bruise with some skin tearing on
20 his right cheek. Some skin tearing behind his right ear and
21 a small abrasion on the right side of his back.

22 MR. GIORDANI: And Your Honor, I believe there's a
23 stipulation between the parties to State's Proposed Exhibits
24 116, 17, 18, 19, 20, 21.

25 MR. WOOLDRIDGE: Can I just see them real quick?

1 MR. GIORDANI: Same stack that was up here.

2 MR. WOOLDRIDGE: Okay.

3 MR. GIORDANI: Mr. Arnold, would you like to see
4 these?

5 MR. ARNOLD: Thank you.

6 THE COURT: All right. Exhibits may be admitted.
7 You may publish.

8 (State's Exhibits 116 through 121 admitted)

9 MR. GIORDANI: Thank you.

10 BY MR. GIORDANI:

11 Q Ma'am, before I start showing these exhibits, is
12 there a process of documenting injuries that's conducted by
13 both your office, the Clark County Coroner's Office, and
14 Metro with a crime scene analyst?

15 A Yes.

16 Q So is it fair to presume that there are two sets of
17 photographs, one being coroner photographs and another being
18 Metro?

19 A Yes.

20 Q Okay. I'm going to show you Exhibit 116. Does
21 that appear to be a Metro photograph?

22 A Yes.

23 Q How would you know that?

24 A There's no identification card with our coroner's
25 identification number in it.

1 Q Okay. As a typical process in the coroner's
2 office, would you have a little identification tag,
3 essentially, in the frame of each photograph?

4 A Yes. Unless it's a close-up of an injury.

5 Q Okay. But do you recall the injury here to
6 Mr. Ezekiel Davis?

7 A Yes. This is the area of bruising on his cheek
8 with the associated area of skin tearing.

9 Q Okay. It's got a little glare to it, so let me
10 zoom in here. And, ma'am, you've testified before, you know
11 you can write on that screen up there?

12 A Yes.

13 Q Describe that again, please, and just point to --
14 you know, put a dot on what you're talking about.

15 A All right. So there's bruising in this area, and
16 then there's skin tearing in this area.

17 Q Was there an associated injury to Mr. Davis on that
18 side of his head behind his ear?

19 A Yes.

20 Q Was that -- can you describe that injury?

21 A It's a laceration or a skin tear.

22 Q All right. I'll move this photograph a little bit.
23 Can you see this skin tear that you're describing?

24 A Yes. It's right here. It's a little --

25 Q I want to show you Exhibit No. 121. Let me zoom

1 out. Are we looking at the left side of Mr. Davis's abdomen?

2 A We are.

3 Q Appear to be some medical intervention that was
4 performed up on the right here?

5 A Yes. He had thoracotomy incision.

6 Q Okay. Just real basically, what is a thoracotomy
7 incision?

8 A They opened his chest and massaged his heart in
9 order to try to bring him back.

10 Q Underneath that is when we're -- I guess, in
11 proximity to that, it would be in the left in the photo.
12 What are we looking at there?

13 A This is an entrance gunshot wound.

14 Q Before I move on to internal injuries, I want to
15 ask you were there any other injuries on the person of
16 Ezekiel Davis that were acute as in recent?

17 A No.

18 Q No injuries whatsoever that were acute or recent on
19 Mr. Davis?

20 A None other than the ones we've just spoken about.

21 Q Showing you Exhibit No. 117, 117. What are we
22 looking at here?

23 A This is the projectile, the bullet we removed from
24 Mr. Davis.

25 Q Okay. I want you to please describe your internal

1 examination of Mr. Davis.

2 A On the internal examination, there was over a liter
3 of blood in Mr. Davis's abdomen. There was injury to his
4 large and small bowel. There was injury to his bladder, and
5 there was a perforating wound through his aorta and his
6 abdomen.

7 Q And did you determine a cause and manner of death
8 in this particular case?

9 A I did.

10 Q And what were your findings there?

11 A Gunshot wound of abdomen, homicide.

12 Q Okay. Gunshot wound of abdomen, is that the cause
13 of death?

14 A It's the cause of death, yes.

15 Q And the manner of death?

16 A Homicide.

17 Q Okay. Did you take samples from Mr. Davis's blood
18 and/or body and seek toxicology examination on those results?

19 A Yes.

20 Q And do you, yourself, conduct a toxicology exam or
21 is that sent out to another lab?

22 A That's sent out.

23 Q In this particular case, are you familiar with the
24 lab results?

25 A Yes.

1 Q And were there elicit substances in Mr. Davis's
2 body?

3 A There were.

4 Q Can you list them?

5 A He had methamphetamine and amphetamine, which is
6 the metabolite, as well as marijuana and there are
7 metabolites and the non-elicited substance would be alcohol.

8 Q Do you recall, as you sit there, the levels of
9 those substances in his body?

10 A Yes.

11 Q Can you list them for the jury?

12 A The methamphetamine was at 110 nanograms per
13 milliliter. Amphetamine was 36 nanograms per milliliter.
14 His alcohol, his blood alcohol level was 0.014. And I don't
15 recall the marijuana metabolites offhand.

16 Q Okay. So he had, I believe, it's three or is it
17 four different substances?

18 A Three.

19 Q Three. Okay. And how many autopsies could you
20 estimate that you conducted on murder victims?

21 A Hundreds.

22 Q Have you seen similar results in other cases with
23 regard to toxicology?

24 MR. ARNOLD: Objection.

25 MR. WOOLDRIDGE: Objection.

1 MR. ARNOLD: Relevance.

2 MR. GIORDANI: I'll get to the relevance.

3 Certainly not speculation.

4 THE COURT: I'll allow the question. Go ahead. Go
5 ahead.

6 MR. GIORDANI: Thank you, Your Honor.

7 THE WITNESS: As in similar substances?

8 BY MR. GIORDANI:

9 Q Yes.

10 A Yes.

11 Q Would Mr. Davis's levels when it comes to
12 methamphetamine in any way shock or surprise you?

13 A No.

14 Q Have you seen levels much higher than what
15 Mr. Davis has?

16 A Definitely.

17 Q And of course, you've probably seen people with no
18 methamphetamine in their system, I would assume?

19 A Yes.

20 Q Were there any personal effects on Mr. Davis's
21 person when you conducted your autopsy or beforehand, I
22 guess?

23 A Beforehand, yes.

24 Q What were they?

25 A As far as clothing, he had a green Polo shirt and a

1 sock and he also had a earring, I believe, in his left ear --

2 Q Okay.

3 A -- and a yellow metallic bracelet around the right
4 wrist.

5 MR. GIORDANI: I have no further questions. I'll
6 pass the witness.

7 THE COURT: All right, thank you.

8 MR. WOOLDRIDGE: Bear with me a moment, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. WOOLDRIDGE:

11 Q So one of the things I was a little -- are you
12 saying that most people that are shot are high on meth? Is
13 that what you were saying?

14 A I'm saying that a lot of our homicide victims have
15 methamphetamine on board.

16 Q So a lot of people that are shot are high on
17 methamphetamine?

18 A Not just shot, but yes.

19 Q Or killed, you're saying?

20 A Yes.

21 Q So is that -- that's just something that a lot of
22 times that people that come through these -- that you do
23 these autopsies with are always high on meth or --

24 A Not always, no.

25 Q -- the majority of them are high on meth?

1 A I can't give you a exact number.

2 Q You testified to something earlier about you've
3 done lots of these cases and lots of them are high on meth.
4 Did I understand your testimony wrong?

5 A No. I said I've done lots of these cases and there
6 are some people who are high on meth.

7 Q Okay. So only some are high on meth?

8 A I can't say if it's majority or -- I'd have to go
9 back and do research and tell you the numbers.

10 Q Okay. One of the things that you did -- you did do
11 an autopsy report in this case, though, right?

12 A I did.

13 Q All right. And I think one of the things that you
14 noted you have like basically, three Roman numerals in the
15 beginning of your report. Do you remember that, putting
16 those three --

17 A May look?

18 Q Sure, of course.

19 A Yes.

20 Q And you put gunshot wound to abdomen,
21 methamphetamine intoxication --

22 A Yes.

23 Q -- and no significant natural disease?

24 A Yes.

25 Q So it was your medical conclusion that he was

1 intoxicated on methamphetamine, right?

2 A Yes, on some level.

3 Q You also -- on direct you indicated that you had
4 completed an external examination for scars, right?

5 A Yes.

6 MR. GIORDANI: Objection. Relevance. I asked were
7 there any other acute injuries and she said no.

8 MR. WOOLDRIDGE: It was -- the door was opened,
9 Your Honor.

10 THE COURT: Counsel, you had directions from the
11 Court. The objection's sustained.

12 MR. WOOLDRIDGE: Okay.

13 BY MR. WOOLDRIDGE:

14 Q You indicated that you ruled this to be a homicide,
15 right?

16 A Yes.

17 Q And a homicide is not necessarily a murder; isn't
18 that right?

19 A Correct.

20 MR. GIORDANI: Objection. That's outside the
21 scope.

22 THE COURT: Overruled.

23 BY MR. WOOLDRIDGE:

24 Q Is that correct?

25 A Yes.

1 Q And you were not there when Zeke Davis was shot?

2 A No.

3 Q And you have no personal knowledge as to what led
4 to the shooting?

5 A No.

6 MR. WOOLDRIDGE: No further questions. Actually,
7 one more question.

8 BY MR. WOOLDRIDGE:

9 Q The bullet, the bullet to the abdomen, the way that
10 that -- the way that's displayed, that indicates that it's a
11 close-range shooting; is that correct?

12 A No.

13 Q Okay.

14 MR. WOOLDRIDGE: No further questions.

15 THE COURT: Mr. Arnold.

16 MR. ARNOLD: No questions for this witness, Your
17 Honor.

18 THE COURT: Thank you. Any further questions from
19 State?

20 MR. GIORDANI: No, Your Honor. Thank you. All
21 right, thank you. Any from the jury? All right, thank you.
22 You may step down.

23 THE WITNESS: Thank you.

24 MR. GIORDANI: You may be excused.

25 THE COURT: You may call your next witness.

1 MR. ROSE: State would call CSA Szukiewicz.

2 JOSEPH SZUKIEWICZ, STATE'S WITNESS, SWORN

3 THE CLERK: Please be seated. Please state and
4 spell your name for the court's record.

5 THE WITNESS: Joseph Szukiewicz,
6 S-z-u-k-i-e-w-i-c-z.

7 MR. ROSE: May I proceed, Your Honor?

8 THE COURT: You may.

9 DIRECT EXAMINATION

10 BY MR. ROSE:

11 Q Sir, how are you employed?

12 A I'm a senior crime scene analyst with the Las Vegas
13 Metropolitan Police Department.

14 Q And how long have you been with Metro?

15 A For 20 years.

16 Q And do you have any kind of special training or
17 experience that helps you to be a CSA?

18 A I have a bachelor's degree in criminal justice from
19 UNLV. I have a certification through the International
20 Association For Identification For Crime Scene
21 Investigations, and I've taken numerous classes, workshops
22 and seminars relating to crime scene investigation,
23 bloodstain evidence, homicide and death investigations.

24 Q And that's all in addition to 20 years of practical
25 experience doing the job?

1 A Yes. Over 6,000 calls.

2 Q So it might be an obvious question, but were you
3 working as a CSA with Metro on September 25th, 2016?

4 A Yes.

5 Q And did you have reason to respond to 4230 South
6 Decatur?

7 A Yes, I did.

8 Q And what was the nature of the call that brought
9 you out there?

10 A We were responding to a homicide investigation.

11 Q And what jobs did you have while out at that
12 particular location?

13 A My job at the scene was to collect and preserve the
14 evidence and to complete a crime scene diagram.

15 Q Now, what is a crime scene diagram?

16 A So what we do is we take a drawing of the crime
17 scene and then we will measure items of evidence as well as
18 buildings and cars into that scene. Then later on the -- the
19 sketch will be made into a computer diagram and that's what
20 we do for that.

21 Q Does that take you a long time to create?

22 A It does.

23 Q Do you remember, approximately, how long you were
24 out at that particular scene?

25 A We were out at that scene for approximately, eight

1 hours.

2 MR. ROSE: And Your Honor, at this point in time, I
3 believe there's a stipulation to Exhibits 1 through 127.

4 MR. WOOLDRIDGE: I have no objection.

5 THE COURT: All right.

6 MR. ARNOLD: No objection, Your Honor.

7 THE COURT: It will be admitted.

8 (State's Exhibits 1 through 127 admitted)

9 BY MR. ROSE:

10 Q And sir, don't worry I'm not going to walk through
11 all 127 photographs with you. But what I would like to do is
12 to go through some of them with you. And specifically,
13 starting with Exhibit 33. Do you recognize what's shown
14 here?

15 A I do. That's the frontage area of the strip mall
16 where the scene was located.

17 Q And do you remember where specifically within this
18 strip mall your efforts were focused?

19 A Yeah, the focus was where the black vehicle is, all
20 the way down to the third vehicle at the end, and then there
21 was a business in front of that vehicle. That's where we
22 concentrated our -- our investigations to.

23 Q And do you remember that particular business being
24 Top Notch Apparel?

25 A Yes, I do.

1 Q Have you ever been to Top Notch Apparel before?

2 A No, I have not.

3 Q Did you have the opportunity to see both outside
4 and inside that particular business?

5 A Yes.

6 Q Were you able to do that all at once or how long
7 did it take you to make your way inside the business?

8 A No, we did the exterior first, the business was
9 locked, and it took, approximately, three to four hours
10 before we entered the interior of the business.

11 Q And you said that you processed the exterior first.
12 Did you document the things out in the front parking lot
13 area?

14 A Yes. My partner that I was with, Crime Scene
15 Analyst Erin Taylor, she did the note taking and the
16 photography of the scene. So that was documented by her.
17 And while she was doing that, I was collecting the -- or
18 marking evidence as well as completing the diagram.

19 MR. ROSE: Your Honor, at this point in time, State
20 would move to admit by stipulation Exhibit 131.

21 THE COURT: All right, it will be admitted.

22 (State's Exhibit 131 admitted)

23 BY MR. ROSE:

24 Q Sir, do you recognize this particular document?

25 A Yes, I do.

1 Q And what do you recognize this to be?

2 A That's the diagram that I prepared for this case.

3 Q Now, you said that you took measurements and then
4 you created this particular diagram.

5 A Yes.

6 Q Is this designed to be to scale?

7 A No, it's not to scale. But it's an accurate
8 depiction of the scene.

9 Q So does there show the physical relationship
10 between the items located the on scene as you recovered them?

11 A Yes.

12 Q And this might seem obvious, but is this only of
13 the outside portion of that particular business?

14 A Yes, it is.

15 Q And I'd like to show you Exhibit 1, in fact. Can
16 you tell us what we're looking at here?

17 A Yes. It's the opposite direction so it's a south
18 view looking north of the parking lot in front of the
19 building.

20 Q And the items -- (indecipherable) you can see
21 certain items on the ground in this particular picture?

22 A Yes.

23 Q And the items that were there, did you -- are those
24 the items that were -- we see marked on your diagram?

25 A Yes, those are some of them. That's not all of

1 them. There are more items that were recovered, but those
2 are the ones that were marked that were small enough to put
3 onto the diagram. We mark those with cones. The other
4 things with clothing and other areas were not put on the
5 diagram.

6 Q Now, you said things like clothing. Do you
7 remember recovering any clothing at the scene?

8 A Yes, I did.

9 Q And do you remember what kind of clothing you
10 recovered?

11 A I did or I do.

12 Q And what was that?

13 A I recovered a pair of corduroy pants, a pair of
14 shoes and a hat.

15 Q Those corduroy pants, do you remember what color
16 they were?

17 A I think they were burgundy, if I remember
18 correctly.

19 Q If I can show you Exhibit 4. Are these those
20 pants?

21 A Yes, they are.

22 Q Is the color slightly off on your screen?

23 A It is. It could also be the photograph, too. The
24 way it photographed, but I believe they are burgundy.

25 Q And looking at this particular photograph and from

1 your own memory, do you remember if those pants were inside
2 out or right side out?

3 A No, they were inside out.

4 Q And Exhibit 5, do you recognize that as also being
5 part of those pants?

6 A Yes. It was just the photo of the pocket, a
7 close-up photo.

8 Q Now, you said that you also recovered a hat and a
9 number of other items. Did you -- before you recovered those
10 items, did you take any other steps to document where they
11 were located?

12 A Yes. They were -- well, they were -- they were
13 photographed and then they were measured into the diagram and
14 they were given placards and numbers for recovery.

15 Q Showing you Exhibit 39. Are these the placards
16 that you're talking about?

17 A Yes, they are.

18 Q And are these -- why do you use these particular
19 placards?

20 A In this case, these are to mark items of evidence
21 that are fairly small. So it would be difficult to see them
22 if we didn't lay them down so that's the reason we use them.
23 And they're also going to be items that we are going to be
24 recovering as well.

25 Q And looking at the placards here, is each placard

1 individually numbered?

2 A Yes, it is.

3 Q Do you have multiple placards of the same number?

4 A No.

5 Q Why is that?

6 A It would create confusion. So we give one item of
7 evidence for one placard so we know what -- what each item is
8 going to be for the impound.

9 Q So if we're looking at your diagram here, does that
10 also have item numbers on it?

11 A Yes, and those would correspond with where the
12 placards are on the parking lot pavement.

13 Q So if we look at item number 2 behind vehicle
14 number 2, would that correspond to placard number 2?

15 A Yes, it is.

16 Q And would that be the hat and the shoes and the
17 other items, which you mentioned in your -- as you were
18 listing off what you recovered?

19 A Right. So this is an overall photograph of that
20 grouping, but the specific item for number 2 would be that
21 gold chain with the lion's head medallion on it.

22 Q And then looking at item number 4 on your diagram
23 also behind vehicle number 2, would that correspond with that
24 particular piece of jewelry?

25 A Yes, it was an earring and it had a bent post to

1 it.

2 Q Do you remember if you found one or more than one
3 earring?

4 A No, we just -- I believe it was just that one.

5 Q And you said you noticed that it had a bent post.
6 Did that signify anything to you?

7 A It could have been stepped on, it could have been
8 driven over, so it was just a observation, but I don't know
9 how the post got bent.

10 Q Now, all of these items that have these placards,
11 did you recover those items?

12 A Yes, I did.

13 Q And could you briefly walk us through how it is
14 that you go about recovering particular items of evidence.

15 A So we'll mark the items of evidence. They're going
16 to go into the -- measured into the diagram, they get
17 photographed, and then we pick up each item of evidence
18 individually. They'll be placed in groupings. So I won't
19 pick up jewelry items and mix them with cigarette butts, for
20 instance. So they'll be picked up, placed in the proper
21 containers, and then put into proper bags for collection from
22 the scene for transport to our -- to our lab.

23 Q Now, I want to draw your attention back to your
24 diagram. Do you see vehicle number 1 listed here?

25 A Yes, I do.

1 Q I'm zoom in a little bit for you. Do you see an
2 item number 1 also listed?

3 A Yes, I do.

4 Q And could you just kind of point out briefly or
5 quickly where item number 1 is located on this?

6 A Yeah, it's -- oh. It's right next to the rear
7 right tire of vehicle number 1. I know I made a mess of
8 that.

9 Q Okay. And vehicle number 1, is that what we see
10 depicted in State's 64?

11 A Yes, it is.

12 Q And you said that particular item, item number 1,
13 was located near the tire --

14 A Yes.

15 Q -- on that particular car?

16 A Yes.

17 Q And in State's 61, are we looking at a slightly
18 closer view of the tire in the area nearby?

19 A Yes.

20 Q Looking at State's 62. Could you tell us what it
21 is that we're looking at in this particular photograph?

22 A Yeah, that's the photograph of the -- the cartridge
23 case that was item number 1 next to the tire, and it's --
24 it's pretty much sitting up on the tail end of the cartridge
25 case.

1 Q Now, before this photograph was taken, are you
2 aware of whether or not this was manipulated in any way?

3 A I do not know.

4 Q Is it policy to go and move something before you
5 photograph it in place?

6 A No, it's not.

7 Q So to the best of your knowledge, is this how this
8 particular cartridge casing was actually found at that scene?

9 A Yes.

10 Q Now, you refer to it as a cartridge casing. Do you
11 have any training with firearms and ballistics and anything
12 like that?

13 A I -- I do.

14 Q Could you just give us a quick description? What's
15 a cartridge casing?

16 A Okay, so explain a cartridge case, I'll explain
17 what a cartridge is. So cartridge is a full round of
18 ammunition and it's the cartridge, which is the metal body
19 part, the primer, the gunpowder and then the bullet. So the
20 bullet would be actually where you see the opening. The
21 bullet would be coming out of that, and then you would have
22 powder and then primer.

23 When a round of ammunition is fired, the cartridge
24 case, if this is a semi-automatic or if it's a revolver, it
25 stays within the cylinder. But on a semi-automatic it ejects

1 out of the -- it ejects out of the gun and you are left with
2 a cartridge case.

3 Q So this is not the complete round itself?

4 A It is not.

5 Q From what you see here, can you tell that the
6 bullet itself has already been fired?

7 A The bullet has been fired.

8 Q Do you remember recovering any other cartridge
9 casings from this particular scene?

10 A No, this was the only one.

11 Q Do you remember if any other cartridges were
12 recovered from the scene?

13 A Yes, there was one cartridge recovered from the
14 scene.

15 Q And where was that cartridge located?

16 A It was located on the rear left passenger
17 floorboard of vehicle number 3, which was located in front of
18 suite number F.

19 Q And if I could direct your attention to Exhibit 86.
20 Is this a picture of the interior of vehicle number 3?

21 A Yes, it is.

22 Q And if we zoom in on that, do you see the cartridge
23 that you described inside that vehicle?

24 A I do. It's located on the floor area between, I
25 believe, those are two coins that are on that -- on that

1 floor mat or the floor of the vehicle.

2 BY MR. GIORDANI:

3 Q You said that is a full cartridge?

4 A Yes, it is.

5 Q Do you remember what caliber the cartridge casing
6 that you found was?

7 A The cartridge case was a 9 millimeter.

8 Q And the cartridge that you found, that's in a
9 bullet that has not been shot, right?

10 A Yes.

11 Q That's how you described it?

12 A That's correct.

13 Q Do you remember if that was the same caliber or
14 different caliber?

15 A No, it was a different caliber.

16 Q And do you remember what caliber that was?

17 A It was a .380 auto.

18 Q Now, the black car, vehicle number 1, that you --
19 that, you know, you said that the cartridge casing, the spent
20 round, was right outside of that car, do you remember if
21 there were any cartridge casings or cartridges found inside
22 vehicle number 1?

23 A No, there were not.

24 Q Do you remember if there were any guns found inside
25 vehicle number 1?

1 A No.

2 Q What about inside vehicle number 3, where you found
3 the full cartridge, were there any guns found there?

4 A No.

5 Q So other than the one spent cartridge casing right
6 outside of vehicle number 1 and the unexpended cartridge
7 inside vehicle number 3, do you recall there being any
8 firearms or firearms related items that were recovered at
9 this location?

10 A No, I do not.

11 Q So you had the opportunity to spend quite a while
12 outside the business documenting everything, collecting
13 everything. Did you have the opportunity -- maybe you
14 mentioned it earlier, but did you have the opportunity to
15 enter the building itself?

16 A Yes, I did.

17 Q And what, if anything, were you looking for inside
18 that building?

19 A We were looking for anything that would give us
20 information on to what may have happened. We were looking to
21 see if there was possible surveillance. We were looking to
22 see if there was anymore firearms evidence that we can, you
23 know, try to kind of help us. We kind of really didn't know
24 exactly what we had, so we were still in a search mode when
25 we went into the building so -- but still documenting through

1 notes and photography and then searching for items that we
2 can potentially find.

3 Q Now, you said that one of the things that you were
4 looking for was surveillance. Did you locate any
5 surveillance in or around that particular building?

6 A Yes. There were -- there were cameras pretty
7 prevalent throughout the interior of the building as well as
8 some on the exterior.

9 Q So both inside and outside. Do you remember how
10 many styles of cameras you saw?

11 A Not exactly. There were -- there were standard,
12 like infrared type looking camera, you know, surveillance
13 cameras or video cameras.

14 Q I'm showing you State's 95. Is that one of the
15 cameras that you're talking about?

16 A Yes, it is.

17 Q And from what you see here, from your recollection,
18 was that found inside or outside of the building?

19 A That looks like it's outside of the building.

20 Q And in State's 96, do you see any surveillance
21 cameras in this particular photograph?

22 A I do. There's one in the upper corner, upper
23 right-hand corner of the photograph of the retail area.

24 Q Now, it's -- I recognize this is a little bit far
25 away. If you wouldn't mind just kind of circling around

1 where you're describing that to be.

2 A It's in the lower corner of that circle.

3 Q So the lower left portion of where you just
4 circled?

5 A Yes.

6 Q Now, you said that you had the chance to go through
7 the interior of the store. Is this how you found the front
8 portion of Top Notch Apparel?

9 A Yes.

10 Q And would this be, State's 97, just be another
11 angle from the front of that?

12 A Yes, it is.

13 Q Now, in State's 96, would you agree with me that
14 there's kind of a glass window close to the center of the
15 picture?

16 A Yes.

17 Q Do you have the chance to see what was on the other
18 side of that particular window?

19 A Yes, we went inside.

20 Q What was in there?

21 A It's like a music studio. There was equipment
22 inside of there. Yeah, just like music equipment and, you
23 know, studio equipment.

24 Q Would you agree with me that there's also a door
25 kind of on the left wall of the hallway that leads towards

1 the back of the store?

2 A Yes.

3 Q Did you have the opportunity to go through that
4 door?

5 A Yes, I did.

6 Q And was what you found through that door also a
7 part of a clothing store?

8 A No.

9 Q Or did it appear to be what you would expect to
10 find in a clothing store?

11 A No, it wasn't.

12 Q Showing you State's 27. Do you recognize what's
13 shown in this picture?

14 A Yes, I do.

15 Q And can you just kind describe for us briefly what
16 you see here?

17 A Okay, so the door in the far back corner, that was
18 the door that you saw going off of the hallway. And you have
19 a center elevated platform with a pole, numerous seating
20 areas and speakers and some musical equipment inside that
21 room.

22 Q So this is actually taken facing towards the front
23 of the store itself?

24 A Yeah. Yes, this would be a west view of that room.

25 Q And if you were standing where this particular

1 photograph was taken, and you were to turn 180 degrees, so
2 you're now facing towards the back of the store, could you
3 describe for us what was back there? Was it a blank wall or
4 what was it?

5 A No, there was -- there was another room back there
6 that encompassed -- there's a bar and a pool table.

7 Q Showing you State's 31. Is this that area that you
8 were describing?

9 A Yes, it is.

10 Q So the portion of this picture that's off to the
11 left, do you see some of the sound equipment?

12 A Yes.

13 Q Is that the -- kind of the dance area we saw in the
14 last photograph?

15 A Yes, it is.

16 Q Now, did you have the opportunity to go through all
17 of these rooms and into the back area behind the clothing
18 store?

19 A There was an outdoor like patio area that I went
20 outside to, yes.

21 Q And did you -- and you went to actually go back as
22 well?

23 A Yes.

24 Q And showing you State's 13. What are we looking at
25 here?

1 A So that's the back east rear patio area of the
2 business, and that would just be outside of that poolroom
3 that you saw in the last photograph.

4 Q And this is State's 14. Is this another angle of
5 that back patio area?

6 A Yes, it is.

7 Q And I'll ask again, the (indecipherable) but
8 State's 15, is this another area back there?

9 A Yes.

10 Q And I want to draw your attention specifically to
11 one portion of this particular picture. Do you see the area
12 above the what looks like a rolling door?

13 A Yes, I do.

14 Q And would you agree with me that there's a light
15 directly above the right-hand side of that rolling door?

16 A Right. Yes, there is.

17 Q Do you see something off to the left from that
18 area?

19 A I do.

20 Q And do you remember what we're looking at there?

21 A I -- I don't know. It looks like it could be a
22 camera, but I don't, you know, recollect exactly what it was.

23 Q Okay. Well, if I show you State's 16, and direct
24 you kind of the top of that particular photograph, do you
25 recognize what we're looking at there?

1 A To be honest, no. I would have presumed it would
2 be a camera, but I don't know for sure.

3 Q Okay. And you said that as you went through the
4 building, you found numerous cameras both inside and outside?

5 A Yes.

6 Q Did you recover any video during your trip through
7 this particular store?

8 A I didn't recover a video, per se, but I recovered
9 two hard drive disks that were from the -- from the room that
10 had that window in it.

11 Q From that kind of music studio area?

12 A Yes.

13 Q And you said two hard drive disks. Were those
14 pulled right from a computer or what kind of hard drive disks
15 are we talking about?

16 A They're plastic encased individual -- individual
17 hard drives and they were just on the desk of the studio.

18 Q Do you remember them being attached to anything,
19 like connected to anything?

20 A I don't believe they were.

21 MR. ROSE: Court's brief indulgence. The State has
22 no further questions at this point in time.

23 THE COURT: All right.

24 MR. ROSE: And I'll make sure these are all in
25 order before the end of the evening.

1 THE COURT: All right. Very good.

2 CROSS-EXAMINATION

3 BY MR. WOOLDRIDGE:

4 Q Senior Crime Scene Analyst, can I get your last
5 name? They went quick and I didn't -- I think it started
6 with a W, but maybe I'm even wrong.

7 A It's Szukiewicz.

8 Q Szukiewicz?

9 A Yes.

10 Q Yugoslavian?

11 A I'm sorry?

12 Q Are you Yugoslavian?

13 A It's a Polish name.

14 Q Okay. Were you the first on the scene?

15 A No.

16 Q Okay. What time did you get there?

17 A I got there at 7:30.

18 Q 7:30 a.m.?

19 A A.m., yes.

20 Q So that was about, approximately, three hours after
21 the shooting?

22 A I don't know original time of call.

23 Q Okay.

24 A So I don't -- I don't remember.

25 Q You photographed a hat that was there?

1 A No. My partner, Erin Taylor, did.

2 Q Do you know what kind of hat that was?

3 A I think it was a Gucci hat.

4 Q And that was left at the scene?

5 A Yes.

6 Q Do you remember what kind of shoes were left at the

7 scene?

8 A Prada.

9 Q Prada shoes?

10 A Yes.

11 Q And I think you also showed a -- there was a gold

12 chain, a lion head chain?

13 A Yes.

14 Q That was also left at the scene?

15 A Yes.

16 Q As well as a earring?

17 A Yes.

18 Q And a mouth grill?

19 A Yes.

20 Q The mouth grill, do you know who that belonged to?

21 A No.

22 Q And what was in the mouth grill, gold and diamonds?

23 A There was, I think, just silver and gold.

24 Q Okay. You talked about some cartridges and

25 casings. I think there was one -- you found one cartridge,

1 right, inside somebody's car?

2 A That's correct.

3 Q A different type of bullet?

4 A Yes.

5 Q And then you found a empty casing near a black
6 Dodge Charger?

7 A Yes.

8 Q Okay. You didn't find any guns?

9 A No guns.

10 Q You didn't find a 9 millimeter gun?

11 A No.

12 Q You didn't find any other type of guns?

13 A No.

14 Q And you did not see the shooting?

15 A No, I did not.

16 Q And you have no personal knowledge as to what led
17 to the shooting?

18 A That's correct, I do not.

19 Q Or what caused the shooting?

20 A No.

21 MR. WOOLDRIDGE: No further questions.

22 CROSS-EXAMINATION

23 BY MR. ARNOLD:

24 Q Sir, you said that you recovered two hard drive
25 disks from that studio room; is that correct?

1 A That's correct.

2 Q Did you have the opportunity to review what was on
3 those disks to determine if they had any evidentiary value in
4 this case?

5 A That's not something that I would do.

6 Q But did you turn those over to the evidence storage
7 room?

8 A Yes, sir.

9 Q Did you also recover a laptop out of that room?

10 A I did not recover a laptop.

11 Q Do you recall recovering an iPad from that room?

12 A I did not recover an iPad.

13 Q What about a iPhone from that room?

14 A No, I did not.

15 Q The cartridge that you found in what was described
16 as vehicle 3, that was a actual bullet that was not fired; is
17 that correct?

18 A That is correct.

19 Q And it was a different bullet than the one that you
20 found the -- outside of the black Dodge; is that correct?

21 A Yeah, it's different ammunition, yes.

22 MR. ARNOLD: No further questions.

23 THE COURT: Thank you. Further questions?

24 MR. ROSE: Not by State, Your Honor.

25 THE COURT: All right. From the jury? Okay, thank

1 you, sir. You may step down.

2 THE WITNESS: Thank you.

3 MR. WOOLDRIDGE: Your Honor, can we approach really
4 quick?

5 THE COURT: May.

6 (Off-record bench conference)

7 THE COURT: All right. Ladies and gentlemen, we
8 have no further witnesses this afternoon so we're going to go
9 ahead and recess for the afternoon. Before I release you,
10 I'll remind you once again it is your duty not to discuss
11 this case among yourselves or with anyone else. You're not
12 to communicate in any way either by phone, text, Internet,
13 tweeting or any other means. You're not to read, watch or
14 listen to any news or media accounts or commentary about the
15 case or anyone connected to it. You're not to do any
16 research, such as consulting dictionaries, using the Internet
17 or using reference materials, and you're not to make any
18 investigation, test the theory of the case, recreate any
19 aspect of the case or in any other way investigate or learn
20 about the case on your own.

21 With that, nor are you to form or express any
22 opinion about the case. With that, we'll be in recess until
23 9:30 tomorrow morning.

24 THE MARSHAL: Rise for the jurors.

25 (Outside the presence of the jury)

1 THE COURT: All right. Any other matters we need
2 to cover?

3 MR. GIORDANI: Not on behalf of State.

4 THE COURT: All right. Thank you.

5 MR. WOOLDRIDGE: Thank you.

6 THE COURT: We'll see you tomorrow morning.

7 MR. WOOLDRIDGE: Are we 9:30 tomorrow, Your Honor?

8

9 THE COURT: 9:30 tomorrow.

10 MR. WOOLDRIDGE: Okay.

11 (Court recessed at 4:26 P.M., until Wednesday,

12 May 24, 2017, at 9:39 A.M.)

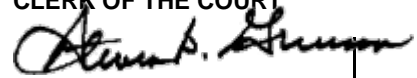
13

* * * * *

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



JULIE LORD, INDEPENDENT TRANSCRIBER



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-16-319714-1
	.	CASE NO. C-16-319714-3
Plaintiff,	.	
	.	DEPT. NO. XVII
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
JAVAR ERIS KETCHUM,	.	
and RODERICK VINCENT,	.	
	.	
Defendants.	.	
.	

BEFORE THE HONORABLE KATHY HARDCASTLE
SENIOR DISTRICT COURT JUDGE

JURY TRIAL - DAY 3

WEDNESDAY, MAY 24, 2017

APPEARANCES:

FOR THE STATE:	JOHN L. GIORDANI, III., ESQ. STEVEN ROSE, ESQ. <i>Deputy District Attorneys</i>
FOR DEFENDANT KETCHUM:	NICHOLAS M. WOOLDRIDGE, ESQ.
FOR DEFENDANT VINCENT:	CARL E. ARNOLD, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

RA 000100

INDEX

WITNESSES

STATE'S WITNESSES:

ANTOINE BERNARD

Direct examination by Mr. Giordani	3
Cross-examination by Mr. Wooldridge	20
Cross-examination by Mr. Arnold	32
Redirect examination Mr. Giordani	33
Recross-examination by Mr. Wooldridge	36
Further Redirect examination by Mr. Giordani . . .	38
Further cross-examination by Mr. Wooldridge . . .	40

DETECTIVE CHRISTOPHER BUNN

Direct examination by Mr. Giordani	41
Cross-examination by Mr. Wooldridge	108
Redirect examination Mr. Giordani	120

RODERICK VINCENT

Direct examination by Mr. Giordani	79
--	----

DEFENDANT'S WITNESS:

DR. MEL POHL

Direct examination by Mr. Wooldridge	127
Cross-examination by Mr. Giordani	129
Redirect examination Mr. Wooldridge	132

* * * * *

EXHIBITS

DESCRIPTION

ADMITTED

STATE'S EXHIBITS:

Exhibit 132.. . . .	104
Exhibit 133.. . . .	107
Exhibit 134.. . . .	63
Exhibit 135.. . . .	64
Exhibit 136.. . . .	64

1 LAS VEGAS, NEVADA, WEDNESDAY, MAY 24, 2017, 9:39 A.M.

2 (In the presence of the jury)

3 THE COURT: -- present. Counsel for both sides are
4 present, defendants are present. All right, State, you may
5 call your next witness.

6 MR. GIORDANI: State would call Antoine Bernard.

7 ANTOINE BERNARD, STATE'S WITNESS, SWORN

8 THE CLERK: Please be seated. Please state and
9 spell your name for the court's record.

10 THE WITNESS: Antoine Bernard, A-n-t-o-i-n-e,
11 B-e-r-n-a-r-d.

12 MR. GIORDANI: May I, Your Honor?

13 THE COURT: You may.

14 MR. GIORDANI: Thank you.

15 DIRECT EXAMINATION

16 BY MR. GIORDANI:

17 Q Mr. Bernard, I want to bring your attention back to
18 September 25th of 2016 in the early morning hours. Do you
19 remember those hours?

20 A Yes.

21 Q Where were you in the early morning hours of that
22 day?

23 A At a club.

24 Q And what's the name of --

25 A After hours. Top Notch.

1 Q Okay. Is Top Notch basically a clothing store that
2 doubles as a club?

3 A It's like a lounge area --

4 Q Okay.

5 A -- afterwards.

6 Q Is there a dance area, a bar, basically, a stripper
7 pole, et cetera?

8 A Yes.

9 Q Who were you there with on the early morning hours
10 of that day?

11 A I was with my girlfriend, Jay, a couple other
12 people I knew.

13 Q When you said Jay, do you know Jay's full name?

14 A Javar.

15 Q All right. Do you see Javar in the courtroom?

16 A Yes.

17 Q Can you please point to Javar and describe an
18 article of clothing he's wearing in the courtroom?

19 A Javar is wearing black, black shirt.

20 MR. GIORDANI: Will the record reflect
21 identification of the defendant, Your Honor?

22 THE COURT: It may so reflect.

23 BY MR. GIORDANI:

24 Q Mr. Bernard, how did you know Javar?

25 A I've known him for a long time. Hung out with

1 him --

2 Q Okay.

3 A -- a lot.

4 Q Did you arrive with the defendant to Top Notch?

5 A No.

6 Q When did you arrive to Top Notch, if you recall?

7 A I can't say a specific time, but after 12:00.

8 1:00, 2:00 o'clock-ish.

9 Q Okay. So if I'm referring to September 25th as the
10 early morning hours, you potentially could have arrived on
11 September 24th at midnight or sometime thereafter; is that
12 accurate?

13 A Yes.

14 Q Okay. Who did you arrive with, if you recall?

15 A My baby's mother Tiana (phonetic).

16 Q Is that Tiana Taylor?

17 A Yes.

18 Q Yes. And did you arrive in a vehicle with Tiana
19 Taylor?

20 A Yes.

21 Q Whose vehicle was that?

22 A Both of ours.

23 Q Can you describe that vehicle for the jury?

24 A Black BMW, a 645.

25 Q Okay. Did that have some silver rims on it?

1 A Yes.

2 Q Okay. So you did not arrive at the club with the
3 defendant. Did you eventually see the defendant at the club?

4 A Yes.

5 Q When was that?

6 A Within about 30 minutes of being there.

7 Q Okay. Did you, you know, say hi or what's up or
8 whatever it is to the defendant?

9 A Yes.

10 Q Have some interactions with him throughout the
11 night?

12 A Yes.

13 Q At any point in time while you were in the club,
14 did you ever see an altercation between anyone whatsoever?

15 A No.

16 Q Okay.

17 A Not in the club.

18 Q Okay. Did you have any conversations with the
19 defendant about money?

20 A Yes.

21 Q Describe that for the ladies and gentlemen.

22 A I won a little bit of money when I was gambling,
23 and I knew that he needed a little bit of money so I gave him
24 some money.

25 Q How much money did you give him?

1 A Two, \$300.

2 Q Okay. Did he mention being short on rent or some
3 kind of eviction or something?

4 A Previously, yes.

5 Q Okay. So you knew he was short on money. You gave
6 him 2 to \$300 as the best of your recollection?

7 A Yes.

8 Q At some point in time, did you become aware that
9 there was a person at this party that you did not know? Let
10 me ask that -- that was a poor question. At some point in
11 time, did you see a person who ultimately was shot and killed
12 at the club?

13 A Yes, later in the night.

14 Q Did you know that person at all?

15 A No.

16 Q To your knowledge, did anyone in the club know him?

17 MR. WOOLDRIDGE: Objection, Your Honor. How --

18 THE COURT: To his knowledge. If he doesn't know,
19 he doesn't know.

20 THE WITNESS: There was a lot of people there.

21 Someone knew him.

22 BY MR. GIORDANI:

23 Q Okay. To your knowledge, did the defendant know
24 him?

25 A Probably seen each other --

1 Q Okay.

2 A -- before.

3 Q When you saw this individual, was he -- did he
4 appear to be in any kind of agitated or crazy state? And I'm
5 not talking about the defendant, I'm talking about the other
6 individual. All right, let me ask it this way. Was he
7 dancing and doing what everyone else at the club was doing?

8 A Yeah, he was a dancing a little more than --

9 Q Okay.

10 A -- everyone else.

11 Q Okay. Was there any interaction that you observed
12 between that man and the defendant?

13 A Yes.

14 Q Can you describe that.

15 A Kind of like a dancing towards him like saying
16 what's going on.

17 Q Okay.

18 A Like a elbow.

19 Q Did it appear to you that it was a altercation?

20 A Not really.

21 Q Okay. At some point in time, did the defendant say
22 something about that other individual?

23 A Yes.

24 Q Okay. What did he say?

25 MR. ARNOLD: Your Honor, I'm going to ask for when

1 he refers to the defendant that he specify which defendant
2 for the record.

3 MR. GIORDANI: Oh, and I'm absolutely referring to
4 Defendant Ketchum only at this point. And if I change that,
5 I will definitely make it known.

6 THE COURT: All right.

7 BY MR. GIORDANI:

8 Q Did you -- do you remember my question?

9 A Repeat the question.

10 Q Did the defendant, Mr. Ketchum or Jay, say anything
11 about that person that you didn't know?

12 MR. WOOLDRIDGE: Objection. Hearsay.

13 MR. GIORDANI: It's the defendant's statement.
14 It's not --

15 THE COURT: Overruled.

16 MR. GIORDANI: -- for hearsay.

17 BY MR. GIORDANI:

18 Q Go ahead.

19 A Yeah, he asked who is he. Who is this nigga.

20 Q Okay. Did that indicate to you that he did not
21 know that person that you just used that word for?

22 MR. WOOLDRIDGE: Objection as to how -- what --
23 what that means to this person, to this witness.

24 THE COURT: Overruled. If he can answer.

25 THE WITNESS: I took it more as comedy as of he's

1 like who is this dude dancing like this.

2 BY MR. GIORDANI:

3 Q Okay. When you were in the club, were you standing
4 around Tiana at any point?

5 A Yes.

6 Q Did she become fairly intoxicated throughout the
7 night?

8 A Yes.

9 Q Was everyone drinking and imbibing and even doing
10 drugs?

11 A Possibly.

12 Q Okay. Did there come a point in time where you had
13 a conversation with the defendant where he asked specifically
14 does anyone know who this guy is, and the defendant being
15 Mr. Ketchum, of course.

16 MR. WOOLDRIDGE: Objection. Asked and answered.

17 MR. GIORDANI: I didn't --

18 THE COURT: Overruled. Go ahead.

19 THE WITNESS: Repeat that again.

20 BY MR. GIORDANI:

21 Q Was there a point in time where you had a
22 conversation or some kind of interaction with Mr. Ketchum,
23 the defendant, where he indicated towards that unknown person
24 we've been describing said and asked around who this guy is?

25 A Yes.

1 Q Okay. At some point in the evening, did you have a
2 discussion about providing a ride?

3 A Yes.

4 Q When was that in the evening, if you recall?

5 A I'd say a couple hours before we left, if not an
6 hour before we left.

7 Q Okay.

8 THE COURT: And "we" would be you and?

9 THE WITNESS: Me, Javar, Tiana.

10 THE COURT: All right, thank you.

11 BY MR. GIORDANI:

12 Q And so stepping back that conversation, I made it
13 vague. You just tell me what that conversation was. Who was
14 giving a ride, who was get ago ride?

15 A It was pretty much drop me off at the house.

16 Q Who said that?

17 A Javar.

18 Q Okay. Did you agree to be his ride and give him a
19 ride?

20 A Yes.

21 Q Okay. Did there come a point in time where you
22 learned that the defendant was going to rob that person in
23 the parking lot or get him?

24 A Yes.

25 Q When was that?

1 A Early in the morning.

2 Q Okay. Let me ask you for a point of reference. Do
3 you recall around the time that you actually ended up driving
4 away from that club?

5 A 6:00 o'clock.

6 Q Okay.

7 A 5:00, 6:00 in the morning. It was daylight.

8 Q Okay. So there was daylight. Let's use that as a
9 point of reference. When in reference to that time did you
10 learn that the defendant was going to rob him in the parking
11 lot?

12 A Somewhat --

13 Q Somewhat close or --

14 A Yeah. More like get at him.

15 Q Okay. Did there come a point in time where you,
16 yourself, along with Tiana, walked out of that club?

17 A Yes.

18 Q And when you exited the club, were you actually
19 with the defendant?

20 A He was ahead of me.

21 Q Who was he with?

22 A Z.

23 Q And is Zeke that person that we've been talking
24 about?

25 A Yes.

1 Q Did you subsequently learn the name Zeke?

2 A Yeah, later.

3 Q Okay. Did this case or this incident get published
4 into the news media?

5 A Yes.

6 Q Have you had an opportunity to see news clips,
7 video clips, photographs that included both your car and the
8 defendant?

9 A Say that one more time.

10 Q Have you had an opportunity to see news clips or
11 video or still photos that show --

12 A Yes.

13 Q -- both your car and the defendant?

14 A Yes.

15 Q Okay. And I'm going to get there in a minute. I'm
16 going to step back. When you ex illustrated the club, did
17 you say Tiana was with you?

18 A Yes.

19 Q And where did you go when you actually physically
20 walked out of the club?

21 A To my vehicle.

22 Q Okay. When you went to your vehicle, where was it
23 parked?

24 A In the parking lot, like off to the right of the
25 club.

1 Q Okay. So would that be in the front -- the parking
2 lot in front of the club?

3 A Yeah, down like -- not directly in front when you
4 walk out, but we walked to the right.

5 Q Okay. So you --

6 A About --

7 Q -- walk out of the club and your car is over to the
8 right?

9 A Yeah, about three, four spaces over.

10 Q Okay. Was this -- were there several people moving
11 about and heading basically out of the club at that time?

12 A Yes.

13 Q Did you see the defendant and the person we now
14 know as Zeke walking basically arm to arm?

15 A Yes.

16 Q And what did you see from there?

17 A Just talking.

18 Q Okay. Did there come a point in time where they
19 had stopped at some point and you were in the car?

20 A Yeah, I -- when I got into my car, it was a few
21 people around the car.

22 THE COURT: Around your car?

23 THE WITNESS: Around my car. And they were
24 complimenting my car.

25 BY MR. GIORDANI:

1 Q Okay, when you say they, who complimented your car?

2 A Z and another person passing by.

3 Q Okay. So you -- Zeke is already at your car or
4 near your car, at least, and he is complimented your car?

5 A Yes.

6 Q And as in a positive compliment like hey, nice ride
7 or something like that?

8 A Yeah.

9 Q Okay. When you see the defendant next, what is he
10 doing?

11 A Talking.

12 Q Okay. Did there come a point in time --

13 THE COURT: Talking to whom?

14 THE WITNESS: Talking with Jay. There were a
15 couple people on the side of my car.

16 BY MR. GIORDANI:

17 Q Oh, let me -- I might need to rephrase my question.
18 I may have confused you. When I say the defendant, I'm
19 referring to Jay. Did there come a point in time when you
20 say Jay talking to Zeke?

21 A Yes.

22 Q Okay. Did there come a point in time where
23 something drew your attention?

24 A Can you rephrase that?

25 Q Was there a point in time where something drew your

1 attention or caused you to look over --

2 A Oh, yeah --

3 Q -- you know --

4 A -- the body language of the people on the side of
5 me and everybody started -- started moving away.

6 Q Okay. What did you see, if any, interaction
7 between the defendant and Zeke at that point?

8 A I backed out, and Zeke was on the ground.

9 Q Okay. Was there a point in time where you saw --
10 wait, at this point, have you heard a gunshot?

11 A Not yet.

12 Q So is Zeke --

13 A It was as I was backing out.

14 Q In I'm hearing you correctly, Zeke was already on
15 the ground?

16 A Yes.

17 Q Did you see Zeke's hands at some point?

18 A Yeah, it was -- his hands was out.

19 Q Okay. What was the defendant doing?

20 A Standing over him.

21 Q Okay. Had you heard a gunshot up to that point?

22 A The gunshot was sort of before. It was in the same
23 timing.

24 Q Okay. I imagine this incident happened pretty
25 quick; am I right?

1 A Yes.

2 Q Do you recall seeing the defendant taking anything
3 off of the person of Zeke?

4 A I recall him coming to my car with a -- like a -- a
5 plug. Like a -- like jewelry.

6 Q Okay. Do you recall at any point seeing a belt?

7 A Yes.

8 Q I'm going to show you --

9 MR. GIORDANI: Can I have the Elmo, please. Thank
10 you.

11 BY MR. GIORDANI:

12 Q -- already admitted State's 30.

13 MR. GIORDANI: May I approach?

14 THE COURT: You may.

15 BY MR. GIORDANI:

16 Q What are we looking at there?

17 A A belt and a watch.

18 Q Okay. Did you see this belt and this watch in the
19 possession of the defendant, Mr. Ketchum, after you saw the
20 victim with his hands out?

21 A Yeah, when he got in the car the belt was on the
22 floor.

23 Q Okay.

24 (Pause in the proceedings)

25 MR. GIORDANI: May I just publish this to the jury?

1 THE COURT: You may.

2 MR. GIORDANI: It's already admitted.

3 (Pause in the proceedings)

4 BY MR. GIORDANI:

5 Q Mr. Bernard, you admit that you drove the defendant
6 away from the scene; is that accurate?

7 A Yes, I did.

8 Q Ultimately, did you see something on the news?

9 A Yes.

10 Q What did you do when you saw that on the news?

11 A I called my attorney.

12 Q Okay. Did -- in the presence of your attorney, did
13 you give an interview with police?

14 A Yes.

15 Q Did you give them the whole story that your -- of
16 what you observed that evening when you first interviewed
17 with police?

18 A No.

19 Q Were you scared at the time?

20 A Yes.

21 Q Ultimately, did you have other detectives or
22 officers essentially arrest you?

23 A Yes.

24 Q Okay. You were charged as a co-conspirator in this
25 case; is that right?

1 A Yes.

2 Q Was it your understanding that you were charged
3 with both the crimes of robbery with use of deadly weapon as
4 an aider and abettor and also accessory to the crime of
5 murder?

6 A Yes.

7 Q Did you and your attorney eventually reach a plea
8 negotiation with deputies in my office, the Clark County DA's
9 Office?

10 A Yes. Pled guilty.

11 Q And what is your understanding of that agreement?

12 A Plead guilty to accessory to murder and drop the
13 battery with a deadly weapon.

14 Q Okay. And what do you have to do in exchange? The
15 one only thing you have to do in exchange to receive the
16 benefit of that lesser plea?

17 A Testify of my role in this -- in the accessory.

18 Q Okay. And you understand that the -- the agreement
19 that you made with the State of Nevada is that the -- every
20 single thing you say has to be truthful?

21 A Yes.

22 Q There is an obligation to be truthful and
23 ultimately, the Judge will determine what your sentence is?

24 A Yes.

25 Q Okay. And obviously, you haven't been sentenced as

1 you sit here today?

2 A Say that one more time.

3 Q You haven't been sentenced as you sit here today,
4 right?

5 A No, I have not.

6 MR. GIORDANI: Court's brief indulgence. All
7 right. I will pass the witness at this time, Your Honor.

8 THE COURT: Counsel.

9 MR. WOOLDRIDGE: Sure. Give me a moment, Your
10 Honor.

11 CROSS-EXAMINATION

12 BY MR. WOOLDRIDGE:

13 Q Mr. Bernard, how are you doing?

14 A I'm all right.

15 Q You never saw Jay take this watch, did you?

16 A What do you mean?

17 Q You didn't see Mr. Ketchum take this watch. You
18 saw him take this belt, but you didn't see him take the
19 watch?

20 A Correct.

21 Q The State asked you some questions about a robbery,
22 right?

23 A Yes.

24 Q Is that a, yes?

25 A Yes.

1 Q Mr. Ketchum never told you he was going to rob Zeke
2 Davis, correct?

3 A Is that a question?

4 Q Yes.

5 A Can you rephrase that?

6 Q Sure. Mr. Ketchum, when he was leaving the club,
7 didn't tell you, hey, I'm going to rob this guy, right?

8 A Not to -- something to that nature.

9 Q He said something to that nature to you? Is that
10 your testimony?

11 A Yes.

12 Q And what did you do with that information?

13 A I didn't take it seriously.

14 Q You just went in your car and sat in there?

15 A I got in my car and I was speaking to other people
16 around my car.

17 Q This money that you say you gave Jay, 300 bucks?

18 A Yes.

19 Q That was money you owed Jay, wasn't it?

20 A Yes.

21 Q You knew Jay came into the club with some money,
22 didn't you?

23 A I don't know what he came in with.

24 Q You didn't come in with him?

25 A No.

1 Q You didn't see him with a stack of money when he
2 came into the club?

3 A When he came into the club, he didn't have a stack
4 of money in his hand.

5 Q Your girlfriend, Tiana Taylor, when's the last time
6 you spoke with her?

7 A Today.

8 Q Where is she?

9 A She's not here right now.

10 Q Where -- but where is she?

11 A What do you mean?

12 Q Is she here in Las Vegas?

13 A Yes.

14 Q Where?

15 A I'm not sure.

16 Q Where did you speak to her?

17 A On the phone in the car.

18 Q I want to talk to you about your problems. You're
19 in a lot of trouble, aren't you?

20 A Yeah. I pled guilty to this case.

21 Q Yeah. You got guilty in a bunch of cases, though,
22 right?

23 A Yes. In my past.

24 MR. GIORDANI: And I would object to as vague.

25 MR. WOOLDRIDGE: I'll get -- I'll clarify.

1 MR. GIORDANI: Very, very specific.

2 THE COURT: There's a proper way to do it, Counsel.

3 MR. WOOLDRIDGE: Okay.

4 BY MR. WOOLDRIDGE:

5 Q Right now you're on probation for assault with a
6 deadly weapon?

7 A I'm off probation.

8 Q You're off --

9 THE COURT: Okay, the question is has he been
10 previously convicted of a felonies and what were they and
11 when did they occur.

12 BY MR. WOOLDRIDGE:

13 Q Have you been convicted of assault with a deadly
14 weapon?

15 A Yes.

16 Q Have you been convicted of possession of a firearm
17 by an ex-felon?

18 A Yes.

19 MR. GIORDANI: And Your Honor, at this point, I
20 would object. There's statutory requirements regarding the
21 time frame of those convictions.

22 MR. WOOLDRIDGE: I can -- I have the convictions.

23 MR. GIORDANI: Okay. How about the --

24 MR. WOOLDRIDGE: Sure.

25 MR. GIORDANI: Can we approach, Your Honor, with

1 this?

2 THE COURT: You may.

3 (Off-record bench conference)

4 BY MR. WOOLDRIDGE:

5 Q Mr. Bernard, have you ever been convicted of a
6 felony in the last ten years?

7 A Yes.

8 Q How many felonies have you been convicted of?

9 A I'm not sure.

10 Q More than --

11 A About three, four.

12 Q Would it refresh your recollection to take a look
13 at some convictions to see if that helps you out?

14 A About three in the last ten years.

15 Q And it's your testimony that you're not currently
16 on probation?

17 A Correct.

18 MR. GIORDANI: Objection. Asked and answered.

19 THE COURT: Asked and answered.

20 MR. WOOLDRIDGE: All right.

21 BY MR. WOOLDRIDGE:

22 Q While you were on probation for that assault with a
23 deadly weapon --

24 MR. GIORDANI: Objection, Your Honor.

25 THE COURT: Sustained.

1 BY MR. WOOLDRIDGE:

2 Q Have you ever lied to probation before?

3 A I don't know.

4 Q Have you ever failed a drug test while you were on
5 probation?

6 A Yes.

7 Q And did you deny that you were on drugs when you
8 failed?

9 MR. GIORDANI: Objection.

10 THE COURT: Sustained.

11 MR. WOOLDRIDGE: This goes to his credibility, Your
12 Honor.

13 THE COURT: Sustained.

14 BY MR. WOOLDRIDGE:

15 Q Do you remember in August of 2015, a Judge warned
16 you --

17 MR. GIORDANI: Objection.

18 THE COURT: Sustained.

19 MR. WOOLDRIDGE: Your Honor, this goes all to
20 motive.

21 THE COURT: Sustained.

22 MR. GIORDANI: And I would move to strike all these
23 questions that he's throwing out.

24 THE COURT: The jury is to disregard the last
25 series of questions. Counsel approach.

1 (Off-record bench conference)

2 BY MR. WOOLDRIDGE:

3 Q Mr. Bernard, since September 2015, you've been an
4 informant with the police?

5 MR. GIORDANI: Objection.

6 THE WITNESS: No.

7 THE COURT: Sustained.

8 MR. GIORDANI: Move to strike.

9 THE COURT: The jury will disregard.

10 BY MR. WOOLDRIDGE:

11 Q Mr. Bernard, you have some pressure on you; is that
12 true?

13 A No.

14 Q You don't feel any pressure?

15 MR. GIORDANI: I would object as vague.

16 THE COURT: Overruled. It's asked and answered.

17 BY MR. WOOLDRIDGE:

18 Q I want to talk to you about this -- about this
19 meeting you had with the police on September 30th, 2016. Do
20 you remember that meeting?

21 A In my attorney's office?

22 Q Yes.

23 A Yes.

24 Q Your attorney was there?

25 A Yes.

1 Q She was with you the entire time?

2 A Yes.

3 Q And the meeting wasn't at a police station?

4 A No.

5 Q You weren't handcuffed?

6 A No.

7 Q You were free to leave whenever you wanted?

8 A I turned myself in. I called her, she called them
9 and they came to her.

10 Q They didn't arrest you that day.

11 A Was I free to leave when I wanted? They didn't
12 arrest me that day.

13 Q You were seated on a couch?

14 A No.

15 Q On a chair?

16 A Chair.

17 Q You weren't in handcuffs?

18 A No.

19 Q And that day you told the police the truth?

20 A What do you mean?

21 Q I don't -- is the truth, does it change, I don't
22 know. I mean, I'm asking you a question.

23 A Yes.

24 Q You told them the truth that day?

25 A Yes.

1 Q And you told the police that -- you described how
2 Mr. Ketchum was inside the club?

3 A Yes.

4 Q You told them that he was having a good time?

5 A Yes.

6 Q That he was laughing?

7 A Yes.

8 Q And you talked to police about when Javar showed
9 his gun outside of the club?

10 A Yes.

11 Q You told them that had nothing to do with the
12 shooting?

13 A Yes.

14 Q You told the police that when Zeke Davis bumped
15 into Javar, Javar said, who is this bitch -- bitch ass nigga?

16 A Something to that sort.

17 Q You don't recall? Do you want to --

18 A Yes.

19 Q -- do you want to listen to the tape?

20 A Yes.

21 Q That's what you said?

22 A Yes.

23 Q And you also told the police that everybody just
24 brushed it off like it was nothing, yes?

25 A Yes.

1 Q You never told the police that Javar said anything
2 about robbing Zeke Davis.

3 A No.

4 Q Correct?

5 A Correct.

6 Q You didn't say that until today?

7 A No.

8 Q Well, on September 30th, you didn't tell police
9 that; isn't that right?

10 A Correct.

11 Q And you also told the police that when you were
12 walking out of the club with your girlfriend, you didn't see
13 that Javar had any ill intentions?

14 A Yeah.

15 Q Correct? And then you also told police that when
16 you got outside and you were in your car with your
17 girlfriend, that Javar and Zeke went over to some other cars
18 and that they were outside your view.

19 A Yes.

20 Q You didn't see what happened.

21 A No. I didn't see the beginning of any of it.

22 Q All you saw was the aftermath?

23 A Yes.

24 Q You told police that you were messing with your
25 auxiliary cord and the music was playing, and you didn't even

1 hear a gunshot?

2 A Yes.

3 Q And that was true?

4 MR. ARNOLD: He didn't respond yes. He just nodded
5 his head.

6 BY MR. WOOLDRIDGE:

7 Q Is that a yes?

8 A Yes.

9 Q And when you backed out of your parking spot, you
10 told police that Javar came back to your car, right?

11 A Correct.

12 Q And said I dropped my ID?

13 A Correct.

14 Q And the only thing that you saw Javar have when he
15 came back, in his hand, was a belt?

16 A I don't remember. I don't remember saying if I
17 only seen him having a belt.

18 Q Well, is that what you remember?

19 A He came to the car with the belt, yes.

20 Q So when you told the police on September 30th, 2016
21 is true, correct?

22 A Yes.

23 MR. GIORDANI: And Judge, I would just object as to
24 vague. There's a lot of things he said on that date so --

25 THE COURT: You'll have a chance to --

1 MR. WOOLDRIDGE: No problem.

2 THE COURT: -- to redirect.

3 BY MR. WOOLDRIDGE:

4 Q So did you lie -- did you lie to the police about
5 anything that day on September 30th, 2016?

6 A No. I left stuff out. I was scared.

7 Q What did you leave out?

8 A I can't be specific. I just didn't go into real
9 detail.

10 Q So you omitted things, but you didn't lie about
11 anything, is that your -- what your answer is?

12 A Yeah.

13 Q What did you omit?

14 MR. GIORDANI: Objection. Asked and answered.

15 THE COURT: Overruled.

16 THE WITNESS: That I was there.

17 BY MR. WOOLDRIDGE:

18 Q You omitted that you were there at the club?

19 A I was on the news. I was on film. I was there.

20 Q That's what you omitted from the police?

21 A Yes.

22 Q Okay. Are you incarcerated right now?

23 A No.

24 Q You're out free?

25 A I'm on -- I'm -- I'm, what is it, intense

1 supervision or whatever that is.

2 Q But you get to live at your house?

3 A (No audible response).

4 MR. WOOLDRIDGE: No further questions.

5 THE COURT: Mr. Arnold.

6 MR. ARNOLD: Thank you.

7 CROSS-EXAMINATION

8 BY MR. ARNOLD:

9 Q Sir, did Mr. Ketchum ever say to you that he was
10 going to kill Ezekiel Davis?

11 A No.

12 Q Did he ever say to you that he was going to shoot
13 Ezekiel Davis?

14 A No.

15 Q You talked about you guys were outside of the club
16 at the patio and then Mr. Ketchum showed you and a group of
17 people a weapon; do you recall that?

18 A Yes.

19 Q Did he at that time say that he was going to shoot
20 Mr. Davis?

21 A No.

22 Q Did he say at that time that he was going to murder
23 Mr. Davis?

24 A No.

25 Q You said that you saw him come back to the car with

1 a belt. Did you see him come back to the car with a gun?

2 A No, I seen the belt. It was -- it was quick to the
3 car and back.

4 Q So the only thing you saw him with in his hand was
5 a belt?

6 A At that time, yes.

7 Q You said that when you were backing out, you did
8 see Mr. Davis on the ground?

9 A Yes.

10 Q Was he moving? What was he doing at that time?

11 A He was moving.

12 Q He was moving around?

13 A Yes.

14 MR. ARNOLD: I have no further questions.

15 REDIRECT EXAMINATION

16 BY MR. GIORDANI:

17 Q When you saw Mr. Davis -- I'm sorry, I'll call him
18 Zeke. When you saw Mr. Zeke on the ground, what was he doing
19 with his hands?

20 A They were out.

21 Q And you're putting your hands up, so the record's
22 clear, with the palms open in a defense posture; is that
23 right?

24 A Yes.

25 Q Did you see the defendant take or the victim give

1 any rings?

2 A I didn't see the rings.

3 Q Okay.

4 A I didn't see him giving anything, really. I seen
5 the hands out.

6 Q Did you hear the defendant say something?

7 A Yes.

8 Q And what was that give me my shit or give me your
9 shit?

10 A Something to that sort.

11 Q Okay. Was there a point in time where -- was there
12 ever a point in time throughout the entire night, so from the
13 moment you got there to the moment you left, that you ever
14 saw the victim, Zeke, with a gun at any point in time?

15 A I didn't see him until the end of the night, no.

16 Q Okay. I want to be clear, you never saw him with a
17 gun at all, am I right?

18 A No.

19 Q The point in time when the defendant gets into your
20 vehicle, I'm going to ask you to tell me, do you -- can you
21 describe for the jury his demeanor.

22 A Sarcastic.

23 Q Sarcastic? Where did you take the defendant when
24 he left the scene?

25 A To a gas station.

1 Q And do you know if he met anyone there or why you
2 took him to a gas station?

3 A Yeah, he had a -- he asked to called someone else.

4 Q Okay. Mr. Arnold and the other defense attorney
5 both hit on this point that Mr. Ketchum didn't say anything
6 about "I'm going to rob him" in the club. Was it clear to
7 you that Mr. Ketchum had the intent to rob him as they exited
8 the club?

9 A Yes. It wasn't clear what was going to take place
10 period, but something was going to go down.

11 Q When you dropped the defendant off at this gas
12 station, did you then leave with Tiana and go, I guess, home
13 and then eventually see this on the news and talk to your
14 attorney?

15 A Yeah. I got phone calls a lot. I got a lot of
16 phone calls.

17 Q Okay.

18 A I didn't see it on the news until I want to say the
19 next day --

20 Q Okay.

21 A -- or maybe that night.

22 Q Did there come a point in time where you had a
23 phone call or at least heard the defendant speaking on a
24 phone call? And I'm talking after the night -- after the
25 night we've before discussing.

1 A I'm not sure what you mean.

2 Q Did there come a point in time when you heard the
3 defendant on a speakerphone from someone else's phone?

4 A I believe so.

5 Q Okay. You seem to be trying to recollect that.

6 A Yeah, I'm thinking back like -- I think I did run
7 into one of friends and they were on the phone with him or we
8 were all on the phone -- on the phone together.

9 Q Okay. Do you remember the defendant talking about
10 where he may be going?

11 A Somewhat.

12 Q Can you provide any further detail? I mean, if you
13 don't remember, you don't remember.

14 A No.

15 Q Okay.

16 MR. GIORDANI: I have no further questions. I'll
17 pass the witness.

18 RECROSS-EXAMINATION

19 BY MR. WOOLDRIDGE:

20 Q Mr. Bernard, so you told the police on September
21 30th, 2016 that you didn't see that Javar had any ill
22 intentions, correct?

23 A Correct.

24 Q And now today your testimony's different?

25 A When I spoke to them, I didn't provide any detail.

1 Q But you -- from your testimony today, you said that
2 you didn't see that he was going to rob him. He didn't tell
3 you he was going to rob him, but you thought that something
4 was going to go down?

5 A Yes.

6 Q That's your testimony?

7 A Yes.

8 Q What gave you that indication?

9 MR. GIORDANI: Well, I would object to that
10 question.

11 THE COURT: Overruled.

12 THE WITNESS: Say it again.

13 BY MR. WOOLDRIDGE:

14 Q Yeah. Jay didn't do anything to give you
15 indication that he was going to rob the guy, right? That's
16 just something that you thought of on your own?

17 A Correct.

18 MR. WOOLDRIDGE: No further questions.

19 THE COURT: Mr. Arnold, any further questions?
20 State --

21 MR. GIORDANI: Nothing further, Your Honor.

22 THE COURT: -- anything further? All right. Thank
23 you, sir, you may step down. You may be excused. Oh, I'm
24 sorry, sir, hang on a second. Were there any written
25 questions from the jury? Okay. Sir, please retake the

1 stand.

2 (Off-record bench conference)

3 THE COURT: Sir, I direct your attention to the
4 photo that is on the screen there. That would be Exhibit No.
5 130. There's a watch that is displayed in that photo, being
6 worn by someone. Do you know who's wearing the watch in this
7 photo? If you don't know, fine. But if you do know, do you
8 know who it is.

9 THE WITNESS: Ezekiel.

10 THE COURT: Ezekiel? Okay. All right. And the
11 jury has asked for clarification whether or not the
12 defendant, Mr. Ketchum, said or told you that he had
13 intentions to rob Mr. Davis.

14 THE WITNESS: Say that one more time.

15 THE COURT: Did Mr. Ketchum say or describe that he
16 had the intention to rob Ezekiel?

17 THE WITNESS: I took it that way.

18 THE COURT: You took it that way? All right. Any
19 further questions?

20 MR. WOOLDRIDGE: Yeah.

21 THE COURT: All right. State.

22 MR. GIORDANI: Oh, yes, thank you.

23 FURTHER REDIRECT EXAMINATION

24 BY MR. GIORDANI:

25 Q What does the term "get at him" mean to you?

1 A Get at him. Somewhat of a fight. I don't know how
2 to describe it.

3 Q Okay. When the words "get at him" came from the
4 defendant, did you interpret that to mean that he was going
5 to rob him or get after him or do something to him?

6 A Yes.

7 Q Okay. Now, when the -- I'm sorry, when your car
8 backed out, you said that you could see at some point the
9 victim on the ground and you described hands up like -- like
10 this; do you remember that? Is that a yes?

11 A Yes.

12 Q You have to answer for the record. Okay. Was
13 there any point in time where you saw the victim attacking,
14 attempting to rob, do anything to Mr. Ketchum?

15 A I couldn't see on the other side of the car.

16 Q Okay.

17 A No.

18 Q When you saw him with his hands out, was he on the
19 ground or standing up?

20 A On the ground coming up.

21 Q Okay.

22 MR. GIORDANI: No further questions, Your Honor.

23 THE COURT: All right. Counsel.

24 MR. WOOLDRIDGE: Sure.

25 //

1 FURTHER RECROSS-EXAMINATION

2 BY MR. WOOLDRIDGE:

3 Q On the ground coming up? So he was getting up?

4 A Like sitting up.

5 Q Okay. When Zeke and Javar went -- they went
6 outside of your view when you were inside your car?

7 A Yes.

8 Q Okay. And so you didn't see anything that
9 happened?

10 A No, not until I backed out.

11 Q You didn't see Zeke try to rob Javar?

12 A No, I didn't see anything.

13 Q And you don't even know if Zeke tried to rob Javar?

14 A I don't.

15 Q You also testified earlier on cross-examination
16 that Mr. Ketchum never told you that he was going to rob
17 Zeke, right? You said that you just -- you thought that
18 might happen.

19 A Yes.

20 Q Right?

21 MR. WOOLDRIDGE: No further questions.

22 MR. GIORDANI: No questions, Your Honor.

23 THE COURT: All right. And just for the record,
24 the one question that was received from Mr. Gregory, correct?
25 Juror No. 4? Okay. I'm going to add his name and juror

1 number to the sheet of paper with his question on it so that
2 we can make it part of the record. All right. There being
3 no further questions, you may be excused. Thank you, sir.

4 State, you may call your next witness.

5 MR. GIORDANI: State would call Detective Bunn.

6 DETECTIVE CHRISTOPHER BUNN, STATE'S WITNESS, SWORN

7 THE CLERK: Please be seated. Please state and
8 spell your name for the court's record.

9 THE WITNESS: Christopher Bunn,
10 C-h-r-i-s-t-o-p-h-e-r, B-u-n-n.

11 MR. GIORDANI: May I?

12 THE COURT: You may.

13 MR. GIORDANI: Thank you.

14 DIRECT EXAMINATION

15 BY MR. GIORDANI:

16 Q What do you do for a living, sir?

17 A I'm a detective with the Las Vegas Metropolitan
18 Police Department.

19 Q How long have you been with the Las Vegas
20 Metropolitan Police Department?

21 A 24, almost 25 years.

22 Q And in what unit are you currently assigned?

23 A To the homicide unit.

24 Q How long have you been with homicide?

25 A Nine plus years.

1 Q As a homicide detective, what are your general
2 duties and responsibilities?

3 A We respond to all suspected homicide crime scenes
4 in the valley and we're assigned to the investigation of that
5 particular event.

6 Q I want to draw your attention to a particular case
7 reference event number 1609250932. Do you recall responding
8 and being involved in the investigation of that event?

9 A Yes.

10 Q And describe, generally, how is it that a homicide
11 detective receives a call and what do you do when you receive
12 a call?

13 A Well, in this particular case, this was a Sunday so
14 we were -- you know, obviously, I wouldn't have been at work.
15 So we were called at about 6:20 in the morning. It would
16 have been a response by patrol officers. Patrol officers
17 arrive at the location. They do the initial crime scene.
18 They'll secure the scene. That's where you see all the
19 yellow tape and, you know, restricting flow from the area or
20 into or out of the area.

21 This particular one was on South Decatur. And when
22 they arrived, there was a person there that had been shot.
23 So the person was ultimately transported from the scene.
24 Ultimately, if they die, then it becomes a homicide
25 investigation, and that when the -- their investigation stops

1 and they wait for the response of homicide detectives to take
2 offer the investigation.

3 Q Do you recall when you responded to this particular
4 scene?

5 A As in the time, sir?

6 Q Yes.

7 A Probably would have been by 7:00 o'clock in the
8 morning I would have probably been --

9 Q Okay.

10 A -- contacted and rolling.

11 Q 6:40 sound right?

12 A That would -- yes.

13 Q Potentially. Okay. Who was on scene when you
14 arrived?

15 A When we arrived at the location it was secured by
16 patrol officers. So it was blocked with yellow tape and the
17 crime scene had been what we would consider locked down. So
18 like I said, entry and exit from the scene would have been
19 restricted at that time.

20 Q Okay. When you arrived, can you describe the type
21 of personnel, I mean, official people that were there at the
22 scene? How many were there? What types of officials?

23 A Once -- in any shooting in Las Vegas, we have a
24 response from our crime scene analysts or crime scene
25 investigations unit. They'll respond, and in a homicide it

1 will respond to supervisor from that unit, at least two to
2 three crime scene investigators, a number of police officers
3 that are required to hold the perimeter, if there's people in
4 custody, to sit with them, if there needs to be officers at
5 the hospital, officers at any other scene or any of that kind
6 stuff, they'll continue to assign officers until it stops.

7 And then, you know, if medical was needed, if fire
8 department was needed, those people would have rolled, you
9 know, right up front with the police officers responding to
10 the scene initially. They'll render aid. You know,
11 primarily life is primary to us. So medical gets to go in
12 first.

13 Now, they'll hold back and make sure that if it's a
14 shooting situation, that the scene's secured so that they're
15 not going to be confronted with somebody. But then there's a
16 lot of simultaneous response in terms of law enforcement
17 versus fire versus medical in a very short time period.
18 Eventually, we may use the coroner would respond sometimes to
19 the scene, sometimes to the hospital depending on where the
20 person actually passed.

21 So there's a -- you know, from that standpoint,
22 it's most of those folks would be there.

23 Q Okay. So a fairly big police and other personnel
24 presence at the homicide scene; is that accurate?

25 A Yes, sir.

1 Q Were there on this particular scene several lay
2 people or potential witnesses who were also present?

3 A There were some lay people that had been stopped.
4 There were some people that they weren't sure how they fit
5 into the crime so they had just been held. Some of them may
6 have had, you know, outstanding warrants for their arrest or
7 whatever, or they may have felt like they were part of the
8 investigation. And eventually, you know, so we stop and
9 talked to all of those people to see what the -- you know,
10 the response to it was.

11 Q Was there anyone that was still on the scene -- and
12 I'm referring to this initial group that you just described
13 -- that was arrested or were all of those witnesses released
14 for having no information?

15 A I -- the ones that were interviewed, most of them
16 as I recall were released. Now there were some other
17 individuals that were stopped that belonged to a vehicle down
18 the road.

19 Q Okay.

20 A That was handled by Detective Williams just simply
21 because we -- there's a limited number of people that
22 actually respond to these locations in terms of investigators
23 just because we don't have a lot. So in this case, it would
24 have been our -- our homicide squad, which is made up of six
25 individuals and a sergeant. Myself and my partner at the

1 time, which would have been Marty Wildemann, would have been
2 the two detectives assigned to the crime scene. Then the
3 rest the team would have helped with interviews or other
4 stuff.

5 Detective Williams being one of those people that
6 helped in following up that. And he also went to the
7 hospital as well.

8 Q Okay. Let me ask you if based upon the initial --
9 your initial response and these people who were lay people
10 stopped at the scene, was there anyone in that particular
11 group of people that provided you any information regarding
12 who the suspects may be?

13 A Well, we talked to I know a person by the name of
14 Deshawn Byrd was ultimately spoken with.

15 Q Okay.

16 A And he provided some information about, you know,
17 the victim as well as a potential suspect.

18 Q Okay. I want to go through a couple of photographs
19 with you. And starting with already admitted 1, what are we
20 looking at in this photo?

21 A This is going to be the west side of the building.
22 The -- just to the left-hand side of the picture out over
23 here is going to be Decatur. And this is going to be a crime
24 scene, and this some piece of the evidence that are actually
25 here. I'm messing that up. And then you can see some red

1 cups over in this area and some other pieces of evidence out
2 in this area.

3 Q Okay.

4 A And these are a couple of the vehicles that were
5 still locked down in the parking lot at the time that we
6 arrived.

7 Q Okay. And I believe, you said a couple of the
8 vehicles. Were there several vehicles that were on scene
9 when you arrived?

10 A Ultimately, there were six.

11 Q Okay. Showing you State's 2 now, and I'm going to
12 zoom in so it's going to go blank for a minute. Can you
13 describe the vehicle on the left.

14 A This is going to be a Chrysler Dodge four-door.
15 This belonged to the victim. And I don't remember the
16 registered owner of this particular vehicle.

17 Q Did you touch the white vehicle when you said that?

18 A I didn't.

19 Q So to be clear, black car is victim's vehicle.
20 White car you don't recall the owner?

21 A No, it would be in my notes, but I don't have the
22 RO off the top of my head. Wool.

23 MR. ARNOLD: I'm going to object, Your Honor. That
24 whole thing was confusing. Was he talking about the
25 registered owner of the black vehicle, that he did not know

1 who that owner was?

2 THE WITNESS: No. The black vehicle, I know who
3 the register owner of that vehicle was. I don't on the white
4 vehicle off the top of my head. I do have it in my notes if
5 you would like me to look it up.

6 BY MR. GIORDANI:

7 Q That's okay. I'll show you a separate photo.
8 Showing you 6. What are we looking at here?

9 A You're looking from east, from the building itself,
10 out towards Decatur and you're looking slightly south. I'm
11 sorry, you're looking west here. This is going to be west.
12 That's going to be Decatur out there. This is going to be
13 south down this direction. And there's two vehicles here and
14 here.

15 Q Okay. Are those two vehicles two of the six that
16 you initially mentioned?

17 A Yes, sir.

18 Q Showing you now State's 9. You know how to clear
19 that screen, Detective? Okay. Thank you.

20 A Somebody did, thank you.

21 Q In the center of the photograph, are those the two
22 vehicles I just showed you in that last exhibit?

23 A Yes, sir.

24 Q Right here? Now, to the left, you can see the tail
25 end of a vehicle as well?

1 A Yes.

2 Q Is that also included within the crime scene or
3 within the six that you had initially described?

4 A Yes.

5 Q Showing you State's 17 now. What are we looking at
6 here?

7 A This is the interior of the Top Notch Apparel
8 store. Your -- this would be the southwest corner of that.
9 If you're looking out the front window, you can see a vehicle
10 right here, which is a Cadillac.

11 Q And is that the vehicle we just saw the tail end of
12 in this exhibit?

13 A Yes, sir, it's this vehicle over on the far left.

14 Q Oh, I'm sorry.

15 A That's okay. It's the vehicle all the way over
16 here on this side.

17 Q Was there also a Navigator somewhere in that scene?

18 A It was not in this scene. It was actually down at
19 the PT's Pub.

20 Q Okay.

21 A Which was north of there.

22 Q What was the relevance, if any, of that Navigator
23 or how did that become a part of this?

24 A Two of the individuals that had been stopped at the
25 scene belonged to the Navigator and they said that their

1 vehicle was down there. They actually directed officers down
2 to that vehicle as a part of this. Ultimately, their --
3 their stories came out with interviews with Detective
4 Williams and we determined that they weren't involved in the
5 incident itself.

6 Q Okay. So I think we -- have we accounted for all
7 six vehicles that you described being on scene at this point?

8 A Yes.

9 Q Was the decedent/victim on scene when you arrived?

10 A No, sir.

11 Q Was he, to your knowledge, at the hospital by the
12 time you arrived?

13 A Yes, sir.

14 Q Were you ultimately able to identify him by Nevada
15 ID card that was found in his sock at the hospital?

16 A Yes, sir.

17 Q What were your initial steps when you arrived at
18 the scene? And let me ask you a different way. Are there
19 several assignments and duties that are split up amongst
20 homicide detectives?

21 A Yes, sir. When we respond to a scene, as I
22 described, we have a supervisor, our sergeant always rolls
23 with us. And then we have our -- what would be our team,
24 which would be the six detectives that are assigned to that
25 particular supervisor and then we break it down into a

1 two-man unit, which is my partner and myself would be
2 assigned the actual investigation.

3 Between the two of us, we divide that in terms of
4 one of us is responsible for the scene and scene
5 investigation. The other officer is involved in interviews
6 of all of the individuals that are attached to it, and if he
7 needs assistance, they can continue to call more detectives
8 to help us do that as we need. So and that's kind of how
9 homicide scene investigation stuff is broken down.

10 Q Okay. I want to show you a couple of --

11 MR. GIORDANI: May I approach the witness?

12 THE COURT: You may.

13 MR. GIORDANI: (Inaudible) defense counsel.

14 BY MR. GIORDANI:

15 Q Showing you State's 128, do you recognize that?

16 A This looks like a -- it's an overhead view, like a
17 satellite view of the area where we were at.

18 Q Okay.

19 A 30 -- or 4230 South Decatur Boulevard.

20 Q Okay. And if I didn't ask you earlier, that's in
21 Clark County, Nevada; is that right?

22 A Yes, sir.

23 Q And I don't need to show you the second one. It's
24 already admitted as 128. Just so the jury's clear, I know
25 you did this a little bit before, but describe where exactly

1 Top Notch clothing is within this map.

2 A 4230 is the kind of -- on my screen it looks like
3 an orange-ish color marking that's already on the building
4 and that's 4230 South Decatur Boulevard that's kind of a
5 strip mall type deal.

6 Q Can you circle Top Notch, where it's located
7 within --

8 A It's going to be located down on the very south end
9 of the building out here and it -- like, the arrows aren't
10 showing up kind of. There it goes. So the door to Top Notch
11 is right down in that area.

12 Q Okay. And if you can, can you see in this map
13 where that sixth vehicle that ultimately was determined to
14 not be involved was located?

15 A It's not on here.

16 Q Okay.

17 A It would have been further north. It would have
18 been way up here --

19 Q Okay.

20 A -- just past that.

21 Q No problem. Showing you 129, is that just a
22 close-up of what we just saw, 4230 South Decatur?

23 A Yes.

24 Q And is this, just so the jury's very clear about
25 where it is, where Top Notch is located?

1 A That's correct. It's -- it's right there.

2 Q And the vehicles that we saw, were they within this
3 parking lot area, essentially?

4 A They actually go further up into the parking lot
5 down towards this -- up as far as this area. But now we have
6 the entire parking lot blocked off for our --

7 Q Okay.

8 A -- what we -- when we took the scene, we actually
9 had that entire area blocked off.

10 Q Understood. I just want to be clear with regard to
11 the map, about how far was that black Dodge Charger, then?

12 A It's going to -- hopefully, this will --

13 Q I know it's about --

14 A Kind of right up into that area is where you would
15 see it.

16 Q Okay. And would it be on the right side closest to
17 the building basically parked in front of the building?

18 A Yes. And the nose would be parked towards facing
19 the building.

20 Q Got it, okay. Thank you. When you arrived at the
21 scene, these assignments were given out amongst the homicide
22 detectives and other personnel. Did you have an opportunity
23 to do a scene walk-through?

24 A Yes.

25 Q What is that?

1 A A scene walk-through is when we initially get there
2 because patrol officers already been there and they've seen
3 and done a lot of things. They give us what we call our
4 initial briefing. And during that briefing what they do is
5 describe when we arrived at this location, what we saw, what
6 we did, what encounters we may have had with individuals.
7 And so we get that as what we call our initial briefing, and
8 that would also include, you know, where anybody would have
9 been transported to.

10 Like in this case the victim had been transported
11 to UMC. Who followed the vehicle down there. If there were
12 -- you know, any -- any of that kind of information is given
13 to us as what's called an initial briefing.

14 Q Okay. During your scene walk through, did you
15 identify several items of interest or evidentiary value to
16 you and others?

17 A Yes.

18 Q And do you know if crime scene analysts had already
19 photographed those items in place by the time you saw them or
20 no?

21 A Some of them had been, not all of them.

22 Q Showing you now State's 3. What are we looking at
23 here?

24 A This is a gold ring.

25 Q Okay. Showing you now State's 131. Do you recall

1 where that item was located? Let me zoom in here for a
2 moment. First I can ask, do you recall off the top of your
3 head where it was located or do you need to look at this
4 legend?

5 A I'd have to look at the legend, sir, I'm sorry.

6 Q No problem. That's why I'm putting it up here.
7 Fair to say there's two rings described?

8 A Yes.

9 Q Do you know which ring that I just showed you?

10 A I believe it's number 6.

11 Q Okay. So you don't think it's ring with clear --

12 A I don't -- I mean, just from that particular
13 picture and it's got a -- kind of a highlight on it. It's
14 hard to see it, but I don't see a clear stone on it. If it's
15 there, it's just very difficult to see from the image that
16 I've seen here.

17 Q No problem. And there's a glare and we're going to
18 have just deal with that. Showing you now State's 4. What
19 are we looking at there?

20 A There's a pair of pants that was found out in the
21 driveway.

22 Q What did that mean to you?

23 A That somebody had lost their clothing so -- and I
24 understood that the victim had been transported to the scene
25 in his underwear.

1 Q Okay. So obviously, something of potential
2 evidentiary value, and it was photographed and was it
3 ultimately impounded?

4 A Yes, sir.

5 Q Showing you State's 7.

6 A A pair of shoes and a hat.

7 Q Okay.

8 A I believe, it says Prada on the shoes.

9 Q Let me just trim down the number of photos here.
10 Showing you State's 11. Same hat and shoes?

11 A Yes, sir.

12 Q What are we looking at in the center there?

13 A A pair of glasses and it looks like a gold chain
14 and a cell phone.

15 Q Cell phone?

16 A Looks like a cell phone, yes, sir.

17 Q Okay. When you got to the business or during this
18 walk-through, were you able to get inside the business?

19 A Initially, no.

20 Q Okay. Describe what was going on there.

21 A All of the businesses across there had been locked.
22 They were all secured. We had knocked on several of the
23 doors all the way down, but all of those businesses were
24 secured.

25 Q Was Top Notch locked?

1 A Yes.

2 Q Did you ultimately seek a search warrant for not
3 only vehicles but also Top Notch?

4 A Yes, sir.

5 Q I want to first talk about vehicles a little bit
6 further. Did you execute search warrants on any of those six
7 vehicles that we've already gone through?

8 A We executed search warrants on all six vehicles,
9 sir.

10 Q Okay. Now I want to -- I'm going to breeze through
11 a couple of them, and I want to really focus on first this
12 black Charger.

13 A Yes, sir.

14 Q Was there a search warrant executed on that
15 vehicle?

16 A Yes, there was.

17 Q Was there anything of evidentiary value within that
18 vehicle?

19 A No, sir.

20 Q Anything that had to do with firearms whatsoever?

21 A No, sir.

22 Q I want to move on to -- well, how about this
23 vehicle?

24 A I don't -- I believe the search warrant was indeed
25 served on that vehicle, but I don't believe anything of

1 evidentiary value was taken from it.

2 MR. WOOLDRIDGE: Which vehicle are we referring to
3 when we say this?

4 MR. GIORDANI: The one that was 22 on the exhibit,
5 the white vehicle.

6 MR. WOOLDRIDGE: Okay.

7 BY MR. GIORDANI:

8 Q The State's 9. The Cadillac that we see the tail
9 end of in this photograph.

10 A Yes, sir.

11 Q And State's 17 that we see the front end of in this
12 photograph.

13 A Yes, sir.

14 Q Was there a search warrant executed on that
15 vehicle?

16 A Yes.

17 Q Were there items of potential evidentiary value
18 located within that vehicle?

19 A Yes.

20 Q I want you to describe what was located within that
21 vehicle.

22 A There were two DVRs located in the back seat. One
23 of them was a Swan system and one was a Night Owl system.
24 They were in the back seat. There was a .380 cartridge
25 located in the back, which would be for a gun of some sort.

1 We found a briefcase that had some hard drives in it and some
2 additional cell phones.

3 Q And some additional cell phones you said?

4 A Yes.

5 Q Was there some kind of cables as well?

6 A Yes.

7 Q Okay. Showing you now State's 83. Same Cadillac?

8 A Yes, sir.

9 Q Showing you State's 85. Well, I'll flip that over.
10 What are we looking at here?

11 A The DVR. The interior back seat.

12 Q Of that same Cadillac?

13 A Yes, sir.

14 Q Showing you State's 86. What are we looking at on
15 the seat there?

16 A The two DVRs I was talking about earlier.

17 Q Okay. I want to zoom in a little bit. Is that the
18 cartridge that you described.

19 A Yes.

20 Q And is that an unspent, basically, an unfired
21 bullet?

22 A Yes.

23 Q Okay. Showing you State's 88 now. Are we looking
24 at two different systems?

25 A Yes, sir. The upper one is not with -- the model,

1 I mean, it says Night Owl and it tells you that it's a eight
2 channel HD DVR. And then you're looking at the back of
3 another system and with the glare on here, I can't tell you
4 if there's any kind of writing or anything on there from that
5 picture.

6 Q Okay. As a homicide detective, have you
7 investigated cases that involved the video surveillance
8 systems in general?

9 A Yes.

10 Q Of course, right?

11 A Yes, sir.

12 Q Can you tell the ladies and gentlemen of the jury
13 what exactly a DVR system is. What are we looking at here?

14 A It's a digital video recorder, DVR.

15 Q Would that be a DVR system that's attached to
16 cameras?

17 A Yes.

18 Q Okay. So the cameras record and this is what
19 stores the recordings; is that accurate?

20 A Yes, sir.

21 Q Okay. Ultimately, were those two items impounded.

22 A Yes.

23 THE COURT: All right. Counsel, before you ask
24 your next question, why don't we go ahead and break for the
25 morning. We've been sitting here for some time.

1 So I'll just remind the jury not to discuss the
2 case among yourselves. Not to form or express any opinion.
3 Not to do any investigation, read, watch or listen to any
4 reports or commentary about the case. That we'll be in
5 recess until -- let's make it a 15-minute break. So, 11:15.

6 THE MARSHAL: Rise for the jurors.

7 (Court recessed at 11:00 a.m. until 11:15 a.m.)

8 (In the presence of the jury)

9 THE MARSHAL: Department come to order. Department
10 17 is back in session. Everyone, please be seated.

11 THE COURT: We'll be back on the record. Back in
12 the presence of the jury panel. All member of the panel are
13 present. Counsel for both sides are present, defendants are
14 present. You may continue with your examination.

15 MR. GIORDANI: Thank you, Your Honor.

16 BY MR. GIORDANI:

17 Q Detective, I want to show you Exhibits 134, 135 and
18 136. Let's start with 134. You had earlier described an
19 event number associated with this event. Can you please
20 explain for the ladies and gentlemen what an event number is?

21 A For every call that we take as a department, we
22 issue what we call an event number, and it will be the date
23 that's the year, the month, the day and then a numeric
24 sequence of that event is when it occurred during the day.
25 They can go up -- they start at 0001 and then they'll

1 continue until the day is done.

2 This particular one is -- was on -- the year was
3 16, the month was 09, the day 25 and then the event of the
4 day was 0932.

5 Q So by 6:00 a.m. there had been 932 calls for
6 service; is that basically what you're saying?

7 A Yes, sir.

8 Q Is that event number that you just described unique
9 to this particular event in this (inaudible)?

10 A Yes.

11 Q What do you -- what does it appear you're looking
12 at in Exhibit 134?

13 A This is an envelope when we -- it's an evidentiary
14 envelope, and on the outside of that we put on a -- just a
15 notation deal so that we can identify the contents and who
16 impounded it, where it came from, that type of information.
17 And then we identify the item that's contained within.

18 In item 1 is a cartridge case, which means it's a
19 fired -- it's the fired case, and the headstamp that's noted
20 on here is Spear 9 mm Luger plus P.

21 Q 9 mm, does that mean 9 millimeter?

22 A Yes, sir.

23 Q Okay.

24 MR. GIORDANI: And I'd move for the admission of
25 State's 134. At this point, I don't intend to open it with

1 him on the stand.

2 THE COURT: Okay. Any objection?

3 MR. WOOLDRIDGE: No objection.

4 MR. ARNOLD: No objection, Your Honor.

5 MR. GIORDANI: Thank you, Your Honor.

6 THE COURT: It will be admitted.

7 (State's Exhibit 134 admitted)

8 BY MR. GIORDANI:

9 Q All right. Now, showing you Exhibit 135, what does
10 it appear to be (inaudible)?

11 A This is going to be the Night Owl -- the eight
12 channel DVR and a power cord. It has the same identifying
13 event number on it, the date and time it was prepared and who
14 actually did it.

15 Q Okay. Does that -- based on the weight and feel of
16 it, does that appear to be one of those two DVRs that you
17 described earlier?

18 A Yes, sir.

19 Q Which one on the screen is the Night Owl?

20 A It's -- I'm going to give it a shot here. It's
21 going to be this one, which is here. The black -- the back
22 one that we can see in that particular photo.

23 Q The one with the owl eyes on it?

24 A Yes, sir.

25 Q Okay.

1 MR. GIORDANI: I'd move for the admission now of
2 135, Your Honor.

3 MR. WOOLDRIDGE: No objection.

4 MR. ARNOLD: No objection, Your Honor.

5 THE COURT: Admitted.

6 (State's Exhibit 135 admitted)

7 MR. GIORDANI: Thank you.

8 BY MR. GIORDANI:

9 Q This large box here, Exhibit -- State's Proposed
10 Exhibit 136, what are we looking at there?

11 A And this is described as a Swan DVR and power cord.
12 Again, the same event number is on there, who impounded it
13 and when --

14 Q Okay.

15 A -- and that appears to be the other DVR.

16 MR. GIORDANI: I would move for the admission of
17 136 at this point.

18 MR. WOOLDRIDGE: No objection.

19 MR. ARNOLD: No objection, Your Honor.

20 MR. GIORDANI: Thank you.

21 THE COURT: It's admitted.

22 (State's Exhibit 136 admitted)

23 BY MR. GIORDANI:

24 Q And I'm going to return those to the clerk for a
25 moment, and I'll get back to those. Showing you now State's

1 Exhibit 90. What are we looking at there?

2 A Appears to be a vehicle seat with a cell phone in
3 it, and it's hard to read the -- just based on the glare of
4 the screen, I can't read the -- the actual documents that are
5 located there.

6 Q Okay. And you remember describing there was also a
7 cell phone located in the vehicle?

8 A Yes, sir.

9 Q Showing you now 91.

10 A Those are -- now I can see the paperwork. It's a
11 Verizon, looks like a bill or statement or a notice of some
12 sort addressed to Roderick Vincent.

13 Q Is that -- do you see that person in the courtroom
14 today?

15 A He is here.

16 Q Can you please point to that person, describe an
17 article of clothing he's wearing today?

18 A He's got on glasses, a black jacket. He's sitting
19 in the second row back on the left hand side, and I --

20 MR. GIORDANI: Would the record reflect
21 identification of defendant Vincent?

22 THE COURT: It may so reflect.

23 MR. GIORDANI: Thank you.

24 BY MR. GIORDANI:

25 Q Showing you now 92. What are we looking at here?

1 A This is a seat of the same vehicle and it looks
2 like the contents of the glove box are probably on the seat
3 at this point.

4 Q Okay. Going to zoom in here. Can you see that,
5 Detective?

6 A I -- I'm not able to read the --

7 Q That's okay.

8 A -- the writing on that. Not with that.

9 Q Is there a power cord or something to that effect?

10 A I'm sorry, yeah, there is a phone cord. It looks
11 like a flashlight, a CD, some sort of packaging up in the
12 upper left, and it looks like a DMV, like a registration of
13 some sort right there, and I just can't read the -- the
14 writing on it.

15 Q No problem. Did you run this vehicle in a DMV
16 database?

17 A Yes.

18 Q Is that DMV database, a database that you rely upon
19 in conducting your investigations as a Las Vegas Metro
20 homicide detective?

21 A Yes, sir.

22 Q Is that a database that you rely upon frequently
23 and take investigative steps in response of information
24 received from that database?

25 A Yes, sir.

1 Q Who was the registered owner of that vehicle we've
2 just described?

3 A Roderick Vincent.

4 Q Eventually, were you able to get inside Top Notch
5 clothing?

6 A Yes.

7 Q Did you obtain a search warrant?

8 A Yes, we had.

9 Q How did you eventually get into that business?

10 A About 11:00 o'clock in the morning several people
11 that were inside the business came to the front door and
12 opened it and walked out and talked to us.

13 Q So, 11:00 a.m.?

14 A Approximately.

15 Q Can I presume you were still on scene at 11:00
16 a.m.?

17 A Yes, sir, I was.

18 Q What people were -- I think you said four?

19 A I think it was four.

20 Q What are the -- who are the four people that came
21 out of that business?

22 A They were identified as Mario Chiles and Ms.
23 Cordiaro (phonetic), Roderick Vincent and who's the other
24 individual? Can I refer to my notes.

25 Q Would it refresh your recollection to look at your

1 -- did you create a report in this case?

2 A Yes, sir, I did.

3 Q Would it refresh your memory to look at that
4 report?

5 A Yes, it would.

6 Q Go ahead.

7 A I kind of just have those three individuals coming
8 out, sir. I don't have a fourth one that I can recall.

9 Q No problem, sir. Did you conduct an interview with
10 Mr. Roderick Vincent?

11 A Yes.

12 Q What was the nature of that interview?

13 A Basically, I -- once he came out of the business,
14 we talked to all of the individuals that came out. Roderick
15 Vincent, I was told that, you know, we were there
16 investigating the shooting death that occurred in the parking
17 lot of the business, and asked him what his -- you know, what
18 he did at the business, if he was involved in the business
19 itself or if he was simply, you know, attending it there.
20 And during that conversation he told me that he rented a room
21 inside the business and ran a sound studio inside the
22 business and then he had really kind of little interaction
23 with what went on in the business itself. Just simply that
24 he had a music studio that he ran out of there.

25 Q Okay. Did you ask him -- well, first, did you

1 observe cameras within that business?

2 A Yes.

3 Q And --

4 A There --

5 Q -- I mean, not DVRs?

6 A That's correct.

7 Q Okay. I'm going to show you now grand -- sorry,
8 State's Exhibit 96. Can you clear that screen, Detective?

9 A Is it lower right?

10 Q Yes, sir. We've gone through these so I'm going to
11 be brief. Is this the front, I guess, clothing area of the
12 store?

13 A Yes.

14 Q We're looking from the street in; is that --

15 A Correct.

16 Q -- essentially accurate?

17 A Yes, sir.

18 Q Showing you 97. Are you oriented to this
19 photograph?

20 A Yes. This is going to be from the north side of
21 the building from the south probably corner, and you're
22 looking south southwest. You can see on the very right hand
23 edge here is the glass that we were looking at earlier to see
24 the Cadillac.

25 Q Okay. Without having to zoom in too much, do you

1 see the camera up in the top right?

2 A Yes, sir.

3 Q Showing you 98.

4 A That we're looking kind of -- we're southeast, and
5 still in that same front room.

6 Q Camera in that frame?

7 A In the upper left here. It looks like I'm trying
8 to get the -- kind of up in that area there's a camera.

9 Q Got it. State's 101, what are we looking at here?

10 A That actually is the same camera up there in the
11 corner that we were just looking at.

12 Q Oh, okay. State's 102. Is that the hallway to the
13 left of that same area we were just looking at?

14 A Correct. And you can see that there's a camera
15 just partway down kind of down in this area.

16 Q Okay.

17 A And I can't tell for sure, but there might be one
18 way up here in the corner. Up there in the corner.

19 Q No problem. I want to move to State's 103. What
20 are we looking at here?

21 A This is looking back down that same hallway in --
22 on the -- from the original picture, the previous one that
23 was on the right-hand side, that's the door and there was a
24 camera sits over the top of that specific door.

25 Q Okay. Is that -- what am I pointing at here near

1 the door handle?

2 A That door handle is a electronic keypad --

3 Q Okay.

4 A -- to open the door.

5 Q It requires a key code?

6 A Yeah, a numeric code to open it.

7 Q How did you get into that room, if you did?

8 A Ultimately, we did -- yes, we did enter it, but we
9 ended up -- this is a piece of plastic in the center there.
10 We just pushed the plastic out and entered the room.

11 Q Okay. What was behind that door?

12 A Basically, a recording studio, as described -- or
13 -- and the name for most of the stuff in there like on the
14 wall was Roderick Vincent.

15 Q Showing you now 105. Is that within the recording
16 studio?

17 A This is a separate room. It was actually --

18 Q Okay.

19 A -- further down and not able to be entered from
20 that same -- but it's -- but yes, it does appear, and you can
21 see a camera up here kind of in the corner. And this camera
22 was connected to the DVR that had -- or had wires that ran
23 into the recording studio area that we've just previously
24 looked at.

25 Q Okay. Understood. Let me show you 109 now. What

1 are we looking at here?

2 A This is the interior of the room where you can see
3 what looks like a sound mixing board kind of up in this area.
4 I'm not sure it's showing up very well. A desk set up, some
5 speakers, and then there's some plaques on the wall.

6 Q 110 now.

7 A And that's just looking at -- getting a full view
8 of that -- it would have been the west wall of that same kind
9 of little office area.

10 Q Okay. Anything of evidentiary value that you see
11 in this photograph?

12 A I think we took some of hard drives that were in
13 here and I think it's kind of this little orange piece kind
14 of right up in this area. It's hard to see up on the
15 countertop. And then I think as from photographs and then
16 you can see a camera kind of up in that area as well.

17 Q Okay. So we've gone through several photographs,
18 and I'm not going to waste time going through all the
19 cameras. Can you estimate how many cameras were within this
20 business?

21 A I think it was a total of 11. Eight for the Swan
22 DVR, and I can recall the three set up for the -- the other
23 DVR, the owl, the Night Owl one.

24 Q Okay. And that was my next question. So there's
25 two DVR systems that were impound from Mr. Vincent's vehicle,

1 right?

2 A Yes, sir.

3 Q And were you ultimately able to determine which DVR
4 system went with which camera?

5 A The Night Owl with the recording -- the recording
6 studio stuff and simply because the logos on the cameras and
7 stuff was consistent with being Night Owl. And then the
8 other ones were consistent with the Swan system.

9 Q Okay.

10 A And then there's cables that ran to them as well.

11 Q And ultimately, did you review the contents of both
12 those DVR systems that you described?

13 A Yes.

14 Q All right. I'm going to get back to those in a
15 moment. Did you say that you interviewed Mr. Vincent?

16 A Yes.

17 Q And did you describe the contents of that
18 interview?

19 A I -- the initial interview, yes.

20 Q Okay. Did you ask him directly about whether or
21 not those cameras that are throughout the business are
22 connected to a DVR?

23 A We did.

24 Q And what was his response to that?

25 A He said that they weren't currently connected.

1 Q Okay. Did you find areas within the inside of Top
2 Notch, the recording studio or anywhere elsewhere, where
3 there appeared to be wires where potentially DVRs could be
4 connected?

5 A Yes.

6 Q And/or disconnected?

7 A Yes.

8 Q Do you recall where those were?

9 A In -- on this desk here, actually kind of, it was
10 behind it, there was an area where all of the wires came to
11 one location, and obviously, the -- the piece that they would
12 have been connected to was no longer there, being the DVR.

13 Q Okay. Did you conduct a subsequent interview or
14 have a subsequent conversation with Mr. Vincent when you had
15 those DVRs located, essentially?

16 A I didn't talk to -- well, several days later, I
17 believe, it was that we -- that I did have another
18 conversation with him.

19 Q Did you confront him with the fact that he said
20 there were no DVRs for the system and then you found the
21 DVRs?

22 A Yes.

23 Q What was his response?

24 A He said that he had in the confrontation was
25 basically, I had recovered them from his car, he said that

1 they were -- he was protecting them.

2 Q Okay. Protecting as in -- did he say context or
3 anything?

4 A He said that he thought he heard somebody say that
5 they were going to take them, and so he wanted to protect
6 them.

7 Q Okay.

8 MR. GIORDANI: Your Honor, I, at this point, would
9 like to start publishing some videos. I've discussed this
10 with defense counsel. We're going to have to actually
11 connect those DVRs to a bunch of wires. So if we could have
12 the lunch break to do that so we don't skip --

13 THE COURT: All right. Why don't we go ahead,
14 we'll break early for lunch, and if it would not
15 inconvenience the jury, we could have them come back a little
16 early. Come back at 1:15 instead of 1:30. Does that work
17 for everyone? All right.

18 So we'll go ahead and break for lunch at this
19 point. I remind the jury not to discuss the case among
20 yourselves or with anyone else. Don't read, watch or listen
21 to any reports or commentary on this case. Do not form or
22 express any opinion about the case. Do not go on social
23 media about the case, the Internet or do any research on your
24 own.

25 With that, I'll see you back here at 1:15.

1 THE MARSHAL: Rise for the jurors.

2 (Court recessed at 11:34 a.m. until 12:54 p.m.)

3 (Outside the presence of the jury)

4 THE MARSHAL: Come to order. Department 17's back
5 in session.

6 THE COURT: Okay. We're back on the record outside
7 the presence of the jury. Counsel for the State's present.
8 Roderick Vincent is present with his counsel, Mr. Arnold. I
9 have a Guilty Plea Agreement. Roderick Vincent, is that your
10 true name?

11 DEFENDANT VINCENT: Yes, ma'am.

12 THE COURT: Mr. Vincent, how old are you?

13 DEFENDANT VINCENT: 35.

14 THE COURT: How far did you go in school?

15 DEFENDANT VINCENT: Bachelor's degree.

16 THE COURT: So you read, write and understand the
17 English language?

18 DEFENDANT VINCENT: Yes, ma'am.

19 THE COURT: You were provided a copy of the Third
20 Amended Indictment charging you with destroying evidence, a
21 gross misdemeanor. Do you understand this charge?

22 DEFENDANT VINCENT: Yes, ma'am.

23 THE COURT: To this charge, how do you plead?

24 DEFENDANT VINCENT: Guilty.

25 THE COURT: Is anyone forcing you to plead guilty

1 here this morning?

2 DEFENDANT VINCENT: No, ma'am.

3 MR. ARNOLD: We are pleading guilty by way of
4 Alford decision.

5 THE COURT: Oh, okay. So it's guilty pursuant to
6 the Alford decision, correct? Is anyone forcing you to enter
7 in plea?

8 DEFENDANT VINCENT: No.

9 THE COURT: So you're entering this plea of your
10 own free will?

11 DEFENDANT VINCENT: Yes, ma'am.

12 THE COURT: And I have in front of me a Guilty Plea
13 Agreement pursuant to Alford. Is this your signature here on
14 page 5 of this agreement?

15 DEFENDANT VINCENT: Yes, ma'am.

16 THE COURT: And before you signed this agreement,
17 did you read it?

18 DEFENDANT VINCENT: Yes, ma'am.

19 THE COURT: Do you understand everything in it?

20 DEFENDANT VINCENT: Yes, ma'am.

21 THE COURT: And did you have a chance to discuss
22 this agreement and your case and the charge with your
23 attorney?

24 DEFENDANT VINCENT: Yes, ma'am.

25 THE COURT: And did he answer all your questions?

1 DEFENDANT VINCENT: Yes, ma'am.

2 THE COURT: Do you have any other questions?

3 DEFENDANT VINCENT: No, ma'am.

4 THE COURT: And did you understand the
5 constitutional rights set forth on page 4 of this agreement?

6 DEFENDANT VINCENT: Yes, ma'am.

7 THE COURT: And you understand pursuant to your
8 plea here this morning, you're giving up these rights?

9 DEFENDANT VINCENT: Yes, ma'am.

10 THE COURT: And you understand pursuant to your
11 plea, you could be looking at up to 365 days in the Clark
12 County Detention Center and a fine of up to \$2,000?

13 DEFENDANT VINCENT: Yes, ma'am.

14 THE COURT: And --

15 MR. ARNOLD: And just for the record, Your Honor,
16 it's 364 days.

17 THE COURT: 364 days and a fine of up to \$2,000. I
18 never can remember if it's 364 or 365.

19 MR. ROSE: It was 365 --

20 THE COURT: All right.

21 MR. ROSE: -- and then they changed it.

22 THE COURT: Okay. That's why. All right. So and
23 you understand sentencing is up to the Court?

24 DEFENDANT VINCENT: Yes.

25 THE COURT: And is one of the reasons you're

1 entering this plea pursuant to Alford is to avoid having this
2 case go to verdict and possibly being convicted on a more
3 serious charge and possibly facing a harsher penalty if that
4 occurred?

5 DEFENDANT VINCENT: Yes.

6 THE COURT: And you think it's in your best
7 interest to enter this plea pursuant to Alford?

8 DEFENDANT VINCENT: Yes.

9 THE COURT: All right. And State.

10 MR. GIORDANI: Yes, thank you, Your Honor.

11 Mr. Vincent, pursuant to discussion with your attorney, it's
12 come to my attention, to my understanding, that you do not
13 have any information regarding any robbery, attempted
14 robbery, murder, shooting or other altercation in the parking
15 lot on the evening -- morning hours of September 25th 2016;
16 is that accurate?

17 DEFENDANT VINCENT: Yes.

18 MR. GIORDANI: And would you be prepared to swear
19 to that under oath?

20 DEFENDANT VINCENT: Yes.

21 MR. GIORDANI: Can we have him sworn, please.

22 RODERICK VINCENT, STATE'S WITNESS, SWORN

23 DIRECT EXAMINATION

24 MR. GIORDANI: And Mr. Vincent, now that you're
25 under oath, I just ask you is there any information that you

1 have, any observation you made, anything you may have heard,
2 seen, observed in any way whatsoever regarding the -- any
3 attempt robbery, robbery, murder, shooting or theft that
4 occurred on the morning of September 25th, 2016 outside of
5 the Top Notch Apparel store?

6 DEFENDANT VINCENT: No.

7 MR. GIORDANI: Is it your testimony under oath that
8 you never heard or observed the victim, Ezekiel Davis, say
9 anything or do anything that indicated to you that he may be
10 planning to rob Javar Ketchum?

11 DEFENDANT VINCENT: No.

12 MR. GIORDANI: And vice versa, same question as it
13 goes to Javar Ketchum, did you ever hear or observe anything
14 that indicated to you that Mr. Ketchum was potentially going
15 to rob or shoot or steal from Ezekiel Davis?

16 DEFENDANT VINCENT: No.

17 MR. GIORDANI: If you were to testify to the
18 contrary as to any of those questions or any information
19 regarding any attempt robbery, any theft, any murder,
20 shooting or robbery on behalf of any person and against any
21 person, would it be untruthful if you were to testify to that
22 at a future date or later?

23 DEFENDANT VINCENT: (Indecipherable).

24 MR. GIORDANI: Okay. No further questions.

25 THE COURT: All right. And in addition to the

1 testimony that's already been received in this trial, is
2 there anything you want to add to what evidence State would
3 intend to present that would further give a factual basis for
4 the plea in this case?

5 MR. GIORDANI: Yes, Your Honor. Had this case
6 proceeded to trial, State would have proven beyond a
7 reasonable doubt that the defendant, Roderick Vincent, did
8 willfully, unlawfully, feloniously after the commission of a
9 murder, which is a felony, conceal and/or destroy and/or aid
10 in the destruction or concealment of video surveillance
11 and/or DVRs and/or recordings, which are material evidence
12 with the intent that defendant, Javar Eris Ketchum, might
13 avoid or escape, arrest, trial, conviction and/or punishment
14 having knowledge that defendant, Javar Eris Ketchum, had
15 committed the murder of Ezekiel Davis and/or was liable to
16 arrest therefore.

17 And that all happened within County of Clark, State
18 of Nevada.

19 THE COURT: All right. And Mr. Vincent, I have to
20 have a factual basis for your plea. I've heard sufficient
21 evidence during this trial up to this point to determine
22 there is a factual basis for your plea, and I am also going
23 to rely upon the statement just made by the district attorney
24 in making the determination that there is a factual basis for
25 your plea. Do you understand that?

1 DEFENDANT VINCENT: Yes, ma'am.

2 THE COURT: All right. Court does find there's a
3 factual basis for the plea, accepts this plea. Finds the
4 plea is freely and voluntarily entered by the defendant. You
5 understand as to the nature of the offense, consequences of
6 this plea, and we'll refer the matter over to the --

7 MR. GIORDANI: Oh, I'm sorry to interrupt you, Your
8 Honor. It's -- we're agreeing to credit for time served and
9 it is a gross misdemeanor --

10 THE COURT: Okay.

11 MR. GIORDANI: -- if you may sit as a magistrate

12 UNIDENTIFIED MALE SPEAKER: Oh, to gross.

13 MR. GIORDANI: Oh, on a gross, Your Honor doesn't
14 need to --

15 THE COURT: On a gross, I don't have to --

16 MR. GIORDANI: It doesn't need to --

17 THE COURT: -- sit as magistrate. All right, so
18 pursuant to your plea here today, I will adjudicate you
19 guilty to the crime of destroying evidence, a gross
20 misdemeanor, and adjudicate you guilty on that, and sentence
21 you to credit for time served. And we'll waive any
22 assessment fees.

23 MR. GIORDANI: Thank you, Your Honor.

24 MR. ROSE: Thank you, Your Honor.

25 MR. ARNOLD: Thank you, Your Honor.

1 THE COURT: All right. Mr. Roderick -- or
2 Mr. Vincent, I'm sorry, you are free to go.

3 DEFENDANT VINCENT: Thank you.

4 THE COURT: And, Mr. Arnold, thank you.

5 MR. ARNOLD: Thank you, Your Honor.

6 THE COURT: You were very professional here in the
7 trial. It's been a pleasure having you in court.

8 MR. ARNOLD: It was a pleasure having you, Your
9 Honor.

10 THE COURT: And I'm sorry about the family member.
11 Have a safe trip.

12 MR. ARNOLD: Yeah. Thank you, Your Honor. I
13 appreciate it. All right, guys. Thanks, again.

14 (Pause in the proceedings)

15 THE COURT: All right. We'll be in recess.

16 MR. GIORDANI: Thank you, Your Honor.

17 (Court recessed at 1:02 p.m. until 1:21 p.m.)

18 (In the presence of the jury)

19 THE MARSHAL: Come to order. Department 17's back
20 in session.

21 THE COURT: You may have a seat.

22 MR. WOOLDRIDGE: Your Honor, I believe we're
23 missing counsel for Mr. Vincent.

24 THE COURT: Counsel approach.

25 (Off-record bench conference)

1 THE COURT: All right. Ladies and gentlemen, let's
2 see, all members of the panel are present. We're back on the
3 record. Counsel for the State is present. The --
4 Mr. Ketchum is present with his counsel. The remaining
5 defendant, there has been a resolution of the case as to the
6 remaining defendant. I will not reveal to you what the
7 resolution was. You are not to guess or speculate as to what
8 that resolution was nor are you to allow any of that to have
9 any impact on your deliberations or decisions regarding the
10 case as to the remaining defendant.

11 All right. And counsel approach.

12 (Off-record bench conference)

13 THE COURT: We have additional witnesses that will
14 be coming in that will probably answer the question. So
15 we're going to reserve ruling on it at this point.

16 Okay. You may proceed.

17 MR. GIORDANI: Thank you, Your Honor.

18 BY MR. GIORDANI:

19 Q Detective Bunn, during that break, is it your
20 understanding, were you present that when we got the DVR
21 systems, we were discussing hooked up to the court equipment?

22 A Yes, sir.

23 Q Can you please describe -- well, first off, are we
24 working off one of the two DVRs as of now?

25 A That's correct.

1 Q And which of the two DVRs is that?

2 A The Swan DVR is the one that's currently hooked up.

3 Q Okay. Were there four different camera views that
4 would be associated with the Swan DVR?

5 A Well, I think there were a total of eight total
6 cameras as to -- out of those cameras there were certain ones
7 that we used that, you know, in reviewing for -- for what we
8 utilized, for our -- our case.

9 Q Understood.

10 A For when we submitted it to you.

11 Q Understood. And I want to go through these because
12 eventually the jury will have these and access to them. Do
13 you -- can you walk us through if I put it up on the screen,
14 the basic operations of how to look at different views and
15 cameras?

16 A Yes.

17 Q Okay.

18 MR. GIORDANI: Can we switch over, please?

19 BY MR. GIORDANI:

20 Q All right, sir, can you tell the jury what we're
21 looking at here?

22 A This is the main control panel for the system. It
23 identifies the channel being the camera number, the video
24 type is -- it says "all" so it's referring to all the video.
25 And then it gives you a start time. There's a calendar

1 associated and then you can break it all the way down to
2 minutes, hours, you know, all the way down to minutes and
3 seconds. And then there's an end time that also gives you
4 the date and the time that it would end. And that's the main
5 control panel for the menu for it.

6 Q Okay. And without seeming too obvious, now this
7 main control panel, that can be controlled with a mouse; is
8 that right?

9 A That's correct. There is no other keyboard input
10 or anything. You have to attach a mouse to the system.

11 Q Okay. So we're going to have a DVR, the big box.
12 We're going to have cable to whatever viewing device we use,
13 in this case, it's the big screen, and then we're going to
14 have a mouse attached to the box as well?

15 A Correct.

16 Q Okay. When you go on to this main screen, how is
17 it that you go about selecting a channel?

18 A Utilizing the mouse, you can simply click each one
19 or you can click them all. You can click "all" if you
20 choose. The controls, the additional controls, come about by
21 doing individual views. But if you select "all" you get like
22 an eight panel -- you know, camera panel. So you could see
23 them that way, but unfortunately, you don't get the amount of
24 control if you select them one at a time.

25 Q Understood. So as an example, I want to first show

1 camera one, which is also referred to on this as channel
2 one --

3 A That's correct.

4 Q -- right? Okay. So by -- to activate that channel
5 and go in and do what we need to do in viewing it, do you
6 just click and make it white like it is on the screen and
7 then push play?

8 A Well, actually, you're going to have to -- you
9 would have had to preset the dates, the start, date and time
10 and the end date and time that you're looking for. You'll
11 have to fill in those blocks first --

12 Q Understood.

13 A -- before you click play, otherwise, it's going to
14 try to go all the way back to what -- just to wherever it's
15 currently seeing the time.

16 Q Okay.

17 A So have you to actually identify the date and time
18 where you want it to go.

19 Q And in this particular case, we've already done
20 that. Can you read that date -- the start time?

21 A The start time is 9/24/2016 at it looks like 2100
22 hours and seconds and then the end time is set at 9/25/2016
23 at 7:00 a.m.

24 Q Okay. Once you have those dates preset, is that
25 when you push play?

1 A Yes.

2 Q All right.

3 A This is the -- there's a date, timestamp that you
4 can see across the top giving us the date of 9/24/2016, and
5 it gives the time of 20:03, which is going to be 8:03 and 24
6 seconds and it identifies the day as a Saturday.

7 Q What are we looking at in the bottom bar?

8 A The bottom bar is that there is motion sensors, so
9 some of the areas that show the -- either the red or the
10 white will be telling you that there's video available or
11 there's a blank session, but during that time period because
12 there was no motion, that it -- it didn't record anything.
13 That being just a purpose to save space on the hard drive
14 is --

15 Q Oh.

16 A -- why cameras do that.

17 Q Okay. Are there fast forward, play, rewind and
18 other features on this?

19 A If you right click the mouse into the field
20 somewhere, you will get console, which will actually give you
21 the ability to see, play, take that away. And then if you go
22 back and hit exit, it gets you back to the screen here. Go
23 back to play, right click, and then you can do a digital zoom
24 and then this console. So there is a -- now you can see on
25 the bottom of the screen there is some ability. And there's

1 some -- some things that are not showing on my view that I
2 can't -- because there should be a bottom bar, there's a
3 control bar, and I can't see that on this.

4 Q Okay.

5 A And I don't know if that's available on that.

6 Q Are you referring to this small bar?

7 A No, there's actually a -- like a regular -- a
8 standard bar that goes across the bottom of the screen that
9 would have normal like play and -- play, stop, pause, you
10 know, like a control bar across the bottom.

11 Q Okay. Similar to what we saw in that last --

12 A Yes.

13 Q -- screen? Okay. On this screen, we've gone into
14 essentially a zoom feature; is that right?

15 A It appears that that may be. It's not -- I can't
16 tell. You have the ability from him to here. But because
17 it's not -- now you see the hand as the screen turns -- the
18 cursor for the mouse turned into a hand?

19 Q Yes.

20 A That means that you've zoomed it, and you can now
21 grab that picture and move the photo as so you can see that
22 -- that piece that's been zoomed into.

23 Q Okay. Understood. So I'm going to go
24 chronologically through several perspectives. I might switch
25 camera views, but I want to go chronologically essentially

1 through the evening. Are you okay with that --

2 A Yes, sir.

3 Q -- process? Okay.

4 A And one thing we did note when we did this, the
5 timestamp is off by maybe an hour. So if this is saying it's
6 20:04, the time -- the actual time of day is approximately an
7 hour later in the night. So that would basically be 9:00
8 o'clock, not 8:00 o'clock.

9 Q Okay.

10 A So the timestamp is off --

11 Q Okay.

12 A -- on the recording.

13 Q Did you verify the timestamp that we're seeing here
14 with other sources of corroboration, like a 911 call, in
15 order to determine that this was an hour off?

16 A Yes.

17 Q Okay. So is it, so everyone's clear, going to be
18 one hour off on every single different view we see?

19 A Yes.

20 Q I don't have to go back and visit that? We're
21 always assuming it's one hour later than what it's saying?

22 A Yeah, and that's an approximate. It's a couple
23 minutes. But it's approximately an hour difference.

24 Q Okay. And there's a ticking second bar -- I mean,
25 a second digit there?

1 A Yes.

2 Q Is that the seconds --

3 A Yes.

4 Q -- on the -- okay. All right. I'm going to move
5 to -- I'm going to move to a different time in this video.

6 One hour and 29 seconds on the timestamp, for the record.

7 MR. GIORDANI: Bear with -- Your Honor, bear with
8 us here. I apologize. I'm going to rewind it a little bit
9 and get to 1 hour and 29 seconds. And we'll stop right there
10 and just let it play. And for the record, that's about one
11 minute -- or one hour.

12 BY MR. GIORDANI:

13 Q Detective, what time in real life are we talking
14 about here?

15 A We've now changed dates, and we've moved up to 1:00
16 o'clock in the morning on the 25th.

17 Q Okay. Is it still an hour off?

18 A Yes.

19 Q So what time in real life is it?

20 A It's about 2:00 a.m.

21 Q Got it. Do you see three individuals outside
22 there?

23 A Yes, sir.

24 Q And Detective, to make this run a little bit more
25 smoothly, if you could please let us know when you need to

1 pause in order to describe something that was of evidentiary
2 note to you.

3 A Okay. The individuals up front are individuals we
4 later talked to.

5 Q Okay. That's what I wanted to get to, Detective.
6 How about the individual on the left?

7 A Individual on the left we identified as Javar
8 Ketchum.

9 Q Okay. Now, is this the first time that you see
10 this series that we've just looked at, the first time you see
11 Mr. Ketchum at the club or sort?

12 A Yes. It's when we see him, you know.

13 Q Okay.

14 A It appears he just arrived. I mean, you'd have to
15 go back further and further, but some -- it's very close to
16 that time frame.

17 Q Got it. And that will be sufficient. I'm going to
18 go ahead and go to 1 hour, 9 minutes, 48 seconds.

19 A And that was going to be Mr. Ketchum walking into
20 the club, entering through the front doors.

21 Q Thank you. Looked like he was dancing or waving
22 his arms?

23 A Yes.

24 Q Okay. And next go to 2 hours, 25 minute -- 2
25 hours, 25 minutes, 40 seconds, but on a different camera

1 angle. So we're going to exit out there, go to channel 8.

2 A This is the exterior -- this is the back behind,
3 it's to the west of the back alleyway behind Top Notch. The
4 open door you see on the lower left is the entry into and out
5 of the back of Top Notch. And then the fence you see the
6 enclosure. I think we saw that earlier in the overhead view
7 that we saw --

8 Q Okay.

9 A -- was that enclosure fence that's there. These
10 individuals out here, we were able to identify. Obviously,
11 the one wearing the number 3 on the back of the shirt is
12 Mr. Ketchum, and then we were able to identify the -- all but
13 one of those -- two of those individuals, I believe.

14 Q Mr. Ketchum is wearing a big number 3 on his back,
15 right?

16 A Yes, he is.

17 Q It's fair to say that our victim, Mr. Ezekiel
18 Davis, is not in that screen, correct?

19 A No, he is not.

20 Q We're going to go ahead and play it.

21 A And stop. If you can back that up just a little
22 bit. And if you can zoom into that -- to number 3. And
23 there's a gun coming out of his right front pocket there
24 being displayed, and he's showing it to the other individuals
25 present.

1 Q Okay.

2 A And he places it back in his right front pants
3 pocket.

4 Q Fair to say you can't see that gun out in the open?
5 It's in his pocket concealed?

6 A That is correct.

7 Q Okay. I'm going to move now to 2 hours 57 minutes
8 on a different camera angle. And we're going to camera
9 number 6.

10 A This was the front of the store, and you're looking
11 basically, northbound and now we're on -- we're back to the
12 24th at basically 9:00 o'clock at night.

13 Q I'm going to put it at 2 hours, 57 minutes. We're
14 going to have to back out here a minute. If we go back to
15 the control panel, we can set it at the time we're looking
16 for; is that right?

17 A Yes, sir.

18 Q Okay. Channel 6 still. Pause it. That individual
19 in the hat, is that Ezekiel Davis?

20 A It's hard to tell from that particular still there.
21 If we could back it up a little bit, it would be easier to
22 tell that.

23 Q Sorry about that. There's two hats, obviously.
24 The one with the bucket hat, is that Ezekiel Davis?

25 A It appears, yes. The color is hard to see because

1 of the darkness. It goes to a black and white image so
2 you're not seeing the colors of --

3 Q Got it.

4 A -- the true colors of the clothing.

5 Q I should have mentioned that earlier, I apologize.
6 As the sun comes up, do these change from black and white to
7 color view?

8 A Yes.

9 Q Okay. Move to the inside camera.

10 UNIDENTIFIED SPEAKER: That was 6?

11 UNIDENTIFIED SPEAKER: No, that would be --

12 THE WITNESS: That was 6 that he just showed, yes.

13 UNIDENTIFIED SPEAKER: Yeah, 6. Right.

14 BY MR. GIORDANI:

15 Q And now we're moving back to channel 1.

16 A So we're at almost 4:00 o'clock in the morning.
17 It's 2:57, about 3:57, so it's almost 4:00 o'clock in the
18 morning.

19 Q And --

20 A That is this -- if you want to pause it there.
21 Now, does this function still work to touch it? I'm sorry.

22 Q I don't know that it does.

23 A It does.

24 Q Oh, it does.

25 A That would be Ezekiel Davis.

1 Q Okay. So he's arriving at, well, it says 2:57,
2 which means 3:57 --

3 A That's correct.

4 Q -- or around that? I mean, it's not --

5 A Yeah. Approximately.

6 Q -- exactly an hour.

7 A Correct.

8 Q Okay. I'm going to go to about 4:07 on camera 6.

9 A This is outside the front door of Top Notch.

10 Q It says 4:07:59 on the screen. Is that really
11 about 5:10 in the morning, 5:09?

12 A Yes.

13 Q Is that the defendant amongst that group of men?

14 A Yes. He's going to be the one in the USA shirt in
15 the back.

16 Q Okay. I'll pause it right there. What does that
17 appear to be in his hand there?

18 A It looks like it might be a bill or two, maybe
19 currency. It's hard to tell. There's a blur to that screen
20 as it stops there.

21 Q Okay. You said a bill or two?

22 A Yeah. It doesn't look -- I mean, it's hard to
23 tell. It looks -- you know, and you can see that's opening
24 it, but the door gets in the way as well. It's very hard to
25 tell.

1 Q Understood. I'm going to move now to
2 approximately, 5:13:49 on camera number 1. Who are those two
3 gentlemen walking out?

4 A The individual in the green shirt is going to be
5 Ezekiel Davis, the deceased. And the person to his right is
6 going to be Javar Ketchum. They're arm and arm there.

7 Q To be clear, we're talking at about 6:15 in the
8 morning?

9 A Yes, sir.

10 Q Okay. You see the defendant look over his shoulder
11 there and then follow the decedent out?

12 A Yes.

13 Q And they're going off right, and now they're out of
14 screen; is that accurate?

15 A That is correct.

16 Q I'm going to switch camera views here. Go to
17 camera 6. And we're talking about 6:15, as we were in the
18 last camera view. And now the two individuals are seen from
19 a different angle; is that accurate?

20 A Right. This is back to the camera that's out --
21 directly outside the front door to Top Notch. They're now
22 walking north along the -- the sidewalk that runs along the
23 west side of the building and that's -- Mr. Ketchum has the
24 number 3 shirt on and Ezekiel Davis is wearing the green
25 shirt.

1 Q And now we've moved from black and white to color?

2 A Correct.

3 Q So that would indicate, essentially, the sun's
4 coming up?

5 A Yeah. It's done from light for the cameras so --

6 Q I'm going to zoom in here. What does that appear
7 to be on the victim -- I mean, Ezekiel Davis's left wrist?

8 A It's a watch.

9 Q Okay. Zoom back out and start playing it. Do you
10 see the victim give him some kind of hug there?

11 A Yes. Shaking hands, walking further northbound.

12 Q Several other individuals coming out around the
13 same time?

14 A Yes. And you can still see him down here on the --
15 up in this upper right-hand corner.

16 Q Okay.

17 A And it appears that like Ezekiel Davis has a cup or
18 something in his hand. He walked out with it, and he's still
19 got it in his hand.

20 Q Kind of stumbling?

21 A Yep.

22 Q Okay.

23 A You can see the legs stepping off into this brush
24 area, the landscaping. And the two kind of move back and
25 forth there. And you can just barely see the legs up in the

1 upper corner there, and then they move completely away from
2 the camera view at all.

3 Q Okay. I'm going to switch back to camera channel
4 1.

5 A And this is from the back, which would have been
6 the southeast corner looking out the front doors --

7 Q Okay. And we're --

8 A -- of Top Notch.

9 Q -- still around the time when those two have now
10 walked off screen in the other view, and now we're back
11 inside the store; is that right?

12 A That is correct. And the action that we're going
13 to have is actually going to be kind of the center top part
14 of this screen. I don't know if you want to zoom into that
15 or if you want to let this run first and then go back.

16 Q We'll let it run for a moment and we can go back.
17 Does it appear that the individuals in the store conversing
18 and being normal, I guess, for lack of a better term?

19 A Yes. Maybe even purchasing a hat or something from
20 a --

21 Q I'll pause it. Did you see some heads turn?

22 A Everybody's head looks out the -- turns and looks
23 out the door. You can see these individuals over here turn
24 and look out the door. All of them are looking out.

25 Q Okay.

1 MR. GIORDANI: Court's brief indulgence. All
2 right, we're going to activate the zoom feature.

3 THE WITNESS: Timestamp's now 5:16.

4 BY MR. GIORDANI:

5 Q Okay. That vehicle we just saw, did you ultimately
6 identify that as a certain individual's vehicle?

7 A Yes.

8 Q Who's that?

9 A Antoine Bernard.

10 Q Okay.

11 A And if you'll pause it there.

12 Q Go ahead, Detective.

13 A In the image, you can see, and as this individual
14 was moving, you can see that -- the number 3 on the shirt,
15 that he's got a pair of pants that he's pulling a belt out
16 of.

17 Q Okay. Now, what we're going to do is let that
18 angle play without interruption, and then we can go back if
19 you feel there's important things to note. But let me go
20 ahead and just play this once through.

21 A Okay.

22 Q That individual with the long hair in the middle
23 there, do you know who that is?

24 A That is Deshawn -- Deshawn Byrd.

25 Q Deshawn Byrd, does he appear to be coming from the

1 back?

2 A Yes.

3 Q Is there a restroom in the back?

4 THE COURT: Counsel, let me interrupt. We're going
5 to take a short recess.

6 MR. GIORDANI: Okay, thank you.

7 THE COURT: About -- until 2:00 o'clock. And just
8 remind the jury not to converse among themselves. Not to
9 talk about the case. Not to form or express any opinion.
10 We'll see you back here at 2:00 o'clock.

11 THE MARSHAL: Rise for the jurors.

12 (Court recessed at 1:53 p.m. until 2:01 p.m.)

13 (In the presence of the jury)

14 THE MARSHAL: Come to order. Department 17's back
15 in session.

16 THE COURT: All right. We're back on the record.
17 Please be seated. Back in the presence of the jury. All
18 members of the panel are present. Counsel for both sides are
19 present. The defendant's present. You may proceed.

20 MR. GIORDANI: Thank you, Your Honor.

21 BY MR. GIORDANI:

22 Q Detective, I'm going to start this back over from
23 the beginning and let it play through at about 5:16, which
24 again, is really 6:16 in the morning; is that right?

25 A Yes, sir.

1 Q Okay. I'm going to zoom in a little bit. Now, I'm
2 going to back, and I'm going to zoom in a little bit more, if
3 it's possible, on this, and show that same frame.

4 A And do you want me to narrate?

5 Q Yes.

6 A Okay. This is going to be, as you can see the
7 number 3 on the back of the shirt, pulling a belt out of the
8 pants, and you can see in his right hand there's the image of
9 the gun briefly, as it goes through the -- Ketchum goes to
10 the door of the vehicle, stops, returns, continuing to carry
11 the belt, returns to the area where the body would be, and
12 continue to carry the belt, walking back to the car. And
13 then the car leaves the area.

14 Q Thank you.

15 MR. GIORDANI: All right. If we could switch over
16 to the overhead, please.

17 BY MR. GIORDANI:

18 Q I'm going to move on. Detective, did you take
19 several still frames and/or video clips from that in order to
20 attempt to identify who the killer was?

21 A Yes, sir.

22 MR. GIORDANI: May I approach the witness?

23 THE COURT: You may.

24 MR. WOOLDRIDGE: Can I see that? Can we approach?

25 THE COURT: You may.

1 (Off-record bench conference)

2 MR. GIORDANI: May I approach?

3 THE COURT: You may.

4 MR. WOOLDRIDGE: Just note my objection for the
5 record, Your Honor.

6 THE COURT: Okay. And we'll make a fuller record
7 at the break.

8 MR. WOOLDRIDGE: Thank you.

9 BY MR. GIORDANI:

10 Q Showing you State's Proposed Exhibit 132. What
11 does that appear to be to you?

12 A That is a press release basically, that the
13 Department did in this case.

14 Q As a result of this, does that appear to be a fair
15 and accurate depiction of the press release that was released
16 in addition to photos and/or video clips from that video we
17 just watched?

18 A Yes.

19 MR. GIORDANI: And I'd move for the admission of
20 132.

21 THE COURT: Okay. Defense objection is noted. I
22 have ruled that the State may admit it. I will admonish the
23 jury, however, that the information -- this document is just
24 being admitted to show that they released a press release
25 with certain information it. The information within it is

1 hearsay and may not be considered by you as evidence of guilt
2 or that something in it has actually occurred. This is just
3 the information -- it's just to show what was released to the
4 public and then they'll explain what happened after that.

5 (State's Exhibit 132 admitted)

6 MR. GIORDANI: Thank you, Your Honor.

7 THE COURT: All right.

8 MR. GIORDANI: It will be admitted?

9 THE COURT: It's admitted.

10 MR. GIORDANI: May I publish?

11 BY MR. GIORDANI:

12 Q So I want to be very clear, Detective, this was
13 bare bones information what you had at the time, and it's not
14 necessarily describing your opinion about what went on or
15 anything like that; is that right?

16 A That's correct.

17 Q And this press release, was that sent to local
18 media outlets?

19 A Yes.

20 Q And was it sent with -- in addition to other
21 documentary items?

22 A Yes.

23 Q And were those photographs and/or video?

24 A Yes.

25 Q When this press release was issued or thereafter,

1 did you receive information regarding a potential identity of
2 the suspect in any of the video or photos?

3 A Yes.

4 Q And how did that come about?

5 A Actually, we were contacted by a local attorney,
6 and then we were able to interview an individual by the name
7 of Antoine Bernard.

8 Q Were there other -- I don't want to know the
9 content, but were there several other calls that came in that
10 also you used in your investigation, without saying what was
11 said?

12 A Yes.

13 Q Okay. As a result of this press release, did you
14 come up with eventually, a suspect moniker?

15 A Yes.

16 Q What was that moniker?

17 A Jay Fly (phonetic).

18 Q What did you do with that moniker?

19 A We searched that through social media, through all
20 the other areas whether it be Instagram, Facebook, you know,
21 trying to find anybody that would have used that moniker or
22 had that moniker, and as a result, we were able to find a --
23 an image on a Facebook page.

24 Q Okay.

25 (Pause in the proceedings)

1 MR. GIORDANI: May I freely just approach the
2 witness, Your Honor?

3 THE COURT: You may.

4 MR. GIORDANI: Thank you.

5 BY MR. GIORDANI:

6 Q Showing you State's Proposed Exhibit 133.

7 A Yes, sir.

8 Q What does that appear to be to you?

9 A That's a picture of Mr. Ketchum.

10 Q Is that the picture you mentioned that you had
11 located on Facebook?

12 A Yes.

13 Q Based upon that picture, were there any portions of
14 this that you believe you viewed also in the video and/or
15 photographs?

16 A Well, the tattoo on the arm that's depicted on the
17 arm in this particular photograph, and there's an image from
18 the video that shows an identical tattoo.

19 Q Okay.

20 A So we're --

21 Q So that was important to you obviously?

22 A Very much so.

23 MR. GIORDANI: And I would move for the admission
24 now of 133.

25 MR. WOOLDRIDGE: No objection.

1 THE COURT: Okay. It will be admitted.

2 (State's Exhibit 133 admitted)

3 MR. GIORDANI: Thank you.

4 BY MR. GIORDANI:

5 Q Publish that, just zoom in. Fairly distinctive
6 tattoo?

7 A Yes, sir.

8 Q So as a result of the calls you received and
9 information you received after that press release, did you
10 attempt to locate Mr. Ketchum?

11 A Yes.

12 Q Were you able to do so?

13 A Actually, we weren't able to locate him here. We
14 did ask to have a warrant issued for his arrest and --

15 Q Okay. So is that an arrest warrant?

16 A Yes.

17 Q When you issue an arrest warrant, does that get
18 placed in any types of databases?

19 A Yes. It's into the National Crime Information
20 Center, NCIC, and it's a nationwide search database where
21 individuals if they've got a warrant for their arrest, law
22 enforcement can run them if they -- and if it comes up and it
23 shows a hot hit, they can then verify through the department
24 or agency that has the warrant or put that information in to
25 verify it's in status and then they'll make the arrest.

1 Q Did it -- did you become aware at some point that
2 the defendant was apprehended on that warrant?

3 A Yes.

4 Q Where was he apprehended?

5 A Sierra Blanca, Texas.

6 Q Where?

7 A In a -- at a border patrol checkpoint.

8 Q When that occurred, was Mr. Ketchum ultimately
9 brought back to the state of Nevada to face these charges?

10 A Yes.

11 MR. GIORDANI: Court's brief indulgence here. All
12 right. Thank you, Detective. I have the no further
13 questions, at this time, Your Honor. I'll pass the witness.

14 THE COURT: Thank you.

15 (Pause in the proceedings)

16 CROSS-EXAMINATION

17 BY MR. WOOLDRIDGE:

18 Q Detective Bunn --

19 A Yes, sir.

20 Q -- you were not present for the shooting; is that
21 right?

22 A I was not.

23 Q You did not see the shooting?

24 A I did not.

25 Q You have no personal knowledge about what led up to

1 the shooting?

2 A No, sir.

3 Q You have no personal knowledge whether Mr. Ketchum
4 shot Zeke Davis in self-defense?

5 A No, sir.

6 Q And you have watched the video multiple times?

7 A Yes.

8 Q From the information you gathered as part of your
9 investigation, this club, this after-hours or, you know,
10 clothing store moonlighted as the after-hours club didn't
11 charge a cover, did it?

12 A That I don't know. We had differing information
13 that it -- sometimes they did, sometimes they didn't.

14 Q There was no one at the door collecting
15 Mr. Ketchum's money when he had those bills in his hand,
16 right?

17 A I don't know that that would have been at the time.
18 Again, we had information from other people that we
19 interviewed that said they had to pay a cover. Now, whether
20 everybody had to pay a cover, only some people had to pay a
21 cover, that part I don't know, but we did have interviews
22 with people that said they did pay a cover at that time.
23 So --

24 Q Very good. Well, but Mr. Ketchum, from the video
25 you saw, Mr. Ketchum didn't pay a cover?

1 A Not that I'm aware of.

2 Q All right.

3 MR. WOOLDRIDGE: Can we -- and I hate to do this to
4 Steve -- Mr. Rose, but I don't have anybody to help me. So
5 can we pull up -- can we pull up that frame when Mr. Ketchum
6 goes into the club. The one -- I think it's the number 1
7 camera view. It's 1:09:45.

8 BY MR. WOOLDRIDGE:

9 Q And I don't know about your screen, Detective, but
10 my screen is really poor.

11 A It's not the best, but --

12 Q Do mind if I -- I can see much better on this
13 screen.

14 MR. WOOLDRIDGE: Maybe right there. Maybe go back
15 just 44 or something. Right there. Can you go back? When
16 he comes into the club.

17 MR. ROSE: Is there a specific time you want?

18 MR. WOOLDRIDGE: Just -- like around the 45, the
19 1:09:45. If you'd just go to 40 and then I'll have you pause
20 it. Okay, thank you so much. Right there.

21 BY MR. WOOLDRIDGE:

22 Q Could you see what was in his hand, in his right
23 hand?

24 A I don't.

25 Q You couldn't tell what that was?

1 A No.

2 Q For all intents and purposes, it looks like
3 Mr. Ketchum is having a good time dancing around as he walks
4 in?

5 A It would appear so, yes.

6 MR. WOOLDRIDGE: Can we also please go to the -- I
7 don't know the camera view, but it's at the 4:08:25, when
8 Mr. Ketchum is outside the club and is going -- and
9 reentering with money in his hand. Maybe all outside views
10 are number 6, I don't know.

11 MR. GIORDANI: Counsel, you said 25?

12 MR. WOOLDRIDGE: It would be 4:08:25. Can we maybe
13 rewind it just a little bit?

14 (Counsel conferring)

15 BY MR. WOOLDRIDGE:

16 Q So you indicated that maybe one or two or three
17 bills?

18 A It's hard to tell.

19 Q It could be 10 or 20, you can't really tell, right?

20 A Yeah, I can't tell. I -- and I don't know that I
21 would say 10 or 20, but it's hard to tell.

22 Q Okay.

23 A Now, whether he's paying a cover at that point or
24 not, hard it tell.

25 Q Yep. Now, the video shows what happened before the

1 shooting, right?

2 A There's -- yeah. Are -- specific, there's a lot of
3 images, yes.

4 Q In terms of Mr. Ketchum and Mr. Davis walking
5 towards the exterior door?

6 A Yes.

7 Q And going outside --

8 A Yes, sir.

9 Q -- arm and arm?

10 A Yeah.

11 Q Right? And was it your theory that Mr. Ketchum
12 lured Zeke out?

13 MR. GIORDANI: Objection.

14 THE COURT: Counsel, approach.

15 MR. WOOLDRIDGE: Yeah.

16 (Off-record bench conference)

17 THE COURT: You may proceed.

18 MR. WOOLDRIDGE: Sure.

19 BY MR. WOOLDRIDGE:

20 Q Who walked out of the -- who walks out first, Zeke
21 or Mr. Ketchum?

22 A I don't recall. I know they were kind of arm and
23 arm coming across that front foyer area walking towards the
24 door. And once they get to the door, I don't -- I don't
25 remember which one was out first, but --

1 Q Do you think that would be an important fact for
2 you to know?

3 A I don't know that it made any difference either
4 way. They hooked back up right outside the door, so
5 recalling that specific moment --

6 Q Did you watch this video many times?

7 A I have watched it several times. I just don't
8 recall. I mean, if we want to reshow it, I'd be happy to
9 look at it.

10 Q Sure. Did you notice a time when Zeke and Javar
11 were outside, that Zeke actually pointed into a certain
12 direction?

13 A I don't recall him pointing at a certain direction,
14 I'm sorry.

15 Q No problem.

16 MR. WOOLDRIDGE: Can we look at the frame, the
17 video camera frame when they're out? It would be 5:14:09.
18 Probably want to put it just a little bit before and then
19 maybe pause it there. And I think it's going to be the
20 camera view that when they're actually out.

21 MR. GIORDANI: Oh, (inaudible).

22 MR. WOOLDRIDGE: Sorry. Right there.

23 MR. GIORDANI: Yes.

24 BY MR. WOOLDRIDGE:

25 Q Did you see that point?

1 A It kind of looked with the left hand.

2 Q Like a point, let's go over there. Did you see
3 that?

4 A I thought he was -- in my opinion, it looks like
5 he's pointing at the black car that's right there.

6 Q All right. But you don't know what he's pointing
7 at?

8 A I don't. Looks like --

9 Q You just know he was pointing in a direction?

10 A It looks like he's got a cup in his left hand and
11 he's kind of gesturing towards the left.

12 Q Okay. Zeke and Mr. Ketchum actually ended up at
13 the left, right? Ended up near Mr. Davis's car?

14 A Yes.

15 Q And a shell casing was found near Mr. Davis's car?

16 A It was in the parking lot back or I want to say by
17 the right wheel maybe, I want to say.

18 Q That would be Mr. Davis's car?

19 A I believe so.

20 Q I want to talk to you about the people in the video
21 itself. Did you notice based on your review of the video
22 there were quite a bit of girls there that night?

23 A Yes.

24 Q And when Mr. Ketchum and Mr. Davis walked out of
25 the club, there were people behind them; isn't that right?

1 A Yes.

2 Q Do you know how many people were behind them?

3 A Gosh, I don't know. As I recall, there was like
4 five or six people that ended up walking out about that same
5 time.

6 Q Around the same time?

7 A Yep.

8 Q Were you able to -- other than Antoine Bernard and
9 Antoine's girlfriend, were you able to interview those other
10 people?

11 A I think several of the other ones were -- I think
12 there was one of them was a female that there's some video of
13 her. I think she later was interviewed by Detective
14 Wildemann, but I didn't personally interview her. But there
15 were other people that were there that, you know --

16 Q Nobody's like hurrying behind Mr. Ketchum and
17 Mr. Davis, right?

18 A No.

19 Q It appears that they're just walking kind of
20 nonchalantly?

21 A Yes.

22 Q Do you recall a black guy with a white shirt that
23 was behind them?

24 A Yes, a very tall individual. Is that the one
25 you're referring to?

1 Q I don't know if he's very tall, but there comes a
2 time --

3 A He has a white shirt, white pants?

4 Q White shirt, jeans.

5 A Very tall individual, picks up a cup that's sitting
6 on to the side of the car that is Antoine Bernard's car.

7 Q I don't -- did you interview him?

8 A We were never able to find him.

9 Q I don't know if he picked up a cup or not, but I do
10 -- did you notice that he -- after the shooting, he came back
11 into the camera view?

12 A I think he did. Matter of fact, I think when that
13 happens, when they're over in that area, he walks up to a car
14 that's parked in the parking lot and talks to the lady that's
15 at the car. I believe, that's the same individual you're
16 referring to.

17 Q Yes, yes.

18 A And I want to say after that, I think, he does
19 return either into the parking lot or he at some point
20 ultimately, I think, reenters the building.

21 Q Let's go back --

22 MR. WOOLDRIDGE: Can we go outside? It's 5:16?

23 MR. ROSE: This particular frame?

24 MR. WOOLDRIDGE: It would be -- you know, I
25 actually think it's from inside, but you can see the

1 exterior. I think that's 1.

2 MR. ROSE: Okay. And you said 16, Counsel?

3 MR. WOOLDRIDGE: 5:16, yeah.

4 BY MR. WOOLDRIDGE:

5 Q So this the man I'm talking about right there.

6 A The one coming right through the door or --

7 Q Yes.

8 A -- doesn't actually come in?

9 Q Yeah, then he goes back over towards Zeke Davis,
10 right? That would be towards that area?

11 A It would be towards north, the same way they were
12 walking, yes.

13 Q Right? Do you know what he does over there?

14 A I have no idea.

15 Q Do you know if he took anything?

16 A I have no idea.

17 Q You don't know if he took a watch?

18 A I don't.

19 Q You don't know if he fleeced Mr. Davis?

20 A I have no idea.

21 Q Okay. That's good on the video. One of the things
22 that you do in a case like this is you look into people,
23 right?

24 A Yes.

25 Q Look into the witnesses. I think you talked about

1 some warrants and stuff like that?

2 A For Javar Ketchum, yes.

3 Q Or, I mean, you were talking about warrants --

4 MR. GIORDANI: Judge, I would object and ask to
5 approach.

6 THE COURT: All right.

7 (Off-record bench conference)

8 BY MR. WOOLDRIDGE:

9 Q So one of my questions was did you try and look
10 into who these people were?

11 A Yes.

12 Q Did you look into Mr. Davis's background?

13 A In this case, I didn't.

14 Q Not at all?

15 A I didn't.

16 Q You didn't -- you didn't bother to check that out?

17 A No, I didn't pull his criminal history. I didn't
18 pull any of that. It was unnecessary. He was deceased so my
19 investigation focused on finding out who did this.

20 Q It only focused --

21 A This case.

22 Q -- on who did it? Who killed him?

23 A Yes. That was the focus of my investigation.

24 Q Did it matter to you if it was in self-defense or
25 not?

1 A Of course, it matters.

2 Q But you didn't look at anything to determine that?

3 A No. We have all of the witnesses that were present
4 there. Nobody ever brought that up. The people that we did
5 talk to never said that. The other people that were involved
6 -- normally in a self-defense for us, the person who's
7 involved in it, stays and tells us, and that way we can make
8 an evaluation and we submit it to the District Attorney's
9 Office for review. That's the way we normally do
10 self-defense.

11 Q And you're saying every time the self-defense case
12 the person stays there?

13 A I was going to say in my experience they do.

14 Q What about in a case where a -- this person has
15 friends?

16 A What do you mean?

17 Q This person is violent? The person sticks around?

18 A I'm not sure I understand what you're saying.

19 MR. GIORDANI: Judge, I would object.

20 THE COURT: Some limited inquiry.

21 MR. WOOLDRIDGE: Okay. No further questions.

22 THE COURT: Thank you. Redirect.

23 MR. GIORDANI: Court's brief indulgence. No
24 further questions. Thank you, Your Honor.

25 THE COURT: Thank you. You may be excused. All

1 right, before I release you, Mr. Jenny (sic), you had
2 presented a question. We now have had the witness testify.
3 Did that answer your question?

4 JUROR NO. 4: Not really.

5 MR. GIORDANI: I apologize.

6 THE COURT: Counsel approach.

7 (Off-record bench conference)

8 THE COURT: All right. I'm going to allow the
9 attorneys to ask a few extra questions related to your
10 question regarding the watch and the pants.

11 REDIRECT EXAMINATION

12 BY MR. GIORDANI:

13 Q While Mr. Rose is looking through those, I'm going
14 to lay a little bit of foundation for this question here
15 because I don't know where that is. I'm going to show you
16 Grand Jury -- I'm sorry, State's Exhibit 4.

17 MR. GIORDANI: If we could switch back over,
18 please.

19 BY MR. GIORDANI:

20 Q What are we looking at there, sir?

21 A Those are the maroon pants that we recovered in the
22 parking lot.

23 Q Got it. Maroon is the color, correct?

24 A Yes.

25 Q Did you attend the autopsy of Ezekiel Davis?

1 A I did.

2 Q Okay. Were there effects on his person? Meaning,
3 items that were somewhat on his person or attached to his
4 person?

5 A Such as the -- the shirt, jewelry, that kind of --

6 Q Yeah.

7 A Is that -- yes, he had some jewelry.

8 Q Okay. I'm going to show you State's 123. What are
9 we looking at there?

10 A This is a chain and an earring.

11 Q Are those, to your knowledge, the only jewelry that
12 were found on the victim's person?

13 A Yes.

14 Q And then earlier I had shown you several
15 photographs of jewelry scattered throughout the scene; is
16 that -- do you remember that?

17 A Yes, sir.

18 Q Okay.

19 MR. GIORDANI: May I approach again?

20 THE COURT: You may.

21 BY MR. GIORDANI:

22 Q Showing you State's 130. Were either of those
23 items located at the scene?

24 A No, sir.

25 Q Publishing to the jury. These are blue pants,

1 right?

2 A Yes.

3 Q Not red?

4 A No, they are not.

5 Q Do you know when this photograph -- or do you know
6 how this photograph was received?

7 A It was sent to me via e-mail.

8 Q By who?

9 A By Ezekiel Davis's girlfriend.

10 Q Okay.

11 A Wife, I'm not -- I don't -- I think she told us
12 wife at the time.

13 Q Okay. So to clarify the record, this is an earlier
14 photograph of Ezekiel Davis wearing the watch and the belt?

15 A Yes.

16 Q Okay. We're not alleging that this is the
17 defendant, Mr. Ketchum, right?

18 A No.

19 Q Okay.

20 MR. GIORDANI: I'll pass the witness.

21 MR. WOOLDRIDGE: No questions.

22 THE COURT: All right. Thank you. Any further
23 questions? All right. You may be excused. Thank you.

24 MR. GIORDANI: May we briefly approach?

25 THE COURT: You may.

1 (Off-record bench conference)

2 THE COURT: All right. We're going to take a short
3 recess, maybe about 10 minutes, and take care of some
4 housekeeping matters. So I'll remind the jury once again,
5 not to discuss this case, don't form or express any opinions.
6 Don't read or watch or listen to any commentary. Don't
7 tweet, text, or otherwise go on the Internet about this case.
8 So, about ten minutes.

9 THE MARSHAL: Rise for the jury.

10 (Outside the presence of the jury.)

11 THE COURT: Okay. First of all, we -- I wanted to
12 give you an opportunity, Mr. Wooldridge, to make a full
13 record on the objection to the press release that would be
14 Exhibit No. 133, was it? Or 132?

15 MR. WOOLDRIDGE: Exhibit 132, I don't remember.

16 MR. GIORDANI: Something like that.

17 THE COURT: Yeah, I think 133 came in when -- well,
18 they both came in, but the press release I think was 132.

19 MR. WOOLDRIDGE: Something like that. Your Honor,
20 my objection is primarily based on hearsay. I don't think
21 the entire press release needed to come in. I think, Mr. --
22 or Detective Bunn could have just testified that we issued a
23 press release and this was the information received. I think
24 it's prejudicial to the jury, the information that's obtained
25 or that's in the press release itself. The jury may believe

1 that it has some validity or some truth when it's hearsay.
2 It's up for the jury to decide what happened, and I just
3 don't think it should be admitted into evidence.

4 THE COURT: All right, thank you.

5 MR. GIORDANI: As to the hearsay objection, my
6 response is, it's not offered for the truth of the matter
7 asserted, as I explained at the bench. It was offered to
8 show the events that occurred after the press release, and
9 with that we would submit it.

10 THE COURT: And I'm just -- for the record, that
11 they were given an admonition as to how to view the evidence.
12 So, all right, we've made a record on that.

13 Now, is there anything else we need to make a
14 record on, because otherwise, we can go off the record.

15 MR. GIORDANI: Well, I had intended on making sure
16 all the exhibits are admitted before we rest our case. Just
17 housekeeping stuff. I guess, I could look through them now.

18 THE COURT: Right. And so let's go ahead and go
19 off the record, take -- make sure everything's admitted and
20 then --

21 MR. WOOLDRIDGE: I'll have my expert here by 3:00,
22 3:30.

23 THE COURT: Okay.

24 (Court recessed at 2:39 p.m. until 2:53 p.m.)

25 (In the presence of the jury)

1 THE MARSHAL: Court will come to order. Department
2 17 is back in session.

3 THE COURT: All right. We're back on the record.
4 Back in the presence of the jury. All members of the jury
5 panel are present. Counsel for both sides are present.
6 Defendant's present. All right. State, do you have any
7 further witnesses?

8 MR. GIORDANI: We do not have any further witnesses
9 in our case-in-chief. All the exhibits, I believe, having
10 been admitted, the State would rest at this time.

11 THE COURT: All right, thank you. And --

12 MR. GIORDANI: We would reserve the right to call
13 witnesses in rebuttal.

14 THE COURT: All right, thank you. And Counsel, you
15 have made arrangements for a witness to testify this
16 afternoon, but will not be arriving until about 3:30?

17 MR. WOOLDRIDGE: That's correct, Your Honor.

18 THE COURT: Okay. Ladies and gentlemen, I wanted
19 to -- please be seated. I wanted to inquire if you -- I had
20 previously stated that we would go dark on Friday and there
21 was a reason for that. That reason has not gone away. I
22 wanted to inquire if any of you had made plans for Friday
23 that maybe you can change because we might be able to finish
24 this up this week.

25 However, if you'd made plans and we will

1 accommodate you and we'll -- if we need to, we may be able to
2 get this done tomorrow, but we might need just a little more
3 time after that, so we can come back next week. But if
4 you're available on Friday -- okay. Is there anybody who
5 would not be available on Friday? Okay. All right.

6 So we'll just plan to go through tomorrow. Then if
7 we need more time, we'll plan to come back next Wednesday.
8 All right. Thank you so much.

9 And so let's break until 3:30, when we expect the
10 next witness to be here.

11 THE MARSHAL: Rise for the jurors.

12 (Court recessed at 2:55 p.m. until 3:37 p.m.)

13 (In the presence of the jury)

14 THE MARSHAL: Come to order. Department 17 is back
15 in session.

16 THE COURT: All right. You may be seated. All
17 right. We're back on the record. Back in the presence of
18 the jury. All members of the panel are present. Counsel for
19 both sides are present and defendant's present. You may call
20 your first witness.

21 MR. WOOLDRIDGE: Thank you, Your Honor. Defense
22 can call Dr. Mel Pohl.

23 DR. MEL POHL, DEFENDANT'S WITNESS, SWORN

24 THE CLERK: Please be seated. Please state and
25 spell your name for the court's record.

1 THE WITNESS: Mel Pohl, M-e-l, P-o-h-l.

2 THE COURT: You may proceed.

3 DIRECT EXAMINATION

4 BY MR. WOOLDRIDGE:

5 Q Good afternoon, Dr. Pohl.

6 A Good afternoon.

7 Q What do you do for a living?

8 A I'm a physician and I run a drug and alcohol
9 treatment program.

10 Q And where do you run that drug and alcohol
11 treatment program?

12 A Here in Las Vegas on the west side.

13 Q Can you describe to the jury your educational
14 background?

15 A Sure. High school, college, medical school four
16 years, three years of residency in family medicine and I've
17 been practicing for the past 37 years running different
18 addiction treatment programs.

19 Q Are you a member of any professional organizations?

20 A Yes. The American Medical Association Nevada
21 Society of -- Medical Society, and the American Society of
22 Addiction Medicine, which is a speciality organization for
23 people -- physicians who trained in addiction, and also the
24 American Academy of Family Practice.

25 Q Have you received any training on the effects of

1 methamphetamine?

2 A Yes. Some in school, but mostly coursework over
3 the last 30 years, I've probably attended 20 or 30 courses
4 specific to methamphetamine use, abuse.

5 MR. WOOLDRIDGE: At this time, I'm going to offer
6 Mr. -- or Dr. Pohl as a expert in the effects of
7 methamphetamine.

8 MR. GIORDANI: No objection, Your Honor.

9 THE COURT: I will allow him to testify in his
10 field of expertise.

11 MR. WOOLDRIDGE: Thank you.

12 BY MR. ARNOLD:

13 Q First off, are you getting paid today?

14 A Yes, sir.

15 Q You don't do this for free?

16 A I don't.

17 Q Have you reviewed any records in this case?

18 A I reviewed the autopsy report and urine toxicology
19 report of the decedent.

20 Q And according to those reports, was Zeke Davis
21 intoxicated on methamphetamine?

22 A It appeared to me that he was. He had levels of
23 amphetamine and methamphetamine in his urine toxicology
24 report that was taken from his blood in the emergency room.

25 Q And are there different types of methamphetamine?

1 A There are. There are two sort of versions or
2 they're called isomers so the molecule points in two
3 different directions. The L -- isomer L-amphetamine is
4 inactive in most cases and the D isomer is the one that's
5 associated with the negative effects of the stimulant
6 methamphetamine.

7 Q And in this case, what type of isomer did Zeke
8 Davis have in his system?

9 A 100 percent was the D version, the active
10 sympathetic nervous system stimulant.

11 Q And the level of methamphetamine found in Zeke
12 Davis, in your opinion, would that cause a person to display
13 aggressive or violent behavior?

14 A It's certainly conceivable that -- his level, I
15 believe, was a hundred in the urine, could be associated with
16 violent and aggressive behavior, yes.

17 MR. WOOLDRIDGE: No further questions.

18 THE COURT: State.

19 MR. GIORDANI: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. GIORDANI:

22 Q Good afternoon, Dr. Pohl.

23 A Afternoon.

24 Q You did not see the defendant rob and murder
25 Ezekiel Davis; is that accurate?

1 A That's correct.

2 MR. WOOLDRIDGE: Objection, Your Honor.

3 THE COURT: Overruled.

4 BY MR. GIORDANI:

5 Q You indicated that you're paid, of course, to do
6 your job, right?

7 A Yes, sir.

8 Q You've testified in District Courts before, right?

9 A Yes.

10 Q Can you estimate how many times?

11 A Probably 15.

12 Q 15, 1-5?

13 A Yes.

14 Q How many times for the State of Nevada?

15 A 80 percent, 90 percent. Usually, that's who hires
16 me to come and testify.

17 Q And in what context?

18 A To discuss varying conditions associated with
19 intoxication or drug use or pattern of drug use. That's my
20 expertise.

21 Q Fair enough. You would agree with me that the
22 levels seen in this case, the levels of methamphetamine,
23 either isomer, could be indicative of violent behavior, but
24 could also be indicative of elation or positive feelings or
25 simple hyperness?

1 A Well, all of those are potential effects of
2 methamphetamine.

3 Q Okay. So you have no idea how methamphetamine
4 affects Ezekiel Davis?

5 A Well, I see patients who have levels of
6 methamphetamine compatible this level, and they're really
7 simply elated.

8 Q Okay.

9 A Typically, they become aggressive, they become
10 anxious, they become hyperactive, they become irritable, they
11 can't sleep, anorexic or appetite. I mean, those are the
12 typical effects of use of methamphetamine.

13 Q Would they be -- are those people that you're
14 describing, do they smile and bob their head to the music and
15 sway?

16 A You know, I -- I can't think of anybody I've ever
17 seen who is intoxicated on methamphetamine, who merely bobs
18 his or her head and sways. I mean, there's excitation. It
19 could -- I mean, the effects of methamphetamine cause
20 stimulation of the nervous system and also an effect on the
21 dopamine system, which is the pleasure neurotransmitter so --

22 Q That would be the elation portion?

23 A Yeah, yeah. Usually, that passes pretty quickly in
24 a -- in a use, condition.

25 Q And I just want to be very clear, you cannot stand

1 up -- sit up there and say that you know how methamphetamine
2 affects Ezekiel Davis?

3 A Correct.

4 MR. GIORDANI: No further questions.

5 THE COURT: Thank you.

6 MR. WOOLDRIDGE: Very quickly.

7 THE COURT: Redirect.

8 REDIRECT EXAMINATION

9 BY MR. WOOLDRIDGE:

10 Q At the recovery center, do you have an opportunity
11 to come into contact with meth users?

12 A Yes, regularly.

13 Q And you know some of those meth users?

14 A I know all of them that I treat, yes.

15 Q And what are -- is robbery a typical crime that
16 they engage in?

17 A Some have been engaged --

18 MR. GIORDANI: And I would object to that question.

19 THE COURT: I think you need more foundation before
20 you can ask that question.

21 MR. WOOLDRIDGE: All right. That's fine. I'll
22 pass the witness. I'm fine.

23 THE COURT: All right.

24 MR. GIORDANI: No further questions. Thank you.

25 THE COURT: Okay. Thank you, Doctor.

1 THE WITNESS: Thank you. You may step down.
2 You'll be excused. Any further witnesses?

3 MR. WOOLDRIDGE: They're all lined up tomorrow,
4 Your Honor. And I apologize to the jury to keep them --

5 THE COURT: That's fine. I think it was unexpected
6 that we would move this quickly this afternoon. So we will
7 go ahead and break for the afternoon.

8 Before I release you, I will remind you once again,
9 it is your duty --

10 MR. GIORDANI: Your Honor, I apologize to interrupt
11 you. Can we approach just before you release the jury?

12 THE COURT: Sure.

13 (Off-record bench conference.)

14 THE COURT: All right. Before -- we'll be back on
15 the record. Before I release the jury, I'll remind you once
16 again, it's your duty not to discuss this case among
17 yourselves or with anyone else, or anyone connected to it and
18 that includes by phone, text, Internet or other means.
19 You're not to read, watch or listen to any reports or media
20 accounts or commentary about the case or anyone connected to
21 it.

22 You're not to do any research, such as consulting
23 dictionaries, using the Internet or using reference
24 materials, and you're not to make any investigation, test the
25 theory of the case, recreate any aspect of the case or any

1 other way investigate or learn about the case on your own.

2 With that, we'll see you tomorrow morning at 9:30.

3 THE MARSHAL: Rise for the jury.

4 (Outside the presence of the jury.)

5 THE COURT: We're outside the presence of the jury.

6 Okay. Counsel, can I inquire approximately, how many
7 witnesses you have for tomorrow?

8 MR. WOOLDRIDGE: Oh, my gosh. Can I look real
9 quick, Your Honor.

10 THE COURT: That's fine.

11 MR. WOOLDRIDGE: I apologize.

12 MR. GIORDANI: While he's looking, Your Honor, I
13 did forget to mention earlier, after Mr. Vincent negotiated
14 this morning, I hadn't filed the Amended -- the Second
15 Amended that --

16 MR. ROSE: Third.

17 MR. GIORDANI: Third Amended, which refers to
18 Mr. Ketchum and I've now provided the clerk.

19 THE COURT: Thank you. All right. And do you have
20 your jury instructions prepared?

21 MR. GIORDANI: Yes. I received the defense
22 instructions, I believe, yesterday. I just haven't had a
23 chance to look at those.

24 THE COURT: Okay.

25 MR. GIORDANI: Would you like me to send the

1 State's instructions to the Court?

2 THE COURT: No. I'll tell you in just a minute
3 what I require in regards to instructions.

4 MR. WOOLDRIDGE: Oh, I thought you were talking to
5 me about witnesses so --

6 THE COURT: Yeah, no, I'm waiting for --

7 MR. WOOLDRIDGE: Yeah.

8 THE COURT: -- you to just give me an estimate.

9 MR. WOOLDRIDGE: Estimated amount of witnesses will
10 be between three and five.

11 THE COURT: Okay. So we might get them done before
12 lunch or shortly after lunch --

13 MR. WOOLDRIDGE: Yeah.

14 THE COURT: -- or early in the afternoon? All
15 right. What I require in regards to jury instructions is I
16 require that you exchange your proposed jury instructions and
17 you meet and confer. I then want a stack of the ones you
18 agree upon, which are usually the stock instructions. And
19 then I require a separate stack of the ones that you disagree
20 upon.

21 I will need those by noon tomorrow. If you can't
22 meet tonight regarding the instructions or early tomorrow
23 morning, then I'm going to require you to do that over the
24 lunch hour because I find that most of the time counsel can
25 agree upon the jury instructions and then we just put them

1 together or there might be only two or three that you're
2 disagreeing upon, and we can get them settled very quickly.

3 So I often like to, on closing arguments, I like to
4 try and do closings by both sides on the same day, rather
5 than break it up overnight. So it's quite probable that
6 we'll settle the jury instructions tomorrow afternoon. And
7 if you agree upon excusing the one juror, and allowing one of
8 the alternates to stand in, or if I decide that we should do
9 that, because she'll be unable to be here Friday, then we'll
10 do closing arguments on Friday, because that way we don't
11 have a break.

12 I don't like to give the State an advantage by
13 letting them argue and then --

14 MR. WOOLDRIDGE: Yeah.

15 THE COURT: -- have the jury go home on their
16 argument alone.

17 MR. WOOLDRIDGE: I agree.

18 THE COURT: I try and do it all in the same day.

19 MR. GIORDANI: Fair enough, Your Honor.

20 THE COURT: Okay?

21 MR. GIORDANI: There's one other issue. With
22 regard to the witnesses Mr. Wooldridge is intending to call
23 tomorrow, we, of course, don't know who those witnesses are.
24 If they are witnesses who have to do with the other bad acts
25 that we've somewhat discussed throughout this trial and

1 discussed at length with Judge Villani last week, we would be
2 requesting a Petrocelli hearing if those witnesses --

3 THE COURT: This won't be necessary. You can ask
4 about the reputation, if they know of his reputation and what
5 their reputation is and how they know that, but you may not
6 bring out specific prior bad acts or ask --

7 MR. WOOLDRIDGE: We can ask their opinion, though,
8 as well, Your Honor, right?

9 THE COURT: Not their opinion. Whether or not they
10 know of his reputation.

11 MR. WOOLDRIDGE: There are --

12 THE COURT: If they know of his character and how
13 they know that.

14 MR. WOOLDRIDGE: Well, if I ask them how they know
15 that, we're going to get into --

16 THE COURT: If they've known him for 20 years and
17 they've known that he's been a problem child for 20 years,
18 they can say I've known him for 20 years. I know the stuff
19 that he's done. Okay?

20 MR. WOOLDRIDGE: Okay.

21 MR. GIORDANI: And the --

22 THE COURT: And that's -- that is proper.

23 MR. GIORDANI: Right.

24 THE COURT: Trying to prove his reputation or
25 character by bringing in prior bad acts is not appropriate.

1 MR. GIORDANI: Right.

2 THE COURT: So you need reputation or character
3 witnesses, not evidence of the prior bad acts.

4 MR. GIORDANI: Right. And only reputation or
5 opinion for violence, not stick-ups or whatever --

6 THE COURT: For violence.

7 MR. GIORDANI: Right.

8 THE COURT: Whether he's a violent character.

9 MR. GIORDANI: Just --

10 MR. WOOLDRIDGE: I mean, if these witnesses come
11 and say my opinion of this person is he's violent, that --

12 MR. GIORDANI: You wouldn't --

13 MR. WOOLDRIDGE: -- that's completely admissible?

14 MR. GIORDANI: We wouldn't object to that. That's
15 okay, but the problem is, is if --

16 THE COURT: But they have to have the --

17 MR. WOOLDRIDGE: Foundation?

18 THE COURT: There has to be some reason for them to
19 have formed an opinion. If they've known him for two seconds
20 or just read about him or read something about him, that's
21 not good enough.

22 MR. GIORDANI: That's the concern we would, of
23 course, not want to do that in front of the jury. We would
24 want an offer of proof beforehand so he's not --
25 Mr. Wooldridge is not --

1 THE COURT: You can request an offer of proof
2 beforehand.

3 MR. GIORDANI: One additional layer to this. Now,
4 of course, Mr. Ketchum doesn't have an obligation to testify,
5 everyone understands that. If Mr. Ketchum, however, intends
6 to get on the witness stand and say he knows of specific
7 acts, we would yet again be requesting a Petrocelli hearing
8 because he would need to -- they would need to prove, just as
9 State would, by clear and convincing evidence, that the
10 defendant knew about those specific acts.

11 THE COURT: All he has to know is is that he knew
12 the guy before, he knew his reputation as being a violent
13 person.

14 MR. GIORDANI: Right. And I'm not referring to
15 reputation or opinion. I think that's appropriate, but we're
16 talking about specific acts. So I just want to be very
17 clear.

18 THE COURT: No, because we're not going to prove
19 the prior bad acts. It's just what he knew and it can't just
20 be something that he heard after the fact.

21 MR. GIORDANI: And it's just reputation or opinion
22 for violence and it ends there; is that --

23 THE COURT: And how -- how he knew it. He knew it
24 because he knew this guy for -- he's seen the guy around.
25 He's heard what people had to say about him. There's all

1 kinds of ways for him to have developed his opinion -- his
2 knowledge of the guy's character or reputation.

3 MR. GIORDANI: Got it.

4 MR. ROSE: And --

5 THE COURT: Whether or not the reputation was true
6 or not.

7 MR. ROSE: Right.

8 MR. WOOLDRIDGE: You guys are more than welcome to
9 ask.

10 MR. ROSE: Because I don't want to, you know,
11 object when we've already kind of had the ruling on it, but
12 it would be State's request that if the answer to how did you
13 know it was, well, I've known him for 20 years, or I've heard
14 it out in the neighborhood, that that be the end of the
15 answer and not, well, I heard in the neighborhood that he
16 stuck up three people because that's then referencing those
17 prior bad acts.

18 THE COURT: It's referencing the prior bad acts, it
19 establishes how they know, but it's not proving, and I can
20 give a cautionary instruction that simply what they've heard
21 is not proof. They're just testifying as to reputation or
22 character. And that goes to the element of intent or
23 knowledge of the defendant. Okay?

24 I can give cautionary instructions. But yes, they
25 -- I know that my neighbor has been convicted of 20 armed

1 robberies, I get into a beef with him and there's an issue, I
2 can testify. I know this guy's violent because I know he's
3 been -- he's had several armed robberies. He knows he has a
4 history of carrying a gun. That's how you establish
5 reputation and opinion or how you establish my knowledge of
6 his reputation or opinion.

7 MR. GIORDANI: Right. All we're asking is to learn
8 that outside the presence of the jury so it doesn't --

9 THE COURT: We can do that. And I -- we can limit
10 it accordingly.

11 MR. GIORDANI: Understood.

12 THE COURT: Okay? So get your jury instructions,
13 start working together to get those prepared. And Counsel, I
14 overruled your objection to --

15 MR. WOOLDRIDGE: Yes.

16 THE COURT: -- his question because I told the jury
17 several times that the questions by counsel is not evidence.
18 So his characterization of the killing as being a murder --

19 MR. WOOLDRIDGE: Okay.

20 THE COURT: -- is not evidence, but if you wish, I
21 can -- I will reiterate that during jury instructions.

22 MR. WOOLDRIDGE: I don't need to draw attention to
23 it, Judge.

24 THE COURT: Okay. Thank you.

25 MR. GIORDANI: Thank you, Your Honor.

1 MR. WOOLDRIDGE: Thank you.

2 THE COURT: All right. Anything else before we
3 break for the afternoon?

4 MR. GIORDANI: Not on behalf of the State.

5 MR. WOOLDRIDGE: No, Your Honor.

6 THE COURT: Okay.

7 (Court recessed at 3:57 P.M., until Thursday,
8 (May 25, 2017, at 10:42 A.M.)

9 * * * *

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

13

14



15

16

JULIE LORD, INDEPENDENT TRANSCRIBER

17

18

19

20

21

22

23

24

25