

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

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3 VERNON NEWSON JR.,) No. 75932

4 Appellant,)

5 v.)

6)

7 THE STATE OF NEVADA,)

8 Respondent.)

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10 **APPELLANT'S APPENDIX VOLUME V PAGES 833-1044**

11 PHILIP J. KOHN
12 Clark County Public Defender
13 309 South Third Street
14 Las Vegas, Nevada 89155-2610

15 Attorney for Appellant

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

ADAM LAXALT
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

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Case No. 75932

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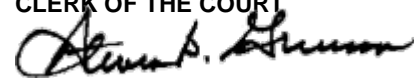
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C313919-1
)	DEPT NO. III
)	
VS.)	
)	
VERNON NEWSON, JR.,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

JURY TRIAL - DAY 3

MONDAY, FEBRUARY 26, 2018

APPEARANCES:

FOR THE STATE:	PAMELA WECKERLY, ESQ. Chief Deputy District Attorney KENNETH N. PORTZ, ESQ. Deputy District Attorney
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FOR THE DEFENDANT:	KAMBIZ SHAYGAN, ESQ. RYAN J. BASHOR, ESQ. Deputy Public Defenders
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1 **LAS VEGAS, NEVADA, MONDAY, FEBRUARY 26, 2018, 10:39 A.M.**

2 *** * * * ***

3 (Outside the presence of the jury.)

4 THE COURT: You guys have nothing outside the
5 presence, right?

6 MR. BASHOR: No, Your Honor.

7 MR. PORTZ: No, Your Honor.

8 THE COURT: One thing I will put on the record, I had
9 contact with one of your jurors this weekend because I had made
10 an appointment to go to DMV to get my car registered, and she
11 was working. So she kind of came walking by in the back as I
12 was getting my car registered, so I said hello to her and said,
13 "I hope you don't have to work because you were doing jury
14 duty." She said, "No, I work on Saturdays until noon anyway."
15 So didn't ask her for anything. Just kind of did my thing and
16 got out of there, so.

17 (The Court confers with staff.)

18 (Jurors enter at 10:42 a.m.)

19 THE COURT: Good morning, ladies and gentlemen. We
20 are going to be back on the record. Mr. Newson's present with
21 his attorneys. State's attorneys are present. We're going to
22 continue on with our State's case in chief. So Ms. Weckerly,
23 Mr. Portz, you all can call your next witness.

24 MS. WECKERLY: Winston Reece.

25 WINSTON REECE, STATE'S WITNESS, SWORN

1 THE CLERK: Will you please state and spell your name
2 for the record.

3 THE WITNESS: Winston Reece, W-i-n-s-t-o-n,
4 R-e-e-c-e.

5 THE COURT: Okay. Thank you, Mr. Reece.
6 Ms. Weckerly.

7 MS. WECKERLY: Thank you.

8 DIRECT EXAMINATION

9 BY MS. WECKERLY:

10 Q Mr. Reece, I want to direct your attention to early
11 January of 2016. What street were you living on at that time?

12 A Cincinnati Avenue.

13 Q And is that in Clark County, Nevada?

14 A Yes.

15 Q In early January of 2016, did you make a call in to
16 the police about a vehicle?

17 A Yes, I did.

18 Q Can you tell the members of the jury how many days
19 before you made that call that you noticed the vehicle?

20 A It was probably about for five days. Nobody came
21 back to attend to it. I took the VIN number and the tags and I
22 called it in to Metro.

23 Q Did you ever see anyone around the vehicle?

24 A Yes.

25 Q And can you describe to the members of the jury what

1 you saw?

2 A Well, it was around between 4:00, 4:30 in the morning
3 when the vehicle pulled up and parked there, then this guy got
4 out of it. He walked -- he went to the back passenger door, he
5 closed it, he locked it, and then he walked away.

6 Q And can you describe anything about -- you said a
7 guy, so I assume we're talking about a male?

8 A Yes.

9 Q And can you describe anything else that you could see
10 or observe about his clothing or how he looked?

11 A Well, he was athletic built, tall, about my height, a
12 bit muscular. He had on a dark outfit like blue jean pants and
13 either a black or a green jacket.

14 Q And how tall are you, sir?

15 A Six-one.

16 Q And you said he had a dark --

17 A Correction. 6-11 1/2.

18 Q 6-11 1/2?

19 A No, no.

20 THE COURT: 6-11 1/2?

21 THE WITNESS: Five, five. 5-11 1/2.

22 MS. WECKERLY: Okay. I was thinking, well, that --

23 THE WITNESS: 5-11 1/2.

24 BY MS. WECKERLY:

25 Q Okay. So he was about your height?

1 A Yes.

2 Q And you're 5-11 1/2?

3 A Yes.

4 Q And you said he was wearing a darker green jacket and
5 dark pants?

6 A It could have been a green jacket or a black, but the
7 light was not excellent, although he was close to the street
8 lamp, but that's as much as I could tell of him.

9 Q And where were you observing him from?

10 A From my living room window.

11 Q Okay. So you could see, I guess would your window
12 have been across the street or --

13 A Yes, yes.

14 Q Okay. So you could see across the street and you saw
15 him pull up at about 4:30?

16 A Yes.

17 Q And I think you said he had an athletic build?

18 A Yes.

19 Q Do you remember anything about his race?

20 A He was a black person. I can't tell if he is black
21 Mexican or black, you know, but he was black.

22 Q And I assume you couldn't see enough to see his face?

23 A No.

24 Q Now, as you're looking from your living room window,
25 I think you said you saw him go into the back --

1 A Passenger door, yes.

2 Q -- kind of passenger side?

3 Could you see what he was doing there?

4 A No.

5 Q And after he did that, what did you see the figure

6 doing?

7 A He closed the door back, he locked it, because I

8 could hear when he hit the remote and it locked, and then he

9 walked away.

10 Q Could you tell what direction he walked?

11 A He was going west, and then he made a left going

12 towards Sahara Avenue.

13 Q Okay. And then I assume you lost sight of him?

14 A Yes.

15 Q Did you go up to the car immediately?

16 A No.

17 Q At some point did you go up?

18 A About two days later.

19 Q And what did you see?

20 A Well, in the -- well, what happened, my neighbor

21 called me because he saw something that looked like a bullet

22 hole in the trunk area, and he called me and I went and I look.

23 There was three spent cartridges in the back seat and a bloody

24 beanie hat. And then I turned around and I called Metro and

25 give them that information, and they came out at same time.

1 Q And so when you described those items that you saw in
2 the back seat, I assume you could look into the car window and
3 see those things?

4 A Yes.

5 Q You didn't open the car or anything?

6 A No.

7 Q And you said you saw spent cartridge cases?

8 A Yes, three.

9 Q And some blood?

10 A On a whitish looking beanie cap.

11 Q And based on that you call it in to Metro?

12 A Yes.

13 Q And sometime after that they come out to the car?

14 A Within half an hour they were out there.

15 Q And you give them a statement describing what you
16 just told us this morning?

17 A That's correct.

18 MS. WECKERLY: May I approach, Your Honor.

19 THE COURT: You may.

20 BY MS. WECKERLY:

21 Q Sir, I'm showing you what's been marked as State's
22 Proposed 148. Do you recognize that photograph?

23 A Yes.

24 Q Does that appear to be the vehicle and how you
25 observed it on that morning?

1 A Yes.

2 Q And this is obviously after the police came, so it's
3 a couple days after you saw it?

4 A That's correct.

5 MS. WECKERLY: State moves to admit 148.

6 THE COURT: Any objection?

7 MR. BASHOR: No, Your Honor.

8 THE COURT: All right. 138 will be admitted. Thank
9 you.

10 MS. WECKERLY: Oh, sorry, Your Honor. It's 148.

11 THE COURT: Oh, I'm sorry. 148.

12 (State's Exhibit No. 148 admitted.)

13 BY MS. WECKERLY:

14 Q And sir, do you see it on the screen in front of you?

15 A Yes, I do.

16 Q And can you just -- you can actually mark on the
17 screen with your finger. Can you just describe, like mark on
18 the screen where you were standing when you were looking into
19 the back seat of the vehicle?

20 A Right on the side here.

21 Q Okay.

22 THE COURT: So your mark is kind of, since this is
23 just two-dimensional, it kind of looks like it's on top of the
24 car. So are you on the side, the street side, or the house
25 side?

1 THE WITNESS: On the side, on the house side.
2 THE COURT: The houses side. All right. Thank you.
3 THE WITNESS: On the sidewalk.
4 THE COURT: Okay.
5 MS. WECKERLY: Thank you very much. I will pass the
6 witness.
7 THE COURT: Gentlemen.
8 MR. BASHOR: No, thank you. Nice meeting you.
9 THE WITNESS: That's it?
10 THE COURT: Anything from our jurors? Well,
11 Mr. Reece, thank you very much for your time. I appreciate you
12 coming in, sir. You are excused.
13 THE WITNESS: Okay. Thank you.
14 THE COURT: State may call their next witness.
15 MR. PORTZ: Thank you, Your Honor. The State calls
16 Wendy Radke.
17 Your Honor, while Ms. Radke's making her way to the
18 stand, I'd like to just note for the record we've spoken with
19 defense counsel, there's a few additional stipulations on
20 proposed exhibits.
21 THE COURT: Okay.
22 MR. PORTZ: State's Proposed 4 through 44, 85 through
23 112, and 219 and 220.
24 THE COURT: All right. I thought we already admitted
25 a group of through 112.

1 MR. PORTZ: That's actually correct. I apologize.

2 THE COURT: Okay. Was it like 90 through 112 we had

3 previously done or something? But is all that correct, guys?

4 MR. BASHOR: Yes, Your Honor.

5 THE COURT: Okay. So 4 through 44 will be admitted.

6 (State's Exhibits No. 4 through 7 admitted.)

7 (State's Exhibits No. 9 through 44 admitted.)

8 THE COURT: 85 through 112, to the extent that any of

9 that was previously admitted it's already in, but the other

10 ones will be admitted.

11 (State's Exhibits No. 85 through 89 admitted.)

12 THE COURT: And then 219 and 220 will be admitted as

13 well.

14 (State's Exhibits No. 219 and 220 admitted.)

15 THE COURT: Hi.

16 THE WITNESS: Hello, sir.

17 THE COURT: How are you doing. Raise your right

18 hand, please.

19 WENDY RADKE, STATE'S WITNESS, SWORN

20 THE CLERK: Will you please state and spell your name

21 for the record.

22 THE WITNESS: Wendy Radke, W-e-n-d-y, R-a-d-k-e.

23 THE COURT: Thank you, ma'am. All right, Mr. Portz.

24 MR. PORTZ: Thank you, Your Honor.

25 //

1 potential homicide scene?

2 A Yes, sir.

3 Q Where was that located?

4 A That was on the on ramp at the Interstate 15 --

5 Q Is that near the Lamb Boulevard and the I-15?

6 A Yes, south of.

7 Q Is that North Las Vegas, Clark County, Nevada?

8 A Yes, sir.

9 Q And when you arrived on scene, can you describe what

10 you first saw?

11 A When I first arrived, actually I just saw some cones

12 off in the distance, and that was basically it from afar.

13 Q I'm going to publish for you State's 7. And is that

14 the scene that you just described to us?

15 A Yes.

16 Q State's 8, is that a close-up of the cones that you

17 were referencing?

18 A Yes.

19 Q When you first arrive on scene or any crime scene of

20 this nature, do you meet and confer with individuals before you

21 begin doing some of your jobs of collecting and photographing

22 evidence?

23 A Yes, sir.

24 Q In this case who did you meet with?

25 A I met with Detective Ben Owens, his supervisor, which

1 was Lieutenant Glazier.

2 Q During that meeting are you given a brief of sort of
3 what's believed to have occurred at this location?

4 A Yes.

5 Q And were there any other crime scene analysts present
6 at this location with you?

7 A Yes.

8 Q Who was that?

9 A CSI Harder.

10 Q So what were -- after you got the brief, was CSI
11 Harder with you as well?

12 A Yes.

13 Q And what were -- at that point in time, what were you
14 and CSA Harder assigned to do?

15 A I was assigned to photograph the scene and collect
16 the evidence. And CSI Harder, she was going to take
17 measurements of all the evidence that we were going to collect
18 so that at a later time she could create a computer-generated
19 diagram.

20 Q Can you describe to the members of the jury your
21 process of how you go about documenting and collecting
22 evidence?

23 A Sure. First obviously we kind of walk through the
24 scene, see what we have. Then we will take notes, we will take
25 photographs of everything that's on scene either from -- you

1 know, we'll start far away and then kind of get closer up.
2 Then we'll mark the evidence that we plan on collecting with
3 numbers. Certain things that can't be collected or we can't
4 take away we will put alphabetic markers by or on.

5 And then we will actually collect things that we can
6 take away with us, and then that way we preserve what we take
7 and that's what's called the chain of custody, and book it into
8 our evidence vault.

9 Q Thank you. Was there anything unusual about the
10 weather conditions the evening that you were at this crime
11 scene?

12 A Yes. It was extremely cold and windy that night.

13 Q Now, you had mentioned that you arrived and there
14 were orange cones, the cones that we see on the screen right
15 now; is that correct?

16 A Yes.

17 Q Were those orange cones part of the crime itself, or
18 were they placed there subsequently?

19 A Placed there subsequently.

20 Q And were you informed as to what these orange cones
21 were doing out here before you began collecting evidence?

22 A Yes.

23 Q What was your understanding about the orange cones?

24 A They were placed there by patrol officers that
25 responded there first to prevent the small items underneath

1 from blowing away.

2 Q So as a result of the fact the orange cones were
3 there, did you take any extra steps in collecting the evidence
4 that was on scene?

5 A Yes, we did.

6 Q Okay. I guess the orange cones were actually sitting
7 on top of items of evidence; is that correct?

8 A Yes.

9 Q And would you photograph that orange cone in its
10 place before moving it to see what was underneath?

11 A Yes.

12 Q Okay. I'm going to turn your attention, you
13 referenced that as you go through evidence you would collect
14 pieces of evidence and assign each particular piece of evidence
15 either a number or a letter; is that right?

16 A Yes.

17 Q I'm going to start, just we'll go in order,
18 publishing State's 9. And is this one of those evidence
19 markings that you referenced?

20 A Yes.

21 Q Specifically evidence marking Number 1, correct?

22 A Correct.

23 Q And State's 10 is a close-up of that item; is that
24 correct?

25 A Yes.

1 Q And State's 11, close-up yet again. Can you describe
2 to the members of the jury what you documented as the Evidence
3 Item No. 1?

4 A Yes. That would be a bullet fragment, or ammunition
5 fragment right there.

6 Q Moving on to State's 12, tell us what we're looking
7 at in State's 12.

8 A That is the cluster of cones with all of the evidence
9 markers placed by them.

10 Q And State's 13, what is this?

11 A Evidence Item No. 2, with the cone.

12 Q And then again as you testified, is the cone
13 subsequently removed and another photograph of the evidence
14 taken?

15 A Yes.

16 Q So I'm going to publish State's 14. Describe what
17 you identified as Evidence Item No. 2.

18 A One piece of cloth, or a portion of cloth.

19 Q Move on now to Items 3 and 4, publishing State's 15
20 and State's 16. Can you identify what we see in State's 16?

21 A This was Evidence Item No. 3, which was a cellphone,
22 HTC cellphone.

23 Q And State's 17, is that a close-up of the cellphone?

24 A Yes.

25 Q Was there anything of note with regards to the

1 cellphone that you had seen as you were collecting the
2 evidence?

3 A At this point it just appeared to be damaged somehow.

4 Q I'm going to publish State's 19. What is this,
5 Ms. Radke?

6 A Evidence Item No. 4.

7 Q And is that with the cone still on top of it?

8 A Yes.

9 Q State's 20, what is identified as Evidence Item
10 No. 4?

11 A One piece of, I think it was blue and yellow plaid
12 cloth.

13 Q I'm going to now publish State's 21. What is
14 depicted in State's 21, Ms. Harder [sic] -- or Ms. Radke? I
15 apologize.

16 A No problem. Another cluster of the orange cones with
17 the evidence placards and alphabetical placards.

18 Q And again, the cones were placed on top of evidence
19 here and you photographed that, the cone in its place and then
20 the item underneath it, correct?

21 A Yes.

22 Q Okay. And let's move on to Item No. 5, then
23 publishing State's 23. Can you describe what was identified as
24 Evidence Item No. 5?

25 A Yes. It was one cartridge case.

1 Q And now publishing State's 25, what is this?

2 A It looks like a bullet fragments, or bullet fragment,
3 multiple perhaps.

4 Q And did you notice any -- or know anything with
5 regards to the ground directly underneath the bullet fragment
6 with regards to your report?

7 A Yes, sir. It appears that there is some sort of
8 defect in the ground underneath it, or the asphalt.

9 Q And in your training and experience, given the
10 location of the fragment of the bullet and the defect in the
11 ground, what did you believe the defect in the ground to have
12 been?

13 A It could have been a possible bullet strike.

14 Q So we'll move on to Items 7 and 8 in State's 27. Are
15 those your markers, Evidence Items 7 and 8?

16 A Yes, sir.

17 Q Publishing State's 28, can you describe what you
18 identified as Evidence Item No. 7?

19 A One cartridge case.

20 Q Evidence Item No. 8, on State's 29?

21 A One cartridge case.

22 Q Now to publish State's 30, are Evidence Items 9
23 and 10 there?

24 A Yes.

25 Q And what did you record as Evidence Items No. 9

1 and 10?

2 A One cartridge case for each item.

3 Q Moving on to State's 33.

4 A One cartridge case.

5 Q And that's for the record evidence item marked
6 Number 11; is that correct?

7 A Yes, sir.

8 Q Thank you. And then you also indicated that there
9 were evidence markers that were letters as opposed to numbers.
10 Can you again explain the significance of why you used letters
11 for certain items of evidence and numbers for others?

12 A Sure. Again, the alphabetical placards are used when
13 there's something on a scene that you cannot take away but
14 you're still trying to document it and identify it as something
15 from the others that are there on scene.

16 Q Now, you had already testified previously one of the,
17 as you noted in your report, was a defect in the ground that
18 you said may have been caused by a bullet strike; is that
19 correct?

20 A Yes, sir.

21 Q Did you observe other potential bullet strike defects
22 as you were examining the scene?

23 A Yes.

24 Q Going to publish State's 33 -- 35, excuse me. Did
25 you mark or demarcate those potential defects as Items ABC

1 and E in your report?

2 A Yes.

3 Q And can you see -- sorry, I had that slid over a
4 little bit. Can we see all four, ABC and E in this exhibit?

5 A Yes.

6 Q Move through some close-ups. State's 36.

7 MR. BASHOR: I'm sorry. Was that 35?

8 MR. PORTZ: Yes.

9 MR. BASHOR: Thank you.

10 BY MR. PORTZ:

11 Q State's 36, can you describe what we're seeing here?

12 A Yes. One apparent bullet strike or defect.

13 Q Marked as Item No. A, item letter A?

14 A Yes.

15 Q State's 37?

16 A Item No. B, one apparent -- do you want me to go and
17 describe it as well, or just --

18 Q If you could, why you documented this particular
19 area.

20 A Okay. One defect.

21 Q And this is Evidence Marker C, State's 38. Why did
22 you document this piece of evidence or this particular area of
23 the ground?

24 A It was another defect in the ground.

25 Q Looking at State's 40, that was marked with the

1 letter D, why did you photograph this area of the ground?

2 A Because it appeared that there was some staining of
3 possible blood or brownish red stains.

4 Q And State's 41 is, what are we looking at here?

5 A This area contained both a defect and apparent blood.

6 Q Could you, using the screen, circle where the area of
7 the defect is within the apparent blood?

8 A Sure [indicating].

9 Q Thank you. And for the record, you've circled a
10 small, I guess, gray patch within the red next to a white line
11 on the left side of the photograph. And for the record, this
12 is -- this was marked as letter E in your notes?

13 A Yes, sir.

14 Q Thank you. Publishing State's 42, describe what
15 we're looking at here, please.

16 A This was an image that was documented and processed
17 of collecting a sample of that stain with a cotton swab.

18 Q What's the purpose of collecting samples of an
19 apparent blood stain?

20 A So that if this sample was to be tested at a later
21 time we could do that.

22 Q State's 43, can you tell us what we're looking at
23 here, please.

24 A Yes. That is Placard F as in Frank, and it was
25 another stain of apparent blood.

1 Q And State's 44?

2 A Evidence Placard G, George, and another area of
3 stains of apparent blood.

4 Q Now, you had referenced before you began your
5 documentation of the evidence on this scene that another CSA,
6 Harder, was present with you and it was her -- her assignment
7 was what?

8 A She was going to take measurements of all relevant
9 items that we marked on scene, and then she was going to create
10 a diagram of these items later.

11 Q And did she subsequently, to your knowledge and your
12 role in this investigation, create a diagram of the items
13 impounded on scene?

14 A Yes, sir.

15 Q And does that diagram correspond to the numbers of
16 the placards and the letters of the placards that we've just
17 gone through in detail?

18 A Yes.

19 Q I'm going to publish what's been admitted as
20 State's 4. Can you describe what we're looking at here?

21 A This is -- well, the overall is the I-15 on ramp from
22 Lamb, and it shows the cluster of both alphabetical and
23 numerical placards and evidence items that were collected on
24 that on ramp.

25 Q And State's 5, is that a close-up of the cluster that

1 is on the southern portion of the on ramp?

2 A Yes.

3 Q And then did CSA Harder also generate a legend that
4 corresponds to the numbers and letters that you've gone
5 through?

6 A Yes.

7 Q Publishing State's 6, is that what we see here?

8 A Yes.

9 Q Now, once processing the scene, do you -- what do you
10 do with the evidence that you collect?

11 A Once we are finished at the scene and all
12 measurements are taken, if I'm the person who might -- if I'm,
13 we call it custodian, evidence custodian, I'm the custodian, I
14 collect it. I transport it to either the CSI bureau or an
15 evidence vault where I package it and submit it to the vault.
16 Always -- we call it "under our hand," it's under my hand at
17 all times, and if anyone else should ever take custody, they
18 would have to sign the chain of custody.

19 Q And did you do that in this case?

20 A Yes. Actually on this case, after we were done I had
21 to drop it off at our CSI bureau and lock it up in our
22 temporary lockers because we responded to a scene right after
23 this that was related to this homicide.

24 Q Okay. And where was that scene that you responded to
25 located?

1 A Saint Bar Street in Las Vegas.

2 Q And was that -- so that was shortly after you had
3 left the crime scene at the on ramp on Lamb?

4 A Yes.

5 Q And did you respond to that location alone, or were
6 you with another analyst again?

7 A CSI Harder accompanied me to Saint Bar as well.

8 Q Do you go through the same process that you described
9 when you arrived at the highway, as in getting a brief from
10 detectives, et cetera?

11 A Yes.

12 Q And who did you meet with when you arrived at the
13 Saint Bar Court residence?

14 A Again, Detective Owens and Detective Stucky.

15 Q And were you and CSA Harder assigned different roles
16 again in this, in the collection of evidence at this location?

17 A This time we switched it around. I basically
18 assisted her and she was the one taking the photographs and
19 collecting the evidence.

20 Q I'm going to publish what's been admitted as
21 State's 90. Is this the residence on Saint Bar Court?

22 A Yes.

23 Q Can you describe what you and CSA Harder did after
24 you met with Detective Owens, where you first went and what
25 items of evidence you collected?

1 A Sure. He advised us that we were allowed to go
2 inside the residence at that point, and so first she took
3 photographs of where we were just to document our location, and
4 then we entered and we were shown the locations of certain
5 items of interest.

6 Q I'm going to publish State's 91. Describe what we're
7 looking at in State's 91.

8 A Yes. This was the laundry room within the residence.

9 Q And what if anything was significant about this
10 particular area?

11 A That, I believe that was a plastic bag that was
12 containing some items that we were to document.

13 Q And if I publish State's 92, what are we looking at
14 here?

15 A Some ammunition. Item No. 1, I'm sorry.

16 Q Okay. Thank you. Did you also take a photograph of
17 the headstamp of that ammunition in this photograph, or in this
18 exhibit?

19 A Yes. CSI Harder did.

20 Q Publishing State's 93, is that a photograph of that
21 headstamp?

22 A Yes, sir.

23 Q Did you also locate items of evidence with any
24 potential apparent blood on it?

25 A Yes.

1 Q And I'm going to publish State's 94. Please describe
2 what we're looking at here.

3 A That was the -- I believe the padding from a child
4 seat, an infant seat from a -- that usually fits into a car.

5 Q And State's 95, what was documented in State's 95?

6 A Evidence Items No. 2 and 3.

7 Q And was Item 2 -- well, do State's 96. Does Item 2
8 include what appears to be a child's blanket, sock and pair of
9 pants?

10 A Yes.

11 Q State's 97, can you tell us what was documented here
12 and why?

13 A Yes. It was the staining of apparent blood on the
14 child's pant leg.

15 Q And State's 98, what was documented here and why,
16 please?

17 A That is a defect that was on the child's blanket.

18 Q And what do we see in State's 99?

19 A Again, the padding of Evidence Item No. 3 that has
20 some apparent blood staining in the crevice of the material.

21 Q And this padding you had indicated came from a
22 child's car seat; is that correct?

23 A Yes.

24 Q Did you and/or CSA Harder remove that padding from
25 the car seat itself?

1 A I believe CSI Harder did.

2 Q Publishing State's 100, what do we see here?

3 A Ah, there is the car seat. My apologies.

4 Q And then State's 101, we have a placard identifying
5 Evidence Item No. 4. Can you describe if you recall what was
6 significant about the -- on the car seat itself?

7 A There was also some apparent blood found on that
8 handle as well, and that was the car seat handle.

9 Q It's one of two that what are we looking at there?

10 A Again, that is the process of how we collected the
11 stain of apparent blood from the car seat handle.

12 MR. PORTZ: The Court's indulgence.

13 BY MR. PORTZ:

14 Q Publishing what's been admitted as State's 103,
15 describe to the members of the jury what we're looking at in
16 State's 103.

17 A Evidence Item No. 5, which was a diaper bag
18 containing various baby items and a baby bottle containing
19 liquid.

20 Q Thank you. Publishing State's 104, a close-up of
21 that baby bottle?

22 A Yes.

23 Q And was there any subsequent processing or analysis
24 attempted on the bottle itself?

25 A Yes. The bottle was actually brought back to the

1 laboratory and was processed for fingerprints or palm prints.

2 Q In State's 105, can you describe what we see in 105
3 with reference to the bottle itself?

4 A Sure. What you see on there that looks kind of like
5 Scotch tape is actually what's called latent lift tape, and
6 that is what is used once powder is applied to a surface. We
7 put the tape onto the surface to lift any potential
8 fingerprints or palm prints that might have been left on the
9 surface off from the surface, so it's a way of collecting
10 fingerprints from a surface. So that is what you actually see
11 on there prior to removing it from the baby bottle.

12 Q As a crime scene analyst, are you trained in
13 collecting fingerprint evidence?

14 A Yes.

15 Q And are you also as a crime scene analyst with the
16 North Las Vegas Police Department trained in analyzing or
17 comparing fingerprint evidence?

18 A Yes.

19 Q And can you just describe briefly for the members of
20 the jury what sort of training and experience you have with
21 regards to fingerprint analysis?

22 A Sure. Well, because we actually go through the
23 entire process of comparing and identifying fingerprints, they
24 actually -- they'll send us all over the country just to learn
25 exactly how fingerprints are formed, to the end on how to enter

1 them into our database of fingerprints, and then to actually
2 make an identifying comparison at the end. It's -- there's a
3 lot of training involved. And they also send us to training
4 every year just to keep us updated on this topic, so.

5 Q Now, when you collect a print, are they always -- or
6 are there -- are there requirements before you can analyze
7 them, as do they have to be of a sufficient quality?

8 A Yes.

9 Q Can you describe the determination of whether or not
10 they meet that criteria of quality to be compared to other
11 known prints?

12 A There's not like an exact number or anything that,
13 you know, that you have to like see, but there definitely has
14 to be enough details within the ridges of a print so that you
15 can compare it from what's called a known person or a known
16 example to what you're collecting from an item. So I mean you
17 have to have some sort of detail in order to do so.

18 Q So if there's not sufficient detail from the print
19 lifted from a particular item, it cannot be compared to a known
20 for purposes of forensic testing?

21 A Correct.

22 Q Was the print pulled from the bottle that we see in
23 this exhibit of any comparable quality?

24 A I do not believe so unfortunately, no.

25 Q All right. We'll move on to what else was inside the

1 house. Did you also -- well, publishing State's 106, and can
2 you describe what we're looking at in State's 106?

3 A Sure. These were the items that -- well, it was the
4 purse that was left behind and all of the items that were found
5 within the purse.

6 Q Publishing State's 108, is this one of the items
7 found within the purse?

8 A Yes.

9 Q And what are we looking at in State's 108?

10 A It is an envelope with an address and name on it.

11 Q Is that the name of Vernon Newson?

12 A Yes.

13 Q State's 110, can you tell me what was documented
14 here?

15 A Yes. That was Evidence Item No. 9, which was a City
16 of Pasadena birth certificate.

17 Q And the birth certificate belonged to one Vernon
18 Newson?

19 A Yes.

20 Q Publishing State's 109, and what is in State's 109?

21 A Evidence Item No. 7, State of Nevada driver's license
22 in the name of Anshanette McNeil.

23 Q State's 111, what are we seeing there?

24 A I don't know what evidence item number that is,
25 but --

1 Q Let me back that out.

2 A Evidence Item No. 10, one Clark County -- or I'm
3 sorry, Las Vegas Metropolitan Police Department, a gun
4 registration blue card in the name of Anshanette McNeil.

5 Q And State's 112, what do we see in this image?

6 A That was the baby that was carried in that car seat
7 that we had seen earlier.

8 Q Now, you had referenced that you had dropped certain
9 items of evidence back off at the -- from the crime scene back
10 off at the North Las Vegas crime scene analyst bureau; is that
11 correct?

12 A Yes.

13 Q Okay. And one of those items that you had impounded
14 was the cellphone; is that correct?

15 A Yes.

16 Q I'm going to publish what's been admitted as
17 State's 87. What do we see here?

18 A That is the HTC cellphone.

19 Q Where was this photograph taken?

20 A That was in the CSI crime laboratory.

21 Q And publishing State's 89, what do we see in
22 State's 89?

23 A A defect in the side of the phone.

24 Q And what did you note that defect to be potentially
25 in your report?

1 A An apparent bullet hole.

2 Q What about that defect led you to believe that it
3 might be an apparent bullet hole?

4 A In the following photos you will see there is
5 actually a cross-section where you can actually see penetration
6 through, through the phone itself.

7 Q I want to also turn your attention to -- were items
8 of the victim's clothing collected and photographed as well for
9 the lab, to your knowledge?

10 A I'm sorry. Can you repeat that.

11 Q I'm sorry. Were items of the victim's clothing
12 impounded and photographed at the lab to your knowledge as
13 well?

14 A Yes.

15 Q Okay. Publishing what's been admitted as State's 86,
16 and does State's 86 depict the jacket that had been worn by the
17 victim of the homicide incident?

18 A Yes.

19 Q And was there noted defects, potential bullet holes
20 as well as blood evidence on that jacket?

21 A Yes.

22 Q Publishing State's 2 -- or I'm sorry, State's 14,
23 you've already testified to this, but this was a piece of
24 evidence at the crime scene you marked Number 2. Is this a
25 gray fabric similar to what we see in the jacket that was in

1 the prior exhibit?

2 A Yes.

3 Q And then publishing State's 85, is this a photograph
4 of a T-shirt that the victim had been wearing during the
5 shooting?

6 A Yes.

7 Q And again, was there apparent blood and bullet
8 defects on that?

9 A Yes.

10 Q And then referring you back to State's 20, from the
11 homicide scene, identified as Exhibit 4 [sic], can you describe
12 what we see there?

13 A Yes. It's another piece of plaid fabric that's
14 similar to the shirt that was taken from the victim.

15 Q Thank you. I want to jump forward a little bit.
16 Later on in the investigation into this incident, were you
17 asked to conduct any print analysis on a print that was pulled
18 by CSA Harder?

19 A Yes.

20 Q And do you recall where that print came from?

21 A There was a cup that was actually located in the
22 suspect's vehicle at a later time, and the print was taken from
23 the cup in that vehicle.

24 Q And what were you asked to do with the print pulled
25 from that cup?

1 A I was asked to -- it's called confirming that it was
2 the victim's fingerprint.

3 Q Publishing State's 219, is this a photograph of that
4 cup?

5 A Yes.

6 Q And State's 220, can you describe what we're looking
7 at here?

8 A Yes. That is actually the print itself that was
9 developed with black fingerprint powder and what's also called
10 cyanoacrylate, a fancy way of saying Super Glue.

11 Q And when you analyzed this print itself that was
12 pulled from this cup, did you have known prints to compare it
13 to from Anshanette McNeil?

14 A Yes.

15 Q And the print that was pulled from this cup, was it
16 of a quality sufficient in your opinion based on your training
17 and experience to compare it to a known print?

18 A Yes.

19 Q And what was your conclusion as you compared this
20 print pulled from this cup to the known prints from Anshanette
21 McNeil?

22 A That this was identical to her finger, yes. I
23 believe it was her right ring finger, if I recall correctly.

24 Q Thank you.

25 MR. PORTZ: Your Honor, I'll pass the witness.

1 THE COURT: Okay. Gentlemen.

2 MR. BASHOR: Your Honor, may I have a quick
3 indulgence for the exhibits?

4 (Pause in proceeding.)

5 MR. BASHOR: I got them. Thank you. I don't want to
6 mess with Mr. Portz's order.

7 CROSS-EXAMINATION

8 BY MR. BASHOR:

9 Q Good morning.

10 A Good morning.

11 Q Now, just so I'm clear, the cones that we see for
12 instance in State's 39, those were in place before you arrived,
13 right?

14 A Yes, sir.

15 Q And that was used as a precaution by patrol officers
16 to prevent evidence from moving?

17 A Yes, sir.

18 Q And that was because it was extremely high wind that
19 day?

20 A Yes.

21 Q And so as soon as -- as you understand it, as soon as
22 the officer saw that there was potential for movement, they put
23 the cones?

24 A Yes.

25 Q So that -- those measurements that we have of the

1 precise location of each one of these pieces of evidence are
2 precise as to when the cones were placed, correct?

3 A Correct.

4 Q There may have been some movement before the cone was
5 placed?

6 A True.

7 Q Now further getting into the weather, you were having
8 a rough time out there, huh?

9 A Yes, sir.

10 Q I mean you were very conscientious, correct? I mean
11 in your report you even indicate that your tripod was moving?

12 A Yes.

13 Q And if you were able to see the exposure not be of
14 the best quality, you did your best to take a second
15 photograph?

16 A Yes.

17 Q In addition to that, there were periods of
18 precipitation, correct?

19 A Yes.

20 Q And being conscientious, you noted that that may have
21 caused some of what appeared to be the blood stains to lose
22 their shape?

23 A Yes.

24 Q And run or drain outward in direction?

25 A Yes.

1 Q So in other words, they may have been bigger due to
2 precipitation interacting with them?

3 A Yes.

4 Q Now, in for instance State's Exhibit No. 37, you
5 indicate that -- indicated on direct examination that this
6 appeared to be a bullet strike, correct?

7 A Yes.

8 Q And I think you used the words "it may have been,"
9 correct?

10 A Yes.

11 Q So assuming that it is a bullet strike for a moment,
12 was anything done on any of these strikes to determine the
13 angle in which the bullet struck the pavement?

14 A No.

15 Q So for instance, we do not know if the bullet strike
16 that's depicted in State's 37, Letter B was done directly
17 perpendicular to the ground, correct?

18 A Correct.

19 Q Almost done. Thank you for your patience. Now, in
20 State's Exhibit No. 35, if I understood your direct examination
21 correctly, ABC and E are apparent bullet strikes, correct?

22 A Yes.

23 Q How -- what's the width of one of those placards?

24 A I believe it's 4 inches.

25 Q Okay. And so we can use that as a guide to see the

1 distance between say A and E, correct? Roughly. I'm not
2 asking for a precise.

3 A Yeah.

4 Q So it looks like the difference between A and E may
5 be a few feet, correct?

6 A Possibly more, only because this is at an angle.

7 Q Right. So but feet, not inches, fair?

8 A A little more though, I would imagine.

9 Q Okay. Can you describe what you mean?

10 A Maybe 10, only because this is kind of at a slant and
11 on a hill, so.

12 Q So more than a few feet?

13 A Yeah, maybe six-ish, rough guess.

14 Q Fair. No, no. I get it. About 6 feet between say A
15 and E?

16 A Maybe, yeah.

17 Q Whereas maybe between A and B, less than a foot?

18 A Yes. But it would be on the diagram too, if you --

19 Q Correct, correct.

20 MR. BASHOR: The Court's indulgence?

21 THE COURT: Okay.

22 MR. BASHOR: Thank you very much.

23 THE WITNESS: Oh, thank you.

24 THE COURT: Mr. Portz, anything further?

25 MS. WECKERLY: Can we just have the Court's

1 indulgence.

2 MR. PORTZ: The Court's indulgence. I'm sorry.

3 THE COURT: Okay.

4 (Attorneys confer.)

5 REDIRECT EXAMINATION

6 BY MR. PORTZ:

7 Q Ma'am, you were asked a few questions about the
8 bullet strikes themselves that we saw publishing State's 37.
9 Do you recall those questions on cross?

10 A Yes.

11 Q One of the questions was that you didn't do anything
12 to document the angle from which the strike may have come from,
13 correct?

14 A Correct.

15 Q The photograph itself is a document of the strike; is
16 that right?

17 A Yes.

18 Q And as to determining the angle in which it came
19 from, that would depend on the angle from where the shooter was
20 located; is that correct?

21 A Yes.

22 MR. PORTZ: The Court's indulgence.

23 (Attorneys confer.)

24 MR. PORTZ: Thank you. No further questions.

25 THE COURT: Anything further, Ryan?

1 MR. BASHOR: Just briefly, if I can be allowed.
2 (Attorneys confer.)
3 RE CROSS-EXAMINATION
4 BY MR. BASHOR:
5 Q So just so I understand, a bullet -- would it be fair
6 to say, as in State's Exhibit 37, Bullet Strike B, there does
7 not appear to be any pooling of that brown-red substance that
8 you presume to be blood there, correct?
9 A Correct.
10 Q Whereas in E, which we now know to be a bullet
11 strike, it does appear to be in somewhat of a pool of blood?
12 A Correct.
13 Q Thank you.
14 MR. BASHOR: No further questions.
15 MR. PORTZ: Nothing further from the State, Your
16 Honor. Thank you.
17 THE COURT: Anything from our jurors? Yes.
18 (Bench conference transcribed as follows.)
19 THE COURT: You all can approach.
20 MR. BASHOR: It's fine by me.
21 MS. WECKERLY: That's fine.
22 THE COURT: Okay.
23 (End bench conference.)
24 THE COURT: Okay. Ma'am, got a few questions for
25 you.

1 THE WITNESS: Okay.

2 THE COURT: The first one is, were you able to
3 determine how many shots were fired on scene?

4 THE WITNESS: I -- I guess you could depending on how
5 many cartridge cases were found. So I mean unless there were
6 others that -- cartridge cases that blew away that we weren't
7 able to locate, there were at least six shots fired.

8 THE COURT: And you're basing that just based on the
9 number of empty cartridge cases that were located in that area?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. Was the cellphone damage on the
12 front or back of the phone?

13 THE WITNESS: There was some damage on the front of
14 the phone where it was cracked, but then most of it was on the
15 side. There are some pictures where you can see it appears
16 that a bullet just traveled right through the cellphone and the
17 cellphone kind of opens up like a sandwich.

18 THE COURT: So the bullet traveled through the phone
19 front to back, back to front --

20 THE WITNESS: Oh, I'm sorry.

21 THE COURT: -- or could you determine that at all?

22 THE WITNESS: From the side through actually.

23 THE COURT: From the side through.

24 THE WITNESS: Yeah.

25 THE COURT: Okay.

1 THE WITNESS: Yes, sir.

2 THE COURT: And then finally, can you elaborate on
3 the defect found on the child's blanket; like a tear, a hole,
4 what were you referring to?

5 THE WITNESS: It was just like a hole within the
6 material, so just a basic hole right through it, the material.

7 THE COURT: Okay. Mr. Portz, any questions based on
8 mine?

9 MR. PORTZ: The Court's indulgence.

10 (Attorneys confer.)

11 MR. PORTZ: Your Honor, we're just attempting to
12 locate one exhibit.

13 THE COURT: Okay.

14 FURTHER REDIRECT EXAMINATION

15 BY MR. PORTZ:

16 Q And I apologize, I may have forgotten to publish one
17 certain exhibit. Your description of the bullet strike, I'm
18 going to publish State's 88, is this one of the photographs of
19 the phone that you documented as well when you were at the lab?

20 A Yes, sir.

21 Q And can you describe what we're looking at there?

22 A That was a side view of the HTC cellphone with the
23 defect close up.

24 Q Thank you.

25 A Yes.

1 THE COURT: Anything further, Mr. Bashor?

2 MR. BASHOR: No, thank you. Thank you.

3 THE COURT: Okay. Ma'am, thank you very much for

4 your time. I very much appreciate it. You are excused.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: State may call their next witness.

7 MS. WECKERLY: Your Honor, can we approach?

8 THE COURT: Sure.

9 (Bench conference transcribed as follows.)

10 THE COURT: So have we reached our family issue time?

11 MS. WECKERLY: No, no. But we don't have anybody

12 until 1:00 now because of our thing with our other crime scene

13 analyst.

14 THE COURT: Oh, okay.

15 MS. WECKERLY: So we have three people coming in

16 at 1:00, and those are our last three.

17 THE COURT: Okay. Do you guys have any sense of

18 whether you're calling witnesses, or...

19 MR. BASHOR: We're going to need to settle some jury

20 instructions before I can decide whether or not we rest.

21 THE COURT: Okay. Got it. Okay. All right. Then

22 we will break for a long lunch.

23 MS. WECKERLY: Sorry.

24 THE COURT: It's okay.

25 (End bench conference.)

1 THE COURT: All right. Folks, we're going to go
2 ahead and take our lunch break a little early today. And just
3 so you know, there was an issue, a family issue with one of the
4 witnesses. So they were supposed to be here this morning,
5 they're going to come in at 1:00 o'clock now. But it's
6 anticipated the State has a few more witnesses, so they'll be
7 resting their case early this afternoon. So lunch will be just
8 a little bit longer than normal today.

9 So during the recess you're admonished not to talk or
10 converse among yourselves or with anyone else on any subject
11 connected with the trial, or read, watch or listen to any
12 report of or commentary on the trial by any medium of
13 information, including without limitation the newspapers,
14 television, the Internet and radio, or form or express any
15 opinion on any subject connected with the case until it's
16 finally submitted to you. No legal or factual research or
17 investigation or re-creation of testimony on your own.

18 And I will see you back at 1:00 o'clock. Okay.
19 Thank you.

20 (Jurors recessed at 11:37 a.m.)

21 THE COURT: You guys have anything outside the
22 presence?

23 MS. WECKERLY: No, Your Honor. I want to just be
24 clear. If the witness isn't coming at 1:00, she's not coming
25 at all, but we're covering her testimony with other people.

1 THE COURT: Oh, okay. All right. So you guys can go
2 ahead and be seated. We'll take our opportunity. Let me go
3 ahead and have the chat with Mr. Newson I need to about
4 testifying. So --

5 MR. BASHOR: Your Honor --

6 THE COURT: Yep.

7 MR. BASHOR: -- that decision may be based on the
8 settlement of jury instructions.

9 THE COURT: Okay. No, I understand that.

10 MR. BASHOR: Okay.

11 THE COURT: I just want to go ahead and get on the
12 record the admonition about it.

13 MR. BASHOR: Thank you.

14 THE COURT: And I understand that we're going to have
15 some further discussion about jury instructions at some point
16 that impacts what advice you give to him.

17 But Mr. Newson, there is just a couple things that I
18 kind of need to go over with you proactively, and I know you'll
19 continue to have conversations with your attorneys about this
20 and part of whatever decision you may make may hinge somewhat
21 on jury instructions. But I just need to make sure that with
22 regard to the potential for you testifying you understand
23 certain things under the law, okay?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You guys can sit down. It's okay. Thank

1 you though.

2 Under the Constitution of the United States and under
3 the constitution of the State of Nevada, nobody can compel you
4 to testify. That means nobody can make you testify. Your
5 attorneys cannot make you testify, the State cannot call you as
6 a witness. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Furthermore, you do have the
9 ability to testify if you want to. If you decide that you want
10 to testify after speaking with your attorneys, you understand
11 that you would be open to questioning by the State just like
12 your attorneys could ask you questions just like any other
13 witness?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. And furthermore that anything
16 that you say when you testify, the attorneys are all allowed to
17 make comment on that in their closing arguments if you decide
18 to testify. Do you understand that as well?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay. If you choose not to testify and
21 you and your attorneys want you to, then I'll give the jury a
22 written jury instruction that tells them, quote, it is a
23 constitutional right of a defendant in a criminal trial that he
24 may not be compelled to testify, thus the decision as to
25 whether he should testify is left to the defendant on the

1 advice and counsel of his attorneys. You must not draw any
2 inference of guilt from the fact that he does not testify, nor
3 should this fact be discussed by you or enter into your
4 deliberations in any way. Do you understand that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: Okay. Finally, you understand that if
7 you decide to testify after speaking with your attorneys, if
8 you decide to testify, you have to understand that if you have
9 any felony convictions and they are not more than 10 years old,
10 and that date is from the date you were convicted and/or the
11 date you were released off of incarceration or parole or off of
12 probation, whatever is the most recent date, then you can be
13 asked about those felony convictions.

14 The attorneys can ask you were you convicted of a
15 felony, what was the felony and what year did it happen. They
16 can't go into the details of any prior felony conviction
17 though. Do you understand that?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: Okay. Do you have any questions for me
20 or your attorneys about those legal rights?

21 THE DEFENDANT: No.

22 THE COURT: Okay. Then we will be in recess, guys,
23 and I will see you back at 1:00 o'clock. Okay.

24 MR. BASHOR: Very good. Thank you.

25 (Court recessed at 11:42 a.m. until 1:05 p.m.)

1 (Outside the presence of the jury.)

2 (Court confers with staff.)

3 (Jurors reconvene at 1:08 p.m.)

4 THE COURT: We're going to be back on the record.
5 Mr. Newson is present with his attorneys. State's attorneys
6 are present. Our jurors are present. We are going to continue
7 on, ladies and gentlemen, with the State's case in chief.

8 So you all may call your next witness.

9 MR. PORTZ: Thank you, Your Honor. The State calls
10 Rick Hawkins.

11 RICKEY HAWKINS, STATE'S WITNESS, SWORN

12 THE CLERK: Will you please state and spell your name
13 for the record.

14 THE WITNESS: Rickey Hawkins. First name,
15 R-i-c-k-e-y. Last name, H-a-w-k-i-n-s.

16 THE COURT: Thank you. Mr. Portz.

17 MR. PORTZ: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. PORTZ:

20 Q Officer Hawkins, where are you employed, sir?

21 A Claremont Police Department.

22 Q How long have you worked for Claremont Police
23 Department?

24 A For approximately five years.

25 Q And I want to direct your attention back to

1 December 22, 2015. Were you working with the Claremont Police
2 Department that evening?

3 A Yes.

4 Q And what was your position at that time?

5 A I was assigned as a patrol officer.

6 Q And what are some of the general duties of a patrol
7 officer in the Claremont Police Department?

8 A Respond to calls for service, go into high crime
9 areas to prevent call -- crimes, respond to traffic accidents
10 and other emergencies.

11 Q And on that evening were you working with anyone?

12 A Yes.

13 Q Who were you working with?

14 A Corporal Tillman.

15 Q Now, at about 9:07 p.m., were you actually called out
16 to respond to a suspicious person call?

17 A Yes.

18 Q And where was that suspicious person call originating
19 from?

20 A It was originating in the area of Bucknell. It was
21 an apartment complex.

22 Q And did you respond there?

23 A Yes.

24 Q And when you responded there, did Corporal Tillman
25 respond as well?

1 A Yes, he did.

2 Q And on your way or in route, given the nature of the
3 call, were you given descriptors of the suspicious person?

4 A Yes, we were.

5 Q When you arrived at Bucknell in the apartment
6 complex, did you come into contact with anyone who matched that
7 description?

8 A Yes.

9 Q Can you describe what happened -- or what you first
10 saw when you came into contact with that person?

11 A We had the physical description of the subject. As
12 we were driving up to the location we saw him walking away from
13 the apartment complex. He matched the description that was
14 given by the reporting party, so at that time we contacted him.

15 Q Did he -- did the person have anything in his
16 possession at that point in time?

17 A Yes. He had a duffle bag.

18 Q Now, you said that he was walking away from the
19 scene. Can you describe that further in detail?

20 A The area is dark, so I'm not sure. Possibly he saw
21 us before we saw him and was walking away.

22 Q And do you come into contact or make contact with
23 this person?

24 A Yes.

25 Q And does that person identify himself to you?

1 A Yes, he does.

2 Q And that person you came into contact with, do you
3 see that person in the courtroom today?

4 A Yes, I do.

5 Q Could you please point to that person and identify an
6 article of clothing that he's wearing for the Court.

7 A I see he's sitting to your right [indicating] wearing
8 a gray suit with a red tie.

9 MR. PORTZ: I'd ask the record reflect that the
10 witness has identified the defendant.

11 THE COURT: It will so reflect. Thank you.

12 BY MR. PORTZ:

13 Q Okay. And how did the defendant identify himself
14 when you came into contact with him?

15 A He verbally identified himself and he also had
16 identification, California identification.

17 Q And was that identification belonging to Vernon
18 Newson?

19 A Yes.

20 Q And when you obtain information of this nature on a
21 suspicious person call, what do you do with that information?

22 A Once we get that information, we run a records check
23 through dispatch for any outstanding warrants.

24 Q And did you do that in this case?

25 A Yes.

1 Q And after this records check comes through, what if
2 any result did you get from that?

3 A The dispatcher advised us of confidential
4 information, and that information was there was a 187 warrant
5 issued out of Las Vegas on the day that we actually stopped
6 him.

7 Q And what, for the members of the jury, is a 187
8 warrant?

9 A It's the penal code for murder.

10 Q When you learn that there is a murder warrant out of
11 Las Vegas for Vernon Newson, what do you do at that point in
12 time?

13 A We immediately, I grabbed his left arm, my partner
14 grabbed his right arm and we placed him in handcuffs right
15 away.

16 Q And upon placing him in handcuffs what do you do with
17 him?

18 A I did a cursory search for weapons.

19 Q And did you locate any weapons on his person?

20 A No.

21 Q After that what do you do with the defendant?

22 A After that I placed him back in my patrol unit and I
23 transport him to the Claremont Police Department jail.

24 Q And when you arrive at the Claremont Police
25 Department -- you mentioned that he had a duffle bag with him;

1 is that correct?

2 A Yes.

3 Q Did you bring any of his belongings with --

4 A We brought his duffle bag and all of his items with
5 him to the jail.

6 Q What do you do with those items?

7 A Once we get the items, we go through them, we
8 inventory them, and given the nature of the warrant, we held
9 them in evidence.

10 Q And outside of the bag that was with him, did you do
11 or conduct prior to admitting him into the jail a further or a
12 more thorough search of his person?

13 A Yes. I searched again to make sure there was no
14 contraband being brought into the jail. At that time, in a
15 zipper pocket of his inner jacket, I found 9mm ammunition
16 rounds.

17 Q And do you recall about how many you found?

18 A I'd have to refer to my report for that exact.

19 Q More than one?

20 A Yes.

21 Q And what do you do with those ammunition rounds,
22 those 9mm ammunition rounds?

23 A Once I get those rounds I seize them as evidence.

24 Q Did he have anything else on his person at the time
25 that you would document before putting him into custody -- into

1 the jail?

2 A He had a couple layers of clothing on and a watch.

3 Q And is that watch removed and impounded as well?

4 A Yes.

5 Q When you conduct the search and you located those
6 rounds of ammunition, the 9mm rounds of ammunition in his
7 jacket pocket, was the -- did the defendant see or observe you
8 pulling those items out of his jacket pocket?

9 A Yes.

10 Q Did he make any statements to you at the time that
11 that happened?

12 A He said he didn't know they were in his jacket pocket
13 and they were old and they had been in there, he just forgot
14 about them.

15 Q At that point is the defendant booked into the jail
16 and the Las Vegas detectives notified?

17 A Yes.

18 Q All right. Given the nature of this call, do you
19 and/or Corporal Tillman do any further follow-up after he's
20 placed in custody?

21 A Yes. Given the nature of the call and the warrant
22 and ammunition, we called the local police department that had
23 a K-9 unit that's capable of detecting gunpowder, because we're
24 looking for a firearm. We went back to the location with the
25 dog and searched the area.

1 Q And did you locate anything during your search?

2 A We discovered a single 9mm round in the area where
3 the defendant was which matched the rounds found in his jacket
4 pocket.

5 Q And who found that round?

6 A I did.

7 Q And where was it found?

8 A It was found on the concrete.

9 Q And this area, was this in the same general vicinity
10 of where you had seen the defendant earlier that night when you
11 first responded to Bucknell?

12 A Yes, yes.

13 Q Thank you. What do you do when you find that round?

14 A We photograph it, photograph the scene, and then I
15 collect that as evidence as well.

16 Q And when you collect it into evidence, you then
17 impound it; is that correct?

18 A Yes.

19 MR. PORTZ: Your Honor, if I could make a brief
20 record.

21 THE COURT: Sure.

22 MR. PORTZ: Pursuant to a stipulation between the
23 parties, to the extent they have not already been admitted, the
24 State is moving to admit State's Proposed 113 through 116.

25 (The Court confers with the clerk.)

1 MR. PORTZ: And 133 through 145.

2 THE COURT: Any objection to any of those?

3 MR. BASHOR: No, Your Honor.

4 THE COURT: Okay. Those will all be admitted. Thank
5 you.

6 (State's Exhibits No. 113 through 116 admitted.)

7 (State's Exhibits No. 133 through 145 admitted.)

8 MR. PORTZ: I'm publishing what's been admitted as
9 State's 113. You'll see that up on --

10 THE COURT: Sir, is your screen on right here to your
11 left?

12 THE WITNESS: Yes, sir.

13 THE COURT: If anybody asks you to identify anything,
14 you can just kind of draw on the screen with your finger, okay?

15 THE WITNESS: Yes, Your Honor.

16 MR. PORTZ: Thank you, Your Honor.

17 BY MR. PORTZ:

18 Q And Officer, do you recognize what's depicted in this
19 exhibit?

20 A Yes, I do.

21 Q What are we looking at here?

22 A We're looking at the area of Bucknell, myself,
23 Corporal Tillman and the defendant walking towards my patrol
24 unit.

25 Q And what is this image taken from?

1 A From my dash cam.

2 Q I am now going to publish -- give me one second,
3 Officer -- State's 136 -- I'm sorry. Strike that.

4 State's 135, what is -- what do we observe here in
5 State's 135?

6 A This is our Claremont Police Department evidence
7 envelope, which is signed and filled out by me with the
8 ammunition that I found in his pocket above the envelope.

9 Q And how do you recognize this to be a Claremont
10 Police Department evidence envelope?

11 A It is my writing and it is our case number.

12 Q And when you store items of evidence in the envelope,
13 what if anything do you do to secure it to make sure it's not
14 tampered with following your impound of the evidence?

15 A Once the items are placed in there, put evidence tape
16 on there, put my initials across the evidence tape as well as
17 my PSN number, which is my identification number.

18 Q I'm publishing State's 134, and is that the seal that
19 you're referencing with your initial and your P number?

20 A Yes.

21 Q And did you -- you impounded in addition to the
22 bullets other items of clothing and evidence that was found on
23 the defendant at the time of his arrest?

24 A Yes.

25 Q And did you do similarly in each of those situations,

1 package them in an evidence envelope, seal it with tape and
2 then place your initials and P number on it?

3 A Yes.

4 Q Publishing now what's been admitted as State's 114,
5 Officer, what are we looking at here?

6 A We're looking at the address of 580 Bucknell, the
7 apartment complex in the area that we contacted the defendant.

8 Q And is 580 Bucknell where the call originated to your
9 understanding?

10 A Yes.

11 Q And showing you State's Proposed 115, what are we
12 looking at there?

13 A We're looking at the same walkway area as you walk
14 through the gate.

15 Q And did you take this photograph, Officer?

16 A Yes.

17 Q And then State's 116, again what are we looking at
18 here?

19 A A 9mm ammunition round that I found at the scene.

20 Q In addition you testified to items that you impounded
21 off of the defendant's person before placing him into custody
22 at the jail; is that correct?

23 A Correct.

24 Q What are those items that are taken off of his person
25 kept in?

1 A They're kept in a clear plastic property envelope
2 with his booking number.

3 Q And I'm showing you what's been admitted as
4 State's 140. What is this, Officer?

5 A That would be what belts, wallets and cash were taken
6 from a subject and placed while they're being booked.

7 Q And are these specifically the items that you took
8 off the defendant's person and placed into a plastic bag?

9 A Yes.

10 Q And State's 141, is that -- well, what is that?

11 A That is a photograph of the defendant.

12 Q And does your department use this to tie it -- tie
13 this property to him?

14 A Yes.

15 Q State's 142, do you recognize this?

16 A Yes.

17 Q What is that?

18 A That is a Claremont currency envelope, so the money
19 that was taken out of his possession was placed in that
20 envelope, sealed and signed.

21 Q And then showing you State's 143, what is that?

22 A That is my initials and my PSN number.

23 Q And State's 144, is this the contents of that
24 currency envelope?

25 A Yes.

1 Q And these were found on the defendant as well at the
2 time of his arrest?

3 A Yes.

4 Q And then finally, State's 145, what is this here,
5 sir?

6 A A watch that's found in the defendant's possession.

7 MR. PORTZ: Pass the witness, Your Honor.

8 THE COURT: Thank you. Gentlemen.

9 MR. SHAYGAN: Thank you for your time, Officer.

10 Nothing from the defense, Your Honor.

11 THE COURT: Anything from our jurors? Officer
12 Hawkins, thank you very much. I appreciate you traveling out
13 here, sir.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: You are excused.

16 The State may call their next witness.

17 MR. PORTZ: Detective Ben Owens, Your Honor.

18 BENJAMIN OWENS, STATE'S WITNESS, SWORN

19 THE CLERK: Will you please state and spell your name
20 for the record.

21 THE WITNESS: My name is Benjamin Owens. First name
22 is B-e-n-j-a-m-i-n. Last name, O-w-e-n-s.

23 THE COURT: All right. Thank you, sir.

24 Mr. Portz.

25 MR. PORTZ: Thank you, Your Honor.

1 Q Now, Detective, were you assigned to investigate a
2 homicide event that took place on December 13, 2015, at about
3 10:35 in the evening?

4 A Yes, I was.

5 Q And where did that homicide take place?

6 A It occurred in the area of Interstate 15 and Lamb
7 Boulevard, particularly on the southbound on ramp to get onto
8 southbound I-15 from Lamb.

9 Q And did you actually respond to that scene that
10 evening?

11 A Yes, I did.

12 Q Can you describe when you arrived what you saw
13 generally?

14 A Yes. I was called out to the scene because it was
15 after hours. When I arrived I could see that there was a crime
16 scene perimeter established with multiple marked police
17 vehicles both from the North Las Vegas Police and from the
18 Nevada Highway Patrol to contain the crime scene.

19 Q So there were police present?

20 A Yes.

21 Q Were there potential witnesses that were present as
22 well?

23 A Yes. There was also several private owned vehicles
24 of what I found out later were lay witnesses that were in the
25 area at the time.

1 Q And were there crime scene analysts present when you
2 first arrived?

3 A Yes.

4 Q Was the victim of the homicide present when you were
5 there?

6 A No. It was -- I found out later that she was
7 transported to Sunrise trauma hospital from the scene.

8 Q Thank you. Now, we've already gone through the
9 images of the scene, but I want to publish what's been admitted
10 as State's 5. Can you tell me what we're looking at here?

11 A It appears to be a partial diagram or legend that's
12 part of a crime scene diagram.

13 Q And from the crime scene itself from this incident?

14 A Yes.

15 Q You referenced a legend. I'm going to publish what's
16 been admitted as State's 6. Is this -- well, what is this?

17 A This is the legend to that crime scene diagram from
18 the earlier photos, so those two would go together.

19 Q And this legend, does this document particular pieces
20 of evidence that were impounded at the crime scene?

21 A Yes. The numbered items are actual pieces of
22 evidence. The lettered items are things that were documented
23 and photographed but not collected, and it looks like there are
24 measurements corresponding to each item that are measurements
25 from a reference point at the scene.

1 Q And who makes the decision at a crime scene, at a
2 homicide scene, at this particular homicide scene as to what
3 evidence would be impounded or collected?

4 A Generally the ultimate responsibility is of the lead
5 homicide detective, but it is usually discussed among the
6 investigative team of detectives and crime scene investigators
7 present.

8 Q And were you assigned to be the lead homicide
9 detective in this incident regarding the death of Anshanette
10 McNeil?

11 A Yes, I was.

12 Q And did you consult with others, investigators and
13 crime scene analysts as to what evidence appeared relevant to
14 you for your investigation?

15 A Yes.

16 Q Can you tell us how many -- well, what items of
17 evidence did you guys collect from the scene that were relevant
18 to you?

19 A After doing a walk through, through the scene, I
20 could see myself that there were -- there was apparent blood
21 stains in the roadway, there were apparent defects in the road
22 consistent with bullet strikes, there were multiple cartridge
23 cases, which are the ejected shell casing from a semiautomatic
24 firearm, there was a damaged cellphone, there was a partial
25 piece of cloth. All of these items were noted, documented as

1 evidence and collected, or at least samples of it were
2 collected.

3 Q The items referenced in the legend in this exhibit as
4 jacketing, can you describe what that is?

5 A Jacketing is going to be the partial copper covering
6 of a bullet or a fired projectile from a round of ammunition.

7 Q And how many of those were collected from the scene?

8 A It looks like two partial jacketing pieces from this
9 scene were collected.

10 Q Additionally you reference cartridge cases that were
11 located at the scene; is that correct?

12 A Yes.

13 Q And what do the cartridge cases represent to you for
14 purposes of your investigation?

15 A A cartridge case is ejected from a semiautomatic
16 firearm. They will have a headstamp that indicates the brand
17 and also the caliber of ammunition that was fired. I had noted
18 that it appeared that all of the cartridge cases appeared to
19 be 9 by 19mm.

20 Q And how many cartridge cases were recovered from that
21 crime scene?

22 A There were six total.

23 Q And were there anything distinctive about the -- the
24 cartridge cases themselves for purposes of your investigation?

25 A Yes. As I said, they all had a headstamp on the base

1 of the cartridge case with letters that are generally indicate
2 who the manufacturer was. There were several different brands.
3 Of the six, there were several different brands.

4 Q Did you take note of what those brands were?

5 A Yes. I believe among the brands listed -- or among
6 the brands that were present were Winchester, Federal, CBC and
7 Sellier & Bellot.

8 Q Doe Sellier & Bellot have an S and the ampersand B
9 headstamp?

10 A Yes.

11 Q Again, all of these cartridge casings appeared to you
12 to be consistent with a particular caliber however; is that
13 correct?

14 A Yes. They're all 9 by 19mm.

15 Q And in your experience as an officer and detective,
16 your experience with firearms, can similar or same caliber
17 ammunition be fired from a firearm even though they're made or
18 produced by different companies?

19 A Yes, absolutely. It's the caliber, the caliber, as
20 long as that's the correct caliber for the firearm, then it
21 wouldn't really matter what the brand was.

22 Q And then you also referenced the divots, the bullet
23 strikes. Approximately how many bullet strikes were located at
24 the crime scene?

25 A I want to say there were at least three.

1 Q And those were documented by crime scene analysts
2 photographically?

3 A Yes. Yes, they were.

4 Q While you were at the crime scene collecting this
5 evidence, did you -- did any updates come about that would help
6 further your investigation?

7 A Yes. While we were there working that scene I
8 received information that the Las Vegas Metropolitan Police
9 Department was out on a missing persons call in their
10 jurisdiction, and it appeared that the victim or possible
11 victim from the missing persons matched -- matched the
12 description of who we thought -- what we eventually found out
13 our victim was from our scene.

14 Q And that was -- I'm sorry if you said this. Was that
15 at 3613 Saint Bar Court?

16 A 3613 Saint Bar Court, that is in Metro's
17 jurisdiction, yes.

18 Q Did you respond to that area?

19 A Yes, I did.

20 Q Who did you respond with?

21 A I went with Detective Stucky, who was assigned to
22 work this investigation with me.

23 Q Is Detective Stucky on the homicide/robbery division
24 as well?

25 A Yes, at that time she was. She has recently retired

1 however.

2 Q And prior to leaving the crime scene, did you -- what
3 if anything did you do?

4 A There were several patrol officers and crime scene
5 investigators still at that scene, so once we got that new
6 information at Saint Bar Court, I just kind of directed what I
7 needed to have done at that scene so we could go to the Saint
8 Bar Court address to follow up on that.

9 Q And did you and Detective Stucky drive there?

10 A Yes, we did.

11 Q Approximately how far away was that address from the
12 crime scene itself?

13 A The way we took was approximately 3.7 miles. There's
14 different routes, but it's definitely less than 4 miles. It's
15 right around 3.7 miles.

16 Q And about how long did it take for you to drive from
17 the crime scene to that location?

18 A Less than 10 minutes.

19 Q And did you generate a document for purposes of
20 establishing the distance and time it typically takes to travel
21 that distance?

22 A Yes. I just did a simple map from Google Maps to
23 show.

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

25 THE COURT: You may.

1 BY MR. PORTZ:

2 Q Showing you what's been marked as State's Proposed 3,
3 do you recognize that?

4 A I do.

5 Q What is that?

6 A It is the -- it's just a printout of -- and Google
7 Maps has a feature where you can enter two addresses and find
8 the directions, and it'll give you routes for it, and this is
9 the one that I printed out and --

10 Q Was that generated and placed into your report in
11 this investigation?

12 A Yes, it was.

13 Q And do the markings and timings referenced here
14 corroborate, or are they just about the same as what you
15 experienced when you actually drove that distance?

16 A Yes.

17 MR. PORTZ: I move to admit State's Proposed 3, Your
18 Honor.

19 MR. BASHOR: No objection.

20 THE COURT: That will be admitted as well.

21 (State's Exhibit No. 3 admitted.)

22 BY MR. PORTZ:

23 Q Publishing State's 3, when you arrived at the
24 residence, what -- who if anyone did you meet with?

25 A I spoke with Zarharia Marshall and a Tyra Atkins, who

1 I later found out was Anshanette McNeil's mother.

2 Q And can you -- based on your conversations with them,
3 were you able to advance or further your investigation with any
4 leads?

5 A Yes, I was.

6 Q What did you ultimately determine from that
7 conversation?

8 A I determined that Anshanette was supposed to be
9 returning to the house with the defendant, Vernon Newson, Jr.,
10 and two of Anshanette's children, one of which is in common
11 with Vernon, and that they were supposed to be arriving at the
12 house together.

13 Q And at this point do you develop a person of interest
14 in your homicide investigation?

15 A Yes.

16 Q And who was that?

17 A The defendant, Vernon Newson, Jr.

18 Q Now, what -- aside from your conversations with
19 potential witnesses at this scene, did you locate anything of
20 evidentiary value?

21 A Yes, I did.

22 Q And what items did you locate?

23 A I also learned from speaking with Zarharia that
24 Vernon had showed up at the house with the two kids, but
25 Anshanette was not there. He had dropped off a purse that

1 belonged to Anshanette. The purse contained several of her
2 personal items such as ID. I also learned that Vernon was seen
3 loading a magazine to a semiautomatic firearm, and that he had
4 actually dropped some cartridges, some unfired rounds of
5 ammunition at the house and then left.

6 Q Did you locate any items of evidence that had any
7 potential forensic or DNA value at that location?

8 A Yes. The baby seat and clothing from one of the
9 children that were brought home in the same car as Vernon had
10 apparent blood staining on it.

11 Q Now, were these items of evidentiary value that
12 you've testified about, were they photographed by a crime scene
13 analyst?

14 A Yes. They were photographed and collected.

15 Q I'm going to publish what's been admitted as
16 State's 92. Detective, can you tell me what we're looking at
17 in State's 92?

18 A So these are three rounds of 9 by 19mm handgun
19 ammunition, and they're on top of a washing machine inside the
20 house at 3613 Saint Bar.

21 Q And I'm going to publish State's -- are these the --
22 what was the relevance to your investigation of these three
23 bullets?

24 A They bore the same headstamp of S&B for Sellier &
25 Bellot, which is the same headstamp as one of the cartridge

1 cases that were fired that were recovered at the scene at I-15
2 and Lamb.

3 Q Publishing State's 93, is that a photograph of the
4 headstamp of one of the three bullets recovered at the Saint
5 Barr Court residence?

6 A It is.

7 Q I want to move your attention to the next morning,
8 December 14, I should say, of 2015. Did you attend an autopsy
9 of the victim, Anshanette McNeil?

10 A Yes, I did.

11 Q And can you describe what injuries you observed to
12 the victim?

13 A She had multiple gunshot wounds to her face, to her
14 chest and to her arms.

15 Q And were you present for the autopsy itself?

16 A Yes, I was.

17 Q And was there a determination as to the manner of
18 death in this case?

19 A Yes. The medical examiner opined that the cause of
20 death was multiple gunshot wounds, and that the manner of death
21 was homicide.

22 Q While at the autopsy there's you, the detective,
23 there's the medical examiner. Is there also a crime scene
24 analyst present?

25 A Yes.

1 Q And what's the purpose of having a crime scene
2 analyst present at the autopsy?

3 A That is also to document with photographs parts of
4 the autopsy and to collect anything of evidentiary value that
5 the decedent may have had, such as their clothing or any
6 recovered forensic evidence such as bullets that may be still
7 inside the victim's body.

8 Q And were bullets recovered from inside the victim's
9 body?

10 A Yes. There was a bullet and bullet fragments that
11 were recovered.

12 Q Is it also common practice for an analyst to recover
13 from the decedent certain identifying features or potential DNA
14 evidence?

15 A Yes. It's generally standard to collect a set of
16 fingerprints for an exemplar, and also a swab of DNA, to get a
17 reference sample of DNA from the decedent.

18 Q Were fingerprints taken from Anshanette McNeil at
19 this case by the crime scene analyst?

20 A Yes.

21 Q And was a DNA swab also taken of the victim,
22 Anshanette McNeil, in this case?

23 A Yes.

24 Q And how is the DNA swab generally taken?

25 A Generally it's a buccal swab. It's just a sterile

1 cotton swab and a long wooden toothpick, so it's kind of like
2 just a big Q-Tip basically, sterile.

3 Q And is the swab generally taken inside the mouth
4 or --

5 A Yes, inside the cheek generally.

6 Q Following your initial round of investigation and the
7 autopsy report, do you generate an arrest warrant?

8 A Yes.

9 Q And who do you make the arrest warrant out for?

10 A For the defendant, Vernon Newson, Jr.

11 Q And do you recall what date the arrest warrant went
12 out?

13 A It was issued on December 22, 2015.

14 Q Did any additional developments take place in your
15 investigation or attempts to locate and arrest the suspect,
16 Vernon Newson?

17 A Yes. On the evening of December 22, I was contacted
18 at home by North Las Vegas dispatch. They had advised me that
19 the Claremont Police Department in California had apprehended
20 and arrested the defendant, Vernon Newson, Jr., pursuant to the
21 arrest warrant which had just been entered into the system that
22 very day.

23 Q And what do you do, Detective, upon learning that
24 he's been arrested in Claremont?

25 A The next day would have been December 23. I

1 requested permission and was granted permission to drive to
2 Claremont Police Department in California with Detective Stucky
3 to recover the evidence that he was found with and that was
4 collected incident to his arrest.

5 Q So you said there was evidence collected incident to
6 his arrest. When you arrive, where is that evidence located?

7 A It was at the Claremont Police Department. They
8 had -- when they encountered him, he was in possession of
9 multiple items. He had a duffle bag with various miscellaneous
10 clothing. He had a total of 18 rounds of 9 by 19mm handgun
11 ammunition, unfired cartridges that all bore the headstamp of
12 S&B for Sellier & Bellot. He was also in possession of the
13 watch that he was physically wearing, and the watch had an
14 apparent blood stain on it.

15 Q Now, when you arrive, is the evidence secured in an
16 evidence bag?

17 A Yes. The Claremont Police Department had seized all
18 of that evidence incident to their arrest of him and packaged
19 it in their evidence packaging which is standard for their
20 police department.

21 MR. PORTZ: The Court's indulgence.

22 THE COURT: Okay.

23 MR. PORTZ: Your Honor, pursuant to a stipulation
24 with the defense, to the extent they have not already been
25 admitted, State's Proposed 117 through 230 will now be admitted

1 by stipulation.

2 THE COURT: 117 through 230?

3 MR. PORTZ: Yes, Your Honor.

4 THE COURT: Agreed, gentlemen?

5 MR. BASHOR: Yes, Your Honor.

6 THE COURT: All right. Thank you.

7 (State's Exhibits No. 117 through 132 admitted.)

8 (State's Exhibits No. 146 and 147 admitted.)

9 (State's Exhibits No. 149 through 218 admitted.)

10 (State's Exhibits No. 221 through 230 admitted.)

11 BY MR. PORTZ:

12 Q Now, what do you do with this evidence when you find
13 it in the bags in California?

14 A I signed for the chain of custody from Claremont
15 Police Department, and I signed the appropriate forms and
16 documentation for their agency to release the items of evidence
17 to me, and then I took them into custody and transported them
18 back to North Las Vegas.

19 Q And where do you take them specifically to in North
20 Las Vegas?

21 A I drove them from Claremont, California straight to
22 our CSI lab for repackaging, examination and then re-booking.

23 Q So when you say repackaging, what needs to happen
24 with these items of evidence as you --

25 A So we have to open the packaging from Claremont

1 Police Department, document what's there, determine if any of
2 it needs to be sent off for further testing, repackage it in
3 North Las Vegas PD evidence packaging, and then have it booked
4 into our evidence vault.

5 Q And you do that process with the crime scene analyst?

6 A Yes, I do.

7 Q Do you recall which analyst was present for this?

8 A Yes. CSI Renee Harder.

9 Q And I'm going to go briefly through the items that
10 you recovered and brought back from California. I'm going to
11 post a series of pictures that we've admitted into evidence and
12 ask that you explain to the members of the jury what it is
13 we're looking at and why it was relevant to your investigation.

14 A Okay.

15 Q Thank you. I'm going to start with State's 117.

16 A So that is -- it's basically a big paper bag, and I
17 think it probably either has clothing or something bulky inside
18 of it.

19 Q And fair to say that the evidence that you obtained,
20 these are the bags that you referenced that come out of
21 Claremont?

22 A Yes, that's -- yeah. I'm looking at the evidence
23 tape. That's as it was packaged from Claremont Police
24 Department.

25 Q And there were a significant number of these bags

1 that were just packaged and sealed with the Claremont police
2 evidence tape; is that correct?

3 A Yes. Yeah. It's standard for not only our agency
4 but pretty much every accredited law enforcement agency. In
5 order to maintain the chain of custody, anything you seize as
6 evidence has to be packaged up and sealed in a way as to
7 preserve the chain of custody.

8 Q Now I want to go just generally through the items
9 found in Package 1. I'm going to publish State's 118,
10 State's 119, State's 120, and State's 121. Were these the
11 items contained in Package 1 from the Claremont Police
12 Department?

13 A Yes.

14 Q And just generally can you describe what items were
15 found inside that package?

16 A Miscellaneous clothing, a pair of shoes, some
17 cologne, multiple cellphones, multiple watches, multiple
18 miscellaneous pieces of paper and receipts, and a key chain
19 with some keys.

20 Q Was there also an evidence bag marked Number 2 with
21 miscellaneous clothing contained inside it?

22 A Yes, there was.

23 Q Publishing State's 122, 123, 124. And is this those
24 three exhibits depicting the un-packaging of that bag marked
25 Number 2 by the Claremont Police Department?

1 A Yes.

2 Q And just generally again what were the contents
3 contained therein?

4 A Miscellaneous items of men's clothing, like a jacket
5 and a pair of sweatpants and a sweatshirt.

6 Q State's 125, what is this, Detective?

7 A A black duffle bag.

8 Q And State's 126 and State's 127 and State's 128 and
9 State's 129, what were depicted in those exhibits?

10 A Miscellaneous clothing and towels that were inside
11 the aforementioned black duffle bag.

12 Q Was there also located -- and all of these items were
13 again located on the defendant when -- during his arrest in
14 Claremont, California?

15 A That's correct.

16 Q Was there also located a wallet with various ID's and
17 receipts?

18 A Yes, there was.

19 Q Was that packaged in an evidence bag item marked
20 Number 4 by the Claremont Police Department?

21 A Yes, it was.

22 Q Publishing State's 130, 131, is that the evidence bag
23 Item No. 4 from Claremont Police Department?

24 A Yes, it is.

25 Q And State's 132, what's -- what is depicted in

1 State's 132?

2 A The contents that were in that envelope. Again, it's
3 the wallet, there's several forms of identification all in the
4 defendant's name, and several receipts and other miscellaneous
5 paperwork.

6 Q I'm going to publish what's been admitted as
7 State's 135. Can you tell me what we're looking at there?

8 A So these are the 18 rounds of 9 by 19 Sellier &
9 Bellot unfired cartridges that were in his possession.

10 Q And does State's 136 depict the headstamp that you've
11 referenced on one of those 17 rounds of ammunition?

12 A Yes. As you can see, it's the S, ampersand, B, and
13 then to the lower left at about the 7:00 o'clock position is 9
14 by 19.

15 Q And can you refresh our memories as to why the S&B
16 logo was pertinent to your investigation?

17 A S&B indicates that it was manufactured by Sellier &
18 Bellot, and it is the same manufacturer of the three 9mm
19 cartridges that were found at 3613 Saint Bar that were unfired,
20 and also matched one of the 9mm casing, cartridge cases fired,
21 that were fired and recovered at the scene at I-15 and Lamb.
22 So you have three different locations with the commonality of
23 ammunition specific to the manufacturer.

24 Q Publishing State's 138, was this also an item of
25 evidence recovered from the Claremont Police Department?

1 A Yes. And just to clarify, there was one -- one
2 cartridge that was found in the vicinity of where he was taken
3 into custody at Claremont PD, and the other remaining, I
4 believe it was 17 rounds, were physically on his person.

5 Q And then this was one round that was kept separate
6 from the other 17 that you recovered or retrieved from the
7 Claremont Police Department?

8 A Yes. They had -- after taking him into custody they
9 did a -- I believe they did a search of the immediate area
10 where he was and found the one additional cartridge.

11 Q State's 139, is that a headstamp of that additional
12 cartridge that was located?

13 A Yes. It's --

14 Q And what -- I'm sorry. I interrupted you. Go ahead.

15 A Yeah. As you can see, it's upside down, but it bears
16 the same headstamp of S&B for Sellier & Bellot, 9 by 19mm.

17 Q Did you also retrieve from Claremont police items of
18 evidence that were actually taken off of the defendant's person
19 at the time of his arrest?

20 A Yes.

21 Q I'm going to publish what's been admitted as
22 State's 145. What is this, Detective?

23 A This is a watch that he was physically wearing when
24 he was taken into custody by Claremont PD.

25 Q And was there anything when you uncovered or opened

1 this watch that stood out to you in your investigation?

2 A Yes. If you look at the tail end of the watch
3 towards the bottom of that photograph, where all the holes are
4 from when you fasten it, there's some red staining that appears
5 to be blood.

6 Q Publishing State's 146, what do we see here, sir?

7 A This is a close-up photograph of what I was talking
8 about. It's an apparent blood stain.

9 Q What if anything do you and CSA Harder do when you
10 observe what appears to be an apparent blood stain on the
11 defendant's wristwatch?

12 A She conducted a test that presumptively showed that
13 it was positive for human blood.

14 Q Showing State's 147, can you tell me what we're
15 looking at here?

16 A This is the testing kit that she applied that showed
17 positive for human blood.

18 Q And upon -- well, based on the results of that
19 presumptive analysis, did you or CSA Harder collect any
20 evidence of this for purposes of forensic testing down the
21 road?

22 A Yes. That swab that's there that was taken from the
23 red staining was submitted to the Las Vegas Metropolitan Police
24 Department's DNA lab.

25 Q Now, based on your interviews with the people at the

1 scene and at the Saint Bar Court with Zarharia Marshall and
2 Tyra Atkins, were you attempting to locate any potential
3 vehicles?

4 A Yes. We knew that -- that information from Zarharia
5 was that Vernon was seen driving in an SUV type vehicle that,
6 you know, and he arrived at the house in an SUV type vehicle
7 and left in that same vehicle.

8 Q Were you able to determine further a make and model
9 or somehow associate that vehicle with your investigation?

10 A Yes.

11 Q What did you determine?

12 A So on January 8th it would have been 2016, I received
13 notification that the Las Vegas Metropolitan Police Department
14 had located what appeared to be an abandoned vehicle in their
15 jurisdiction. It was a rental car. It was a Kia SUV, and a
16 registration check on the plate showed that it had been
17 previously rented to the decedent, Anshanette McNeil, back in
18 December of 2015.

19 Q Publishing State's 148, what is this, Detective?

20 A This is the, in this picture, blue in color Kia SUV,
21 and it is parked in the Cincinnati Avenue, I believe it's the
22 2700 block, 3700 block.

23 Q And what do you do with the vehicle after it's
24 located?

25 A Once it was recovered -- or once it was located,

1 Detective Stucky actually responded to the scene along with
2 another CSI, and it was sealed at the scene and towed to our
3 evidence bay at the North Las Vegas Police Department.

4 Q And what's the purpose of sealing a vehicle -- or
5 actually first describe what you mean by sealing a vehicle.

6 A So a CSI will respond to photograph it in place, and
7 they will put evidence tape and sign it on all the doors and
8 latches and hood to make sure that the vehicle, none of the --
9 none of the openings will be opened prior to when we can
10 process it. So that's, when you seal it, it's basically just
11 preserving anything of evidentiary value inside the vehicle --

12 Q I'm going to show you --

13 A -- and outside the vehicle.

14 Q I'm sorry. I interrupted you again.

15 A It's to preserve anything inside or outside the
16 vehicle.

17 Q I'm going to show you State's 150. Do we see what
18 you're referencing there with regards to how the vehicle is
19 sealed?

20 A Yes. There's a slight small piece of evidence tape
21 and it's initialed by the CSI that responded, Pat Fisher.

22 Q And was that done at all locations where a door could
23 open on the vehicle?

24 A Yes, a door, a hatch, a hood, anywhere where you can
25 get to the interior portion of the vehicle.

1 Q And those seals, are they documented when it's
2 brought back to the North Las Vegas crime scene lab --

3 A Yes.

4 Q -- to ensure that they're all still intact?

5 A That's correct.

6 Q And were all the seals still intact when you brought
7 the vehicle back to the crime scene lab for a search?

8 A Yes. And I was present for that, so I also visually
9 verified that all the seals were intact.

10 Q Now, prior to searching the vehicle itself, did you
11 actually obtain a search warrant?

12 A Yes, I did.

13 Q And when the vehicle is at the North Las Vegas crime
14 scene lab, who if anyone -- you said you were present for the
15 search of the vehicle?

16 A Yes.

17 Q Who if anyone else was present with you?

18 A CSI Harder.

19 Q And did you find items of evidentiary value inside
20 the vehicle?

21 A Yes, I did.

22 Q I'd like to start briefly with just overviews, if we
23 could. State's 156, what are we looking at here?

24 A This is a view inside the vehicle from the driver's
25 side front window. You can see in the center console there is

1 a paper drink cup with a straw and a soda bottle, a plastic
2 soda bottle.

3 Q I'm going to publish State's 157. What are we
4 looking at here?

5 A This is a view from the driver's side into the rear
6 seat. You can see that there's miscellaneous articles of
7 clothing, it looks like a pair of yellow flip-flops, and a car
8 seat on the right passenger side.

9 Q State's 158, and just generally what are we looking
10 at here?

11 A This is the rear cargo area. You can see there's a
12 bag and it looks like a camouflage colored article of baby
13 clothing or child's clothing.

14 Q Do you search all areas of this vehicle on the
15 interior?

16 A Yes.

17 Q And during that search and aside from items of
18 evidence collected, did you locate what appeared to be blood
19 within the vehicle?

20 A Yes. There was a very large apparent blood stain on
21 the driver's side rear seat, which would be directly behind the
22 driver's seat.

23 Q And I would start -- did you locate any in the front
24 driver's seat area as well?

25 A Blood?

1 Q Yes.

2 A There may have been some spatter, but I don't recall
3 exactly.

4 Q Well, let's publish -- again, all of these findings
5 are documented photographically, correct?

6 A Yes.

7 Q Publishing State's 159, and what is this here, sir?
8 It's hard to tell from there. I can walk it up to you, but...

9 A So this is the driver's door opened with the view of
10 the basically the driver's door. It looks like there is some
11 red marks on it.

12 Q And State's --

13 A Actually, no, that's just my screen.

14 Q -- 160?

15 A Okay. Yeah. So this is the door handle, and as you
16 can see, there's apparent blood on it.

17 Q And you referenced there was also blood located in
18 the back seat; is that correct?

19 A Yes.

20 Q In the rear area.
21 Publishing State's 161, what are we looking at here?

22 A So there's significant amounts of blood on the rear
23 driver's side door towards the handle area.

24 Q Is this the door associated with the seat directly
25 behind the driver?

1 A Yes, it is.

2 THE COURT: Just for the record, you're talking about
3 the interior part of the door, correct?

4 THE WITNESS: Yes. This is the interior door panel
5 on the left side or driver's side, the rear door.

6 BY MR. PORTZ:

7 Q State's 162?

8 A This is a close-up shot of the same door, and with
9 that clearer view of the apparent blood.

10 Q And again, that blood, as we noted, that's on the
11 interior side of the door, correct?

12 A Yes, it is.

13 Q 163.

14 A I believe this is just a different angle of the same
15 door.

16 Q And 164.

17 A Yes, same door showing the blood.

18 Q Showing you now what's been admitted as State's 165,
19 what are we looking at here, Detective?

20 A So this is a view of the rear seat on the left side
21 which is directly behind the driver, and it's a dark colored
22 upholstery, but the staining is significant apparent blood
23 stain.

24 Q And similarly as was done with the rear driver's side
25 door, did you also -- were they also documenting these

1 photograph -- taking closer-up photographs of the apparent
2 blood?

3 A Yes.

4 Q Showing you State's 166.

5 A Again, yeah, this is a close-up view. The red
6 staining is blood.

7 Q And State's 167.

8 A Yeah, it's the same, just a different view, different
9 perspective of the same seat. There is blood staining on the
10 seat belt and the back of the seat.

11 Q Now, you referenced during your testimony that there
12 were items of evidentiary value found inside the vehicle. How
13 do you go about marking those items of evidence as you're
14 conducting the search and photographing it?

15 A If it's an item that's going to be collected, it's
16 numbered. If it's a stain that you can't take an entire sample
17 of or like a hole or a defect, then there's a letter that it's
18 documented with.

19 Q Is that similar to how this was carried out at the
20 crime scene itself on I-15 southbound and Lamb?

21 A Yes. So to use that as an example, the items that we
22 collected were all numbered items. The bullet -- the defects
23 in the roadway that were apparent bullet strikes, you can't
24 really collect the whole road, so you put a letter there and
25 you photograph it.

1 Q I'm going to start generally and we'll move closer in
2 with beginning in the front driver's side. Publishing
3 State's 169, what are we looking at here?

4 A So this is a view of the driver's side front seat of
5 the vehicle, and every one of those yellow numbered placards
6 indicates an item of evidence that was collected or to be
7 collected.

8 Q Publishing State's 170, what are we looking at here?

9 A This would be Evidence Item No. 1 that was collected
10 from the vehicle. It is a receipt from Raising Cane's
11 restaurant.

12 Q And publishing now State's 171, what are we looking
13 at in 171?

14 A Item 4 is the paper cup with the straw. Item 5 is
15 the soda bottle, plastic soda bottle.

16 Q Do you recall a restaurant the cup from Item 4 came
17 from?

18 A I don't.

19 Q Publishing State's 172, what do we have here?

20 A Number 7, is toward the -- this would be in the back
21 seat next to that car seat towards the center, there is a --
22 it's either a cartridge case or an unfired round of a
23 cartridge.

24 Q Are these items that you locate, after they're
25 documented in place, subsequently removed and further examined?

1 A Yes.

2 MR. PORTZ: The Court's indulgence.

3 BY MR. PORTZ:

4 Q At the conclusion -- let me publish what's been
5 admitted as State's 198. Tell me what we're looking at in
6 State's 198.

7 A So this is a cartridge case. As you can see, the
8 primer's been struck. That means it's been fired and ejected.
9 The caliber is 9 by 19mm, and that headstamp, the letters WIN
10 indicates Winchester is the manufacturer of that ammunition.

11 Q Was that headstamp WIN pertinent to your
12 investigation?

13 A Yes. The WIN or Winchester brand was the same as one
14 of the recovered cartridge cases that were recovered at I-15
15 and Lamb the night of the murder.

16 Q And for the record, the item depicted in State's 198,
17 what evidence placard is marked with that?

18 A Number 7.

19 Q Does that refresh your recollection, now moving back
20 to State's 172, as to what this was, whether it was a live
21 round of ammunition or a fired, a spent cartridge?

22 A It does. That is a cartridge case.

23 Q Move on now to the rear driver's side, State's 173.
24 Can you tell me what we're looking at here?

25 A This is the rear seat. There are numerous evidence

1 placards all indicating items of evidence that were to be
2 collected.

3 Q State's 174, what is this, Detective?

4 A 8, 9, 10 and 11 are all cartridge cases. And so
5 is -- actually I can't see the number, but in the upper left
6 there's another evidence placard, and that appears to be a 9mm
7 cartridge. I know there was one 9mm cartridge and six
8 cartridge casings total.

9 Q Showing you State's 175.

10 A So yeah, Number 12 is an unfired round of 9 by 19mm
11 ammunition.

12 Q And again, were these items removed and further
13 examined outside of the car itself?

14 A Yes.

15 Q And was --

16 MR. BASHOR: I'm sorry, Counsel. What exhibit number
17 are we displaying? I'm sorry.

18 MR. PORTZ: 175.

19 MR. BASHOR: Thank you.

20 BY MR. PORTZ:

21 Q Was there anything of note as to the caliber and/or
22 any other markings on these expended cartridge casings and the
23 live round of ammunition seen in 7 through 12?

24 A Yes. As far as the caliber, the caliber for all of
25 them were 9 by 19mm, which is the same caliber as the caliber

1 from the evidence recovered at I-15 and Lamb where the shooting
2 occurred, it was the same caliber as the three cartridges that
3 were recovered at 3613 Saint Bar, and it was the same caliber
4 as the 18 cartridges that were recovered on the defendant's
5 person in Claremont, California.

6 Q So publishing State's 199, Detective, what is this
7 here?

8 A This is Number 8. It is a cartridge case, means it's
9 been fired, and the headstamp is for Winchester.

10 Q And State's 200, 201 and 202, what do we see in those
11 exhibits, Detective?

12 A They're all fired ejected casings all bearing the
13 headstamp of WIN for Winchester and all in the same caliber,
14 9mm by 19.

15 Q And just to be clear, these photographs depict
16 close-ups of what was [inaudible] car in State's Proposed [sic]
17 174; is that correct?

18 A Yes.

19 Q The items marked 8, 9, 10 and 11?

20 A Correct.

21 Q And then moving back to State's 175, you referenced
22 that there was a live round of ammunition there, correct?

23 A Yes.

24 Q And again, that was as you testified removed with the
25 others ultimately and examined further?

1 A Yes.

2 Q State's 203, what is that?

3 A That is just a close-up view of the unfired round of
4 9mm ammunition that was recovered from the vehicle.

5 Q State's 204?

6 A This is the same cartridge this time with the view of
7 the headstamp which bears S&B, or Sellier & Bellot.

8 Q Publishing State's 176 now, what are we looking at
9 here, Detective?

10 A So Item 12 is that cartridge that we just looked at.
11 Item 13 is a pair of yellow sandals.

12 Q Where were those located?

13 A In the back seat of the vehicle on the floorboard.

14 Q Would that be behind the driver's seat or the front
15 passenger seat?

16 A Behind the driver's seat on the left side of the
17 vehicle.

18 Q State's 177, what is this, Detective?

19 A That is a white beanie hat. It appears to be a
20 female.

21 Q And where was the white beanie hat located?

22 A In the back seat.

23 Q And in the back seat specifically where?

24 A On the -- on the left side, driver's side.

25 Q State's 205, can you tell us what we're looking at

1 in 205?

2 A That same beanie hat and on the inside there is
3 staining that is consistent with blood.

4 Q Did you also locate documents related to the victim,
5 Anshanette McNeil, inside the vehicle?

6 A Yes.

7 Q Publish State's 178, what area of the vehicle are we
8 looking at here?

9 A This is going to be the front passenger side, a view
10 inside the glove box, and you can also see the interior, a
11 partial interior of the front passenger side door and the front
12 passenger seat.

13 Q In State's 179, what is this, Detective?

14 A This is some paperwork from some type of medical
15 facility or lab facility that indicates the decedent's name,
16 Anshanette McNeil. Actually, I believe it's got her former
17 married name of Berger for the last name.

18 Q State's 180, can you tell us what area of the vehicle
19 we're looking at here and what you can see inside that exhibit?

20 A This is the rear passenger side. You can see the
21 floorboard and part of the baby seat that was in that seat.

22 Q Showing you State's 181, what is depicted in this
23 exhibit, Detective?

24 A That is a full view now of the baby car seat that is
25 in the rear of the vehicle on the right side.

1 Q Now going to publish State's 182, and what area of
2 the car are we looking at here?

3 A This is the rear cargo area.

4 Q And in this exhibit, we've seen one picture of the
5 rear cargo area before. In this exhibit are there evidence
6 placards located inside the rear cargo area?

7 A Yes.

8 Q I want to focus in on Item No. 20. I'm publishing
9 State's 183. What is that? And I have another close-up, but
10 what are we just generally looking at --

11 A Yeah, if I could see a close-up, that's pretty small.

12 Q Publishing State's 184.

13 A It's kind of blurry, but I think that might have been
14 a partial projectile.

15 Q I can approach with the exhibit if that would help.

16 A Yeah, maybe.

17 I'm not sure. I know that's listed in the evidence
18 report, but there's a lot of evidence. I didn't remember every
19 single one.

20 Q Understood. Would it refresh your memory to look at
21 the evidence report of what was recovered?

22 A It would.

23 Q Do you have that with you, Detective?

24 A I do.

25 MR. PORTZ: Your Honor, I'd ask permission for the

1 witness to refresh his recollection as to what Item 20 was just
2 for the record.

3 THE COURT: Any objection, gentlemen?

4 MR. BASHOR: No, Your Honor.

5 THE COURT: Okay. You can go ahead, Detective.

6 THE WITNESS: Thank you.

7 (Pause in proceeding.)

8 THE WITNESS: Yeah, it's a bullet fragment.

9 MR. PORTZ: Thank you, Detective.

10 BY MR. PORTZ:

11 Q Did you also locate inside the vehicle items tied to
12 or identified with the defendant, Vernon Newson?

13 A Yes.

14 Q I'm going to publish a series of photographs in
15 succession here. State's 185, State's 186, State's 187, and
16 State's 188. What's depicted in State's 188, Detective?

17 A So Item 33 was a folder containing paperwork from
18 Bank of America in the name of the defendant, Vernon Newson,
19 Jr.

20 Q And these prior exhibits I referenced, 185 through
21 187, were those depicting where that item was located and just
22 closing up on it?

23 A Yes. It was by the center console.

24 Q Did you find other bullet fragments inside the
25 vehicle as well?

1 A Yes.

2 Q Publishing State's 189, again just for reference,
3 what area of the vehicle are we looking at here?

4 A That's the rear seat on the driver's side.

5 Q And State's 190, what evidence placard are we looking
6 at here?

7 A That's Item 34.

8 Q State's 191, what is Item 34 referencing?

9 A That the small little silver thing there right in the
10 seam of the seat, that's a bullet fragment.

11 Q I'm going to publish what's been admitted as
12 State's 192, again for reference to the jury, what area of the
13 vehicle are we looking at here?

14 A This is the floorboard of the rear seat on the
15 driver's side.

16 Q So this is directly behind the driver's seat?

17 A Yes.

18 Q And there are two evidence markers in this case; is
19 that correct?

20 A Yes.

21 Q Or this photograph, I'm sorry.

22 We'll start with Number 35. This is State's 193,
23 what was Evidence Marker 35 referencing?

24 A A cartridge case.

25 Q And then State's 194 shows Evidence Marker 36,

1 correct?

2 A Yes.

3 Q And 195, what is Evidence Marker 36 indicating?

4 A That's a bullet fragment.

5 Q And then State's 196, can you tell us what that is?

6 A A watch.

7 Q Was that located inside the vehicle as well?

8 A Yes.

9 Q Publishing now State's 197, can you tell us what

10 we're looking at here?

11 A This is all of the items that were identified as

12 evidence from inside the car laid out on a clean sheet just to

13 get another view of everything that we were taking out of the

14 car.

15 Q And then were those items examined and photographed

16 closer as we've seen in some of the previous exhibits?

17 A Yes.

18 Q I want to turn back to State's 193. Again just,

19 Detective, can you refresh our memories what's depicted in this

20 exhibit?

21 A It is a cartridge case.

22 Q And that's depicted as Evidence Marker 35; is that

23 correct?

24 A Yes.

25 Q State's 209, can you tell us what we're looking at

1 there?

2 A That's a close-up of that cartridge case that shows
3 the headstamp. The caliber is 9 by 19mm. The manufacturer's
4 stamp has the letters FC, which is Federal Cartridge
5 Corporation.

6 Q In addition to collecting these items of physical
7 evidence, with regards to the blood evidence itself, were any
8 forensic swabs taken?

9 A Yes.

10 Q And I'd like to cycle quickly through those.
11 State's 211, what are we looking at here, Detective?

12 A This is a DNA swab of the door handle.

13 Q It was the driver's side door handle?

14 A Yes, the driver's side door handle.

15 Q State's --

16 THE COURT: Just for the record, that photo is a
17 photo of the interior of the driver's door, correct?

18 THE WITNESS: Yes, Your Honor.

19 MR. PORTZ: Thank you, Your Honor.

20 BY MR. PORTZ:

21 Q State's 212.

22 A This is a swab of the steering wheel.

23 Q And was there a blood stain on the steering wheel
24 that was being swabbed as well there?

25 A Yes. I also had a swab of the steering wheel taken

1 because there could also be touch DNA, epithelial DNA on there
2 as well.

3 Q State's 214, what is this?

4 A This is a DNA swab taken from the gear shift inside
5 the vehicle.

6 Q And what is the purpose of taking a swab of the gear
7 shift?

8 A DNA can be -- I'm not a DNA analyst, however I do
9 know, I have training that and I know that DNA, you can get it
10 from bodily fluids such as blood or saliva, and you can also
11 get it from skin cells or sweat. So areas that are touched
12 frequently or handled frequently can often have traces of DNA
13 that can be collected with a swab. A gear shift of a vehicle,
14 a steering wheel, these are areas that are frequently touched
15 and handled, therefore there's a possibility that there could
16 be trace DNA present on those surfaces.

17 Q State's 215.

18 A This is a DNA swab taken from the rear view mirror,
19 and again the reason was every time you get into a vehicle, if
20 it's a new driver or a different driver, they will always
21 adjust the rear view mirror, therefore they have to touch it.
22 There's a possibility that DNA could be transferred.

23 Q And did you also swab the blood evidence in the back
24 seat and on the interior back driver's side door?

25 A Yes.

1 Q And is that what we see in State's 216?

2 A Yes. And to clarify, I didn't do it myself. I
3 directed CSI Harder to do it.

4 Q And then in State's 217?

5 A Yes. These are swabs of -- to collect potential DNA
6 from the blood stains.

7 Q And then publishing State's 218, what are we looking
8 at here, Detective?

9 A This is a DNA swab of the drinking straw from the
10 paper cup that was in the center console.

11 Q All these items, were they impounded by CSI Harder at
12 your direction?

13 A Yes.

14 Q And did you subsequently submit those items for DNA
15 analysis and testing?

16 A Yes, I did.

17 Q What if anything else did you do with the vehicle
18 itself?

19 A There were several defects in the seats that appeared
20 to be bullet strikes or bullet holes. I had CSI Harder insert
21 trajectory rods that showed the apparent path of travel of the
22 bullet strikes.

23 Q Publishing State's 221, what are we looking at here?

24 A So I've got three defects, AB and C, and those pink
25 sticks are the trajectory rods that kind of show what the path

1 of the bullet would be. Laws of physics, a bullet's going to
2 travel in a straight line, so all three of those defects are --
3 appear to be bullet entry strikes.

4 Q And can you explain to the members of the jury where
5 this photograph is being taken from within the vehicle?

6 A So yes. So the perspective on this photograph is she
7 is in the front driver's seat facing towards the rear of the
8 vehicle with her camera pointed towards the back seat.

9 Q When you say she is, you mean CSA Harder is taking
10 the picture from the driver's seat?

11 A That's correct.

12 Q State's 222, what is this, Detective?

13 A This is just a different view of it, and it looks
14 like she would have been standing just inside the open rear
15 door of the driver's side.

16 MR. BASHOR: Your Honor, I'm going to object to
17 foundation on that one.

18 THE COURT: In terms of where it was taken from, or?

19 MR. BASHOR: Or the -- or I'm sorry, by her, I guess,
20 yeah, as foundation is it her the person taking the picture of
21 her being the decedent.

22 MR. PORTZ: I'll clarify that.

23 THE COURT: Oh, I see what you're saying. I'm sorry.
24 Go ahead, Mr. Portz.

25 MR. PORTZ: Oh, I'm sorry.

1 BY MR. PORTZ:

2 Q Detective, when we're talking about, I'm sorry, when
3 you're referencing where the photo's being taken from when you
4 say her, do you mean CSA Harder?

5 A Yes. I apologize. This photograph, it appears that
6 the perspective was is that CSI Harder, the photographer, was
7 standing just inside the open rear door of the driver's side.

8 Q Are these trajectory rods marked on Defects AB and C,
9 they continue in a straight line as you referenced throughout
10 the car; is that correct?

11 A Yes.

12 Q And did you direct CSA Harder to take photographs
13 from different angle of those trajectory rods to provide
14 perspective as to where it appears that those, the bullets had
15 potentially traveled?

16 A Yes.

17 Q Okay. I'm going to publish State's 233. Is this
18 another view of the trajectory rods?

19 A Yes.

20 Q And where is this photograph from, what direction?

21 A So this is the perspective of the photographer is
22 basically just standing right outside the rear door on the
23 driver's side or left side looking left to right, so just a
24 side view or a side perspective.

25 Q Based on these three photographs that we've seen of

1 the rods, were you able to gauge just with the rods themselves
2 a potential trajectory?

3 A Yes. From the area of the driver's seat from front
4 to back.

5 Q State's 299, what are we seeing here?

6 A So these are the trajectory rods that depict that
7 they're going, they entered into the seat on the front seat and
8 came out the rear of the seat towards the back of the vehicle.

9 Q The references A and B, do they continue on and
10 strike another object within the vehicle?

11 A Yes. You can see the AB and C with the white
12 stickers, and there's two additional white stickers that
13 correspond, there's another A. So A corresponds with A and B
14 corresponds with B, so that means that same bullet went, came
15 from the area of the driver's seat towards the back of the
16 vehicle, went through the front side of the car seat, came out
17 the back side of the car seat and hit the rear cargo door area.

18 Q Were you able to determine what if anything happened
19 to the projectile that was marked as Defect C?

20 A No. There was some partial fragments that we
21 recovered from the rear cargo area, but it's -- I don't -- the
22 rest of the bullet projectile we couldn't recover.

23 Q State's 277, is this a continuation of or a close-up
24 of where A and B struck the rear of the vehicle?

25 A Yes.

1 Q And finally State's 228, what are we looking at here,
2 Detective?

3 A So this is the outside of the car looking at the rear
4 hatch. There is a bullet strike with a rod coming out of it,
5 and again that corresponds with A. So there is three holes or
6 bullet strikes that are all consistent with that A, which means
7 it was all fired, caused by the same bullet.

8 Q Now, the defendant had been arrested in Claremont,
9 California. Is he ultimately brought back to Las Vegas,
10 Nevada?

11 A Yes. He was eventually extradited back to Nevada.

12 Q And are you notified when he arrives back in North
13 Las Vegas?

14 A Yes.

15 Q And when he arrives in North Las Vegas, do you obtain
16 any search warrants for potential evidence from the defendant
17 himself?

18 A Yes, and it --

19 Q And what -- I'm sorry. Go ahead.

20 A To clarify, he was actually booked into the Las Vegas
21 Detention Center.

22 Q Okay. Thank you. And what if anything do you do
23 when he is booked into the Las Vegas Detention Center?

24 A I authored and obtained a search warrant for a DNA
25 reference sample to be collected with a buccal swab.

1 Q Was that search warrant granted?

2 A Yes, it was.

3 Q And did Crime Scene Analyst Harder collect a buccal

4 swab from the defendant?

5 A Yes.

6 Q And was that buccal swab also submitted for forensic

7 testing DNA analysis as pursuant to your orders in this

8 investigation?

9 A Yes.

10 Q So just to recap, in total how many cartridge casings

11 were found at the crime scene itself on I-15 southbound and

12 Lamb?

13 A Six.

14 Q How many cartridge cases were found inside the

15 vehicle?

16 A Six.

17 Q How many gunshot wounds did the victim sustain when

18 you reviewed her autopsy?

19 A I want to say about eight. She had multiple gunshot

20 wounds.

21 Q And to be clear, was there blood located at the scene

22 of the crime?

23 A Yes.

24 Q And the blood located inside the vehicle?

25 A Yes.

1 Q And those were collected as part of your
2 investigation, correct?

3 A Yes, samples.

4 Q The bullets that were recovered from the crime scene,
5 from Saint Bar Court and from inside the vehicle, either the
6 ammunition or the expended shell cartridge casings, did they
7 all match the same caliber?

8 A Yes, 9 by 19mm.

9 Q And did they in one way or another, were there
10 anything about the headstamps that tied each scene together?

11 A Yes. Sellier & Bellot was consistent with the
12 roadside at I-15 and Lamb, the house on Saint Bar Court, in his
13 possession at Claremont, California, and inside the vehicle.

14 MR. PORTZ: The Court's indulgence.

15 (Attorneys confer.)

16 BY MR. PORTZ:

17 Q Detective, throughout all your investigation here,
18 did you ever recover a firearm?

19 A No.

20 Q And when the defendant was apprehended, did you also
21 locate any blood subsequent to his arrest specifically as to an
22 item of clothing that he was wearing that day?

23 A Yeah. He was wearing a watch that had the blood
24 stain that we showed the pictures of it.

25 Q Thank you.

1 MR. PORTZ: I have no further questions.

2 THE COURT: Mr. Bashor.

3 MR. BASHOR: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. BASHOR:

6 Q Good afternoon, Detective.

7 A Good afternoon.

8 Q During the course of your investigation you were able
9 to determine that Anshanette both owned and registered a
10 Ruger 9mm handgun; is that correct?

11 A That's correct.

12 Q And that it was purchased in February 2015?

13 A I'm sure that information was on the blue card, but I
14 don't remember exactly when it was purchased.

15 Q If I could approach with a gun registration, Las
16 Vegas Metropolitan Police Department Form 24A, would that
17 refresh your recollection as to exactly when it was purchased?

18 A I'm sure it would.

19 MR. BASHOR: Your Honor, may I approach?

20 THE COURT: You may.

21 THE WITNESS: Yeah. Sold on February 15 -- or I'm
22 sorry, February 25, 2015. And actually, it looks like at the
23 time there was a 72-hour hold, which would indicate she would
24 have been a first-time firearm purchaser. So she received
25 delivery on March 1, 2015.

1 MR. BASHOR: Thank you very much.
2 No further questions, Your Honor.
3 THE COURT: Mr. Portz.
4 MR. PORTZ: Nothing further from the State, Your
5 Honor. Thank you.
6 THE COURT: Anything from our jurors? No.
7 Detective, thank you very much for your time. I appreciate it.
8 You are excused.
9 THE WITNESS: Thank you, Your Honor.
10 THE COURT: Okay. Thank you.
11 We can just take a short break before we continue on.
12 Ladies and gentlemen, we'll take a short recess before we
13 continue on.
14 During the recess you're admonished not to talk or
15 converse among yourselves or with anyone else on any subject
16 connected with the trial, or read, watch or listen to any
17 report of or commentary on the trial by any medium of
18 information, including without limitation the newspapers,
19 television, the Internet or radio, or form or express any
20 opinion on any subject connected with the case until it's
21 finally submitted to you. No legal or factual research or
22 investigation or re-creation of testimony on your own.
23 All right. We'll be in break for about 15 minutes.
24 (Jurors recessed at 2:29 p.m.)
25 THE COURT: How many more witnesses do you guys have?

1 MS. WECKERLY: One.

2 MR. PORTZ: One, Your Honor.

3 THE COURT: DNA?

4 MS. WECKERLY: Yes.

5 (Court recessed at 2:30 p.m. until 2:49 p.m.)

6 (Outside the presence of the jury.)

7 THE COURT: So do we need to have argument and talk

8 about the issue with the jury instructions, since -- how

9 much -- how long is your last witness going to be?

10 MS. WECKERLY: Maybe 20 minutes.

11 THE COURT: Okay. Because I don't think I want to

12 stop and start back up again. But if it's -- we need to get

13 through this witness as well before we do that, that's fine.

14 MS. WECKERLY: I'm not sure what you're asking.

15 THE COURT: Well, I got the impression from you all

16 that before you make a decision about putting a witness on you

17 want to argue about assumably the lesser included issue with

18 voluntary manslaughter.

19 MR. BASHOR: Yes, Your Honor.

20 THE COURT: And that you all aren't agreeing to

21 voluntary manslaughter because you didn't submit any

22 instructions on voluntary manslaughter.

23 MS. WECKERLY: Correct.

24 THE COURT: So rather than putting this witness on

25 and going for 20 minutes or whatever it is and then saying,

1 okay, now go back out --

2 MS. WECKERLY: Oh, I see. Sure, okay.

3 THE COURT: -- because we got to talk about this
4 before we can decide whether to move into their case or not,
5 did you guys want to do that now, or is there some need to wait
6 for this last witness before we do it?

7 MS. WECKERLY: No. We can do this witness and then
8 argue, whatever your preference is.

9 THE COURT: Well, no, that's why I was saying should
10 we do it now while we're in a recess so that when we then go
11 and finish up this witness we can either go into their case or
12 we're sending the jury home for the day.

13 MS. WECKERLY: Okay.

14 THE COURT: Does that make sense?

15 MS. WECKERLY: Yep.

16 THE COURT: Okay. All right. Gentlemen, can you
17 guys get Mr. Newson. Oh, gosh. I'm sorry, Mr. Newson, I
18 didn't see you sitting there. I apologize.

19 All right. Mr. Bashor.

20 MR. BASHOR: Yes, Judge. I would just cite to Wilson
21 v. State, 99 Nev. 530. A defendant in a criminal case is
22 entitled upon request to a jury instruction on his or her
23 theory of the case so long as there is some evidence, no matter
24 how weak or incredible, to support it. In Wilson that was a
25 case where manslaughter was not given.

1 Your Honor, given that proviso, I would submit that
2 the evidence to do so far and particularly most importantly was
3 a statement of Mr. Newson as elicited through Zarharia
4 Marshall, quote, and excuse my language, "Just know mother
5 fuckers took me to a point where I can't take it no more."

6 Between that, the description of the length of time
7 in which this instance occurred and the behavior of Mr. Newson
8 as described by Ms. Marshall when she arrived at the house, I
9 would submit that while I'm sure the State would find that
10 that's not overwhelming evidence, it would nonetheless meet the
11 threshold as defined by Wilson v. State, and I'd ask that the
12 jury be instructed on voluntary manslaughter.

13 THE COURT: All right. State.

14 MS. WECKERLY: So I mean, the definition of voluntary
15 manslaughter is that there has to be some kind of provocation.
16 And that statement referenced by Mr. Bashor doesn't reference
17 any kind of -- I mean, I don't know what he's talking about,
18 any kind of provocation, and there's just no -- there's just
19 nothing. There's no evidence of any kind of provocation in
20 this case other than they had at some point argued in a
21 relationship, which isn't terribly striking to begin with, I
22 mean.

23 But literally if that is enough, that comment he made
24 about being pushed too far, I mean, that's literally the only
25 thing. And I'm not sure that that is -- I don't know what that

1 means, why he said it, or why that would be considered
2 provocation enough to warrant a manslaughter instruction.

3 THE COURT: Anything further?

4 MR. BASHOR: Well, I mean, Your Honor, the position
5 that this puts me in then is he now has to make a determination
6 of whether or not to waive his Fifth Amendment right by virtue
7 of fact that this occurred without any other witnesses there.

8 THE COURT: Right.

9 MR. BASHOR: I would submit that there's a
10 circumstantial basis, although minimal, out there which would
11 warrant the instructions. And I'm sure that the arguments that
12 the State just made will be made even more artfully than they
13 currently were in front of the jury in summation.

14 THE COURT: Well, let me ask you this, because
15 obviously manslaughter isn't just a provocation, it's that
16 sudden heat of passion type thing. So what -- and then as the
17 instructions go on to tell us, that your basic inquiry is about
18 was the reason of the defendant so obscured by this passion
19 that he couldn't act rationally, right, and that they did what
20 they did.

21 How do they get anything about that from Zarharia's
22 statement that he said I got pushed too far and couldn't take
23 it anymore? Because I mean there's no context to did this
24 happen at the house, did it happen in the car, did it happen
25 three days ago.

1 I mean what -- it just -- and trust me, I get that
2 the law is if there is scintillas of evidence available to you
3 to pursue a theory, you're entitled to do that. But my sense
4 is here that we're kind of taking that statement and then
5 saying speculate about a whole lot of other things that aren't
6 there.

7 MR. BASHOR: And I would dovetail then in, Your
8 Honor, it's not just the statement. As I indicated, the
9 description of how the incident occurred, Ms. Hall testified
10 rapid succession of firing and a speeding off car, added to
11 that, that Zarharia Marshall describes him as amped, hurried,
12 et cetera.

13 It's not just the statement alone. I think that the
14 circumstantial evidence as adduced. Again, I understand Your
15 Honor's point and I certainly understand the State's point, but
16 I think that we've met that minimal threshold under the
17 circumstances.

18 THE COURT: All right. Do you guys have anything
19 further based upon what I just said a moment ago, the record
20 that I made?

21 MS. WECKERLY: I mean, no, other than if this -- if
22 this minimal showing or this, I mean statement that's subject
23 to interpretation or the fact that these two know each other,
24 then it just seems like you'd get this instruction then in
25 every case, I mean where the parties had some kind of prior

1 relationship, because there's literally nothing there. There's
2 nothing else. So I mean the fact that he's amped up and in a
3 hurry, I would say that's because he wants to get out of town
4 because he just killed somebody.

5 MR. BASHOR: And Your Honor, just to complete my
6 record --

7 THE COURT: Yeah, you can go ahead. Obviously it's
8 your request.

9 MR. BASHOR: Just to complete my record, Judge, I
10 just think that -- and I understand the State's concerns. It's
11 just that we're now -- we're placed in the position of the
12 burden of production of some piece of evidence where again,
13 that's not exactly how this system is designed. It's not a
14 full defense like self-defense where --

15 THE COURT: Well, but you acknowledge that I mean
16 there are circumstances where that absolutely falls on you all
17 to produce evidence before you get an instruction on something
18 like self-defense --

19 MR. BASHOR: Correct.

20 THE COURT: -- or knowledge of somebody's propensity
21 for violence or whatever it may be, that if that rests solely
22 with your client because, you know, he was there at the time of
23 a crime and there are no other witnesses, then that isn't a
24 violation of any constitutional provisions.

25 MR. BASHOR: And I would submit that like a

1 distinction for instance between self-defense and here is that
2 this is a lesser included, whereas a burden -- I could see more
3 clearly a burden of production in something that's an absolute
4 defense.

5 THE COURT: Right. No, look, I agree that there is a
6 distinction, but I don't -- I don't -- I just don't think
7 there's enough evidence here of anything to give that
8 instruction right now. Because if you evaluate everything we
9 have so far that's in evidence in as open way as I can, there
10 is a shooting in the car, there's shell casings in the car,
11 there are bullets or bullet holes in the back -- well, let me
12 back up a little further.

13 The state of the evidence would be that the decedent
14 is in the back seat of the car where the two children are, that
15 there is a shooting in the car, that there's at least three
16 shots fired since there are three bullet holes in that back
17 seat of the car, that she's wounded in some fashion in the car,
18 you would infer from a bullet shot.

19 But she's wounded in some fashion and she would
20 appear to have been seat belted in at the time since there's
21 blood on the seat belt as well, and blood in the car and then
22 blood that gets into the car seat and on the baby's blanket.
23 And then there's a shooting outside the car at some point once
24 the car stops, and she's taken out of the car and is on the
25 side of the road where there is at least, I think from the

1 testimony, six shell casings found and blood on the side of the
2 road.

3 So the state of it is that there appears to be two
4 shootings, that they had a relationship where according to
5 Ms. Marshall they argued a lot, each of them would argue with
6 the other, yell at the other. She said no fighting, but that
7 they would -- like no physical fighting that she was aware of,
8 but -- or ever witness, but that they would yell at each other
9 a lot, and that she had methamphetamine in her system, and that
10 he made the statement to Zarharia after this was over.

11 And I'm less concerned about his behavior after it
12 was over because that's after this has occurred and he's
13 dropping off the kids, and I don't know that that's really
14 indicative of anything related to intent or state of mind
15 before the crime occurred. And by that I mean his rushing
16 around to get the kids in the house and out of the car and
17 whatnot.

18 But he makes that statement to her about, you know,
19 mother fucker, they pushed me too far and I couldn't take it
20 anymore, that. There is absolutely no context to when
21 something like that occurs. I mean, that, a jury could listen
22 to that and say somebody's saying they got pushed too far and
23 they decided they were going to go kill somebody, which could
24 be first degree murder.

25 It could be pushed me too far moments ago and I

1 reacted very suddenly to what occurred there, and that could
2 be, you know, voluntary manslaughter certainly. But without
3 any further context of that, I don't know that that meets the
4 standard of getting that statement in, because there's no basis
5 to argue in evidence for the voluntary manslaughter.

6 I mean it would be saying we want you to take this
7 and then kind of speculate about what else must have been going
8 on to reach that he was so obscured by what it was that
9 occurred that his passions were inflamed and he couldn't act
10 rationally. Because there are separate parts to that.

11 There is the suddenness of the heat of passion, there
12 is the provocation part of it, and I don't think that his
13 simple statement about I got pushed too far really provides
14 either, and especially not both of those things to justify a
15 manslaughter instruction.

16 And I recognize that your trouble with that invoking
17 his, you know, right to remain silent and not produce evidence,
18 but like I said, I don't think it violates constitutional
19 provisions when in order to get a certain theory of defense in
20 the defendant is the one that holds that evidence, and they'd
21 be the person that has to testify since there is no other
22 witnesses to it.

23 So I'm going to deny the request to give those
24 instructions right now. Obviously first and second degree
25 murder apply. But -- and I can revisit this if and when we

1 need to based on any other witness testimony, whether it's
2 anything with your last witness, which I'm assuming it won't
3 because it's a DNA person, or any witnesses that you all decide
4 to put on. Okay.

5 MR. BASHOR: Okay.

6 THE COURT: All right. Go ahead and get the jury.

7 Can you guys tell anybody outside they can go ahead
8 and come back in as well. I hate to keep bringing them in when
9 the witness is already on the stand.

10 (Jurors reconvene at 3:02 p.m.)

11 THE COURT: We will be back on the record.

12 Mr. Newson's present with his attorneys. State's attorneys are
13 present. All of our jurors are present. We will continue on
14 with the State's case in chief. Your next witness is going
15 to be?

16 MR. PORTZ: The State calls Allison Rubino.

17 Your Honor, while we're waiting for Ms. Rubino, there
18 has been one final stipulation between the parties as to
19 State's 1, 231 and 232, to be admitted by way of stipulation.

20 THE COURT: 1, 231 and 232. Okay. Is that correct,
21 gentlemen?

22 MR. BASHOR: Yes, Your Honor.

23 THE COURT: Thank you.

24 (State's Exhibit No. 1 admitted.)

25 (State's Exhibits No. 231 and 232 admitted.)

1 ALLISON RUBINO, STATE'S WITNESS, SWORN

2 THE CLERK: Will you please state and spell your name
3 for the record.

4 THE WITNESS: Allison Rubino, A-l-l-i-s-o-n,
5 R-u-b-i-n-o.

6 THE COURT: Thank you. Mr. Portz.

7 MR. PORTZ: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MR. PORTZ:

10 Q Ma'am, where do you work?

11 A I am a forensic scientist at the Las Vegas
12 Metropolitan Police Department Forensic Laboratory.

13 Q Do you specialize in any particular area within the
14 forensic laboratory?

15 A I am set to the biology DNA detail.

16 Q What are your general job responsibilities in that
17 position?

18 A Primarily I'm responsible for examining evidence for
19 the presence or the absence of biological material, and then
20 conducting DNA analysis on those samples as well as other
21 samples as they're requested to our section of the lab.

22 Q How long have you been working in that position as a
23 DNA analyst?

24 A I have been with Metro since January of 2014.

25 Q Did you work for any other law enforcement agencies

1 in the area of DNA analysis?

2 A Prior to working here in Las Vegas, I worked for the
3 Armed Forces DNA Identification Laboratory in Dover, Delaware.
4 I was there for about a year and a half. And prior to that I
5 was a research associate and a forensic scientist at the
6 Suffolk County Crime Laboratory in Hauppauge, New York, and I
7 was there for about three years.

8 Q So in total how long have you been a DNA analyst, a
9 forensic analyst?

10 A I guess about 8 1/2.

11 Q What sort of training and education is required to
12 reach your position?

13 A We're required to have a certain level of education
14 and training that we undergo all through schooling, and then at
15 each of the individual locations we're employed at. So I have
16 a bachelor's of science in biochemistry from the University of
17 Scranton, and I have a master's of science degree in forensic
18 science from the University of New Haven.

19 Here at the Las Vegas laboratory we're required to
20 undergo a well-documented intensive training program that deals
21 with reading articles, taking exams and working with items that
22 we would routinely see during our normal casework. Once we've
23 passed our specific training program, then we're released to
24 perform current casework.

25 Q And in addition, after you've passed the training and

1 you're performing casework, to remain accredited do you have to
2 continue on in your education in the area of DNA analysis and
3 comparison?

4 A Yeah. We're required to do at least eight hours of
5 continuing education per year.

6 Q Can you describe to the members of the jury what
7 exactly DNA is?

8 A Sure. DNA stands for deoxyribonucleic acid. It's a
9 compound that's found in nearly every cell within our body.
10 And what it has is essentially it contains the instructions
11 that make us into the individuals that we are, like our hair
12 color, eye color, numbers of fingers and toes we have, size of
13 our organs, things like that. Our DNA is inherited, so we get
14 half of our DNA from our mother and half of our DNA from our
15 father.

16 Q Now, given your experience and your time as an
17 analyst, what is it about DNA that makes it a powerful forensic
18 tool?

19 A Well, because DNA is unique to each individual with
20 the exception of identical siblings, we can use that
21 information to establish relationships, if they exist, between
22 DNA evidence from a crime scene for example and compare that to
23 DNA from known reference samples.

24 Q And what -- when you talk about sources from a crime
25 scene for example, what types of sources can investigators

1 acquire or obtain DNA samples from?

2 A We can use many different mediums that have DNA in
3 it, whether it's blood, semen, saliva, skin cells. Usually it
4 could be any of that which we will obtain a DNA profile from.

5 Q When you say skin cells, is it just simply like a
6 matter of if I touch this podium here for a brief moment am I
7 going to deposit DNA that you will find if it's swabbed?

8 A With skin cells it's something that we call touch
9 DNA, and touch DNA is very variable, but it is possible that if
10 you were to hold on to an item or touch a surface, that there
11 is potential for you to leave DNA behind.

12 Q And you mentioned touch DNA can be variable as to
13 whether or not DNA will ultimately be found. Are there certain
14 sources that are more DNA rich, I guess for lack of a better
15 word, than a touch?

16 A Other biological fluids like blood, semen or saliva
17 are more likely to have more DNA or a robust amount of DNA
18 present.

19 Q When we talk about collecting sources of DNA from a
20 crime scene, can you describe typically how sources are
21 collected? What sort of methods do analysts use and give to
22 you for testing?

23 A We receive items in a number of fashions. It could
24 be something as simple as a swab of an item, or it could be the
25 actual items themselves, and which we're -- as an analyst, I'm

1 the one that's going to sample directly from an item. So it
2 really just depends.

3 Q So when you receive a sample either from an
4 investigator who picked it up at the scene or you're asked to
5 swab an item and check for DNA, can you describe the process of
6 how you analyze the DNA after you've swabbed it?

7 A After I swab it we go through our DNA process. And
8 the first step is called extraction, and that's basically we
9 want to isolate any DNA present from any of the other material.
10 So we want to isolate the DNA from the swab itself, and we want
11 to isolate the DNA from any other maybe dirt or debris or any
12 other biological material that's present there.

13 Once I've isolated the DNA, I want to quantify it,
14 find out how much DNA I have. And after I've done that, we put
15 a portion of that sample in a DNA copy machine and we amplify
16 it, making millions and millions of copies of the different
17 areas that we look at. And once I've amplified the DNA, we put
18 it through an instrument that takes little snapshots as the DNA
19 passes through a window.

20 After all the DNA has traveled and all of my pictures
21 are taken, all of those pictures get culminated into one chart
22 that I get to see, and that's what we call the DNA profile.

23 Q And so are those, that's in reference to taking a
24 sample and you perform your analysis and you get a DNA profile
25 from it; is that correct?

1 A Yes.

2 Q Okay. Do you take those samples typically in a
3 criminal forensic investigation setting, do you take those
4 samples and compare them to what would be called a known
5 sample?

6 A After processing evidence samples, we'll then process
7 and compare them to reference samples, yes.

8 Q And what are reference samples, just so the members
9 of the jury are aware?

10 A Reference samples are DNA samples that have a known
11 source. Sometimes they're referred to as a buccal swab. And
12 they're essentially taken from the inside of someone's cheek
13 and documented as coming from that particular individual, so we
14 have a known source of their DNA.

15 Q So once you've taken samples and you've done your
16 testing and you take a known source and you do your testing and
17 then you compare, do you generate reports of your findings of
18 those comparisons?

19 A Yes.

20 Q And when that process is concluded, are there any
21 sort of backup checks or other individuals who review your work
22 to make sure for accuracy's sake?

23 A Each of our case files goes through two types of
24 review. One is called a technical review in which one of my
25 peers at the laboratory will go through my entire case file and

1 make sure that everything that I have done throughout the
2 course of the case file is technically sound with our standard
3 operating procedures.

4 And once it's gone through its tech review, it then
5 goes through a subsequent administrative review in which one of
6 the other analysts in the detail will make sure all of my I's
7 are dotted, my T's are crossed, and look for more
8 administrative issues that may be there.

9 Q I want to direct your attention now to this case. At
10 some point in time were you asked to perform DNA analysis on a
11 series of items that were impounded in association with a
12 homicide from December 15, 2000 -- excuse me, December 13,
13 2015, from North Las Vegas?

14 A Yes.

15 Q And did Detective Ben Owens request that you conduct
16 that testing?

17 A Yes.

18 Q And the evidence that you were asked to analyze, is
19 it fair to say that it came from various different sources
20 throughout the course of the investigation?

21 A I received different types of evidence in this
22 request.

23 Q Were you also in addition to evidence given reference
24 samples from individuals in this case?

25 A Yes.

1 Q Was that for -- the reference samples you were given,
2 was that for a suspect by the name of Vernon Newson?

3 A Yes.

4 Q Were you also given reference samples from the
5 victim, Anshanette McNeil?

6 A Yes.

7 Q I want to -- I'm going to publish what's been
8 admitted as State's 231. Can you tell us what we're looking at
9 in State's 231?

10 A That is a picture of a car seat liner.

11 Q And was that submitted to you for testing?

12 A Yes.

13 Q Can you describe to the members of the jury how you
14 went about testing the car seat liner for evidence of DNA?

15 A Well, the first thing we do is a visual examination.
16 So in this particular case it was requested looking for the
17 presence of blood, and the first thing you want to do is use
18 the visual cues that would indicate possible locations where
19 blood could be. So what I'm essentially looking for is any
20 red-brown staining that may be present throughout the surfaces
21 of the car seat liner.

22 Q And did you find staining that was red or brown or
23 appeared to be blood to you on the car seat liner here?

24 A Yes, I did.

25 Q And what did you do when you found that?

1 A So what I would do first, before deciding whether or
2 not to go through with DNA, is we do what's called a
3 presumptive test, and it's a chemical test for the presence of
4 blood. So I'll take a little swabbing of a particular area and
5 I'll add chemicals to that swab, and ultimately if I get a pink
6 result, that means blood may be present in that area.

7 Q Did you do a presumptive blood test on the swabs from
8 the car seat liner?

9 A I tested a bunch of areas and decided that, and they
10 were positive for blood, yes.

11 Q Based on the fact that you got a positive blood
12 presumptive result, did you conduct DNA analysis on that
13 sample?

14 A I conducted DNA analysis on one of the stains of the
15 car seat liner, yes.

16 Q Were you able from conducting the analysis from one
17 of the stains, were you able to determine whether or not a DNA
18 profile existed?

19 A Yes, I was.

20 Q And were you further able to determine whose DNA if
21 anyone's was present?

22 A I was able to make a comparison, yes.

23 Q What were the results of your comparison?

24 A So this particular DNA profile consisted of
25 originating from at least one male contributor, and assuming

1 that there were two people present. So this was a mixture DNA
2 profile that contained DNA from multiple individuals. There
3 was what we call a full major profile which is someone that
4 gave more DNA to the profile, and that full major profile was
5 consistent with Anshanette McNeil.

6 Q And we've spoken previously about potential sources
7 that are more DNA rich. You referenced bodily fluids such as
8 blood can be particularly DNA rich; is that correct?

9 A Correct.

10 Q Would -- could that contribute to, or would that in
11 your opinion contribute to the fact that there is a major
12 source as opposed to say a minor male contributor in this case?

13 A It's possible, yes.

14 Q And you said that the major DNA profile came back to
15 Anshanette McNeil; is that correct?

16 A Yes.

17 Q And do you conduct an analysis as to statistically
18 the probability that the DNA that you found on the blood stain
19 belongs to the DNA you were given from Anshanette McNeil?

20 A So once we've decided in a comparison that the DNA
21 profiles are consistent with each other, we then generate a
22 statistic to assess the weight of that consistency. And for
23 this particular item, the probability of randomly selecting an
24 unrelated individual having a DNA profile consistent with that
25 evidence is approximately 1 in 2.01 sextillion.

1 Q So not many people are familiar with what a
2 sextillion is. Can you explain what that number is exactly?

3 A Sure. So we can work backwards. So a million has
4 six zeros, a billion has nine, a trillion has 12, a quadrillion
5 has 15, a quintillion has 18, and then a sextillion has 21
6 zeros. And when we're thinking sextillion as being a large
7 number, when we're thinking about the probability, it's
8 approximately 1 in 2.01 sextillion, which actually makes a
9 very, very small number, and it's establishing the rarity of
10 this evidence profile. And the fact that we have a reference
11 profile that is consistent with this rare evidence profile
12 shows weight or significance to that consistency.

13 Q So the statistic is 1 in 2.01 sextillion --

14 A Yes.

15 Q -- as to Anshanette McNeil?

16 A Yes.

17 Q I'm going to -- oh, were you also asked to conduct
18 DNA analysis on a swab of blood collected from a car seat
19 handle in this case?

20 A Yes, I was.

21 Q And do you recall whether or not did you conduct the
22 presumptive blood testing in that?

23 A Yes, I did.

24 Q And did it come back positive for blood?

25 A Yes.

1 Q And did you conduct DNA analysis on that piece of
2 evidence?

3 A Yes.

4 Q And what was the result of the DNA analysis from the
5 blood swab from the car seat handle?

6 A So this swab, this sample generated a full single
7 source profile, meaning there was only one evident contributor,
8 and that full profile was consistent with Anshanette McNeil.

9 Q And what was the statistical analysis or the
10 probability number that you generated as a result of that
11 comparison?

12 A The probability of observing a DNA profile consistent
13 with that of the evidence is approximately 1 in 2.01
14 sextillion.

15 Q I'm going to publish what's been admitted as
16 State's 232, and can you describe to the jury what we're
17 looking at here?

18 A These are three items of evidence that I received; a
19 fleece-like blanket which is on the right, a sock that's in the
20 middle, and then a pair of pants that's on the left.

21 Q Were you asked to conduct a potential DNA analysis on
22 these three separate items?

23 A Yes.

24 Q You described with the car seat your process of first
25 beginning with the visual observation to see if there was any

1 potential DNA sources like blood present on the items. Did you
2 do that in this case as well?

3 A Yes, I did.

4 Q Did you locate anything that appeared to be blood on
5 the little pair of pants?

6 A Yes.

7 Q And did you locate anything that appeared to be blood
8 on the sock?

9 A Yes.

10 Q And then again on the blanket, did you locate
11 anything that appeared to be blood?

12 A Yes.

13 Q When you -- let's start with the blanket. Did you
14 conduct a presumptive blood test on that?

15 A Yes, I did.

16 Q And did it come back positive?

17 A Yes, it did.

18 Q Did you as a result of that conduct a DNA analysis on
19 that blood and compare it to the known DNA profiles of
20 Anshanette McNeil and Vernon Newson?

21 A Yes. For this particular item I obtained a full -- a
22 single source, a single contributor DNA profile, and that
23 profile was consistent with Anshanette McNeil.

24 Q And to what degree?

25 A And the probability of randomly selecting an

1 unrelated individual having a DNA profile that is consistent
2 with the evidence is approximately 1 in 2.01 sextillion.

3 Q And can you describe your results to the members of
4 the jury as to the swab on the sock that you appeared -- that
5 you thought was apparent blood?

6 A I tested that and it was -- had a positive
7 presumptive test for blood. And then after conducting DNA
8 analysis, I also obtained a full single source profile that was
9 consistent with Anshanette McNeil.

10 Q And then again for the stain on the left pant leg,
11 can you describe your testing and results?

12 A I obtained positive presumptive blood test on the
13 pants, and after conducting DNA analysis I obtained a single
14 source full DNA profile consistent with Anshanette McNeil.

15 Q Were you also provided a swab from the crime scene
16 itself related to a blood stain identified as Blood Stain E at
17 the scene of the crime?

18 A Yes.

19 Q And did you test that swab?

20 A Yes, I did.

21 Q And what were your results of your testing in that?

22 A I obtained a positive presumptive test for blood, and
23 I conducted DNA analysis and obtained a full single source DNA
24 profile consistent with Anshanette McNeil.

25 Q And to what degree again?

1 A The probability of randomly selecting an unrelated
2 individual having a DNA profile consistent with the profile
3 from that evidence is approximately 1 in 2.01 sextillion.

4 Q Were you also provided a series of swabs that were
5 taken from the inside of a Kia SUV that was purported to be
6 tied to the homicide investigation?

7 A Yes.

8 Q And specifically were you asked to review and analyze
9 a swab taken from a rear view mirror within that vehicle?

10 A Yes.

11 Q And did you locate or find any DNA in that swab?

12 A Yes, I did.

13 Q And can you describe your results for the members of
14 the jury?

15 A For this particular item, this was a mixture DNA
16 profile, meaning that it had multiple contributors to it, and I
17 determined there to be three contributors with at least one of
18 them being a male, and there was a major DNA profile that was
19 consistent with Vernon Newson, Jr.

20 Q And so the profile from the swab on the rear view
21 mirror was consistent with the defendant, Vernon Newson?

22 A The major DNA profile, so the one that contributed
23 the most DNA to that particular profile.

24 Q Understood. And then again to what degree did you
25 calculate that comparison?

1 A The probability of randomly selecting an unrelated
2 individual having a DNA profile consistent with that major DNA
3 profile is approximately 1 in 3.03 sextillion.

4 Q And also again from within that vehicle were you
5 provided a swab of the gear shift?

6 A Yes, I was.

7 Q Do you recall what the results of your analysis were
8 on the swab from the gear shift?

9 A For this particular item, this again was a mixture
10 DNA profile with at least one contributor being a male. And
11 given that there were three contributors, I was able to obtain
12 a two person major component. So two people gave a lot of DNA,
13 and it was determined that this two person major DNA profile
14 was consistent with originating from Vernon Newson, Jr. and
15 Anshanette McNeil.

16 Q And can you explain how you calculate -- well, first
17 what your probability in that determination and then how you
18 calculated that?

19 A So the probability of observing that two person
20 mixture is approximately 697 quadrillion times more likely if
21 it originated from Vernon Newson, Jr. and Anshanette McNeil
22 than if it had originated from Vernon Newson, Jr. and one
23 random contributor.

24 Q And I think you already told us this, but 697
25 quadrillion, that's 697 with how many zeros after it?

1 A So that's going to be 15 zeros.

2 Q And again from inside that vehicle were you provided
3 a swab from the steering wheel?

4 A Yes, I was.

5 Q Did you conduct in the steering wheel a test for
6 whether or not blood existed?

7 A Yes, I did, and I obtained a positive presumptive
8 blood test for that sample.

9 Q And from the steering wheel were you able to conduct
10 a DNA analysis?

11 A Yes.

12 Q And what if anything were your findings?

13 A For the sample I also obtained a mixture DNA profile
14 with at least one contributor being male. This sample also had
15 a two person major component, and that two person major
16 component was consistent with originating from Vernon Newson,
17 Jr. and Anshanette McNeil.

18 Q And what was the statistical probability of that
19 match?

20 A The probability of observing that two person major
21 is 697 times more likely if it originated from Vernon Newson,
22 Jr. and Anshanette McNeil than if it had originated from Vernon
23 Newson, Jr. and one random contributor.

24 Q I just want to be clear on that statistic. You said
25 697 times. Is that 697 --

1 A Quadrillion times.

2 Q Okay.

3 A My apologies.

4 Q A little different size and number. Did you also

5 conduct DNA analysis on a swab from a straw from a cup inside

6 the cup holder in that vehicle?

7 A Yes, I did.

8 Q Okay. And what were the results of that test?

9 A I obtained a DNA profile, a mixture DNA profile with

10 at least one contributor being male, and the major DNA

11 profile -- the major part of that DNA profile was consistent

12 with Vernon Newson, Jr.

13 Q And again, the statistical probability of that match?

14 A The probability of observing, of randomly selecting

15 an unrelated individual having a profile consistent with that

16 evidence is approximately 1 in 300 -- 1 in 3.03 sextillion.

17 Q And finally were you provided with a swab of a blood

18 stain on the interior side of a black wristwatch?

19 A Yes.

20 Q And did you conduct the presumptive blood testing on

21 that swab?

22 A Yes, and I obtained a positive result.

23 Q And based on that positive result did you further

24 conduct DNA analysis of that swab?

25 A Yes, I did.

1 Q And what were the results of your analysis?

2 A Here I obtained a mixture DNA profile with at least
3 one contributor being male, and there was a major DNA profile
4 that was consistent with Anshanette McNeil.

5 Q And again, your statistical probability of that
6 profile match?

7 A The probability of randomly selecting an unrelated
8 individual having a DNA profile consistent with that evidence
9 is approximately 1 in 2.01 sextillion.

10 Q Thank you, ma'am.

11 MR. PORTZ: Your Honor, I'll pass the witness.

12 THE COURT: Thank you. Mr. Bashor or Mr Shaygan.

13 MR. BASHOR: No, thank you. Thank you.

14 THE COURT: Anything from our jurors? Ms. Rubino,
15 thank you very much for your time. I appreciate you coming to
16 court.

17 THE WITNESS: Thank you.

18 THE COURT: State have any further witnesses?

19 MS. WECKERLY: No, Your Honor.

20 THE COURT: State's going to rest their case in
21 chief?

22 MS. WECKERLY: Yes, Your Honor.

23 THE COURT: And have you all had an opportunity to
24 make sure all your exhibits have been admitted?

25 MS. WECKERLY: Yes.

1 THE COURT: Okay. Can you guys approach, please.
2 (Bench conference transcribed as follows.)
3 THE COURT: I assume that you guys have discussed
4 either of those probabilities.
5 MR. BASHOR: And the reaction has changed.
6 THE COURT: Okay. So that's what I'm saying, do you
7 need a minute?
8 MR. BASHOR: I need about 10 minutes.
9 THE COURT: Okay. No problem.
10 MR. BASHOR: Thank you.
11 (End bench conference.)
12 THE COURT: Folks, we're going to take another short
13 recess before we continue on. During the recess you're
14 admonished not to talk or converse among yourselves or with
15 anyone else on any subject connected with the trial, or read,
16 watch or listen to any report of or commentary on the trial by
17 any medium of information, including without limitation the
18 newspapers, television, the Internet and radio, or form or
19 express any opinion on any subject connected with the case
20 until it's finally submitted to you. No legal or factual
21 research, investigation or re-creation of testimony on your
22 own. Thank you.
23 (Jurors recessed at 3:28 p.m.)
24 THE COURT: Anything outside the presence?
25 MS. WECKERLY: Not on behalf of the State.

1 THE COURT: Okay.

2 MR. BASHOR: No, Your Honor.

3 THE COURT: Just take your time, guys. Just let me
4 know whenever you're ready to start.

5 (Court recessed at 3:30 p.m. until 3:50 p.m.)

6 (Outside the presence of the jury.)

7 THE COURT: Anything before I get the jury back in?

8 MR. PORTZ: No, Your Honor, not for the State.

9 MR. BASHOR: No, Your Honor.

10 THE COURT: All right. You can go ahead.

11 MR. BASHOR: Your Honor, we intend to rest.

12 THE COURT: Okay.

13 (Pause in proceeding.)

14 THE COURT: Do you guys think argument will be any
15 more than two hours total, all combined?

16 MS. WECKERLY: I don't think it'll be any longer than
17 that.

18 THE COURT: Then I'll probably just tell them to come
19 back and we'll start at 11:00, to give us a little flex time
20 between the calendar, and then we'll do all the argument and
21 then bring in lunch for them.

22 MS. WECKERLY: Okay.

23 (Jurors reconvene at 3:52 p.m.)

24 THE COURT: We are back on the record. Mr. Newson is
25 present with his attorneys. State's attorneys are present as

1 well. The State rested their case in chief. Mr. Bashor,
2 Mr. Shaygan.

3 MR. BASHOR: Your Honor, the defense rests as well.

4 THE COURT: All right. So ladies and gentlemen, I
5 got you all back in here and seated down so I can send you home
6 now. So we have to wait for the close of evidence in a case
7 before we can get together, myself and the attorneys, and
8 settle all the jury instructions that we need to give to you
9 all and get all those typed up, which takes a little bit of
10 time. So we can't get to closing argument today, because I
11 need to do that with them now.

12 So I'm going to send you home a little early today.
13 We're going to start tomorrow at 11:00 o'clock, just to make
14 sure we can get done with our morning calendar stuff and don't
15 have you waiting around. We'll get you in -- hold on one
16 second. We'll get you in here at 11:00, we'll go straight
17 through with the closing arguments, and then break for lunch.
18 And I'll buy lunch and bring it in for you so you can have
19 lunch while you start your deliberations. Yes, question.

20 JUROR NO. 10: We didn't hear what time.

21 THE COURT: Oh, 11:00 o'clock.

22 JUROR NO. 10: Thank you.

23 THE COURT: Thank you. That's a good supervisor
24 speaking for everybody. You got good people working for you.
25 I know people complain about DMV all the time, but I went there

1 this weekend to register my car, made the appointment online
2 like anybody else. And I know people like to complain a lot
3 about stuff in life, so I'll give you some praise. There were
4 some good folks there.

5 JUROR NO. 10: Thank you.

6 THE COURT: So yeah, when you get outside, have a
7 conversation with JR, if you would, about what you might want
8 tomorrow. The two things we can get in here pretty quickly are
9 pizza, salads, and then -- or sandwiches from Capriotti's
10 downstairs. So think about what you want and just let JR know,
11 and tomorrow we'll arrange to have lunch brought in for you so
12 you can start eating while you're deliberating, okay, or eat
13 while you start deliberating. With that we're going to release
14 you for the evening.

15 During the recess you're admonished not to talk or
16 converse among yourselves or with anyone else on any subject
17 connected with the trial, or read, watch or listen to any
18 report of or commentary on the trial by any medium of
19 information, including without limitation the newspapers,
20 television, the Internet and radio, or form or express any
21 opinion on any subject connected with the case until it's
22 finally submitted to you. No legal or factual research or
23 investigation or re-creation of testimony on your own.

24 Thank you very much for today, and I will see you
25 tomorrow.

1 (Jurors recessed at 3:55 p.m.)

2 THE COURT: All right. Do you all need a minute to
3 chat about jury instructions before we get back in here and
4 start arguing about anything?

5 MR. BASHOR: I think the majority of the ones I
6 submitted due to Your Honor's ruling have been vitiated. The
7 other remaining are a method of formatting, the first degree
8 instruction, and I have an additional version of the two
9 reasonable interpretation instructions.

10 THE COURT: Okay. So I tell you what. Why don't you
11 guys go ahead and look at those. And we also need that
12 instruction that was what I was just telling them at the end,
13 no investigation, no re-creation of testimony, remember that
14 has to be in a written instruction now. Do you know which one
15 I'm talking about?

16 MS. WECKERLY: No.

17 THE COURT: Why not? Do you guys know which one I'm
18 talking about?

19 MR. BASHOR: I believe so. I believe I have a copy.

20 THE COURT: I have a copy somewhere as well, but it's
21 that case that came out that said not only do we need to be
22 telling them that whenever we take a break, but they should
23 have a written instruction that tells them --

24 MS. WECKERLY: Oh, okay.

25 THE COURT: -- can't talk about the case, can't do

1 any investigation --

2 MR. BASHOR: Can I approach, Your Honor?

3 THE COURT: Yeah, please.

4 MR. BASHOR: It has a number on it because it's from
5 a different case.

6 THE COURT: That's okay. It's probably similar to
7 the one we give.

8 MS. WECKERLY: Thank you.

9 THE COURT: Yeah, that's it. So I think I have that,
10 so I'll go back and print out copies of that as well. Then I'm
11 trying to remember if there was anything else I noticed
12 anywhere. Okay. Yeah, let me print those out and I'll be
13 right back.

14 (Pause in proceeding.)

15 THE COURT: Okay. Here you go, guys. Sorry. It
16 took me a minute to find. You guys come up with anything else
17 while I was gone?

18 MS. WECKERLY: As instructions?

19 THE COURT: Pardon?

20 MS. WECKERLY: Well, we're in agreement -- we had
21 pled in, in our charging document aiding and abetting.

22 THE COURT: Okay.

23 MS. WECKERLY: They've asked us to strike that.

24 THE COURT: Okay.

25 MS. WECKERLY: Which we will do, or we're happy to do

1 that.

2 THE COURT: Okay. So at line 24 of that instruction,
3 we're just going to -- or lines 23 and 24, take out the number
4 one, and then stop after, Committing this crime?

5 MS. WECKERLY: Yes.

6 THE COURT: Okay. Well --

7 MS. WECKERLY: Well, I can just actually, we can just
8 strike it out like a willful -- for the murder, like willful,
9 deliberate and premeditated.

10 THE COURT: Yeah. I was looking at the wrong line.
11 I'm sorry.

12 MS. WECKERLY: And then stop it there because --

13 THE COURT: Okay. You don't need all the principles.

14 MS. WECKERLY: We don't need all that. And then same
15 kind of with the next two counts.

16 THE COURT: Okay. So in the next two counts, the
17 child abuse counts, line 22, after Ashanette McNeil?

18 MS. WECKERLY: Right.

19 THE COURT: And I'm sorry. It's Anshanette, isn't
20 it, like it's spelled?

21 MS. WECKERLY: Yeah. I think we -- yeah, in Count 1
22 we have it right, and then --

23 THE COURT: So correct that in the other counts as
24 well if you would, please.

25 MS. WECKERLY: Yeah. And then the only other thing

1 is on Count 3, at the prelim we called him Brandon, that kid as
2 Brandon Berger, we also put in McNeil. I mean, I don't know if
3 it matters a lot, but we'll add in.

4 THE COURT: So you're adding in what, I'm sorry?

5 MS. WECKERLY: McNeil at the end of that, like
6 Brandon Berger --

7 THE COURT: Brandon Berger McNeil. Okay. And then
8 the same thing, taking out everything at line 6 on --

9 MS. WECKERLY: Right.

10 THE COURT: -- about that criminal liability.

11 MS. WECKERLY: Right.

12 THE COURT: Okay. And then at line 11, where it
13 starts, It is the duty of the jury, just indent that to be a
14 paragraph if you would.

15 Okay. And so then the next series of instructions
16 that deal with the definitions of murder, premeditation,
17 deliberation, et cetera, second degree murder, any objection to
18 any of those?

19 MR. BASHOR: Judge, we just disagree as to
20 formatting. I'd like the Byford instructions to be as to first
21 be separated into a separate instruction for each element.
22 I've done this before in another department. I think that
23 especially now that a partial theory of defense is no longer,
24 this now becomes center focus.

25 THE COURT: Okay.

1 MR. BASHOR: And I would ask that they be separated.

2 THE COURT: So are you asking for a separate
3 instruction for willfulness, a separate instruction for
4 deliberation, a separate instruction for premeditation, or just
5 that the definitions be a separate one than the murder of the
6 first degree is?

7 MR. BASHOR: It would be as I submitted in my
8 proposed instructions, Your Honor. It would begin with the
9 murder of the first degree with all three elements, then
10 willfulness is defined --

11 THE COURT: Okay.

12 MR. BASHOR: -- then deliberation is the process,
13 then a deliberate determination may be, premeditation is the
14 design, premeditation need not be for a day, the law does not
15 undertake to measure in units of time.

16 THE COURT: Okay. State.

17 MS. WECKERLY: So I don't know what the legal basis
18 is for that. We've used these instructions for a long time and
19 they've all been approved. However if the Court is considering
20 it, I don't think there should be two for deliberation and two
21 for premeditation.

22 THE COURT: Yeah. I haven't done it that way before.
23 I don't know, to be quite honest, how often I've seen the
24 differences. So that leads me to conclude I probably see them
25 both about the same, which is where you have murder, and then

1 there's an instruction for willfulness, an instruction that
2 contains both of the deliberations, and an instruction that
3 contains both premeditations.

4 I don't have any problem doing it that way, dividing
5 them up, but I would keep the whole of deliberation together
6 and the whole of premeditation together.

7 MR. BASHOR: I think that compromise is appropriate,
8 Your Honor.

9 THE COURT: Okay. So we'll go ahead and do that.
10 Okay. And then any objection to any of the others?

11 MR. BASHOR: Other murder instructions, Your Honor?

12 THE COURT: Yeah.

13 MR. BASHOR: No.

14 THE COURT: Deadly weapon instructions?

15 MR. BASHOR: No.

16 THE COURT: Child abuse instructions?

17 MR. BASHOR: No.

18 THE COURT: And then the standard instructions
19 thereafter, the stock instructions?

20 MR. BASHOR: The only thing, and it was just a typo,
21 it's not an objection, in the -- and the State is going to fix
22 it, is line 8 of the witnesses who have special knowledge, I
23 think the word "nay" should be any, and I think the State
24 agrees.

25 MS. WECKERLY: Correct.

1 THE COURT: Oh, okay. That any fact, okay, got it.
2 All right. And are you all going to want the
3 constitutional right of the defendant not to testify?

4 MR. BASHOR: Yes.

5 THE COURT: Okay. So I will stick that in at the end
6 of the witness instructions. I always stick it in with the
7 other witness stuff, so that's going to be I guess right after
8 witnesses who have special knowledge.

9 And then the State submitted a flight instruction as
10 well. Do you guys have an objection to the flight instruction?

11 MR. BASHOR: I object, but submit it.

12 THE COURT: Okay. State.

13 MS. WECKERLY: You mean why do we want a flight
14 instruction?

15 THE COURT: I'm just asking if there's anything you
16 wanted to put on the record.

17 MS. WECKERLY: Oh. Well, he's found in another state
18 after the murder and it's shortly after, and we think that
19 under the caselaw that that justifies the flight instruction,
20 in addition to his actions with dropping off the kids.

21 THE COURT: Okay. I think the flight instruction is
22 appropriate. I mean, I primarily focus on the evidence that's
23 out in front of the jury right now about the shooting at the
24 side of the road area and then getting into the car and fleeing
25 from that area, and then compounded with dropping off the kids

1 and leaving the state. I think all of those would justify the
2 flight instruction to allow the jury to make whatever hay from
3 what they believe is appropriate. I'm trying to think if...

4 Okay. Yeah. So if you can just take the footnote
5 off that one as well.

6 MS. WECKERLY: Yep.

7 THE COURT: And then I'm going to stick that probably
8 at the end of the special stuff before the stock starts, so
9 it'll be after a person who is responsible for the safety or
10 welfare of a child. Okay. And that is all that the State had.

11 And then you all were going to mark as proposed but
12 not given the manslaughter instructions, correct?

13 MR. BASHOR: Correct.

14 THE COURT: Okay.

15 MR. BASHOR: I have that prepared, but I was
16 waiting -- I had that prepared for filing.

17 THE COURT: Yeah, you can do that.

18 MR. BASHOR: It's just...

19 THE COURT: And just again for the record, I mean the
20 basis for denying those was the obvious evidentiary basis
21 needed to justify the instructions, because the jury is the one
22 that has to decide was there some sudden issue heat of passion
23 that occurred, was there some provocation occurred, or was the
24 nature of the provocation such that it could be reasonably
25 determined to have obscured the reason of the accused. And

1 without any evidence being provided to them that there was a
2 provocation and if so when any of that occurred, I didn't think
3 there was a basis for those instructions.

4 MR. BASHOR: And just in case I'm accused of not
5 contemporaneously objecting again --

6 THE COURT: You're okay.

7 MR. BASHOR: -- I do cite to Williams v. State, rely
8 on the factual assertions I made earlier and include the
9 language from Wilson that says that an instruction no matter
10 how weak or incredible includes a lesser included offense such
11 as manslaughter.

12 THE COURT: Okay. All right. And which is it -- I
13 want to make sure I have what you have. Do you have four
14 instructions that are being marked for manslaughter, or is
15 it --

16 MR. BASHOR: No, Your Honor, because there was slight
17 language changes in the rest of the instructions, like if, you
18 know, this charge may include murder in the first or second or
19 voluntary.

20 THE COURT: Okay.

21 MR. BASHOR: But other than that, yes, Your Honor,
22 it's the typical four voluntary manslaughter instructions.

23 THE COURT: Okay. Okay. And then you all have
24 your -- the last instruction that you have that you're
25 proffering is the two reasonable interpretation instructions,

1 correct?

2 MR. BASHOR: Well, it's a slight variance on the two
3 reasonable interpretations instruction, Your Honor.

4 THE COURT: I want to hear the slight variance.

5 MR. BASHOR: We are -- I think that -- you know, I
6 don't think that as in Crane v. State, 88 Nev. 684, and I'm
7 only referencing an unpublished petition because I know that
8 Ms. Weckerly is extremely familiar with it.

9 THE COURT: Is that the Judge Johnson case?

10 MR. BASHOR: Yes, Your Honor. So that's State vs.
11 Eighth Judicial Judge Johnson with Thomas Supranovich, real
12 party in interest. It was filed September 24, 2015, Supreme
13 Court No. 68837. I know that we're discouraged in citing this,
14 but given that there's familiarity here, I thought I would.

15 THE COURT: That's okay.

16 MR. BASHOR: Judge, here, you know, I just don't
17 think -- I would submit that both of you separately and
18 probably unintentionally made my point when we were arguing the
19 voluntary manslaughter instructions. Your Honor indicated how
20 the statement could be interpreted reasonably in two different
21 ways.

22 THE COURT: Sure.

23 MR. BASHOR: And the State proffered how his behavior
24 afterwards, after the fact at Zarharia's house could be
25 interpreted in two reasonable different ways. I don't think

1 that the instruction should be restricted to innocence versus
2 guilt. And I tried to draft a version of the instruction that
3 I think would be appropriate in a circumstantial evidence case,
4 at least parts of this case that are circumstantial.

5 Those two examples that I just gave I think are apt
6 for interpretation in that the jury, if they were to find both
7 reasonable, ought to be instructed to give what I essentially
8 call tie goes to the runner, the runner being the defendant,
9 and I'd ask that it be included in the packet.

10 THE COURT: State.

11 MS. WECKERLY: Well, I mean, this instruction is
12 for -- I mean even when it was offered in Supranovich it was
13 for like cases where there's conduct and it could be
14 interpreted two different ways, whether criminal or not
15 criminal, not like degrees of murder or not what we have here,
16 where someone's admitting or the defense is that, yes, he's the
17 one responsible but it's a lesser degree type offense. So this
18 instruction really isn't even appropriate for this kind of
19 case.

20 The other thing I would say is they allowed that
21 instruction in Supranovich, but they still maintained that it's
22 not error to refuse the instruction. And there's a whole line
23 of, I mean like four Nevada cases where the instruction has
24 been refused and the Nevada Supreme Court has found it's not
25 error to refuse the instruction.

1 So I don't look at Supranovich as binding that you
2 get the instruction. I look at it as sort of if you are going
3 to give it, it has to be in this format. But even in that
4 opinion, it's based on a California instruction where the
5 conduct could be interpreted as criminal or not criminal, which
6 really isn't applicable to this kind of case.

7 THE COURT: Anything further?

8 MR. BASHOR: Judge, I mean I understand that
9 Supranovich doesn't dictate that it must be given. I just
10 think that there have been at minimum two and probably more
11 examples in this particular case where I believe it
12 appropriate, and I've tried to tailor it so that it fit kind of
13 the facts here.

14 And I think that those cases that the State talks
15 about, those four cases where it was upheld that it -- I think
16 this is a very fact specific analysis is what I'm trying to
17 say, and I think that these facts as the instruction is modeled
18 make it appropriate.

19 THE COURT: Well, a couple of things. The first
20 thing I'll tell you is that I've never given this instruction
21 in any form. And I think part of when the Supreme said it's
22 not error to give it, it's not error not to give it, what it
23 really falls back on kind of is somewhat of your philosophy on
24 instructing the jury as a trial court judge.

25 I think some judges tend to, just my personal

1 opinion, kind of want to over-manage juries with lots of jury
2 instructions and almost micro managing everything that they do
3 in their deliberative process, and others of us tend to be, you
4 know, myself included, kind of I favor less instructions.
5 There's a lot of things you all can argue about, but I think
6 there's some core law that the jury needs to get on things and
7 that obviously there's going to be other things that come up in
8 each potential trial.

9 But ever since way back in Crane and Bails and those
10 early '70s cases, I believe, where they kind of said, hey,
11 look, if we're giving them the appropriate reasonable doubt
12 instruction, these other things aren't needed. And I think
13 we've since got to that point where we give an appropriate
14 reasonable doubt instruction and the Supreme said that's what
15 you give, that's the only thing you can give and nobody can say
16 it any differently, and that's, you know, that's the holy grail
17 where you start with everything. Because of that I don't think
18 these are needed.

19 I would also say that I don't think this is the kind
20 of circumstantial case that this was contemplated here. We're
21 really speaking more towards what to make of a statement as
22 opposed to a circumstantial case pointing to whether somebody
23 is the correct perpetrator or committed a crime or didn't
24 commit a crime. You know, my point about commenting on
25 interpretations of that statement was because it was what it

1 was. Without more it's open to lots of things, but there
2 needed to be that more.

3 Like if somebody says, you know, we were in the car
4 and she told me she cheated on me again and I couldn't take it
5 anymore and I lost it, that's a little different. But just
6 saying, you know, I got pushed too far and couldn't take it
7 anymore without more didn't speak to the when part of it,
8 didn't speak to the what it was, didn't speak to the alleged
9 provocation, didn't give anybody any ability to do anything
10 other than ask the jury to speculate.

11 And so I just don't think the statement that really
12 plays into the state of mind or criminal intent part is really
13 what was contemplated by this, in addition to the fact that
14 just generally I don't think this kind of instruction is
15 necessary. But we will mark that as a court exhibit.

16 MR. BASHOR: I have the --

17 THE COURT: Yeah, we can just do your whole packet if
18 you want.

19 MR. BASHOR: Oh, well, no. I took out the ones
20 that --

21 THE COURT: That were verbatim for the others?

22 MR. BASHOR: Well, yeah, now that -- exactly. I'll
23 just -- if that's okay with Your Honor.

24 THE COURT: Yeah, yeah. That's fine.

25 Okay. And then I think it should be okay in the

1 order that they're in now, because I --

2 MS. WECKERLY: Could I just interrupt you one second?

3 THE COURT: Sure.

4 MS. WECKERLY: In our packet at the child abuse
5 instructions, we just noticed the first one we have is a person
6 who willfully causes a child.

7 THE COURT: Okay. Hold on just a second. Let me get
8 there. Okay.

9 MS. WECKERLY: Okay. So a person who willfully
10 causes a child who is less than 18, that is what we -- that's
11 what the Information is and that's what we've charged,
12 200.508.1. The one behind it is the gross misdemeanor
13 definition, so that should probably be removed because we
14 charged the felony.

15 MR. BASHOR: But I would -- go ahead.

16 MS. WECKERLY: Or well, or I mean --

17 MR. BASHOR: I would disagree, because the gross
18 misdemeanor version, Mr. Newson is the father of the child,
19 which would make him responsible for his care, making it a
20 gross misdemeanor.

21 THE COURT: So argue that there's kind of a lesser
22 there?

23 MR. BASHOR: Well, it's -- yes. I mean the way the
24 statute reads, and that's why I thought the State had put them
25 both in, was that a fact in issue is whether or not, and it

1 seems to be an undisputed fact that Major Newson is Vernon's
2 son, if he's responsible for his son's care, which under the
3 statute he would be, it would make that count a gross
4 misdemeanor, whereas Brandon Berger it would not.

5 THE COURT: Well, but I think that the distinction
6 between those two things you got to remember is one of them is
7 abuse and one of them is neglect, and the person responsible is
8 the neglect one where you permit or allow a child to be in a
9 situation where they could be injured, as opposed to the abuse
10 one which is you engage in a conduct that could potentially
11 injure or does injure the child.

12 So in this case what's charged is he shot their mom
13 in close proximity to where they are, which put them in that
14 position where they could be injured, as opposed to I permit or
15 allowed them to -- like saying I'm responsible for them and I
16 allowed them to be in a car where somebody else shot somebody
17 and almost injured them. See the distinction there?

18 MR. BASHOR: I do.

19 THE COURT: I mean it's not charged as a neglect.
20 It's charged as he engaged in the conduct which either injured
21 them or put them in a situation where they could have been
22 injured.

23 MR. BASHOR: If that is the case, I guess I'm
24 probably going to need to draft some more instructions.

25 THE COURT: Okay. I just look at that -- that's the

1 way I've always viewed the abuse charge versus the permit or
2 allowing neglect charge. One of them is engaging in conduct
3 which injures or could injure, the other is permitting your kid
4 to be in a situation where potentially somebody else does
5 something to them or, you know, you -- well...

6 MR. BASHOR: Is now only to -- I guess as to Major
7 I'll need probably to submit a special verdict form as well to
8 see if the jury finds it to be abuse or neglect.

9 MS. WECKERLY: But that's not the law. It's not you
10 get a break on it if it's your kid. It's the abuse is the
11 willful conduct versus neglectful conduct by leaving a child in
12 a dangerous setting, and you can only be charged with a gross
13 misdemeanor if you're the one who's responsible for the child.
14 If you willfully engage in conduct that is abusive to any
15 child, it's the felony whether you're the parent or not. If
16 you're a parent and you neglect your child by leaving them in a
17 situation where they can suffer --

18 THE COURT: That's kind of what I'm getting at, and
19 I'm sorry to interrupt, is they're not lessers because one of
20 them involves the element that you have to be the person
21 responsible for the child, and the other involves the element
22 of you engaged in the conduct that could injure the child.

23 So one of them speaks to anybody out there that does
24 something abusive towards a child or does some type of conduct
25 that causes a child to potentially suffer injury, and the other

1 focuses on neglect or endangerment by permit or allow, and only
2 penalizes that if you're the person responsible for the child.

3 Like if I'm outside and I see some kid at the
4 playground and I permit or allow them, because I'm in that area
5 with my kids, to wander into the street and get hit by a car,
6 I'm not guilty of anything because I'm not responsible for the
7 safety of that child. But if I do something towards that child
8 regardless of whether I'm responsible for their safety, then I
9 could be guilty under the felony abuse part of it by injuring
10 the child or putting them deliberately in a situation where
11 they could be injured.

12 MR. BASHOR: And my point now is that I'll need to
13 add instructions from the statute which define what abuse is.

14 THE COURT: Okay. Oh, I see what you're saying.
15 Okay. No, I mean if you want to get more into defining the
16 elements particularly since one of the children was his and one
17 of them wasn't, then yeah, we can do that. We can --

18 MR. BASHOR: I mean the jury may find it to be
19 abusive conduct regardless --

20 THE COURT: Right.

21 MR. BASHOR: -- but we're going to need -- because
22 there is that distinction, we're going to need some
23 definitions.

24 THE COURT: Okay. So go ahead -- and we'll wait on
25 numbering them. That's okay. Go ahead and clean up the

1 language, go ahead and divide up the elements of the first
2 degree murder one instructions.

3 MS. WECKERLY: Okay.

4 THE COURT: And then whatever else you guys want to
5 offer, just email it to me tonight or whatever --

6 MR. BASHOR: Okay.

7 THE COURT: -- whenever you get a chance to. And
8 then when we come back tomorrow, if you guys want to be back
9 here like 10:30, we can go through and finish getting them
10 settled and make a record.

11 MR. BASHOR: Okay. Thank you.

12 THE COURT: Okay. All right. I will see you
13 tomorrow, folks.

14 Oh, I forgot. The investigation -- hold on before we
15 go off the record. The -- during the course of the trial you
16 can't investigate, do any research, that's going to be also at
17 the end of the -- right after flight. It'll be at the end of
18 the specials before the stocks start.

19 MR. BASHOR: Thank you.

20 THE COURT: Okay. Thank you.

21 (Court recessed for the evening at 4:30 p.m.)

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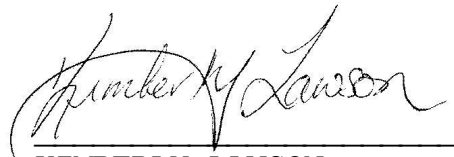
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1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-16-313919-1
DEPT. III

10 vs.

11 VERNON NEWSON, JR,
12 Defendant.

13
14 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
15 TUESDAY, FEBRUARY 27, 2018

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
17 **JURY TRIAL - DAY 4**

18 APPEARANCES:

19 For the State:

PAMELA WECKERLY, ESQ.
Chief Deputy District Attorney
KENNETH N. PORTZ, ESQ.
Deputy District Attorney

22 For the Defendant:

RYAN J. BASHOR, ESQ.
KAMBIZ SHAYGAN-FATEMI
Deputy Public Defenders

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25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

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Las Vegas, Nevada, Tuesday, February 27, 2018

[Case called at 10:52 a.m.]

[Outside the presence of the jury]

THE COURT: Okay. We'll be on the record. Mr. Newson is here with his attorneys; State's attorneys are present.

You guys all have copies of the instructions that I emailed out last night?

MS. WECKERLY: Yes.

MR. BASHOR: Yes, Your Honor.

THE COURT: Okay. And my understanding was that last email that I sent -- and this was before you got here this morning, Pam, but defense attorneys and Mr. Portz all said that that last copy that I sent out was good; correct?

MS. WECKERLY: Yes, Your Honor.

THE COURT: Okay. So, for the record, Instruction Number 1 is it is now my duty as judge. Number 2, if in these instructions. Number 3, an Information is but a formal method. Number 4, in this case the Defendant is accused. Number 5, murder is the unlawful killing.

MR. SHAYGAN-FATEMI: I'm sorry, Your Honor.

MR. BASHOR: It's just part of that.

MR. SHAYGAN-FATEMI: Oh, it's part of that?

MR. BASHOR: Yeah.

MR. SHAYGAN-FATEMI: Okay.

THE COURT: Good?

1 MR. SHAYGAN-FATEMI: Thank you.

2 THE COURT: Number 6, malice aforethought means.

3 Number 7, expressed malice is. Number 8, murder of the first degree is.

4 Number 9, willfulness is the intent. Number 10, deliberation is the

5 process. Number 11, premeditation is. Number 12, the law does not

6 undertake. Number 13, all murder which. Number 14, you are instructed

7 that if you find the State has established. Number 15, you are instructed

8 that if you find the Defendant guilty. Number 16, deadly weapon means.

9 Number 17, the State is not required. Number 18, a person who willfully.

10 Number 19, abuse and neglect means. Twenty, to constitute the crime

11 charged. Twenty-one, the Defendant is presumed innocent. Twenty-two,

12 the evidence which you are to consider. Twenty-three, the credibility or

13 believability. Twenty-four, witnesses who have special knowledge.

14 Twenty-five, it is a constitutional right. Twenty-six, although you are to

15 consider only the evidence. Twenty-seven, the flight of a person.

16 Twenty-eight, when you retire to consider your verdict. Twenty-nine, if

17 during deliberations. Thirty, during the course of this trial and your

18 deliberations. Thirty-one, now you will listen to the arguments of counsel.

19 State, in regard to those 31 instructions, any objections other
20 than what was stated on the record yesterday?

21 MS. WECKERLY: No, Your Honor.

22 THE COURT: Any that you all wish to offer that aren't being
23 given that you want to have marked as Court exhibits?

24 MS. WECKERLY: No.

25 THE COURT: Defense, with regard to the 21 [sic]

1 instructions, any objections other than what was stated on the record
2 yesterday?

3 MR. BASHOR: No, Your Honor.

4 THE COURT: And you marked your proposed but not given
5 yesterday; correct?

6 MR. BASHOR: Correct, Your Honor. And I appreciate the
7 opportunity to re-read the statute yesterday.

8 THE COURT: Yeah. No worries.

9 Any objections by anybody to the verdict form?

10 MR. BASHOR: No, Your Honor.

11 MR. PORTZ: No, Your Honor.

12 THE COURT: Okay. Then we'll be at ease until we get all our
13 jurors here and then we'll get started. Did you guys make sure your
14 stuff's working with the -- on the monitors and everything? Yeah? Okay.

15 MR. PORTZ: And, Your Honor, just so we note on the record
16 the State did provide and file the Amended Information reflecting the
17 changes we discussed yesterday and provided copies to the defense.

18 THE COURT: Got it.

19 No objection to that?

20 MR. BASHOR: No, Your Honor.

21 THE COURT: Okay. And just make sure if you all would that
22 you get hard copies to us as Court exhibits of any PowerPoints from
23 opening and/or closings; okay. Thank you.

24 THE MARSHAL: Your Honor, waiting on one more juror.

25 THE COURT: One more?

1 THE MARSHAL: Yes.

2 THE COURT: Okay.

3 [Off the record at 10:56 a.m.]

4 [Proceedings resumed at 11:16 a.m.]

5 [Outside the presence of the jury]

6 THE COURT: Do you guys have anything outside the
7 presence?

8 MR. BASHOR: Ms. Weckerly went to grab a quick drink and
9 Mr. Shaygan went to the restroom real quick.

10 THE COURT: Okay. So I appreciate the nutrition and
11 hygiene update.

12 MR. BASHOR: I try, Your Honor.

13 THE COURT: Other than that, we're ready to get started with
14 the jurors when they come back in?

15 MR. BASHOR: Yes, Your Honor.

16 MR. PORTZ: Yes, Your Honor.

17 [Courtroom at ease]

18 THE MARSHAL: Please rise for the jurors.

19 [In the presence of the jury]

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

21 THE COURT: Thank you. You all can be seated.

22 Okay. We're going to be back on the record. Mr. Newson's
23 present with his attorneys; State's attorneys are present; all of our jurors
24 are present.

25 Good morning, ladies and gentlemen. Does each of you have

1 a packet of jury instructions in your chair? Anybody not get that? No;
2 okay. You'll recall back when we were doing the jury selection process
3 there was a couple of times we commented on the fact that you all would
4 get the law from the Court at some point and obviously that's the point we
5 reached. I have to read these to you by law, so I think it's a lot more
6 pleasant if you can read them while I'm reading them to you, as well as, I
7 think it's a lot easier if you're seeing as I'm reading them to you to start
8 kind of thinking about them, and digest, and a little bit about the law.

9 You'll get to take this packet back with you when you go to
10 deliberate. So to the extent you want to write any notes on the packet
11 while I'm reading them to you, or while the attorneys are making their
12 arguments, feel free to do so. I'm sure they'll have on occasion specific
13 instructions that they're talking to you about. You might write your name
14 or your initials or something just on the front of your packet because
15 obviously you see back there in the deliberation room you're all just going
16 to be at one big table so you can kind of make sure you keep track of
17 your packet. But I will read through these as quick as I can so we can
18 get you on to the closing arguments.

19 [The Court read the jury instructions to the jury]

20 THE COURT: Can you guys approach the bench real quick.

21 [Bench conference -- begins]

22 THE COURT: You guys didn't give me an instruction on
23 you're not to consider punishment in your deliberations. Somehow that
24 didn't get into there. So I'm going to pull one real quick and I'll read it to
25 them. Then I'll make copies and give it to them as a supplement; okay?

1 MR. BASHOR: Okay.

2 THE COURT: All right.

3 [Bench conference -- concludes]

4 THE COURT: Don't go anywhere, guys. There's an
5 instruction that should've been in there, and it's not in there, that
6 everybody seems to have missed and I apologize. So I'm going to find it,
7 I'm going to read it to you, and then we're going to make a copy of it and
8 we'll mark it as 27A, and then just get it into your packets when you go
9 back for your deliberations. So I apologize for the inconvenience, but
10 give me a second here.

11 [The Court resumed reading the instructions to the jury]

12 THE COURT: So thank you for your patience with me reading
13 through those. You should each have attached to your jury instruction
14 packet a copy of the verdict form. The attorneys may discuss that further
15 with you, but I will just point out to you that under each of the three
16 counts you're only going to check one box; okay? So with that I will turn
17 it over to the State for their closing argument.

18 And, JR, can you move the screen. They don't need to see
19 me anymore. You can move it all the way out so it's better -- better view
20 for the jury.

21 Go ahead.

22 **CLOSING ARGUMENT BY THE STATE**

23 BY MS. WECKERLY:

24 On a cold and windy night the Defendant, Vernon Newson, left
25 Anshanette McNeil to bleed out on the side of the road. His intent was

1 that she die alone there on the payment. And he was thorough in making
2 sure that that very thing would happen, that she would die there alone.

3 And but for the actions of strangers, she would've died there
4 alone on that payment wouldn't she. But you heard from a young woman
5 by the name of Janei Hall. And she explained how she and her husband
6 were driving that night, and she heard something, and she looked over to
7 that area. And she couldn't see at first that Anshanette was on the
8 payment bleeding, but another car drove by and in the headlights she
9 saw that there was a human being there on the ground and she told her
10 husband we need to turn around and see if that person's okay.

11 And when Janei gets out of her car she goes over to
12 Anshanette McNeil and she makes these very human observations about
13 what this young woman has just gone through. She can see that this
14 woman is taking her last breath. She can see that she doesn't have any
15 shoes on. She can see that her -- her arm -- or her hand looks like she
16 was holding a cell phone. And so she and her husband, among some
17 other people, call 9-1-1.

18 And we know paramedics arrived. And we heard from
19 paramedic Corrales in this case. And he and fellow paramedics take
20 steps to save Anshanette. They check her vital signs which indicate that
21 she's of course in very desire straights. They try to clear her airway but
22 they can't because there's a bullet injury there. And they put her on a
23 gurney and they transport her in order for her to get medical attention, or
24 as the paramedic said to you, in order for her to have a fighting chance at
25 life. But this Defendant made sure ahead of time that Anshanette, she

1 was going to lose that fight. He made sure of that with the number of
2 injuries he inflicted upon her. He was thorough. And so while those
3 strangers were fighting to save Anshanette's life, you all know now what
4 the Defendant was doing. He was fighting to save himself by abandoning
5 his child and fleeing to another state.

6 Now in this case there are two types of crimes charged. The
7 first one is murder, and then there are also two counts of child abuse for
8 each of those children who were in the car at the time -- at the time this
9 occurred. And one of those children is named Brandon Berger McNeil,
10 and he was two years old at the time, and the other child of course was
11 the baby that you saw a picture of who was eight months old, Major
12 Newson, the Defendant's son.

13 Now in terms of the murder count, the instructions Judge
14 Herndon just read to you explain that you'll have to make a decision
15 about whether a deadly weapon was used in the commission of that
16 crime. And the instructions tell you that regardless of whether you find
17 the Defendant guilty of first or second degree murder, you must also
18 determine whether or not a deadly weapon was used in the commission
19 of the crime. Now this is probably the easiest question that you'd have to
20 answer in this case because you know from the evidence, of course, that
21 a deadly weapon was used.

22 The instructions define a deadly weapon for you and it's
23 essentially an instrumentality that's capable of causing substantial bodily
24 harm or death. And at the end of the instruction, which is perhaps
25 obvious to all of you, is that a firearm is a deadly weapon. And you know

1 of course from the autopsy that a firearm was used over, and over, and
2 over again into the body of Anshanette McNeil. And those injuries were
3 of course inflicted by the Defendant, Vernon Newson. So there's no
4 question whatsoever in this case that a deadly weapon was used.
5 There's no question in this case that this young woman was killed. And
6 there's no question in this case that that man, Vernon Newson, is the
7 person who did it.

8 Now you may be asking yourselves well, where is that gun?
9 And the short answer is, it's probably somewhere between here and
10 Claremont, California. But the jury instructions, and the law as the Judge
11 read to you, tell you that it's not necessary that we have the gun in court
12 in order for you to find that he used a deadly weapon in the commission
13 of the crime.

14 The instructions tell you the State is not required to have
15 recovered the deadly weapon used in the alleged crime, or to produce
16 the deadly weapon in court at trial to establish that a deadly weapon was
17 used in the commission of a crime. And that's kind of a common sense
18 instruction that people who discard weapons after they commit crimes
19 are still held liable for their conduct even if they're good at discarding the
20 weapon. And so the easiest question in this case is probably whether or
21 not a deadly weapon was used. And you know of course that a deadly
22 weapon was used in this case.

23 Now let's talk about murder which is the first count of the
24 Amended Information in this case. Now the instructions give you the
25 legal definition of murder. And it's actually a pretty simple definition.

1 Murder is the unlawful human being -- or the unlawful killing of a human
2 being with malice aforethought, either expressed or implied. And the
3 unlawful killing may be effected by any of the various means by which
4 death may be occasioned. So murder -- generally murder is simply the
5 unlawful killing of a human being with this -- with this concept of malice
6 aforethought.

7 Now you may or may not have heard that expression before,
8 or that word before, but in your instructions that actually defined for you
9 as well. Malice aforethought means the intentional doing of a wrongful
10 act without legal cause or excuse, or what the law considers adequate
11 provocation. The condition of the mind, described as malice
12 aforethought, may arrive from anger, hatred, revenge, or from particular
13 ill will, and the instruction goes on. And as Judge Herndon said, you will
14 have a copy of those instructions in the deliberation room and you can
15 review the entire instruction on malice aforethought. But essentially a
16 malice aforethought is a wrongful act; an act of ill will without provocation
17 towards the person of another.

18 Now we know in this case that one of the injuries that
19 Anshanette McNeil sustained was that gunshot wound to her face. And
20 Dr. Corneal described to you those red marks around her face which
21 were indicative of stippling. That was the term she used. And that shows
22 -- or that meant to her that that gun, when it was fired, was within two feet
23 of her face when Vernon Newson pulled the trigger, and that deposited
24 the gun powder -- or burning small particles onto her face. Now when
25 you shoot someone in the face at close range that is without question an

1 act of ill will. That is an act with malice aforethought.

2 And you know from the testimony of Zarharia Marshall, the
3 young woman who came in last week, what the Defendant's conduct was
4 when he rolled up to St. Bar Court in order to abandon his child and
5 deposit another child with Zarharia. He was in a hurry. He was fumbling
6 around. And I submit to you know you now you the purpose of that. And
7 that was to get out of town because the last place he ever wanted to be
8 was sitting in this courtroom before you. He wasn't in some hurried state
9 when he talked to Zarharia in order to get an ambulance to Anshanette or
10 get help for her. He was worried about himself and getting out of town.
11 He knew what he had done was a wrongful act.

12 Now the question in this case about whether or not the murder
13 in this case is one of the -- is one of first or second degree is something
14 that you'll obviously be consulting your instructions about. And in
15 opening statements you heard discussion from defense counsel about
16 how this crime actually involved a lack of planning. And I'd like you to
17 sort of keep that in your -- in the back of your mind as we discuss the law
18 in Nevada as to what constitutes first degree murder.

19 Now in other states the degrees of murder are defined
20 differently. There's first degree, second degree, third degree. In Nevada
21 there's two degrees of murder. There's first degree and there's second
22 degree. And before you came in and sat as jurors, you might've had in
23 your mind a conception of what first degree murder is. But the law that
24 you're to apply in this case is in that packet of instructions that the -- that
25 the judge gave you. That is the law that you took an oath to follow in this

1 case. And what is not in any of those instructions, despite what we heard
2 in opening statements from the defense, is a requirement of planning.
3 You can read all through those murder instructions and planning, or the
4 word plan, is not in there because a plan, or planning, is not a
5 requirement of first degree murder.

6 This is the definition of first degree murder. Murder of the first
7 degree is murder which is perpetrated by means of any kind of willful,
8 deliberate and premeditated killing. All three elements, willfulness,
9 deliberation and premeditation must be proven beyond a reasonable
10 doubt before an accused can be convicted of first degree murder.
11 Planning's not in there. What is in there though is the murder has to be
12 willful; the murder has to be deliberate, and the murder has to be
13 premeditated. Those three things have to be present in order for there to
14 be a conviction or someone to be held responsible for first degree
15 murder.

16 Now the definition of willfulness is fairly short. Willfulness is
17 simply the intent to kill. And the instruction goes on and states there
18 need be no appreciable space of time between the formation of the intent
19 to kill and the act of killing. So all that's required for the willfulness part of
20 those three is an intent to kill. And what do we have in this case? Well,
21 we have someone who was shot in the face and shot in other parts of her
22 body. When you shoot someone in the face, or in the head, you're not
23 trying to start a conversation with them; you're not trying to have a
24 discussion with them; you're not trying to remind them of anything. When
25 you shoot someone and pull a trigger and fire a bullet into the body of

1 another human being you are trying to kill them. There is no other
2 expectation or any kind of reasonable interpretation of that type of act.

3 Now let's talk about deliberation, which is the second
4 requirement of first degree murder, and this is also obviously defined in
5 your packet. Deliberation is the process of determining upon a course of
6 action to kill as the result of thought, including weighing the reasons for
7 and against the action in considering the consequences of the action. A
8 deliberate determination may be arrived at in a short period of time, but in
9 all cases the determination must not be formed in passion, or if formed in
10 passion it must be carried out after there has been passion -- or after
11 there has been time for the passion to subside and deliberation to occur.
12 A mere unconsidered and rash impulse is not deliberate, even though it
13 includes the intent to kill.

14 So this second requirement of first degree murder is
15 deliberation. And there is some mention of the word passion in this
16 instruction. And it tells you that the intent to kill must not be formed in
17 passion, or if it was, was there time for the passion to subside before the
18 killing occurred.

19 Now in this case we know that Vernon Newson and
20 Anshanette McNeil were in a relationship. And we're not suggesting to
21 you that there wasn't something that was said, or something that
22 happened in that car between the two of them that was upsetting to the
23 Defendant; right? I mean, he didn't plan this murder for days and days.
24 There was something that happened in the car. But his anger, or his
25 getting upset, really isn't the end of the inquiry. You have to look at how

1 the murder was accomplished. And the question is not whether or not he
2 was angry or not. The question is did he make a choice to kill her? Was
3 killing her an intentional act or a rash impulse?

4 Now in order to answer that question it's probably a good idea
5 to review the steps and the actions that he had to take in order to
6 accomplish that killing. And you, of course, I'm sure remember that the
7 way they were seated in the car is an important factor in making that
8 determination. He was in the front seat driving the car and she was
9 sitting in the back seat with the kids. And the shots, we know there were
10 at least three, although there's three more casings in that car suggesting
11 there were six, but we know there were at least three shots fired in that
12 car. And you could see those trajectory rods when the detective testified
13 yesterday; the three shots that went into the back seat and then into the
14 cargo area of the vehicle.

15 So let's give him the benefit of the doubt that there were only
16 three shots fired in that car. He was driving a car before those shots
17 were fired and she's sitting in the back with two kids. So at some point,
18 as he's driving, he had to make a decision to get a gun that was probably
19 in the car. So somehow he made a decision to get a gun as he's driving.
20 And then he would've had to make a decision about whether or not he
21 was going to stop that car, or shoot her as the car was still moving,
22 because we know -- we don't know really whether or not he's stopped or
23 not before the shots in the car were fired. But we know he did make
24 some decision and those shots were fired at some point. A decision --
25 those are two decisions easily made by the Defendant in this case.

1 We also know that he probably shot those shots over his
2 shoulder. This is the driver's seat; that's the passenger -- or the back
3 driver's seat where Anshanette was sitting. So he had to turn, and aim,
4 and fire in order to hit her. That was another intentional act on the part of
5 the Defendant in this case that demonstrates deliberation. And we know
6 from the blood in the back seat of the car that she was injured as a result
7 of his actions, but he made a choice to continue.

8 Now you also know that at some point that car had to stop
9 because more shooting occurs on the part of Vernon Newson. So he
10 had to decide to pull over. And what was the purpose of pulling over for
11 Vernon Newson at that point? Well, it was to kill her. And then he had to
12 get out of the car himself. And why is he getting out of the car? To kill
13 her. He had to remember to take the gun with him as he got out of the
14 car. And why is he taking that gun with him? To kill her. And then he
15 had to get her out of the car as well. And you know from the blood on the
16 -- part of the seatbelt in the back seat that she was injured. And so she
17 was likely in a seatbelt at the time he pulled her out of the car. And he
18 had to deliberately and intentionally get her out of that car because it was
19 his intent to shoot her some more. That's deliberation.

20 And you also know from the pictures taken at the scene that
21 her clothing -- this is a piece of her shirt, but there was also a piece of her
22 coat as well, that there was some kind of struggle on her part once she is
23 out of the car, or she's moving around or something and he overpowered
24 her, or he somehow gets the better of her, which wouldn't be too hard
25 because she's already been shot at this point, but those type of actions

1 show decision making, a choice to kill on his part.

2 And lastly, you know from at least one of the blood stains at
3 the scene that she had to be bleeding in this area. And then there was
4 another bullet strike into the pavement that indicates that he shot her
5 when she's already down. That is a deliberate act to kill. None of that
6 shows any kind of rash inference. In fact, given how much time and
7 effort this took, it's impossible for this to have been a rash -- an impulsive
8 act. He made a choice to kill her and that's what he did.

9 Now the third element of first degree murder is premeditation.
10 Premeditation is defined as -- premeditation is a design, a determination
11 to kill, distinctly formed in the mind by the time of the killing.
12 Premeditation need not be for a day, an hour, or even a minute. It may
13 be as instantaneous as successive thoughts of the mind. For if the jury
14 believes from the evidence that the act constituting the killing has been
15 proceeded by, and has been the result of premeditation, no matter how
16 rapidly the act follows the premeditation, it is premeditated.

17 And the premeditation instruction, or when you think of the
18 word premeditation, it does sort of without that definition imply, or
19 suggest, or sometimes conjure up for people the idea of planning. But
20 when you read through that instruction the word planning isn't in there.
21 Premeditation isn't a plan; it is simply a decision. A decision that's made
22 before the time of the killing. And as the instruction tells you, it may not
23 be for a day, an hour, or even a minute. It's simply a decision to kill
24 before the killing takes place.

25 So if I wanted to kill someone and I do it six months from now,

1 that is certainly a premeditated murder. If I wanted to kill someone and I
2 do it a day from now, that is a premeditated murder. If I do it an hour
3 after I decided, it is a premeditated murder. If I do it a minute, or a
4 second after I decide to do it, that is a premeditated murder. It is as
5 instantaneous as successive thoughts of the mind. That is the law in the
6 state of Nevada.

7 What do we know happened to Anshanette? Well, Vernon
8 Newson shot her not just once; he shot her multiple times. And he shot
9 her -- these are the casings in the car. He shot her in the car and then he
10 pulls her out and he shoots her again on the side of the road. Now you
11 could maybe argue that if you shoot someone one time you really hadn't
12 made the decision to kill. It was something that you did, which would be
13 hard given how they're positioned in this car. But let's just say you could
14 maybe shoot someone one time and the suggestion could be made that
15 a decision had not been made to kill. But she's not shot one time as you
16 know. She's shot over, and over, and over, and over, and over, and
17 over, and over again. She's shot many times. That shows that he made
18 a decision to kill obviously before he did it.

19 Now Counts 2 and 3, as I mentioned at the beginning, concern
20 the counts of child abuse for the two children that were in the car. And
21 that crime is defined as a person who willfully causes a child who is less
22 than 18 years of age to suffer unjustifiable physical pain or mental
23 suffering as a result of abuse or neglect, or to be placed in a situation
24 where the child may suffer physical pain or mental suffering as the result
25 of abuse or neglect is guilty of child abuse, neglect or endangerment. At

1 this point you know that those two very, very young children were in the
2 back of that car. This is the one -- two year old's car seat. That was still
3 in the car. And Vernon, Jr.'s car seat was brought into the house with
4 Zarharia. And this is where their mother was sitting at the time she got
5 shot in front of them in an enclosed space. Those bullets would've been
6 loud and frightening to those children. Seeing their mother injured
7 would've caused mental suffering. And they also would've been afraid
8 for their own safety in that setting. Certainly shooting those kids in that --
9 or shooting the mother of those kids in that confined space is something
10 that amounts to a -- an act that inflicts mental suffering on those two very
11 small children.

12 Now Anshanette McNeil, like all of us, you know, wasn't a
13 perfect person. And her life gets cut short on just -- on a regular night. I
14 mean, and she's doing regular things at the time it happens. She's
15 gotten fast food. She's getting ready to drop her kids off at a babysitter.
16 And nothing momentous, or out of the ordinary, or striking happens other
17 than a possible disagreement in a car and she ends up shot multiple
18 times, dead at the side of the road. She did nothing to warrant any of
19 this. There was some sort of thing that upset him in that car and he
20 ended it, whatever the disagreement was, by killing her.

21 But he doesn't get the last word in a courtroom, you do. By
22 your verdict, you get the last word. And the last word in the verdict
23 should be something that reflects equal and exact justice. That's in your
24 instructions. And equal and exact justice is not a compromise. He
25 should be held accountable for the full extent of what he did. And what

1 he did in this case was commit the crime of first degree murder with use
2 of a deadly weapon and two counts of child abuse.

3 THE COURT: Thank you, Ms. Weckerly.

4 Gentlemen. Mr. Bashor or Mr. Shaygan.

5 MR. BASHOR: Thank you, Your Honor.

6 **CLOSING ARGUMENT BY THE DEFENSE**

7 BY MR. BASHOR:

8 The State has proven beyond a reasonable doubt that man's a
9 murderer. You're angry; you're upset; you've seen things you didn't want
10 to see, so we're done. I should go sit down; right? Wrong. We've voir
11 dired on this. The folks that are sitting in this jury box are capable of
12 making distinctions along that spectrum. Each one of you answered in
13 the affirmative.

14 You're also allowed to be angry and upset. You should be.
15 You know why? You're human beings. We are going to ask you, and
16 are asking you, to convict him of murder. He will pay as a murderer, but
17 that's not the end of the story. That's not we're done. The law makes
18 some very important distinctions. The verdict may never be influenced
19 by sympathy, prejudice or public opinion. You could have those
20 emotions, in fact you better have those emotions, but that sympathy you
21 feel for Anshanette, it's natural and should exist, can't overwhelm your
22 ability to take the law that's literally in your hands right now and apply it to
23 the facts. Your decision should be the product of sincere judgment and
24 sound discretion in accordance with these rules of law. Sound discretion.

25 As you'll see throughout my presentation here I have the

1 instruction number. Sometimes I will have the entire instruction up there.
2 That's not because I'm trying to hide the ball from you. Please read the
3 instructions in their entirety. Please take your time to deliberate and look
4 at them. Just as the State has, and I'm sure will in rebuttal make
5 emphasis of certain instructions, I will too. In the end, what we're going
6 to ask you to do is convict this murderer of second degree murder
7 because the State has not met its burden that this was a premeditated,
8 willful and deliberate killing. This is a second, not a first.

9 Those instructions that you literally have in your hands, that's
10 what this case is about right here. You might've been asking yourselves
11 why aren't they asking very many questions? Because the facts are the
12 facts. They've proven beyond a reasonable doubt that Vernon is a
13 murderer and he's going to pay for that. That's why we didn't ask a lot of
14 questions. The question now for you is what kind of murder did he
15 commit?

16 You know, I don't run the justice system. And it's probably a
17 good reason that these instructions are read at the end. But this is the
18 kind of case where it sure would've been nice for the defense to have
19 them read at the beginning to give context. But it's designed for that
20 reason. You should be soaking in the facts, taking them, making note of
21 them without the bias of an instruction. But now I'm going to ask you
22 folks to go back there and take the law, take your notes, take what you
23 observed and heard and apply the facts to the law.

24 That law in your hands, those are the rules. That's your
25 recipe. That's your guide. That's your atlas to apply the facts. None of

1 you should get back there and say, you know what, the law should be X.
2 We're in Judge Herndon's house. He's told you what the law is. It's in
3 black and white in your hands. Things like I don't care, he's a horrible
4 person. Call your fellow juror on that. You have to care about what the
5 law says and how it applies to these facts.

6 Again, I'm not trying to hide the ball. You'll see me go over
7 some of the instructions. It's also not designed to patronize you. I know
8 that Judge Herndon has read them to you. Ms. Weckerly has read some
9 of them to you. I'm going to read some to you. I'm sure Mr. Portz is
10 going to read some to you. I think that the reason for that is because
11 they're so darn important.

12 Instruction 8. Remember, a first degree murder requires
13 willfulness, and deliberation, and premeditation. This isn't pick one and
14 let's go home. All three must be proven beyond a reasonable doubt.

15 Willfulness is the intention to kill. This was an intentional
16 killing. Okay, so they got willfulness. But just because it's an intentional
17 killing that does make it a murder, but it's a second, not a first. If that's all
18 they've proven beyond a reasonable doubt -- if they have not proven
19 premeditation and deliberation beyond a reasonable doubt, but they have
20 proven willfulness, it's a second, not a first.

21 And this is where the argument really is, deliberation.
22 Weighing the reasons for and against the actions and considering the
23 consequence of the actions. That's in Instruction 10. When was there
24 time to consider the consequences? What did we hear? And I'm going
25 to talk about time a lot. And in the deliberation instruction time is actually

1 extremely important. You'll hear successive thoughts of the mind, for
2 instance, in the premeditation instruction. Time is important because if
3 the intent to kill, the willfulness is formed in passion, it must subside in
4 order for premeditation and deliberation and for the actual crime for
5 deliberation to occur.

6 Irrationables [sic], you're going to hear that a lot in the next
7 few minutes. What did we hear from Ms. Hall? We heard that there were
8 several eyewitnesses. You heard from one. That one witness said the
9 following: I heard shots [clapping] rapid succession. No one group of
10 shots, pause, second group of shots. And immediately after hearing the
11 successive shots she hears doors close and the car speed off
12 immediately. She said it happened in a matter of seconds. When was
13 there time to weigh the consequences of the action? What proof has the
14 State provided you that he did weigh the consequences of his actions?
15 Remember, it's their burden.

16 Assumptions, and there were a lot made in the first summation
17 that we're going to go over, aren't enough. That's not even close to
18 evidence. You're going to be asked what makes more sense given the
19 circumstances. And I think that the State had to logically concede that in
20 all likelihood there was an argument in that car. And in all likelihood Mr.
21 Newson, Vernon, got very angry and acted out of passion, not cold blood.
22 Cold blood, when we talk about that, is not necessarily a conduct. It's
23 what's up here. Whats inside someone's head. Cold, calculated.

24 We don't check our common sense at the door. You must
25 bring to the consideration of the evidence your everyday common sense

1 and judgment as reasonable men and women. Use of your common
2 experience when applying that to the facts. And I ask you, does this
3 make sense? Does it make sense that he's weighing the consequences
4 and decides to kill while driving in a car, on a busy freeway on-ramp, to
5 kill in front of his children? If anything, that suggests he's not weighing
6 the consequences of his actions. He's acting out of anger.

7 We don't have any evidence. In fact, the evidence suggests
8 the contrary. Things happened so quickly, and so fast, that he acted out
9 of anger and he intentionally killed her. That makes him a murderer. No
10 one's saying this is get out of jail free time. It's just not premeditated and
11 deliberate. A deliberate determination must not be formed in passion.
12 And the evidence and the reasonable inferences you could make will
13 suggest that it was formed in passion.

14 We talked about the rapid shots. Remember, more bullets
15 were fired than actually struck Anshanette. We heard that this happened
16 in a matter of seconds. We heard it was likely not even his gun. The
17 State went on and on about well there was a 9mm over here, and there
18 was a 9mm over there. Who told you that Anshanette had a 9mm
19 registered in her name? It's her gun. Formed in passion. Look at the
20 environment. A premeditated and deliberate killing. You're in a car. This
21 is your child's mother. Kids are in the car. You're in an on-ramp. And he
22 had no reason other than anger.

23 We heard that they were constantly arguing back and forth;
24 right? That was day in and day out. Zarharia knew them for I believe
25 about a year. Check your notes, could've been a little less. Certainly

1 knew the both of them since Major was born because she babysat. And
2 she said, day after day these two were like oil and water. That's what
3 these two were. That doesn't mean Anshanette deserved to die that day;
4 right? It just means you got to consider whether or not he's weighing the
5 consequences of his actions or not when he's constantly arguing with
6 her. And I think we can agree in common sense that we get angriest at
7 the people we love because we're emotional.

8 What went on in that car? Well, I -- you know, I agree with the
9 State that, in their characterization, that anger is what makes the most
10 sense here. We also have something weird; right? Zarharia didn't know
11 that Anshanette used drugs at all. But we find something really weird in
12 the toxicology. And I don't say this because I want to beat up on
13 Anshanette. Anshanette deserves to be here right now. But she has a
14 load of meth in her system. And we know that the reactions and the
15 symptoms of somebody with meth, they are variable, and you heard
16 examples of the erratic behavior that could -- that could happen. But at
17 the very least, it sounds like there are two people in that car that are not
18 of right mind.

19 How do we know what went on in that car. Now Vernon's not
20 Shakespeare. His eloquence isn't going to be very exact, but to Zarharia,
21 just no mother fuckers took me to a point where I can't take it no more.
22 Anger formed in passion.

23 Now there was no time for the passion to subside. We heard
24 about the quickness. If the deliberate determination is formed in passion
25 it must be carried out after there is time for the passion to subside and

1 deliberation to occur. When did that happen? The one eyewitness we've
2 heard from, that doesn't happen. And remember what the State told you,
3 and told you today as well, we're making some assumptions here and
4 some leaps. Vernon got out of the car, stood over Anshanette and shot
5 her multiple times. What evidence, and I mean evidence, do you have of
6 this? Well, there's shell casings outside the car; right? We know that.
7 We hear that there's a possibility of two doors being closed; right? And
8 we know about the bullet strikes outside the vehicle. All of those things
9 could still happen within the car, every single one. Obviously the door
10 was open. She was trying to get away. No witness and no evidence has
11 been shown to you that he every got out of the car. And the reason they
12 want you to have him out of the car is because that's where the
13 deliberation occurs in their mind.

14 So, he got out of the car in opening, stood over her and shot
15 her multiple times. And this was the motion, hand pulling a trigger
16 towards the ground, perpendicular. State's Exhibit 35, what's the
17 problem here? The problem is wouldn't all the strikes be in extremely
18 close proximity to one another. We heard 6 feet, maybe 10 feet. You
19 know, 4 inches in that placard. You have a diagram if you're good at
20 math, right, to get an exact number. But if you're standing over, as
21 alleged in opening statement, and firing bullets into her, the bullet strikes
22 shouldn't be all over the place. It should be one on top of one another.
23 And wouldn't all the strikes be in the pool of blood because you're
24 standing over her.

25 What angle were these bullets fired? We know that no testing

1 was done, or no analysis was done, if tests even exist; right? Look at the
2 cell phone. That was a weird way the bullet went through that, right? On
3 a plane. In all likelihood Mr. Newson didn't get out of that car because
4 the evidence doesn't exist that he did. It doesn't add up; doesn't match.

5 And in addition to the physical evidence, the picture, and the
6 fact that, you know, the witness didn't see if any individual was out the
7 car. She did hear a door or doors close. We got to give them that, right?
8 That's what she said she heard. But it is clear that Vernon did not stand
9 over her and shoot her multiple times.

10 You heard that there were several eyewitnesses. Only one
11 testified. Couldn't tell you -- Ms. Hall couldn't tell you if anyone was out
12 of the car. She heard doors closing.

13 Shots in the back. We didn't hear -- we knew there was some
14 shots. Entrance wounds in the back; right? We heard about that. We
15 don't know if that occurred when she was standing on the ground, none
16 of that. We didn't hear about any breaks in the shots. Under the State's
17 assumption, which I will submit to you is an absolute assumption, you
18 would've heard pop, pop, pop [pause] pop, pop, pop, pop. That's not
19 what the testimony was. That's not what the evidence shows. Testimony
20 is evidence, folks, not just pictures.

21 His passion never subsided. He didn't have time to weigh the
22 consequences of his actions. That doesn't mean he gets to -- you know,
23 that's it. He's a murderer. He'll pay. It's just not a first degree murder.

24 Time is critical to deliberation. Now, as I've told you, you're
25 going to see things in those instructions about time. That things could

1 happen very quickly and that's -- and that's the law. That's there. But in
2 deliberation the law does not undertake to measure in units of time the
3 length of the period during which the thought must be pondered before it
4 can ripen into an intent to kill which is truly deliberate and premeditated.
5 The time will vary with different individuals and under varying
6 circumstances. Circumstances, folks. Circumstances that we know that
7 are supported by evidence adduced in this courtroom. So -- and this is
8 where -- I mean, the disagreements could not be bigger. If time's not
9 important, why is the State trying to slow everything down?

10 Okay, decision to get a gun. We don't know where the gun
11 was; right? Should I stop or shoot while I'm moving? Well, that's an
12 assumption. How do we know the -- that there wasn't a pull -- he was
13 pulled over, argument, argument, argument gets worse, anger, in
14 passion, reacts, kills. But now we're assuming that he's sitting there
15 going well, should I kill her while we're driving or should I stop? What
16 evidence is there? There's no evidence of that. What are we talking
17 about?

18 Should I continue driving or stop? How do we know the car
19 isn't already stopped? You have to decide to pull over. Well, yes, the car
20 was pulled over. We don't know if the decision to pull over was mid-
21 shots or not. The biggest assumption is that he got out of the car. But
22 these are these blocks that were just listed for you to describe the
23 deliberation that occurred in this case. They're assumptions; it's not
24 evidence.

25 Get her out of the car, a seat belt. How do we know she didn't

1 unfasten her own seat belt trying to get the heck out of there to avoid
2 being struck by bullets? Then there's this struggle -- this power struggle.
3 And our great evidence of this is a torn piece of her coat. How do we
4 know the paramedic didn't do that trying to save her life? We're making
5 leaps here to try to establish deliberation that didn't exist because he
6 didn't have time. Anger doesn't excuse him from being a murderer.
7 Passion doesn't excuse him from being a murderer. He's a murderer, but
8 he's not a first degree killer.

9 A cold, calculated judgment. Remember, up here, cold,
10 calculated. A mere unconsidered and rash impulse, even though it
11 includes the intent to kill, is not deliberation and premeditation as will fix
12 the unlawful killing as murder of the first degree. Right, because it's
13 murder of the second degree.

14 We also know -- and I agree that this can be interpreted two
15 different ways; right? Vernon's behavior in front Zarharia, the State could
16 be absolutely right; right? He wanted to get the hell out of there and that
17 would account for his franticness, his nervousness, his hurried behavior.
18 I get it. That's not anywhere near some of the assumptions that were
19 made about deliberation. But just as likely was he never even calmed
20 down. He was still angry, and frantic, hurried. Maybe it's a combination
21 of both. A mere unconsidered and rash impulse if not deliberate, even
22 though it includes the intent to kill. This was rash impulse. This was
23 anger, this was a fight, an argument. This is what all the evidence
24 suggests.

25 So what is an intentional killing without deliberation?

1 Premeditation is a design, a determination to kill, distinctly formed in the
2 mind at the time of the killing is Instruction 11. Everything about this case
3 suggests a lack of design; the ball, the gin joints, on-ramp, nighttime, in
4 front of the kids. An intentional killing without premeditation is [defense
5 displays PowerPoint slide to jury].

6 We don't just assume that Vernon was cold and calculated.
7 The circumstances of this killing, the environment in which this killing
8 occurred, that defines whether or not he was cold and calculated.
9 Evidence is important in this case. This is not enough to get it done for a
10 first degree. If this was an unconsidered and rash impulse, which I
11 suggests to you all of the evidence points to, this is a second, not a first.

12 Motive, and here's where it's going to make the most sense.
13 What else can we look to that makes us know this was a second and not
14 a first? Do not confuse intent with motive. Motive is what prompts a
15 person to act. Intent refers only to the state of mind in which the act was
16 done. Motive is not an element of the crime. I'm not saying they have to
17 prove to you motive, but the instructions say you can consider it.

18 THE COURT: Mr. Bashor, can I interrupt you for a minute?

19 Hey, everybody in the audience, I'm getting real tired of seeing
20 people getting up and moving around while these folks are trying to make
21 their arguments to the jury; okay? So cut it out. If anybody needs to
22 leave, leave now, but don't come back in.

23 After -- after this person's gone, JR, lock the door.

24 THE MARSHAL: Yes, Your Honor.

25 THE COURT: It's incredibly disrespectful. Or after both of

1 these folks are gone lock the door, please. After all three of them are
2 gone lock the door, please.

3 Mr. Bashor, I apologize to you, sir.

4 MR. BASHOR: No, thank you, Your Honor.

5 THE COURT: You shouldn't have been interrupted like that.

6 MR. BASHOR: No, no. I understand. I think we all
7 understand.

8 BY MR. BASHOR:

9 Okay. Look -- remember, I'm not saying the State has to
10 prove motive. It's not an element of the crime. The instructions tell you
11 so; okay, folks? But you may consider evidence and motive, or lack of
12 motive, as a circumstance in this case. So why? Why? Why then? Why
13 there? Why at that moment? Why under those circumstances? Those
14 why questions don't give you premeditation and deliberation; they give
15 you is anger, rash impulse. All of those questions point to a second
16 degree.

17 The State, he's a cold-blooded killer. Well, if we're going to
18 assume that everyone is cold blooded we don't need second degree
19 murder in Nevada or anywhere else. We're just going to assume he's
20 cold blooded because we say so. That's not enough. Cold blooded and
21 calculated. We don't assume here. Is he cold because of the number of
22 shots? Is he cold because the kids were present? I would submit to you
23 that the answer to those questions are why -- exactly why this wasn't
24 premeditated and deliberated because it doesn't make any sense under
25 these circumstances to commit a deliberate and premeditated killing.

1 What makes sense is that this is an unconsidered rash impulse which
2 makes this a [defense displays PowerPoint slide to jury]. Remember,
3 first degree murder requires all three. I give them willfulness. He
4 intended to kill.

5 So, you're back there and you have some reasonable doubt
6 as to whether or not this killing was premeditated and deliberate. What
7 do you do? You turn to those instructions. If you are convinced beyond
8 a reasonable doubt that the crime of murder has been committed by the
9 Defendant, yes, but you have a reasonable doubt whether such murder
10 was of the first or second degree, you must give the Defendant the
11 benefit of that doubt and return a verdict of murder of the second degree.
12 Assumptions are reasonable doubt as to premeditation and deliberation.
13 And if you have those reasonable doubts remember your atlas, your
14 guide, your template, because it tells you what to do. We are asking you
15 to convict him of murder. He will pay because he should. This is a
16 second and not a first.

17 You know, the reason why the State gets the final say is
18 because I would hope to think that the system that you got to witness
19 firsthand here shows how truly great it is. We weren't binding of each
20 other's feet, no fistfights. These are colleagues in the law. And I think
21 we were able to demonstrate that our system can work fairly civilly. And
22 so there are some things about our system that are just as great and
23 beautiful; right? There is beyond a reasonable doubt. There is the
24 presumption of innocence, although he's not sitting there innocent. We
25 told you that. But the accuser is the prover [sic] in this courtroom and in

1 every courtroom across the country. That's why they get to go last
2 because they have the burden of proof. I submit to you that he will do an
3 eloquent job as he has throughout this entire trial. But the State will not
4 be able to prove beyond a reasonable doubt that Vernon acted in a
5 premeditated and deliberate way that night. And for that reason I'd ask
6 that you return a verdict of second degree murder. Thank you for your
7 attention.

8 THE COURT: Thank you, Mr. Bashor.

9 Mr. Portz.

10 MR. PORTZ: Thank you, Your Honor.

11 **REBUTTAL BY THE STATE**

12 BY MR. PORTZ:

13 Folks, there is only one type of murder when a man shoots a
14 woman in the back seat of a car when she's trapped between her
15 children and a door. There's only one degree of murder when he rips her
16 out of that car leaving her shoes behind, throwing her barefoot into the
17 street and shooting her six more times. There's only one degree of
18 murder in this case and that's first degree murder. And nothing that Mr.
19 Bashor just told you in his closing argument, respectfully, drops that from
20 anything lower than second degree murder. They're asking you to find
21 him guilty of murder; we are too, but we're asking you to find him guilty of
22 the murder he committed which is first degree murder.

23 Now your task in this case at the beginning was to determine
24 whether the Defendant was guilty, one, of murder, and two, of two counts
25 of child abuse and neglect. That job has become significantly easier as

1 this trial has progressed. At this point in time you didn't even hear the
2 defense contesting the child abuse and neglect charges, so you could
3 check those off as guilty for all the reasons that Ms. Weckerly put forth,
4 and for all the reasons why the evidence shows so overwhelmingly and
5 how abundantly clear it is that when he murdered their mother -- when he
6 first started the process of the murder by shooting at her -- six times
7 inside that car shooting at her with those children just inches away inside
8 a confined space that there was clearly child abuse and neglect.

9 So what has your task come down to? Did the Defendant
10 commit murder? Well, he's already conceded. It's been no surprise.
11 The State has put on an overwhelming amount of evidence of the fact
12 that he murdered Anshanette McNeil on the evening of December 13th,
13 2015. So all that it comes down to at this point is whether or not it's first
14 degree murder or second degree murder.

15 Now, Mr. Bashor made reference a few times to the State not
16 meeting its burden proving those three additional prongs of murder;
17 right? So you have murder. It has to be willful, premeditated and
18 deliberate in this case. Ms. Weckerly went through all the many, many
19 reasons why the evidence that has been presented to you shows that
20 this was willful, premeditated and deliberate under the law. Maybe not as
21 we originally come to the courtroom and thinking of things like
22 premeditation and deliberation, but clearly under the law as it's spelled
23 out for you, and the facts and evidence presented to you this week, it
24 was -- it was willful, premeditated and deliberate.

25 But Mr. Bashor suggested that the State has not met its

1 burden. And what is our burden? It's the burden of beyond a reasonable
2 doubt. Instruction 21 tells you. And if I asked you to define reasonable
3 doubt in your own mind that might be a difficult concept to put into words;
4 right? You don't have to do that because Judge Herndon did it for you.
5 A reasonable doubt must be one based on reason, not mere possible
6 doubt, and it cannot be doubt based on mere possibility or speculation.
7 That's the burden here. It's not some pie in the sky unobtainable
8 standard. And you are not to speculate as to possible reasons of doubt
9 that may have been suggested to you by the defense in their closing
10 argument.

11 So let's go through those three prongs, willfulness,
12 premeditation and deliberation, understanding that this is the burden --
13 this is the law that you -- the burden that you have sworn to hold us by.
14 And before we get into the evidence, let's discuss what evidence you are
15 to consider.

16 Instruction 31, the oath that you have taken as jurors is that
17 you will be governed solely by the evidence that has been presented to
18 you. You're not to speculate as to what may or may not have occurred
19 when there is no reasonable inference to be drawn from the evidence
20 that's been presented.

21 What is the evidence that you can consider? Testimony.
22 Testimony of witnesses, exhibits, and other facts that the parties
23 stipulated to. That's what you are to consider when you go back to
24 deliberate what -- and place the law against the facts.

25 So we'll start with murder in the first degree must be, one,

1 willful. Willfulness is simply an intent to kill. Mr. Bashor told you this was
2 a willful murder -- a willful murder, so you can check that prong off your
3 list. When you point a firearm at someone and pull the trigger you're
4 expressing an intent to kill. When you point it at their head, at their body,
5 at their back, at their neck, where all the areas Anshanette was shot,
6 you're expressing a clear intent to kill. When you shoot someone eight
7 separate times you're showing a clear intent to kill. This was without a
8 doubt a willful murder.

9 Let's discussion deliberation for a moment. And this was the
10 one that Mr. Bashor was really -- really harping on in his closing. And
11 you've seen this. And you'll have this back there with you. And I'm not
12 going to read the entire instruction to you again, but here's a key point, a
13 key provision. A deliberate determination may be arrived at in a short
14 period of time. And Mr. Bashor wants you to go back there and think that
15 simply because this murder took place over a period of time it wasn't
16 Vernon planning it out days, weeks, or hours ahead of time that it's not,
17 for some reason, a deliberate.

18 Well, here's a good way to think about deliberation. This is
19 something you do in your everyday life. You're driving to work, and on
20 your way to work you're coming up to a major intersection and a light
21 turns yellow. What do you do? Well, first, you look in front of you. Are
22 there any cars in front of me that are going to slam on their brakes; do I
23 need to be ready to stop? Then you look behind you. Is there anyone
24 tailing me too close? If I slam on my brakes at this yellow light will they
25 rear-end me? Then you think, well, I'm kind of late for work, maybe I

1 should go for it. And then you look at the intersection to see if there are
2 any police officers, if there's a lot of traffic. And then you just decide one
3 way or another you either stop or you go. That's deliberation. You
4 deliberated in that period of time. And how quickly do you do that every
5 day? Like that [snapping fingers]. You assess and weigh all those
6 consequences and circumstances of your actions and you make a
7 decision. That's the amount of time you need to deliberate. It does not
8 need to be Vernon Newson pulling over the car and then looking up to
9 the sky wondering to himself, hmm, do I want to kill her or not? Okay, I'm
10 going to decide to do this and then grab a gun and shoot her. That's not
11 necessary, folks. Deliberation can happen that quick [snapping fingers].
12 The law does not require anything more.

13 And what you have of evidence of his deliberation is the facts
14 that Ms. Weckerly went over with you. It is clear that he has to at some
15 point decide I'm going to pick up this gun. At some point he has to
16 decide I'm going to turn around over my shoulder and fire off a number of
17 rounds into the mother of my child, who is sitting next to my child, who is
18 only eight months old. Then I have to decide at some point to stop this
19 car to carry out my intent to kill. I have to get out. I have to rip her out of
20 the car, bleeding, injured, defenseless, unable to run, unable to fight
21 back, throw her to the ground and fire a few more shots into her. There
22 is deliberation and evidence of deliberation in abundance.

23 The suggestion by the defense that to be deliberate thoughts
24 cannot be formed out of a passion. That does not mean that simply
25 because you're angry at someone -- and clearly no one's suggesting that

1 Vernon Newson wasn't angry. I'm sure he was angry about something.
2 God knows what. Apparently they fight a lot. He doesn't shoot her every
3 time they fight. Just because you get angry doesn't mean that you can't
4 be guilty of first degree murder. People who commit first degree murder
5 are often angry. It's their reason for hurting someone; it's their reason for
6 trying to kill or for killing someone. They can be angry; they can be
7 homicidal. Being angry does not preclude a conviction for first degree
8 murder.

9 There was a reference by the defense to show that this was
10 somehow enacted in a passion and that the Defendant had a few missed
11 shots. Well, granted there were. That's what the evidence shows.
12 There were more cartridge casings than there were injuries. Not many
13 more, but there were more. It's not exactly easy to shoot someone sitting
14 behind you inside a vehicle. And it's also not exactly easy to commit a
15 murder, especially if someone's moving around, flopping, people get
16 nervous. He let off a number of shots inside the car with the intent to kill.
17 He stopped, pulled her out, and again, started that whole process over.

18 The defense has brought up time and again the fact that
19 Anshanette McNeil had methamphetamine in her system. That tells you
20 absolutely nothing -- absolutely nothing about what was happening at the
21 time of this murder. It doesn't tell you how she was acting; doesn't tell
22 you when or how she ingested any drugs; doesn't tell you whether or not
23 she was high at the time. Why is it being brought up again, and again,
24 and again? It's being brought up because he wants you to think that for
25 some reason or another this person who you don't know -- the only thing

1 you know about is this person is how she spent the last hour of her life,
2 that this person is a drug addict or uses drugs and is somehow unworthy
3 of your protection, or that you should go back into your deliberation room
4 and say, gee, what Vernon did was really cold blooded. I mean, that was
5 awful what he did, shooting her like that inside the car next to her
6 children and then ripping her out and shooting her again on the ground.
7 That was really awful, but you know what? I don't really like Anshanette
8 McNeil because the tox screen showed she had something in her system
9 that I don't approve of, so I'm going to give him a second. Is that -- is
10 that why we're bringing it up because it shows absolutely nothing about --
11 about what took place inside that car when Vernon Newson shot
12 Anshanette McNeil. It is not a justification. And each of you as jurors
13 stated that it would not be a justification for killing someone.

14 Additionally, I'd note, the suggestion that she had a high limit
15 of this drug inside of her system. The medical examiner told you that the
16 way that Vernon shot her -- how many times he shot her, and where he
17 hit her, she had bled out so severely that they had to take samples from
18 the liver to submit for these screens. And that these screens show an
19 abnormally high amount of a drug present.

20 MR. BASHOR: Objection, Judge. I would say that that
21 misstates the testimony.

22 MR. PORTZ: That -- Your Honor, that question was asked
23 directly of the medical examiner.

24 THE COURT: Right. I know it was asked directly.

25 I'll just remind you, ladies and gentlemen, that the evidence is

1 what you understand and remember it to be. Obviously the attorneys are
2 able in their closing arguments to reference things that they believe the
3 evidence shows, but I'll just remind you that you determine those -- those
4 factual issues.

5 BY MR. PORTZ:

6 Additionally, the suggestion that the Defendant was in a hurry
7 when he got to Zarharia's house shows that he was under a passion
8 when he committed this murder. It does not. His actions of getting that
9 child -- those children out of the car, to leave them behind, is exactly
10 what you would expect from someone who just committed a murder. It's
11 self-preservation. He's going back to the house. He's relieving himself
12 of baggage that could hold him back; he's getting rid of these kids. And
13 he's loading the firearm in front of Zarharia because his plan is to shoot
14 his way out of that city if he needs to and he's going to get the heck out
15 of Dodge. That's evidence of consciousness of guilt, ladies and
16 gentlemen. That is not evidence of a second degree murder.

17 The defense says in their closing that the biggest assumption
18 the State makes, and probably the most damning evidence, is that the
19 Defendant got out of the car. That there was no evidence that he got out
20 of the car to shoot Anshanette that second time. Are you kidding me?
21 The evidence couldn't be more clear. She was clearly shot inside that
22 vehicle multiple times from shots coming directly from the driver's seat,
23 pointing straight back into where Anshanette was seated.

24 We had Janei Hall come and testify to you. And what did she
25 testify to? That she heard shots, looked up and saw someone, Vernon

1 Newson, get into a car, close the door --

2 MR. BASHOR: Objection, Judge. That's absolutely not the
3 testimony.

4 THE COURT: Well, approach the bench.

5 [Bench conference -- begins]

6 THE COURT: Go ahead.

7 MR. BASHOR: Judge, she testified that she heard two doors
8 close when I asked could you see individuals getting into the car? No.
9 Did you know if it was an individual or individuals? Answer: No.

10 THE COURT: I thought -- and again, look, I'm [indiscernible].
11 It may had been something that I read, but I thought she said she saw
12 somebody. I don't think she said she saw who got in the car, but I
13 thought she said she saw somebody outside the car.

14 MR. PORTZ: And that was recollection as well.

15 THE COURT: I don't know if anybody else has any -- we don't
16 have transcripts obviously, so I'm not in a position to say yeah or neah as
17 to that objection. I'll give them that same --

18 MR. BASHOR: I won't interrupt again. I'll just --

19 THE COURT: No, no, no. I know.

20 MR. BASHOR: Yeah.

21 THE COURT: You're more than appropriate. And sometimes
22 I'll remember exactly what was said. Sometimes I lack in the memory --

23 MS. WECKERLY: I mean, she hears --

24 THE COURT: -- exactly what was said.

25 MS. WECKERLY: -- doors slam. That's not --

1 THE COURT: Right.

2 MS. WECKERLY: -- Anshanette doing that.

3 MR. BASHOR: And that's perfectly --

4 THE COURT: Well, that's not what his objection is.

5 MS. WECKERLY: Okay.

6 MR. BASHOR: Yeah, that's perfectly allowable. I mean, the
7 inference could go the other way; right?

8 MR. PORTZ: I mean, my recollection is that someone got in
9 and took off is what she said.

10 MR. BASHOR: I would -- I would just ask that you do the --

11 THE COURT: Well, just kind of confine it to the -- at the very
12 least, she heard doors shut. Meaning somebody was --

13 MR. BASHOR: Right.

14 THE COURT: -- outside a car and got back into a car.

15 MR. PORTZ: Okay.

16 THE COURT: That's the cleanest way to argue that.

17 MR. PORTZ: Okay.

18 MR. BASHOR: Thank you, Judge. Yeah.

19 [Bench conference -- concludes]

20 THE COURT: Okay. Mr. Portz, you can go ahead.

21 MR. PORTZ: Thank you, Your Honor.

22 BY MR. PORTZ:

23 And Ms. Hall told you that she heard the door shut. What
24 does that tell you? Someone was outside the car; someone had to get
25 inside the car, and then the car drove off at that moment. So there's

1 absolutely no doubt when you look at where, one, the bullets were flying
2 from inside the car; two, the fact that bullets were striking down to the
3 ground in the area, in the vicinity around Anshanette's body, that there
4 were two separate shootings. And that comports with the fact that she
5 testified only hearing a rapid number of fired shots all at once because
6 she doesn't hear the shots that are fired inside the car at first. It's inside
7 a car; it's very far away. It's in the middle of the night. You're not
8 expecting or thinking to be listening for something like that. What she
9 hears are the rapid fire shots. And she told you she heard a significant
10 number, about -- I believe, six or seven, but you're recollection will be the
11 -- what it tells you what she testified to. And what do we have? Six shell
12 casings outside the car; boom, boom, boom, boom, boom, boom. That's
13 what happens after he gets outside of the car.

14 He was outside of the car, ladies and gentlemen. He had to
15 drag Anshanette McNeil outside the car. Go back and look at those
16 photos if you think that she just got out of that car by herself because that's
17 what they're suggesting to you. Those photos show a seat belt covered
18 in blood suggesting what? Anshanette was still seat belted when she
19 was first shot in the car. It shows blood drippings all by the seat belt
20 cover. And it shows blood smears as though it were her hands on the
21 door itself. The Defendant had to have pulled her out of that vehicle; had
22 to have stopped and taken the time to deliberate, remove her from that
23 vehicle and shoot her to death.

24 We're going to move finally on to the premeditation instruction.
25 And again, I've highlighted for you and underlined the portion of this

instruction because we all come into a courtroom with our different perceptions, our different beliefs of what different things mean. And premeditation in a murder, understandably you might think it's what you see in TV shows or movies where someone stalks someone, or plans murder for days on end, locates where they're going and where they'll be at a certain time and enacts their plan. Absolutely that's premeditation. But under the law, premeditation may be as instantaneous as successive thoughts of the mind. That's what we have here. That's exactly what we just discussed with the deliberation of how quickly one can come to the conclusion, or premeditate, or decide to kill.

It doesn't have to be something that is well thought out. Just because he decided at this point his decision, his design to kill, came about when they were on a highway does not reduce this from a first to a second degree murder, folks.

At the end of the day there is only [indiscernible] of murder, the facts of this case, and that's first degree murder with use of a deadly weapon. The Defendant's decisions have consequences and we're asking that you hold him accountable for what he did and find him guilty. Thank you.

THE COURT: All right. Mr. Portz, thank you very much.

We're going to swear our officers to take charge of our jurors at this point.

[The court clerk swore in the officers to take charge of the jury during deliberations]

THE COURT: Okay. Folks, gather up all your belongings.

1 We're going to get you back to the deliberation room. I believe lunch is
2 here, so Molly's properly down getting all that together for you, so we'll
3 get that back there as well.

4 Our alternate is going to be Mr. Rivera, was picked as seat
5 number 6. So, Mr. Rivera, when you guys go back there my law clerk,
6 Katherine, is going to get some information from you. You're going to be
7 released right now. You're under the same admonition not to talk about
8 the case, not to do anything about the case until such time as we let you
9 know that the jury has finished their deliberations; okay?

10 Everybody else, we'll get you to the deliberation room. We're
11 going to get all the exhibits back there for you as well so you could start
12 your deliberations; okay? Thank you.

13 THE MARSHAL: All rise for the jury.

14 [The jury retired to deliberate at 12:58 p.m.]

15 [Outside the presence of the jury]

16 MR. BASHOR: Your Honor, if I could approach with a --

17 THE COURT: Yeah.

18 MR. BASHOR: -- clean copy of my PowerPoint?

19 THE COURT: Yeah. Oh, yes. Thank you.

20 And do you have yours as well, Pam, or no?

21 MS. WECKERLY: I'll print it.

22 THE COURT: Okay. Yeah. You guys could also, if you want,
23 just email it to Molly and she can print them out --

24 MS. WECKERLY: Okay.

25 THE COURT: -- on anybody's. And just to be clear, since we

1 were kind of discussing that in hush tones at the bench, what I had said
2 about that last objection, and it kind of, you know, pertains to the earlier
3 one as well. Sometimes I can remember with great specificity what it
4 was a particular witness said about a particular issue. On an occasion
5 where I can't remember with specificity I'm always just going to try and
6 tell them make sure you relied on your own memory of what the evidence
7 was. On that particular thing with Ms. Hall, I thought I recalled her -- and
8 as I said at the bench, it could've been something I read, saying that she
9 saw somebody and then heard the door close after the shots were fired.
10 But I do remember what Ryan was saying was that I don't remember her
11 saying anything about I saw the people get in the car and leave. I just
12 thought she said she had seen somebody earlier, so, in any event --

13 Anything else outside the presence that we need to put on the
14 record?

15 MS. WECKERLY: No, Your Honor.

16 MR. BASHOR: No. Thank you very much, Judge.

17 THE COURT: Okay. If you guys could just get your -- oh, you
18 got it already?

19 THE COURT CLERK: Mm-hmm.

20 THE COURT: Okay. Then I will keep you informed of what's
21 going on. Thank you.

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MR. PORTZ: Thank you.

MR. BASHOR: Thank you.

[Jury trial, Day 4 concluded at 1:00 p.m.]

* * * * *

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


SANDRA PRUCHNIC
Court Recorder/Transcriber

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VERNON NEWSON JR.,) No. 75932
)
 Appellant,)
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 v.)
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 THE STATE OF NEVADA,)
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 Respondent.)
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STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

ADAM LAXALT
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

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HOWARD S. BROOKS

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